

**Independent Assessor of Complaints
for the Crown Prosecution Service**

Annual Report 2017-18

Independent Assessor of Complaints for the Crown Prosecution Service: Annual Report 2017-18

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1. Introduction

1.1 This is my fifth and penultimate annual report as the Independent Assessor of Complaints (IAC) for the Crown Prosecution Service (CPS). I am the first holder of the post, and my term in office will conclude in May 2019.

1.2 I understand that recruitment for a successor will commence during the coming months, and it is likely that the successful candidate and I will work in parallel for at least a short period of time to ensure a seamless hand-over. How this is managed is principally a matter for the CPS. However, I do think it is worth flagging up the need for some contingency in the IAC arrangements in the years to come. A singleton IAC, or one without a deputy, is particularly vulnerable to unpredicted changes in workload that can cause inconvenience and delay for complainants. This is exactly the position in which I have found myself during 2017-18.

1.3 Indeed, the most significant feature of 2017-18 was the marked increase, beginning in Summer 2017, in the number of complaints I was asked to review. The year-on-year rise was 27.5 per cent, but the increase comparing the last eight months of 2017-18 with the same period in 2016-17 was over 45 per cent. One consequence was that it was necessary to postpone the dip sample of complaints that I am required to conduct as the 'guardian' of the CPS complaints process. The dip sample of 2016-17 cases will now take place some six months later than would otherwise have been the case, and my expectation is that the results will be published at the same time as this annual report. The dip sample of 2017-18 complaints is anticipated to take place according to schedule in September 2018.

Terms of reference

1.4 I have annexed my terms of reference to this report. My role is to consider 'service' complaints that have been through the two internal stages of the CPS's complaints procedure. 'Legal' complaints are not within my jurisdiction, a reflection of the public interest in a wholly independent prosecution service bringing prosecutions on behalf of the Crown.

1.5 In practice, however, the distinction between 'service' and 'legal' matters is not always easy to make. More significantly, the majority of matters I consider are hybrid in nature; in other words,

they embrace both 'legal' and 'service' elements. Sometimes those 'service' elements are only marginal to the fundamental cause of the complainant's grievance, and I am conscious that all my reviews are conducted at public expense. I have suggested to CPS colleagues that it would be sensible, therefore, if the IAC terms of reference included a specific provision enabling the IAC to conduct only a limited review when it would be disproportionate to do otherwise, given the nature of the complaint, its seriousness, and the potential outcome. (Such a clause would reflect the terms of reference for the Independent Complaints Assessors for the Department for Transport, in which capacity I also serve.)

1.6 In the course of my reviews, I continue to find examples of CPS mishandling of complaints, to say nothing of the underlying casework problems. However, my strong view is that CPS complaints handling has improved very markedly during my term in office. There is still work to be done at stage 1 of the process, but the quality of response at stage 2 is generally of a very high standard indeed.

1.7 This is testament to the seriousness attached to good complaint handling that I encounter throughout the Service, and which has been underlined in my conversations with the Director of Public Prosecutions and members of the CPS Board. I am grateful for the support that successive Directors and the Board have shown me during my time as IAC.

1.8 In addition to my principal role as a complaints adjudicator, I have in the last two years been able to make a series of presentations to CPS staff on the lessons from the reviews I carry out. In one Area, this took the form of a formal training session. I believe this to be a very important aspect of my responsibilities, and a way of reinforcing the change in CPS culture towards complaints and complainants that I consider has taken place over the past five years. The programme of presentations will continue into 2018-19.

1.9 As in past years, I owe a particular debt to those CPS colleagues who have provided me with back office support. I am especially thankful for the efficient service and assistance offered by Mr Tony Pates, Assistant to the IAC, to Ms Mercy Kettle, and to their manager, Mr Kieran Boucher.

1.10 In the remainder of this report, I provide in section 2 details of my incoming caseload, output, and performance. Some general findings from my casework are presented in section 3, and I have provided anonymised case studies in section 4.

2. Caseload

Input

2.1 I received a total of 88 complaints in the year to 31 March 2018. This compared with 69 complaints in the previous year. I have no way of telling if this was a one-off phenomenon or the start of a longer-term trend. However, an increase on this scale presented significant difficulties for myself and – more importantly – for complainants. This was exacerbated when the month-by-month totals also fluctuated significantly. It is for these reasons that I have emphasised in paragraph 1.2 the need for more flexible arrangements for the independent stage of the CPS complaints procedure in the future.

2.2 Just under two-thirds of complainants (56) were victims of crime, or those acting on their behalf. But no fewer than 26 were defendants. Two complainants were both defendants and victims in the same events, and there were four in a miscellaneous category – including one person complaining of contractual matters with the CPS whose grievance I felt should not have been progressed through the CPS complaints procedure.

2.3 Exactly half of the victims who complained were female. As in past years, victims of domestic violence or non-recent sexual abuse were disproportionately represented.

2.4 Almost all the defendants who complained were male.

2.5 A breakdown of the 88 complaints by CPS Area is shown in Table 1.

Table 1: Stage 3 complaints accepted by CPS Area, 2017-18 and 2016-17

CPS Area	Number of Complaints 2017-18	Number of Complaints 2016-17
Cymru/Wales	6	10
East Midlands	10	4
East of England	10	9
London	14	13
Mersey Cheshire	4	1
North East	7	4
North West	5	3
South East	2	2
South West	2	1
Special Crime and Counter Terrorism Division	0	1
Thames & Chiltern	12 ¹	6
Wessex	5	2
West Midlands	5	7
Yorkshire & Humberside	6	6
Total:	88	69

2.6 Four CPS Areas (East Midlands, East of England, Thames & Chiltern, and London²) generated more than half of my caseload. As in past years, the number from London reflects the size of the Area compared to the rest of the country. I have not identified any special factors that explain the

¹ Includes one complaint also engaging CPS Proceeds of Crime.

² I have amalgamated complaints from London South and London North for two reasons. First, this ensures comparability with the figures given in past annual reports. Second, because many of the complainants related to decisions taken before CPS London was divided into two separate Areas.

representation of the other three Areas, or any reasons why some Areas have so few complaints that proceed beyond the two internal stages.

2.7 It will be seen that CPS Direct and the specialist directorates also rarely feature in my postbag.

Output

2.8 Of the 85 cases received and for which drafts were submitted in 2017-18, I upheld 46 complaints, part upheld 26 complaints, and did not uphold 13 complaints. This amounts to an uphold rate of 85 per cent (combining full and partial upholds). By comparison with all other Ombudsmen and complaint assessors, an uphold rate of 17 cases out of every 20 is utterly extraordinary.

