IAC | Independent Assessor of Complaints

CPS

Independent Assessor of Complaints for the Crown Prosecution Service

Half-yearly Report 2018-19

Half-yearly report to the CPS Board from the Independent Assessor of Complaints, Stephen Shaw

1. This paper summarises the work that I have carried out as Independent Assessor of Complaints (IAC) in the six months between April and September 2018. The Board will receive this report alongside the complaints audit that I conducted in September and October in my role as 'guardian' of the CPS complaints system. (The Board will recall that the 2017 complaints audit was postponed until this Spring, so this has been the second audit carried out this year.)

Input

2. In the six months to 30 September, I received 37 complaints compared with 44 in the equivalent period in 2017.

3. Seven of the complaints received were from CPS East of England and six from CPS Yorkshire & Humberside. No other area generated more than four complaints. There was none from CPS North East, CPS North West or CPS Direct, or from the specialist casework divisions.

4. As would be anticipated, most of the complainants were victims of crime or those complaining on their behalf. However, as will be seen from the case histories, defendants or those considered for prosecution are over-represented in my caseload in comparison with the CPS complaints process as a whole.

Output

5. By the end of September, I had closed 39 cases (32 of the cases received in the half-year plus seven received towards the end of 2017-18). Two drafts were with the CPS, and three cases remained open at the end of the period.

6. Although most reviews are concluded by way of a formal report, I have continued to respond by letter where this seems more appropriate to the circumstances. This has become something approaching my default position if not upholding a complaint.

7. All cases were closed within the time targets to which I work. However, in the first half of the six-month period there were some delays for complainants before a referral could be made as I did not have the capacity to accept all of them.

8. The backlog was cleared by July, and the current turnaround time is well within the 40 days allotted for all stages of an IAC review.

9. Of the 39 cases closed in the first half of 2018-19, I upheld 15 complaints, partially upheld 14, and did not uphold nine. One case was not classified in this manner as I judged it had been settled restoratively (complainant 14 in the case histories).

10. In eight cases I made a recommendation or recommendations to the CPS. Three of the recommendations involved the making of a consolatory payment or paying compensation.

11. The proportion of cases in which I make recommendations is falling rapidly. I interpret this as an indication of improvement in the CPS's own complaints handling.

12. There is a case for arguing that where I make no recommendation, having judged that appropriate redress (if required) has already been offered, the complaint should be recorded as 'not upheld' on the basis that there was no continuing detriment to be remedied. However, that has not been my practice as I think such an approach might be readily misunderstood by complainants.

Other matters

13. I welcome the addition to my terms of reference of a paragraph designed to ensure that IAC reviews are strictly proportionate to the issues raised. Paragraph 3.3 now reads as follows:

> *The IAC will decide the extent to which any part of a complaint within the IAC jurisdiction should be reviewed after taking into consideration the information and documents supplied by the CPS Area/Central Casework Division and any other information judged relevant. In so doing the IAC will keep in mind the public interest.*
>
> *Factors against a detailed review include:*
>
> - *The CPS Area/Central Casework Division has conducted a proportionate and reasonable investigation of the complaint and has found no administrative failure or mistake;*
> - *The essence of the complaint is the complainant's objection to the content and/or the outcome of CPS policy or legislation;*
> - *It would be disproportionate for the IAC to review a complaint in detail, given its nature, seriousness and the potential outcome of a review.*

14. I have deployed this paragraph (in particular, the final clause) on a number of occasions where a complaint would technically come within my jurisdiction but the matters raised are tangential to the root cause of the grievance, or where the actions taken by the CPS represent sufficient redress.

15. I have made presentations on complaints handling to colleagues in CPS Wessex, CPS North West, CPS South East, and CPS East of England. The programme of visits will continue until the end of March 2019.

16. I remain very grateful to colleagues in the Parliamentary and Complaints Unit for the support and kindness that they continue to show me.

17. I look forward to working alongside my eventual successor, Ms Moi Ali, during the period when we will overlap until my term in office concludes in the early summer of next year. It remains my view that the independent stage of the CPS complaints process needs to have contingency arrangements built in, but this will now be a matter for others to take forward.