2.9 However, as I have explained in previous annual reports, my caseload does not resemble that found amongst other Ombudsmen and complaint assessors. What is striking about my caseload is that so many of the complaints that reach me have already been upheld (in whole or in part) by the CPS itself.

2.10 For this reason, I attach little significance personally to the uphold rate, although I appreciate that in most walks of life it would be regarded as a very important index of an organisation's performance.

2.11 I am sure that some of those who continue to escalate their grievance do so in anticipation of redress beyond the apologies they have already been offered. Indeed, it is apparent that many victims who feel they have been denied justice do hope or believe that charges can be reinstated or the outcome of court proceedings reversed. However, in many other cases, what the complainant seems to want is to have their grievance heard at the highest level of the prosecution system that they can achieve. I make it my point to emphasise that my reports (or summaries thereof) are seen by the Director of Public Prosecutions herself and by her senior colleagues.

2.12 I made recommendations in 29 cases, compared with 30 cases in 2016-17. Given the increased caseload, this represents a significant fall in the proportion of reviews in which I consider it necessary to make formal recommendations. I regard this as an indicator of improved complaint handling by the CPS itself, in that appropriate remedies have already been put in place.

2.13 As in past years, the most frequently occurring recommendations were for an apology, a consolatory payment, advice to staff, and the sharing of my report with other criminal justice partners. I attach particular importance to the last of these, given that many complaints engage different parts of the criminal justice system and complainants rarely distinguish between them.

2.14 However, I am also proud of the contribution I have made as IAC in bringing the CPS into line with all other public bodies in making consolatory payments where there has been material loss caused by maladministration, or where the making of an apology is simply not sufficient as a means of redress.

2.15 The sums involved must reflect HM Treasury guidance and are modest in nature. In the cases closed during 2017-18, I recommended a total of £3,470, with most payments being for £250 or less.

2.16 In a small number of cases, the complaint escalated to me has concerned the consolatory payment offered by the CPS itself. But unless the CPS's decision was so unreasonable given the circumstances, I have been loth to substitute a different sum from that already provided by the CPS Area. There is no exact tariff for maladministration. However, I do think more could be done to ensure that Areas recognise where there has been a breach of the Victims' Code (*Code of Practice for Victims of Crime*). These are cases that could proceed as far as the Parliamentary and Health Service Ombudsman (PHSO), and I am keen that complainants should not be put to this additional inconvenience if it can be avoided at a much earlier stage.

Performance

2.17 All cases were closed within the 40 working day target set by my terms of reference.

2.18 In consequence of the increased volumes, however, there was delay for a number of complainants before their cases were passed to me and the clock started. I anticipate that it will be the second quarter of 2018-19 before a more satisfactory performance can be reliably achieved.

2.19 Although most reviews are concluded by way of a report, I have continued to close some complaints by letter where this seems more appropriate. There is some saving in time (and hence in resource) in closing cases by letter instead of a formal report. I have had no feedback from complainants as to which method they prefer.

3. Themes from the casework

3.1 One of the lessons I try to impart in the presentations I have made to CPS staff is that all complaints and complainants are different, and that we need to ensure that responses to those complaints are similarly differentiated, avoiding the use of stock phrases or legal jargon. However, a number of themes are apparent in the anonymised case studies that I present below.

3.2 A significant number of the complaints concern the actions, inactions or decisions of members of the independent bar acting on behalf of the CPS. Ensuring that agent prosecutors are fully up-to-date with CPS policies, procedures and expectations is a recurrent aspect of the complaints I have reviewed.

3.3 Likewise, I have seen too many cases where the CPS reviewing lawyers have failed to chase the police (or failed to chase them effectively) in cases that have been poorly prepared, or where there are issues of disclosure. The first failure disadvantages victims; the second failure disadvantages defendants. Both are inimical to the interests of justice.

3.4 In turn, this has presented difficulties in terms of the complaint handling, as it is not seemly for the CPS to appear to be blaming the police when both services should shoulder their share of the responsibility.

3.5. This relates to a wider problem when complaints engage several parts of the criminal justice system. In particular, I am not sure that the CPS yet has a consistent approach to complaints that involve the local Witness Care Unit. My own view is that each CPS Area should either be proactive in passing complaints involving the Witness Care Unit to the manager concerned (assuming the complainant's consent), or should expressly signpost where that part of the overall complaint should be sent. It is not good practice to expect the complainant to find out for themselves. A similar approach should be followed when complaints concern the actions of the police themselves or of HM Courts and Tribunals Service.

3.6 I have pointed out before that the Victims' Code envisages an approach to complaints involving more than one service that is out of line with the relevant Parliamentary and Health Service Ombudsman (PHSO) principle of good complaint handling. (The Victims Code says that each agency should prepare its own response to a complaint; the PHSO principle is that, so far as possible, a single joint response should be offered to the complainant.) The terms of the Victims' Code are a

matter for the Ministry of Justice, but this is an aspect of the Code that might usefully be revisited at some point in the future.

3.7 More generally, as in past years, I have found that not all CPS staff are sufficiently familiar with the terms of the Victims' Code or can identify when its provisions have been breached.

3.8 Many of those who pursue their complaints to the independent stage of the CPS complaints procedure are the victims of domestic violence. I have reviewed a number of complaints where the CPS has failed to apply for a restraining order to protect victims. In cases where the victim has, in consequence, had to apply for a non-molestation order, I have recommended that the CPS meet the legal costs involved.

3.9 Another group who appear disproportionately represented in my caseload are defendants who have represented themselves. Just as the courts now have to devote extra time and attention to the needs of unrepresented defendants, so the CPS may have to consider if any changes are required to its procedures.

3.10 Two other features of my presentations to CPS staff are illustrated in the case studies. The first is what I have termed the 'last minute phenomenon', which I find applies to both casework decisions and to complaint responses. I have suggested that those responsible for preparing responses to complaints should aim to do so by day 15 – enabling time for checking and reflection before the formal 20 working day deadline.

3.11 The second is the number of errors recorded on the KIM complaints database. Start dates are very frequently incorrect – with the result that the targets are automatically wrong as well. Outcomes are also very often inaccurate, and it is disappointing that so little use is made of the field for lessons learned.