18. I have annexed summaries of all the reviews closed in the first half of 2018-19. I am not persuaded that I need draw attention to particular common themes in terms of CPS case management and preparation. However, I was particularly troubled by the cases of complainants 6, 13, 17, 25, 34 and 37.

19. I have generally been satisfied with the complaint handling, although the case histories include some counter-examples (see the case of complainant 1, for example). The quality of most stage 2 responses continues to impress; at stage 1 it remains more hit-and-miss.

20. I will submit my final annual report in time for the Board's meeting in May 2019.

Stephen Shaw

Independent Assessor of Complaints **October 2018**

Annex: Case Summaries

Complainant 1

Mr AB complained that a feedback letter had been sent with the wrong first name (the name of his son). He said the postman had re-directed the letter to his son resulting in embarrassment and a breach of information security. This trivial matter had proceeded all the way to the IAC, but I tried to conduct a proportionate review. I concluded that the wrong name was the result of simple human error and it was sheer coincidence that the wrong name was that of Mr AB's son. However, I found significant flaws in the CPS's complaint handling (the wrong start dates on the KIM complaints database, the wrong outcome on KIM, the wrong escalation paragraph used, and a holding letter not sent). I made no formal recommendations but suggested that the findings of my report be shared with relevant staff.

Complainant 2

Ms AB complained about the CPS's decision to offer no evidence in a case of breach of a non-molestation order designed to protect her children. This was a legal decision (albeit one the CPS now said was wrong). However, there had been a failure to send Ms AB a victim letter (on the false basis that she and her daughters were not victims) - and in consequence the Victims' Right to Review scheme (VRR) was not invoked. I suggested this was a breach of her rights under the Victims' Code, although (some delay aside because of the longer time limits for a complaint) no detriment had ensued. This was because both respondents at stage 1 and stage 2 had judged the legal decision to have been wrong and there was no possibility in law of reinstating the case. I also found various flaws in the complaint handling. I upheld the complaint but made no recommendations.

Complainant 3

Mr AB complained on behalf of his elderly mother. Charges of exposure and public order offences had been made against one of her neighbours. However, her video-recorded interview had been excluded by the District Judge, which meant four of the charges were dropped. In respect of the fifth, the court accepted a half-time application of no case to answer. I found there had been significant failures by the reviewing lawyer in failing to secure the video-recorded interview, with the consequence that there was no time available for it to be shared with the defence or for it to be edited. There had been a number of other failures by the CPS, one of which had resulted in Mr AB, his brother and mother attending a hearing that could not proceed. There had been extensive correspondence, but the complaint handling had been generally sound. I upheld the complaint, making no recommendations.

Complainant 4

Ms AB had been the victim of offences at the hands of a former boyfriend including false imprisonment. Her complaint focussed on what she had been told by the barrister when the defendant offered to plead. Ms AB, supported by her Independent Sexual Violence Adviser who had been present at the time, alleged that the prosecutor had said that the defendant would plead guilty to all offences. The prosecutor (supported by a police officer and a CPS paralegal, also present) said he had explained that the defendant had pleaded guilty to the false imprisonment on a full facts basis - but would not plead guilty to the sexual assaults. I found the prosecutor's account more persuasive; the idea that he would tell a 'bare faced lie' in front of a police officer and paralegal seemed implausible. But the lesson of the review was the need for absolute clarity so that the recollections of prosecutor and victim were not so at variance (in this case, as in others), arguing that if that meant some lawyers adopting the precepts of plain English, then so much the better. Good practice had been shown in offering Ms AB a face-to-face meeting, but this had led to a further complaint as she had expected a different outcome to have resulted.

Complainant 5

Mr AB was the victim of criminal damage to his front door and car. The failure of the police to respond to CPS requests for a compensation schedule and receipts/estimates meant that this information was not before the sentencing court. I was content that the CPS had done all it could have done to chase this information, but the CPS itself was responsible for the failure to present Mr AB's Victim Personal Statement (VPS) to the Court - a breach of his rights under the Victims' Code. The VPS (which included full details of Mr AB's estimated losses) had been received by the police but not uploaded to the prosecutor's digital bundle. In consequence, I upheld the complaint and proposed a consolatory payment of £250.

Complainant 6

Mr AB had been seriously injured by a learner driver who was unaccompanied (except by three small children) and did not have L plates fitted to her car. Just before the six-month statutory time limit, the police submitted a very incomplete file. The CPS discontinued the case, but subsequently acknowledged that, in light of Mr AB's injuries, it should have made further enquiries of the police. However, my review found that because this was just one of 40 incomplete files received in a month, a 'policy' decision had been taken to take a 'firm line' with the police. I was concerned that this did not prioritise the interests of victims. I recommended that a copy of my report be shared with the Director of Public Prosecutions (DPP) in light of the national significance of the issue of poor file preparation by the police, and the CPS taking a 'firm line' at potential risk to the interests of victims. I also recommended that a £250 consolatory payment be made to Mr AB.

Complainant 7

Mr AB was a defendant, acquitted of assault by beating against his ex-wife. A non-conviction restraining order was successfully applied for by the prosecution, but the CPS accepted that no advance notice had been given to the Court or the defence. Indeed, the prosecutor did not mention her intention to make an application until after Mr AB was acquitted. The CPS had also acknowledged failures in complaint handling. I identified a couple of other minor errors, but felt that no redress could properly be offered beyond the findings of my independent report.

Complainant 8

Mr AB had been acquitted of an assault alleged to have been committed during the course of a neighbour dispute. He said that discussions on plea amounted to an attempt to bribe him to plead guilty, and he also criticised an inaccurate record of the trial outcome in the Court register. He said that the prosecutor in court had wrongly declined to allow a witness statement to be read to the court, and that she had said it was her job to win. Mr AB also criticised the extent of the CPS investigation of his complaint - he said that no one had spoken to him. I concluded that the discussions surrounding plea were mainstream conversations between prosecution and defence, and neither Mr AB's lawyer nor the District Judge had objected. Likewise, the entry in the Court register was not a responsibility of the CPS. However, the CPS had accepted that the prosecutor's remark that her job was to win had been inappropriate. Regarding the refusal to allow the statement to be read, this was a legal judgement on which I could not comment. However, I questioned whether the decision was in line with the relevant CPS guidance on section 9 statements. Overall, I did not share Mr AB's view of the complaint handling which I thought had been proportionate and efficient. The tone and content of the stage 1 and 2 letters had also been proper. I did not think there was any need for Mr AB to be spoken to as part of the Area's complaint investigation as the terms of his complaint were perfectly clear. I part upheld the complaint but made no recommendations.

Complainant 9

Mrs AB had been hit by a car while crossing the road. She had suffered serious and enduring injuries. When the case came to trial, the magistrates accepted a defence submission of no case to answer. Mrs AB criticised CPS case preparation, but so far as I could judge all of the 'legal' decision making was as one would have anticipated. However, at stage 2 it had been identified that the reviewing lawyer had failed to make further enquiries with the police regarding a possible witness and whether a statement could be taken from them. (Whether such a statement, if forthcoming, would have assisted the prosecution obviously could not be known.) I felt the complaint handling had been technically sound, although the service failure had not been identified at stage 1. And I criticised the stage 1 response for failing to acknowledge the extent of Mrs AB's injuries and the impact they had had on her life. On a more minor point, I noted that unsigned drafts of the stage 1 and 2 letters had been uploaded to KIM and suggested that it would be better if signed copies were retained. I part upheld the complaint but made no recommendations.

Complainant 10

Ms AB had pleaded guilty to two offences of harassment on a full facts basis. She complained that the prosecutor at the sentencing hearing had accused her of faking a police letter she had sent to one of her victims. I found that the CPS had conducted a proper enquiry - seeking the views of the prosecutor, the court, and the defence solicitor - none of whom suggested that there had been any misrepresentation or misconduct by the prosecutor. Ms AB offered me the name of a further witness who she said would corroborate her account - but I felt this would not be proportionate as, even were he to support Ms AB's account, this would still have to be weighed against the other evidence (including the Court's contemporaneous note) and would take the matter no further forward. I did not uphold the complaint.