3.12 All that said, I remain of the view that the CPS's complaints handling is generally strong, with errors identified and appropriate action taken. However, as the case studies that follow show, it is all too frequently not until stage 2 that a full explanation and apology is offered to the complainant.

4. Case summaries

4.1 I set out below summaries of selected cases received and closed in 2017-18. As has been my practice in previous years, some details have been removed or been subject to minor alteration to ensure anonymity.

4.2 I have concentrated upon cases closed in the second half of the year as case histories for the first six months have already been published on the CPS website as part of my last six-monthly report to the CPS Board. Given the need to use public money parsimoniously, it is arguable that accountability would be sufficiently served were only this annual report to appear on the website.

Ms AB and Mr AB, two defendants who had represented themselves, complained that sensitive material sent to them by the CPS had arrived after the envelope had been badly ripped in the post. They further said that a letter of complaint had gone unanswered. The CPS had accepted that the letter of complaint had been destroyed without being successfully scanned onto the case papers, and it subsequently became clear that other correspondence had also not been answered.

However, the Area said that CPS staff had taken adequate steps to ensure that the paperwork had arrived securely. I concluded that the use of standard manilla envelopes (when strong polythene ones are readily available) was not sensible, and upheld this part of the complaint too. But I also said that the public good was not served when complaints take on a life of their own, and that further to my review the CPS would be entitled to say it would enter into no further correspondence. I added that the advice given to prosecutors locally about their responsibilities when dealing with unrepresented defendants might be of national significance given the number of defendants now representing themselves. I made no recommendations beyond the findings of my report.

Ms AB was the victim of offences at the hands of her then partner. At trial, the man was acquitted of all charges. It was clear that there had been poor service from the criminal justice system as a whole. The trial had been delayed because of pressures on the courts, the Witness Care Unit (WCU) had failed to keep Ms AB informed, and the police had failed to clarify issues relating to entries in her diary. The CPS had also failed to notice that a charge of common assault had been mistakenly left off the indictment, and had shown insufficient energy in chasing the police regarding the diary entries until the trial had actually started. I upheld the complaint in respect of the CPS's responsibilities and made two recommendations: the Chief Crown Prosecutor to apologise, and the

CPS to provide a letter for Social Services clarifying that Ms AB had not falsified entries in her diary and was simply doing what the police had asked her to do.

Mr AB was the victim of criminal damage to his car. He had supplied an estimate for repairs of £837 but the court had awarded just £100 in compensation. My review revealed poor service across the criminal justice system. Incorrect information had separately been given to Mr AB by the police and the Court, and he had been ill-served by the WCU. The CPS had also failed (in advance and at the hearing) to ensure that the Court was aware of Mr AB's wish to read his Victim Personal Statement (VPS). This was a breach of his rights under the Victims' Code. I also criticised the stage 1 response. It was poorly laid out, included some typographical errors, and did not evidence much sympathy for the position Mr AB found himself in as the innocent victim. I upheld the complaint and made two recommendations: the Chief Crown Prosecutor to share my report with the police and the Court, and the CPS to make a consolatory payment of £400 for the breach of the Victims' Code.

Mr AB was the victim of an assault by a youth. He was out of the country and the CPS (wrongly) did not consider the use of live link (it can be used in the Youth Court but not the magistrates' court). It seems the Court prioritised speedy justice for the youth and did not agree to a later court date. In the absence of Mr AB, the agent prosecutor did not consult with the CPS about seeking a further adjournment and instead offered no evidence. Mr AB raised a variety of other issues, but the crux of the matter was the live link failure. I upheld the complaint and recommended that CPS HQ consider issuing further advice to Areas regarding the use of video link in Youth Courts. I also recommended a consolatory payment of £200.

Ms AB was the victim of domestic violence. Despite the police requesting a restraining order, this was overlooked by the prosecutor. The CPS admitted that this was a serious failure, and I was impressed by the actions then taken. A consolatory payment of £250 was offered, but Ms AB said this did not cover the legal costs she had incurred in seeking a non-molestation order. I was concerned that the terms of the CPS policy were unclear, and drew attention to my own terms of reference that expressly encompass compensatory as well as consolatory payments. I upheld the complaint and recommended the payment of full compensation to Ms AB as well as a review of the CPS policy.

Mr AB was the victim of harassment. The CPS decided to offer no evidence, principally because the defendant had already received a lengthy prison sentence for unrelated offences. The matter was dealt with as a joint Victims' Right to Review (VRR) and complaint. It was concluded that the

decision to offer no evidence was wrong, and apologies were offered for the fact that Mr AB had not been consulted beforehand. Likewise he had not been consulted regarding the terms of a restraining order. I found there had also been failings around the Direct Communication with Victims (DCV) letter, and the stage 2 letter had been misaddressed (perhaps because it was sent on day 20 and not checked sufficiently thoroughly). I upheld the complaint and made two recommendations – a consolatory payment of £250, and the CPS to share my report with the Ministry of Justice given that the failures identified regarding consultation are not covered by the Victims' Code.

Mr AB had been convicted of traffic offences. He decided to abandon his appeal to the Crown Court. He complained that CPS staff did not answer his phone calls or return them. Mr AB's initial correspondence was excluded from the complaints system on the grounds that he was a defendant and the proceedings were live. Only after approaching the IAC (when the legal matter was closed) did the Area accept his complaint formally. I concluded that this was a misreading of the CPS Feedback and Complaints guidance. The Area had separately accepted some mishandling of Mr AB's calls and emails, and that the stage 2 response was over a month late. I upheld the complaint and made two recommendations: the Chief Crown Prosecutor to apologise for excluding Mr AB from the complaints process, and CPS HQ to review the Feedback and Complaints guidance in light of my findings and observations.

Ms AB was the victim of an assault by a neighbour. The neighbour was charged with racially aggravated assault, using racially aggravated threatening words, and criminal damage. The police preparation had been poor, but I found there was no chasing from the CPS reviewing lawyer. On the day of the trial, the reviewing lawyer was also responsible for incorrect information being given to the defence and the court. I also found that Ms AB's Victims' Code right to a DCV letter within one day had been breached. However, there had been very comprehensive and sensitive replies at stages 1 and 2. I endorsed all the actions, including the offer of a consolatory payment of £250 that Ms AB had rejected. I part upheld the complaint, but made no recommendations as I agreed with the CPS's actions.