Complainant 11

Mr AB had been prosecuted for harassment, but had successfully appealed against conviction. The crux of his complaint concerned a failure by the CPS to address an anomaly in the evidence (the day and date given by the victim for one of the incidents were mutually incompatible). I agreed with the

stage 2 response that, once this anomaly had been brought to the CPS's attention, it should have been acted upon more promptly. (The flaw had not been identified at stage 1.) Indeed, one adjournment of the appeal could have been avoided had action been taken. However, I did not think that Mr AB had any claim for compensation. Amongst other things, it was clear that his own behaviour did him no credit. I noted that the Crown Court had not awarded him costs, and had endorsed a three-year restraining order. I part upheld the complaint but with no recommendations.

Complainant 12

Mr AB's young son had been the victim of an assault by a group of boys. The one defendant whom the son could identify was acquitted as the District Judge could not be certain of the identification. Mr AB complained about the responses he had received to his complaint (all of which initially concerned the legal decision making and the Court's finding of not guilty). I considered the complaint handling and, some very minor technical issues aside, was entirely happy with the responses given at stage 1 and 2 both in tone and content. Although it was apparent why Mr AB had continued his complaint, believing that justice had not been done, there was in practice nothing that I could offer to him to make matters right. I replied by letter and did not uphold the complaint.

Complainant 13

Ms AB had been stalked for a year by a former partner. When the case came to trial the CPS wrongly allowed the defendant to elect trial by jury when the offence was summary only. This flaw was not spotted for 15 months by the CPS, or any other legal professional involved. When the mistake was identified the case went back to the magistrates' court, but there was a further delay of eight months before trial. At trial the defendant was acquitted (the District Judge said he thought the defendant was guilty but not to the required standard of proof). A non-conviction restraining order had been imposed. It emerged at stage 2 that the fact the charge was summary only had indeed been spotted by a reviewing lawyer, but this review was not included in the court papers for the prosecutor - presumably the result of an administrative error. I said that the CPS had to take its fair share of the responsibility for the delay caused by the incorrect referral to the Crown Court, but not for the final eight months. I felt the CPS offer of £300 as a consolatory payment was not so low that I could intervene. However, I was concerned that the stage 1 response had been sent prematurely (albeit late) while CPS HQ was still considering whether a consolatory payment was justified. I speculated that it might not have been forthcoming had Ms AB not escalated her complaint to stage 2. I upheld the complaint and recommended that the Chief Crown Prosecutor consider if there were colleagues within HM Courts & Tribunals Service (HMCTS) with whom my report should be shared.

Complainant 14

Mr AB's son had been charged with offences but released on bail. Tragically, he then took his own life. Mr AB had asked for a meeting with the CPS but instead he had received formal responses at stages 1 and 2 of the complaints process. When the matter came to me, I was not persuaded that a further formal letter would assist, and went back to the Area to suggest they held a face-to-face meeting. This was agreed (much to Mr AB's satisfaction), and I regarded the matter as having been closed restoratively.

Complainant 15

Mr AB had been assaulted by a number of men including a neighbour. It took 16 months from the assault to the sentencing hearing after the men pleaded guilty to affray. Mr AB's complaint engaged most parts of the criminal justice system, but the CPS acknowledged that there had been a delay in

the reviewing lawyer looking at the police file and discovering that requested identification procedures had not been carried out. This had contributed just over two months to the total time taken. Mr AB sought compensation but I did not believe this was justified. Both the stage 1 and stage 2 letters were excellent - the stage 1 being one of the best I had seen all year. I part upheld but made no recommendations.

Complainant 16

Mr AB was the father of a child victim of a sexual attack. He complained of a comprehensive failure to apply the Victims' Code. I found no breaches of the Code by the CPS, and did not uphold the complaint. (This was a sensitive case and potentially identifiable - hence this short summary of the facts.)

Complainant 17

Mr AB's son had been murdered. Mr AB was dissatisfied with the minimum term of the life sentence imposed, but was not advised of his right to ask the Attorney General to consider referring the matter to the Court of Appeal as an unduly lenient sentence. Mr AB only found out about this right after the absolute 28-day time limit had already passed. I said this was one of the most significant failures on the part of the CPS I had come across. Whether the Attorney General would have made a referral (and whether the Court of Appeal would have deemed the sentence unduly lenient) were matters of speculation. The important thing was that Mr AB was denied the right to have the sentence tested. However, I did not share Mr AB's view that the CPS had failed to acknowledge its responsibility. On the contrary, it was clear that action was being taken at the highest level to ensure prosecutors were aware of the unduly lenient sentence procedure. I upheld the complaint and made no formal recommendations. However, I suggested that the DPP might wish to consider if advice about the unduly lenient sentence procedure should be offered nationally

Complainant 18

Mr AB was the victim of an assault. When the case came to trial, he had not been warned to attend and the prosecutor offered no evidence. This was a mistake by the Witness Care Unit (WCU) which had properly been alerted to the need to warn Mr AB by the CPS. I did not share Mr AB's view that the CPS were in any way to blame. However, there were a number of minor flaws in the complaint handling (no complaints booklet had been sent; the items uploaded to KIM were a mishmash, and the stage 2 letter included an error in the address and went missing). I was also concerned whether data sharing within the criminal justice system was consistent with the obligations under the General Data Protection Regulations (GDPR) - given that express approval for data sharing had not been sought or offered. I part upheld Mr AB's complaint and recommended that the CPS Data Protection Officer consider if sharing letters between the CPS and the WCU is consistent with GDPR.

Complainant 19

Mrs AB complained about a CPS decision not to prosecute in the case of a neighbour dispute. She said that there had been delays in the CPS making prosecution decisions, that she had initially been rejected for the VRR scheme, and that the local resolution VRR had been sent by post leaving little time for the Appeals and Review Unit (ARU) to complete its review before the statutory time limit for summary offences was reached. She also said that the email address she had been given for the ARU was wrong. At stage 2, it was also acknowledged that there had been two errors with the dates given in the stage 1 letter. I reported these mistakes (and other minor flaws in the complaint handling), but said I agreed with the CPS that any delays were the result of failures by the police to provide the full evidence. Each of the three requests for charging advice had been completed well

within the CPS's 28-day target. Mrs AB had said that apologies were insufficient, but I did not feel that the flaws I had identified reached the threshold for a consolatory payment. I part upheld the complaint and recommended that the Chief Crown Prosecutor share with relevant staff my advice on only uploading final versions of documents onto KIM. (This is an issue that has arisen in a number of reviews - e.g. Complainant 9 above. Our current practice is that the Assistant to the IAC corresponds separately with the Area not mentioned in my reports as it is unlikely to be of any interest to the complainant.)

Complainant 20

Mr AB had been assaulted. The police had initially charged the defendant with a public order offence, but it was not in doubt that the reviewing lawyer intended to replace that charge with one of assault given the additional evidence. However, when the matter went to court that same lawyer accepted a plea to a lesser public order offence instead. The Area said she could not explain her decision which it put down to 'human error'. Although the Area felt this brought it within my remit, I was of the view that it was a legal misjudgement and therefore not a service failure. However, given that the complaint had been flagged by the Area as coming within my jurisdiction, I felt it only right to continue my review. I found some relatively minor complaint handling failures including the wrong sentence details being given at stage 1 and it remaining uncorrected at stage 2. I upheld the complaint but made no recommendations.

Complainant 21

Mrs AB and her husband had been considered for prosecution on charges of child cruelty. The charges against Mrs AB had been discontinued, and at trial the prosecution accepted a plea from her husband to assault causing actual bodily harm (ABH). Mrs AB criticised the CPS's legal decision making - she said that the prosecutor had acted maliciously, and drew attention to the time the whole matter had hung over her family. I concluded that most of Mrs AB's complaint concerned legal judgement that was outside my terms of reference. Nor could I identify any improper delay (indeed, it was clear that the CPS reviews had been conducted diligently). There were some technical flaws in the complaint handling but I did not uphold the complaint overall, and replied by letter.

Complainant 22

Mr AB had been acquitted of three offences of a sexual nature. He criticised the CPS reviewing lawyer for not challenging the police sufficiently, and for issues relating to disclosure. I took the view that this complaint was almost entirely legal in nature, but did find aspects of the complaint handling that could have been better. The KIM record was confusing, and it appeared that neither the stage 1 or 2 letters had been signed. I did not uphold the complaint and replied by letter.