Ms AB had been the victim of an assault after the car in which she was travelling was involved in an accident and an altercation ensued. The CPS had offered no evidence. It was clear that there had been significant failings on the part of the whole criminal justice system. The police had failed to provide CCTV coverage or other documentation. However, the CPS had failed to chase or to escalate the matter. The agent prosecutor then failed to challenge a defence submission relating to

disclosure, and the magistrates had been wrongly advised by their legal advisor. A range of actions had been taken, including the offer of £250 as a consolatory payment. I upheld the complaint but made no additional recommendations. Although this was a most dismal affair, I felt that the combination of my report, the actions taken, and the consolatory sum represented appropriate redress in circumstances when the basic failures could not now be put right.

Mr AB was a defendant in two cases of serious sexual assault. In the first case, the alleged victim had broken down under cross-examination and been unable to continue. The prosecution decided to offer no evidence. After advice from Counsel, the proceedings in the other case were also discontinued. Mr AB complained about the prosecutions, but I considered that the only matters I could cover were the case reviews and the handling of his complaint correspondence. The CPS had acknowledged that the recording of reviews was poor, that at least one review should have been more diligent, and that the discontinuance of the second set of proceedings could have occurred earlier. I also found errors on the KIM database, and that the stage 1 and 2 letters were both late. There was a mistake in relation to the Code for Crown Prosecutors in the stage 1 letter. I upheld the complaint in regard to those matters within my remit. I made no formal recommendations, but there were lessons to be learned in terms of casework quality and complaint handling.

Mr AB was a defendant in three cases of harassment. I found significant service failures. First, there had been no ongoing review of the first case brought against Mr AB. This was a breach of paragraph 3.6 of the *Code for Crown Prosecutors*, which guarantees that: “Review is a continuing process”. I was told that changes in the way the Domestic Abuse Unit is organised should now prevent cases going to trial un-reviewed. What would have occurred in respect of the charge against Mr AB had there been a further review is uncertain. But it is at least possible that the charge would have been dropped and the proceedings avoided. I said that, for the avoidance of doubt, any failure to ensure that review is a continuing process is a service failure, within my remit, and not a matter of the CPS’s legal judgement. Second, Mr AB and the Court were put to further cost and inconvenience because the request for an up to date police risk assessment for the restraining order application was not actioned. Although partly the result of an error by the Court itself, the CPS had rightly accepted responsibility. Mr AB had been told he could apply for a refund of his expenses from the Court, and I was content that this was the correct way for reimbursement to be managed. However, the failure to action the request for a risk assessment had been compounded by a failure to record the outcome of the hearing on the CPS’s case management system. I concluded that it was for this reason that the stage 1 letter referred to the wrong hearing entirely, and came to irrelevant conclusions as to what had occurred. I also criticised aspects of the CPS’s complaints handling. It

seemed to me that the start dates recorded on KIM for both stage 1 and stage 2 were wrong and that, in consequence, the target dates for both responses were also incorrect. In addition, the correct outcome at stage 1 should have been 'part uphold'. Earlier in the process, there was no acknowledgement of Mr AB's correspondence, and the decision to proceed to stage 1 was mishandled. It appeared to me that one reason for these outcomes was that Mr AB's complaint was not consistently channelled through the complaints team, and telephone conversations were not adequately recorded. I was not inclined to make a formal recommendation, but there was clearly a learning point here for CPS that I trusted could be acted upon. I upheld the complaint.

Ms AB complained in respect of a CPS decision not to bring charges against the driver of a vehicle involved in a fatal incident with her son. Most of the complaint concerned the decision not to prosecute (and the availability or otherwise of CCTV showing the driver's speed). It was clear, however, that the prosecutor who made the decision not to bring charges had neglected to draw Ms AB's attention to the VRR scheme. It appeared that an inappropriate leaflet had also been enclosed with the DCV letter. I took the view that these were serious flaws (Ms AB was grieving and unclear about procedures), albeit speedily remedied. A few minor glitches aside, the remaining CPS correspondence had been excellent – especially the VRR appeal. I replied by letter, as there was very little about Ms AB's grievance that came within my jurisdiction. I partly upheld the complaint as there had clearly been at least one service failure, but made no recommendations.

Mr AB had been knocked off his motorcycle by a car. Charges of careless driving against the driver had been discontinued. This progressed as a joint VRR/complaint. The complaint element referred to the very late CPS review – such that Mr AB was given just 12 hours notice of discontinuance. I upheld the complaint in respect of service failures but made no recommendations. As in many similar circumstances, it was helpful to be able to tell the complainant that my report would be seen by the Director of Public Prosecutions and her senior colleagues.

Mr AB complained following the acquittal of a man accused of theft. He said the prosecutor had conducted the case poorly. There was also criticism of the prosecutor for saying he had only received the papers on the morning of the trial and then denying it. I found this to be a sad case (involving family dynamics) that was at the margin of my responsibilities. I could reach no finding of fact on the issue of what the prosecutor had said, but suggested that if he had only spent two minutes with Mr AB before the trial this would not have met the spirit of the CPS guidance on *Speaking to Witnesses at Court*. I did not uphold the complaint and made no recommendations.

However, I suggested that the Chief Crown Prosecutor might wish to re-circulate *Speaking to Witnesses at Court* to members of the independent bar.

Mr AB complained on behalf of his son, who had been charged with and acquitted of serious sexual offences. Mr AB challenged the professionalism of the charging advice – a legal decision that I said was outside my jurisdiction. However, it was clear that the charging decision had taken more than four months – far beyond the 28-day target. It was also apparent that the MG3 (a restricted document when complete, intended for the prosecution and police alone) had been wrongly disclosed by the CPS to the defence. I part upheld the complaint and made no formal recommendations. However, I suggested that the Chief Crown Prosecutor would wish to ensure that current charging times in the Rape and Serious Sexual Offences (RASSO) Unit were in line with the 28-day target and that MG3s were not being wrongly disclosed.

Ms AB was the victim of domestic violence. At court the agent prosecutor accepted a plea to a lesser charge without recourse to the CPS. It also became clear that there had been (at best) a miscommunication between the agent prosecutor and Ms AB in respect of the acceptance of the plea (which in any case the CPS judged to have been wrong), and whether to apply for a restraining order. Ms AB wanted the agent removed from the CPS list, but the CPS said it was proportionate that he had been warned that any recurrence would result in his being removed. I took the view that this was not a matter for the IAC, but there would be a further review by the Director of Public Prosecutions in consequence of her seeing my report. I upheld the complaint and recommended that my report be shared with the agent prosecutor.