Complainant 23

Mrs AB was the elderly victim of violence at the hands of her husband. She complained that video-recorded evidence that she had provided had only been shown in shortened form to the court, and that earlier assaults on her had not been charged. The CPS had explained that the older matters were time-barred, and that evidence of bad character could not be introduced. It also said it was the responsibility of the police to ensure that Mrs AB was informed in advance of the charges her husband was to face. I found that the CPS replies were kind and detailed, but perhaps there could have been a fuller explanation of why the video-recorded statement could not be shown except in truncated form. I also noted that the stage 2 response had corrected the stage 1: there was no

obligation on the CPS to ensure that victims knew in advance of the trial whether evidence of bad character was to be used. I did not uphold the complaint and replied by letter.

Complainant 24

Ms AB was the victim of road rage. When it became clear before the final hearing that Ms AB could not attend, the CPS applied unsuccessfully for a further adjournment. When this was refused, the CPS decided to discontinue as the remaining CCTV evidence would be insufficient in the absence of the victim. Ms AB criticised both the CPS handling of the prosecution and the terms of the replies to her complaint. I found that what was acknowledged in the background note had not been shared with Ms AB at stages 1 and 2. It was arguable therefore that her complaint should have been part upheld. However, I did not think the case for a consolatory payment had been made out. Ms AB had ample reason to believe that justice had not been done, but this was the result of actions, inactions and decisions (whether justified or otherwise) across the criminal justice system. I part upheld and recommended that the Chief Crown Prosecutor write to Ms AB in acceptance of my findings and to apologise for the failure to provide full explanations at stages 1 and 2.

Complainant 25

Ms AB was the victim of fraud. When the matter came to sentencing, the agent prosecutor failed to inform the court that compensation was sought despite this being in his bundle. No VPS was read to the court either (a breach of Ms AB's rights under the Victims' Code). The CPS had accepted serious failings and the agent prosecutor was not to be engaged again. In addition, a consolatory payment of £500 had been offered. I took the view that the part of my terms of reference dealing with compensatory payments for material loss was also engaged. It was not certain what compensation order the court would have made, but I was concerned that Ms AB should be protected from the inconvenience and delay of a further referral of her complaint to the Parliamentary and Health Service Ombudsman. I upheld her complaint and recommended the CPS pay the full extent of her losses - some £3,000.

Complainant 26

Mr AB had pleaded guilty to a serious motoring offence. Seven months later he wrote to the CPS to complain about aspects of the prosecution. In particular, he said that his request for the Initial Disclosure of the Prosecution Case (IDPC) had not received a response, and that the prosecutor had 'lied' when denying details of an agreement between the prosecution and defence that a hearing would be adjourned. As a consequence, Mr AB had been arrested. This matter was treated as feedback, but I felt it would have been better had it been acknowledged as a complaint at the outset. In practice, Mr AB had received five detailed replies from the Deputy Chief Crown Prosecutor, but no escalation (other than to me, a curious feature of a matter treated as feedback). I felt that there was a lack of proportionality. It had been explained to Mr AB that his request for the IDPC had been sent to a police station and never received by the CPS. Nor had the prosecutor lied (it seemed the mistake was on the part of the defence). But I did find failures in CPS case management - hence I part upheld the complaint. I made no recommendation but observed that the CPS should now consider all correspondence on this matter to be closed.

Complainant 27

Ms AB's son had been the victim of a very serious, unprovoked attack with a knife. The suspect had fled the country, and Ms AB complained about the delay in issuing a European Arrest Warrant (EAW). The stage 1 response was not as candid as it could have been. Although the police had not asked for CPS assistance until nine months after the attack, there was then a period of delay (caused

by work overload and poor time management) in progressing the EAW. This was acknowledged at stage 2 and a full apology offered. I also found some flaws in the complaint handling. I upheld the complaint, making no formal recommendations. However, I said that my report would be seen by the DPP who would consider if further guidance should be issued across the CPS in respect of the priority to be attached to the issuing of EAWs.

Complainant 28

Mr AB had unknowingly purchased a stolen car that had been cloned. His principal grievance was against the police (who had disposed of the vehicle without his knowledge). But he also criticised the CPS for failing to apply for a compensation order. The CPS said that it was likely this was a legal decision reflecting the fact that custodial sentences had been imposed (and perhaps the fact there were eight other victims). However, no record could be found to explain the decision making. I felt that, notwithstanding the absence of any formal guidance, it would be good practice to alert victims in advance in such circumstances. I also commented on aspects of the initial complaint handling. I part upheld the complaint but made no recommendations.

Complainant 29

Mr and Mrs AB complained in relation to the prosecution of their son for serious offences. He had faced trial on two occasions but both juries were unable to agree. Much of the complaint concerned legal issues concerning the prosecution and whether other lines of inquiry should have been followed. However, there had been flaws in disclosure, confusion as to whether the victim would consent to an interview with an expert instructed by the defence, and errors in the complaint handling that justified a finding of part upheld. However, there was nothing of practical significance that I could offer to Mr and Mrs AB. I certainly could not provide the in-depth re-investigation of all aspects of the prosecution of their son that they wanted.

Complainant 30

Mr AB was a witness in a case of aggravated burglary of which his father was the victim. On the day of the trial the CPS offered no evidence. Mr AB questioned why the decision was made at the last moment, given the stress and anxiety he had suffered in anticipation of the trial. He also said that he had only learned on the trial date itself that his request for special measures (screens) had been granted. For its part, the CPS agreed that the decision to discontinue could have been made earlier (a legal decision but one with clear service implications), and that more could have been done to chase the court for a response to the request for special measures. As well as endorsing these outcomes, I also said that it was disappointing that Mr AB's request at stage 2 to speak with someone from the CPS had not been taken up. I said that the practice of speaking with a complainant either face-to-face or by telephone was one I often commended. Had it been done on this occasion, the stage 3 independent review might have been avoided. I upheld the complaint in full but made no recommendation as Mr AB had said that he did not want an apology from the CPS.

Complainant 31

Mr AB's complaint is sensitive and I have agreed not to include any details that could result in his being identified. Suffice to say that I found there had been serious failures in respect of disclosure and not following Judge's Orders. The CPS had considered making a consolatory payment but I said it was not maladministrative to have decided that, in the circumstances, no payment would be made. The CPS was entitled to conclude that Mr AB's undoubted distress was the result of the totality of the events, not just the result of the CPS's undoubted service failures.

Complainant 32

Mr AB had been prosecuted for possession of an offensive weapon and assault. The Judge had dismissed the first charge and Mr AB was acquitted of the second. Much of his complaint concerned the CPS's legal judgments (in particular, why the victims had not also been charged and the application of the public interest test). However, he also criticised the responses from the CPS as lacking detail and being sarcastic and contemptuous. I did not uphold those aspects of his complaint, but was critical that correspondence from Mr AB's Member of Parliament had been replied to by the Deputy Chief Crown Prosecutor who had been the subject of personal criticism by Mr AB. I also discovered that the trial had been delayed for over a year because of a failure by the CPS to disclose a 999 recording in good time. Given that Mr AB was elderly and had health problems, a delay of over a year must have added considerably to the strain he was under. I part upheld but could offer no redress beyond the findings of my independent report.

Complainant 33

Mr AB's mother had been killed by a lorry while out walking. The Judge had accepted a defence submission of no case to answer after the prosecution case had been heard. The CPS had decided not to appeal against the Judge's decision, and I considered that this was a legal matter outside my jurisdiction. However, Mr AB also complained about the meeting to which he had been invited by the CPS. He had anticipated being able to influence the decision but in fact was presented with a *fait accompli*. For its part, the CPS had acknowledged a need for "greater clarity", although it did not think that asking a police officer to explain the outcome in advance was sensible or desirable. I said that I could not be too prescriptive, but perhaps the CPS could have made a phone call in advance. This was a matter on which further advice to staff might be considered.

Complainant 34

Ms AB complained on behalf of her mother, the victim of a burglary. Although not identified at stage 1, the CPS had subsequently agreed that the wrong charging decisions had been made, and that charges against one of two defendants had been mistakenly dropped. The stage 2 review was extremely thorough but had been delayed by many months - and there had been a failure to update the complainant. It was also clear that there had been a breach of the Victims' Code. The victim's request to have her VPS read aloud (a matter of particular importance as she wanted the offender to know the sentimental value of the items he had stolen) had not been shared with the court by the agent prosecutor. Indeed, it appeared that he routinely asked sentencers if they had read the VPS without reference to the victims' wishes. The Area had offered a consolatory payment of £500 and had taken actions designed to prevent any recurrence of what had taken place. I concluded that the sum was appropriate and in line with Treasury guidance. I upheld the complaint but could make no additional recommendations.