Mr AB and his mother had been the victims of crime at the entrance to their home. Errors by the police and CPS meant that a defence submission of no case to answer was accepted by the court after identification evidence had been excluded. Mr AB and his mother had received apologies and an offer of a consolatory payment, but he said he would still be out of pocket. I concluded that sufficient investigation had been carried out, and that the sums offered were in line with CPS policy and HM Treasury guidance. I upheld the complaint but made no recommendations (save that errors on KIM should be drawn to the attention of relevant staff).

Ms AB was the victim of historic sex offences. The Judge decided there was no case to answer after hearing legal argument relating to the doctrine of *doli incapax* (the presumption that a child is incapable of committing a crime). Ms AB complained about the CPS's handling of the matter, and it was clear that the reviewing lawyer had not realised the significance of *doli incapax*, nor that the

defendant – who was a child at the time of the alleged offences – could not be charged with rape. In truth, there was little I could do or say, and it seemed inappropriate to labour the fact that no letter had been sent to Ms AB after the trial or that there were very minor flaws in the complaint handling. I replied by letter.

Ms AB complained on behalf of Mr AB, a defendant against whom proceedings had been discontinued. It was clear that there had been 'legal' failures: the reviewing lawyer and prosecutor continuing proceedings in the hope of a restraining order notwithstanding their judgement that the evidential test in the Code for Crown Prosecutors was not met. I also found a series of service failures: no review had been held before the first hearing; the prosecutor had not engaged with an unrepresented defendant, the discontinuance letter had not been sent to Mr AB because details had not been updated on the computer, there had been an error in the stage 1 letter, and a failure to meet time targets at stage 2. All in all, there had been significant flaws both in 'legal' and 'service' aspects, but I concluded that the findings of my independent review represented sufficient redress.

Mrs AB had been injured in a car accident in which another driver had died. A third driver had been acquitted of causing death by careless driving. Mrs AB said that she had received very poor support during the process. She had also not been given the details of the inquest of the driver who died. For its part, the CPS had acknowledged that Mrs AB had been warned far too late for trial (in the event, her evidence was agreed by prosecution and defence and read to the jury). I tried to explain the different roles played by different parts of the criminal justice system, and that the CPS was not responsible for providing emotional support. There was also a suggestion that Mrs AB had been regarded as a witness rather than a victim. I provided details of the inquest, and criticised the CPS for not having done so earlier.

Mr and Mrs AB had been the victims of a dangerous dog attack. The dog's owner had pleaded guilty to three offences. It was clear that there had been service failures: Mr and Mrs AB's contact with the prosecutor had been unsatisfactory, and he had wrongly discussed evidence in the case with another witness before them. The stage 1 response was also unsatisfactory as a (false) assumption had been made about the identity of this other witness. There had also been a poor DCV letter from the WCU. However, Mr and Mrs AB had received an apology and were content. They had sought escalation to stage 3 so that three further questions could be answered. Although I would normally refer such queries back to the Area concerned as an extension to stage 2, in this case they had been kept waiting long enough so I reproduced the answers given to me by the CPS.

Ms AB complained that the CPS had not made an application for a restraining order and she had had to spend her own money on a non-molestation order. I recommended that Ms AB be paid the full amount she had expended, and repeated advice to the CPS to ensure that the terms of its consolatory payment scheme were in alignment with my terms of reference. I recommended increasing the total package offered to Ms AB from £100 to £720.

Ms AB complained in respect of a trial at which the defendant was acquitted of harassment against her. I found most of the complaint to be legal in nature, but covered four service issues. First, what had been said by the prosecutor when meeting Ms AB as a witness before trial (she said he had told her he had read the papers in bed the night before; he said he had told her he had been reading them up until going to bed). Second, the circumstances surrounding the offer of a non-conviction restraining order. Third, the CPS's failure to chase the police for a 999 recording (an aspect of the complaint I found was justified). And fourth, the general complaint handling. I part upheld the complaint but made no recommendations.

Mr AB had been the victim of an historic sex offence. The defendant was acquitted (although he had been convicted of an offence against another victim and was facing a re-trial on three other charges). Mr AB criticised the change in barrister and said that a remark made by the defence should have been challenged. I discovered that the change in prosecuting counsel had taken place 15 weeks before trial so was not in any sense last minute. The trial transcript did not show the remark by defence counsel that Mr AB said should have been challenged, and I took the view that, even if the recording could be obtained, I would not have been able to say whether the prosecutor should have intervened (as this was a legal judgement). I identified that there had been minor failings in complaint handling, but I decided I would not cover these as it might seem to trivialise the fundamental aspects of Mr AB's complaint.

Mr AB's elderly mother had been the victim of fraud and theft by a care worker. However, the CPS had offered no evidence as Mr AB was not present for the trial (the defence case being that he had given permission for the care worker to take the money). This was despite Mr AB having informed the WCU on three occasions that he could not attend because of a pre-booked holiday. The CPS accepted that it had been told twice by the WCU of Mr AB's unavailability but had taken no action. There was no evidence that on the third occasion the WCU had passed on any message. I felt this was utterly woeful. However, surprisingly, it did not seem to represent a formal breach of the Witness Charter. I made three recommendations: £400 as a consolatory payment; a copy of my

report to be shared with manager of the WCU; and a further copy to be shared with the Ministry of Justice.

Mrs AB complained following the acquittal of a defendant charged with wounding her son. The boy had nearly died and had suffered very serious injuries. Much of the complaint involved decisions of the police and WCU, but there had been a number of failings on the part of the CPS. In respect of its complaint handling, the stage 1 response had not shown much empathy, and an extension to stage 1 was very short and very late. I also criticised poor signposting to other parts of the criminal justice system.

Mr AB was the victim of criminal damage to his front garden, part of a continuing neighbour dispute. The prosecutor at court accepted a binding over order and offered no evidence. This was against Mr AB's vehemently expressed views. Most of the complaint centred on this legal issue, but I felt the Area had been wrong not to identify that there were service issues too. In particular, a disk of the CCTV had been destroyed, and Mr AB alleged that he had been kept waiting two hours at court (this was disputed by the prosecutor). I also found flaws in the complaint handling and some uncertainty as to whether VRR applied to binding overs (it does not).