Complainant 35

Mr AB had been assaulted when coming to the aid of someone who had been knocked over in the road. Very surprisingly given the circumstances, the defendant had been acquitted by a jury. Mr AB complained about the inequality of arms between the distinguished QC representing the defendant and the prosecutor who had only five years' experience. He also raised issues about the evidence, why he had not been called to give evidence, and why his VPS had not been read. I felt this case was at the very margins of my responsibility and quoted the new paragraph 3.3 of my terms of reference[1] to explain why only a limited review would be possible. I had a lot of sympathy for Mr

[1] See paragraph 13 above.

AB, but some very minor handling issues aside, I felt the responses he had received from the CPS had been courteous and comprehensive.

Complainant 36

Mr AB had been the victim of ABH. He complained that the sentence was inadequate and accused the prosecutor of being party to a deal. In fact there had been no contact between the CPS and the defence before the defendant decided to enter a guilty plea. There had been extensive correspondence, with the complainant accusing the prosecutor of being corrupt and telling lies. But while I sympathised with Mr AB in feeling that justice had not been done, I could not condone the personal attacks on the prosecutor which went far beyond the bounds of reasonable discourse. There had been two service failures - a failure to ensure that CCTV footage was before the court, and a failure to ensure the court was aware that Mr AB wished to read his VPS aloud. I took the view that neither was of the greatest significance - the CCTV was not of great evidential value and the Court was fully aware of the injuries Mr AB had suffered; and the contents of his VPS had been shared with the Court (which might in any case not have allowed his request to read it himself). I was also content that the CPS had considered a consolatory payment but decided against it in the circumstances. I part upheld the complaint. I recommended that the Chief Crown Prosecutor consider if staff needed further advice to ensure that victim's wishes to read their VPS aloud are met - especially in circumstances where, following a guilty plea, the victim is no longer required to give evidence.

Complainant 37

Mr AB's parents had been involved in a road traffic collision. The driver of the car involved had been charged with driving without due care and attention, but this had been discontinued four days before the trial. Mr AB's principal objection was to the decision to discontinue. But there had also been three service complaints. First, Mr AB had been told that his grievance would be pursued through VRR but VRR does not apply to careless driving (or other non-imprisonable, non-recordable offences). Second when the reviewing lawyer did not receive an expert report on the incident from the police, he did not escalate this to a manager. Third, when deciding to discontinue, he did not send a notice of proposed discontinuance to the police. While the outcomes may not have been any different had he escalated and notified (since there were only four days until the trial) these were clear service failures. However, apologies and explanations had been provided and, while I upheld the complaint, there was no additional redress I could offer.

Complainant 38

Ms AB, an Independent Sexual Violence Advisor, complained on behalf of Ms CD, the victim of historic sex offences at the hands of a member of her family. The jury had acquitted the defendant on four of the eight counts, but could not agree on the remaining four. Although the CPS had applied for a re-trial, the defence successfully argued that the defendant would not be able to receive a fair trial and the proceedings were stayed. Ms AB said that Ms CD had found out from a member of her family, and the defendant had known before her. I took the view that this should have been dealt with outside the formal complaints procedure, as it is not the function of the CPS to inform victims in such circumstances, but a responsibility of the police and WCU. However, as the matter had gone through both stages of the complaints process, and my role had been specifically mentioned, it seemed right to continue the review.

Complainant 39

Mrs AB was the victim of domestic violence. A discussion with the prosecutor before her husband's trial had resulted in a 'misunderstanding' and the prosecutor had accepted a defence basis of plea previously rejected (this was a legal judgement on which I could not directly comment). In addition, the prosecutor had failed to draw to the attention of the court a reported history of domestic abuse (albeit there had been no court proceedings). The CPS had apologised, offered a consolatory payment of £250 and required the prosecutor to undergo further training on both domestic violence and Speaking to Witnesses at Court. I felt Mrs AB had been let down by the CPS, but was content that no further redress was required. I endorsed the CPS view that it could not correspond with Mrs AB's solicitor in the divorce proceedings nor alter the Hearing Record Sheet. However, all the correspondence (including my report) could be shared by Mrs AB with her solicitor, and the overall file would show that the prosecutor had been in error.

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