Mr AB was an acquitted defendant. Most of his complaint concerned the decision to charge (the adequacy of the evidence in particular). He also said the prosecutor had "lied" to the court at a pre-trial hearing in respect of serving the evidence on the defence by lunchtime that day. Mr AB said this had not been the result of a conversation with the defence, and he wanted the defence barrister interviewed (something the CPS had not done). Although I found that there had been a delay in engaging with the defence and two very minor flaws in the complaint handling, I was not persuaded that the defence lawyer needed to be interviewed. Recollections of conversations often differ. In any event, there was objective evidence that the Court had ordered that the evidence would be served at a later date - something it was unlikely to have done had the prosecutor given the undertaking Mr AB claimed. The needs of proportionality and parsimony in the use of public money argued against any further investigation of this matter.

Ms AB had been assaulted by her former partner. He had been convicted of a sexual offence but then cleared on appeal. Much of Ms AB's complaint concerned her desire for a re-trial. But she also alleged the agent prosecutor had been uninterested, that a member of CPS staff had been rude, that no application had been made for the terms of a restraining order to be widened, and that important evidence had not been included in the prosecutor's exhibits pack. Following receipt of a

draft of my report, the CPS obtained a copy of the appeal transcript (which I also read). This made clear that no application had been made in respect of the pre-existing restraining order - and that Ms AB had been misled into believing that a restraining order was still in place. The CPS had offered a consolatory payment of £200 which I felt was appropriate. It was uncertain why the exhibits pack was incomplete, but it seemed this had been a decision of the prosecutor as to the evidence to rely on (and hence a legal issue). I part upheld the complaint given what has occurred in respect of the restraining order, and recommended that a copy of my report be shared with the agent prosecutor.

Mrs AB and her husband had been prosecuted for harassment of a neighbour. At trial, both were acquitted. Much of her complaint concerned the decision to prosecute and whether this was in the public interest. However, I found some failings in the complaint handling. Most significantly, there had been a serious data protection breach in that details of a sensitive and unrelated case had been mistakenly included with the Deputy Chief Crown Prosecutor's stage 2 letter. I also found errors on KIM, but these had led to good practice on the part of the manager of the Victim Liaison Unit. Entries on KIM were to be dip sampled for accuracy, and Victim Liaison Officers were asked to clarify outcomes with the authors of stage 1 and 2 replies. I said this was good practice from which others could learn.

Ms AB had been the victim of fraud. The prosecution had been discontinued but police investigations had continued. Eventually the Chief Crown Prosecutor decided that the case could not be reinstated as too much time had elapsed. This was a dismal story of failure by the criminal justice system with the police blaming the CPS and the CPS blaming the police. I found there had been a lack of grip throughout by the CPS, whatever the failings of the police. There had also been a long delay in seeking authorisation from the Chief Crown Prosecutor to reinstate proceedings, although it was almost certainly too late by that time anyway. The complaint handling had also been weak, albeit the stage 2 letter offered a full and frank explanation and apology. Ms AB had asked for compensation for her losses (of up to £20,000), but I could not assist her with that - nor did I think there were sufficient grounds for a consolatory sum under the CPS policy.

Ms AB was the victim of domestic violence by her former partner. The man had pleaded guilty to criminal damage but was acquitted of assault by beating. Much of Ms AB's complaint concerned legal matters - like many victims of domestic violence who complain to me, she was understandably dissatisfied with the trial outcome. But the CPS had also acknowledged that the agent prosecutor had not consulted Ms AB before agreeing that she could enter court while the defendant was present (despite her giving evidence from behind a screen), that the prosecutor had failed to

introduce himself at court, and had failed to apply to introduce bad character evidence (although, in the circumstances, this would probably have made little difference to the outcome). I felt the stage 1 and 2 letters were both full and candid, and in sad circumstances there was very little as IAC that I could contribute.

Mr AB was the victim of criminal damage to his car and home. At court the prosecutor applied for compensation but failed to provide the details of the valuation of the damage that was in his bundle. The Court quoted the absence of such a valuation in explaining why no compensation order had been made, and the CPS had accepted its mistake. I said that, while it was a matter of speculation what the Court would have done had it had the full information (the absence of which I suggested was not good grounds for not considering compensation in any case), and the CPS could not be expected to make good the supposed oversights of the courts. Nonetheless, the terms of the CPS Complaints Consolatory Payments guidance were invoked. I also found very poor complaint handling at stage 1. I recommended a consolatory payment of £250, and that my report should be discussed at the (already scheduled) discussion of compensation to be held at the next meeting of the Area Casework Quality Group.

Two of Mrs AB's pedigree breeding ewes had been killed by a dog or dogs. A man had been charged under the Dogs (Protection of Livestock) Act 1953, but the prosecution was discontinued. Mrs AB sought compensation. Much of her complaint concerned the legal decision-making, but the CPS accepted that it had not been very clear in explaining its decisions. Indeed, the VRR had concluded that the decision was wrong – a view based on an incomplete review record that the CPS subsequently felt was incorrect. I did not believe the case for compensation was made out. I was conscious, however, that like many victims of crime Mrs AB had suffered both financially and emotionally.

Mr AB complained on behalf of his granddaughter - the victim of sexual offences. The prosecution had been dropped when the defence entered an abuse of process argument in respect of a failure to check mobile phone evidence. Mr AB said the CPS had not met its commitments to the highest standards of service, and I found that the reviewing lawyer had been insufficiently proactive in respect of the mobile phone evidence and in chasing the police for materials. Although the complaint handling had been good, I had no hesitation in upholding Mr AB's complaint and made three recommendations. In particular, the Chief Crown Prosecutor should consider offering further advice to lawyers regarding phone evidence and chasing the police when evidence is not supplied,

and to assure himself that staff understood the complaints process and the need to progress complaints without delay.

Ms AB, a mental health advocate, complained on behalf of Ms CD, a victim of assault. At trial, the defendant had been acquitted. There were three service complaints. First, the CPS had acknowledged a failure to warn an independent witness for trial. When the court refused an adjournment, the case was much weakened in consequence. Second, Ms CD said the CPS had known of her mental health problems but made no attempt to provide support for her. Third, an offer of £250 as a consolatory payment was insulting because the defence had suggested that Ms CD's motivation was financial. I found that the first of these was an evident failure, but felt the evidence was strongly against the second element of the complaint. In respect of the final element, the offer of a consolatory payment had been made in good faith and without knowledge of what the defence had alleged. I also commended the complaint handling. In the circumstances, I part upheld the complaint but made no recommendations.

Mr AB complained on behalf of, and alongside, his son. He said that his son was the victim of harassment. Mr AB alleged that when the matter had come to court the defendant had pleaded guilty following an agreement with the prosecutor that he would not pursue a civil claim against Mr AB's son. The CPS had said that no such 'agreement' had been made, and in any event it would not have been binding. I found no evidence that an agreement had been entered into, and in fact the decision to accept the guilty plea had been made by the Court against the representations of the CPS. However, I did find minor flaws in the complaint handling. Bizarrely, both at stage 1 and 2 the complaint had been recorded on KIM as having been upheld (a reversal of the usual mistake when upheld complaints are recorded as not upheld). I also did not understand why Mr AB had been refused the name of the agent prosecutor until the stage 2 response. I recommended that the Chief Crown Prosecutor remind staff in the Victim Liaison Unit that there is no barrier to providing complainants with the names of agent prosecutors.

Ms AB (an MP's caseworker) complained on behalf of Mrs CD, a victim of a particularly nasty fraud in which she had lost her life savings. The Judge had made orders for evidence to be disclosed to the defence but this had not been recorded by the CPS – and therefore not acted upon. The Judge accepted a defence submission that the case should be stayed. This failure on the part of the CPS was then serially compounded. Mrs CD was not informed what had happened (a breach of her Victims' Code rights). Further correspondence went unanswered, and Mrs AB was not told her rights under the complaints procedure. When a face-to-face meeting was eventually held, no

contemporaneous record was kept. The only person emerging well from these abject events was the Deputy Chief Crown Prosecutor who had written to Ms AB with a full account, and shown equal candour in his excellent Background Note for my review. I did not see all the papers (as no KIM casefile had been opened), but I saw more than enough to show that this was one of the most disturbing cases I had seen in five years as the IAC. I made three recommendations, including ensuring that a copy of my report was seen by the Director of Public Prosecutions herself.

Mr AB was an unrepresented defendant who had been acquitted at trial. He complained that correspondence with the CPS had gone unanswered, and sought a consolatory payment. For its part, the CPS acknowledged that correspondence had gone without response (or without a satisfactory response). In addition, Mr AB had been provided with body worn video evidence in a format he could not access. I found that the correspondence handling had indeed been very poor (and shared the criticism made at stage 2 of the suggestion at stage 1 that this was the result of workload pressures). However, I did not believe that the threshold for a consolatory payment had been met.

Mr AB had been involved in a public order incident with two others. He was charged and pleaded guilty to criminal damage, and then asked for a statement to act as a prosecution witness against the two others involved. In the event the statement was not used (but tendered to the defence), and when the case against the two others came to trial the principal independent witness was not present and the CPS offered no evidence. Mr AB's complaint focused on the level of charges brought against the other two defendants (he had suffered much more extensive injuries), but this was a legal matter outside my remit. However, I did find significant flaws in the complaint handling (perhaps pardonably so, given the ongoing proceedings and Mr AB's status as a defendant, witness and – arguably – a victim). The initial decision to treat his complaint as feedback was in error, and I found a number of other mistakes.

Mr AB and his partner Ms CD complained in respect of events that had led to Mr AB being charged (and acquitted) of assault. They said they were victims of an unprovoked attack, and that Mr AB had acted in self-defence (an argument the court had accepted). Aside from these legal issues, the CPS had accepted that it had failed to provide the Streamlined Disclosure Certificate to Mr AB. I speculated that this might have been picked up had Mr AB been represented, and said it pointed the need for special care when dealing with unrepresented defendants. I also found some failures in complaint handling (Ms CD having been wrongly excluded even though she was a witness). The key service complaint centred on a telephone conversation between Ms CD and the Victim Liaison

Manager, but I could only observe that recollections of conversations often differed, and could come to no view as to what exactly had been said.

Ms AB was the victim of harassment by a former partner. At trial the prosecutor offered no evidence in return for the defence accepting a restraining order. Ms AB alleged that the reason the case had failed was because the CPS had lost texts between herself and the defendant. The CPS said she had accepted the restraining order because a police statement indicated that Ms AB had told the defendant that she would be willing to lie in court. (Ms AB said she would never have said this and accused the defendant of splicing together conversations to show her in a bad light). I concluded, on the basis of the contemporaneous hearing record sheet, that the case had been dropped because of the police statement and with Ms AB's agreement. However, it was also likely that there had been some confusion between Ms AB and the prosecutor. Moreover, there was evidence that the preparation of the case (whether by the police or the CPS or both) had not been as adept as it could have been.

Ms AB was the victim of harassment in a domestic case. When the matter came to trial she was on holiday and, when the District Judge refused an adjournment, the prosecutor offered no evidence. Ms AB wanted a restraining order, but as no evidence had been heard this was not possible. I found that a single minor error by the CPS (the failure to action a task on CMS) had had major implications for Ms AB. It was not in doubt that the CPS had been told six weeks before the trial that Ms AB was not available, yet nothing was done until a few days before the hearing. I simply told the story: a sorry tale of a minor CPS error having a major impact on a victim and witness.

Ms AB was the victim of inappropriate sexual behaviour on the part of a work colleague. The man was initially charged with three offences of sexual assault but, following the receipt of material from the defence, a plea to a single public order offence was accepted (against Ms AB's wishes). She alleged that there had been a lack of compassion in the CPS's handling of her correspondence, but I felt that followed from the difference of view regarding the legal decision-making. However, I found that some aspects of Ms AB's complaint had not been fully answered and there were other flaws in the complaint handling. There was also a possible Victims' Code issue in that Ms AB said she had only learned about the sentencing hearing with one day's notice and thus had been unable to present her VPS in person to the court.

Mr AB is a police officer and victim of an assault. The trial of three defendants collapsed when the principal defendant was not produced to court. The CPS acknowledged that a Home Office

Production Order (the somewhat antique term that seems still to be in use) had not been arranged, the defendant having been recalled to prison by the probation service although remaining technically on bail. I noted that justice had not been served, and the time of four police officers at court had been wasted. However, I was content that Mr AB had been given a full explanation of what had occurred. Actions had been taken to prevent a recurrence, and I could offer no redress beyond the findings of my report.

Ms AB was the victim of non-recent sexual assaults when she was a child. The indictment was prepared by a lawyer on secondment to the CPS and was strongly criticised by the Judge at the sentencing hearing. The CPS subsequently accepted that the legal decision-making in this case was wrong and that the CPS lawyer overseeing the secondee had failed to spot the mistake. I also found that the stage 1 response was poor (both in endorsing the legal decision and in failing to obtain the Judge's comments). At stage 2 there had been delay, although some of this was the result of pardonable confusion in that attempts were being made to resolve matters by meeting Ms AB in person. I found other shortcomings, and upheld the complaint in strong terms. I recommended that a copy of my report be shared with the Director of Public Prosecutions for her personal attention given that both the supervision of seconded lawyers, and the proper drafting of multiple count indictments, have national implications.

Mr AB complained that a feedback letter had included 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 a coincidence. However, I found significant flaws in the complaint handling (wrong start dates on KIM, wrong outcome on KIM, wrong escalation paragraph used, a holding letter not sent).

Mrs AB had been the victim of a road traffic collision. When the case came to court the prosecutor made an incorrect legal decision and the case ended (whether withdrawn or as result of no evidence being offered was not clear). It was only two years later that Mrs AB found out, as no victim letter was sent. When Mrs AB wrote to discover the circumstances and to make a complaint, this was judged to be out of time. However, I felt that special circumstances clearly applied and the decision not to invoke the complaints procedure was in error (albeit Mrs AB received a very full letter of apology from the Chief Crown Prosecutor). I also identified that the failure to inform Mrs AB of the outcome of the case was a breach of her rights under the Victims' Code (albeit not identified as such by the Area). I therefore recommended a consolatory payment of £250.

Ms AB complained about the CPS 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 her a victim letter (on the false basis that she and her daughters were not victims) - and in consequence 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. Both stage 1 and stage 2 responses had said that the legal decision was wrong but there was no possibility in law of reinstating the case. I also found various flaws in the complaint handling.

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 (ISVA) who had been present, said that the prosecutor had indicated that the defendant would plead guilty to all offences. The prosecutor (supported by a police officer and a CPS paralegal) 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). I said that if that meant some lawyers adopting the precepts of Plain English, then so much the better. Good practice had been shown in offering face-to-face meetings, but this had led to a further complaint as the victim had anticipated an outcome (the reinstatement of charges) that had never been possible.

Annex 1: Terms of Reference

1. Introduction

1.1 The Independent Assessor of Complaints for the CPS (IAC) reviews complaints in respect of the quality of service provided by the CPS and its adherence to its published complaints procedure and the complaints aspects of the Victims' Code. Stephen Shaw CBE was appointed to this new position in May 2013 for a three year term (with the possibility of extension).

2. Role and Remit

2.1 The remit of the Independent Assessor of Complaints (IAC) for the CPS is to consider service complaints at stage 3 of the CPS Feedback and Complaints procedure. Service complaints can be defined as 'any complaint relating to the service standards and conduct of CPS staff'. Examples of service complaints include being treated rudely or unfairly by staff members, failure to provide the correct information, or unnecessary delays in either the service provided or in responding to complaints.

2.2 The IAC cannot review complaints that are solely about prosecution decisions. Legal complaints are only considered at stages 1 and 2 of the procedure. Victims who wish to exercise their right to request a review of decisions not to bring charges, discontinue proceedings, or offer no evidence in cases, should utilise the Victims' Right to Review scheme (VRR).

2.3 The IAC will not consider service complaints relating to live or on-going proceedings (whether criminal or civil) until those proceedings are completed. This includes cases that qualify under VRR but have not yet exhausted all stages of the scheme.

2.4 The IAC can consider the service elements of 'hybrid' complaints: i.e. those that embrace both legal and service aspects.

2.5 Complaints must be referred to the IAC for review following the completion of stages 1 and 2 of the complaints procedure, if the complainant remains dissatisfied. Complaints that are linked to on-going civil proceedings must be deferred until the conclusion of all civil proceedings.

2.6 Complainants can also refer complaints to the IAC directly where the CPS has not adhered to its complaints procedure although stages 1 and 2 may not have been completed. This could include circumstances where complaints handling at stages 1 and 2 gives rise to further complaint.

2.7 Complaints must be submitted within one calendar month of the stage 2 response. However, the IAC has discretion in relation to this time limit where there are exceptional factors.

2.8 The IAC also acts as the guardian of the CPS Feedback and Complaints policy, overseeing the process and supporting the CPS to develop best practice and improved service standards for victims and witnesses. In that capacity, he will review samples of cases that have not reached stage 3 to assess the quality and timeliness of stage 1 and 2 responses. The audit will involve a dip sample of all complaints to provide an update to the CPS Board, and to further develop internal guidance, protocols and training materials.

2.9 The [Victims' Code](#) outlines victims' entitlements to ensure that services recognise and treat victims in a respectful, sensitive and professional manner without discrimination of any kind. Victims are entitled to make a complaint if their entitlements under the Code have not been met.

2.10 The Attorney General may commission the IAC to undertake bespoke investigations on behalf of the Attorney General's Office or the CPS. The nature of these investigations may fall outside the usual IAC remit; in such cases specific terms of reference for the review will be drawn up.

3. Review Process and Time Standards

3.1 As an independent postholder with quasi-judicial functions, the IAC sets his own procedure. However, in general an IAC review will consist of a review of the papers at stages 1 and 2 of the complaint procedure. The relevant CPS Area/Central Casework Division will submit and prepare the relevant paperwork and a background note for consideration by the IAC.

3.2 The IAC will consider the information provided and where appropriate request further reports and statements.

3.3 The IAC will develop a draft response within 30 working days of the matter being referred to him which will be sent to the relevant CPS Area to allow for fact-checking in advance of the final response and recommendations being concluded. The timescales will begin once the complaint has been accepted by the IAC.

3.4 The CPS will have a maximum of 10 working days to respond to the draft report.

3.5 A full response will be provided to the complainant within 40 working days. If it is not possible to complete the review and reply within that timeframe, the IAC will contact the complainant to explain why there is a delay and provide a date by which he hopes to provide a response.

3.6 The IAC will acknowledge receipt of complaints within five working days.

3.7 The IAC will normally conclude his review with a formal report. However, he will be at liberty to complete a review in whatever means he judges most appropriate.

3.8 The review process will be supported by CPS staff who will provide a back office function and advise the IAC on the eligibility of complaints under his terms of reference.

3.9 Final reports will be sent on behalf of the IAC to the complainant and the Director of Public Prosecutions.

4. Remedies and Compensation

4.1 The normal form of redress recommended by the IAC will be a formal apology on behalf of the CPS.

4.2 The IAC may also recommend changes to CPS policies and practices that could help prevent a recurrence of the circumstances giving rise to the complaint.

4.3 The IAC may not recommend disciplinary action against CPS staff but he may recommend that the case for disciplinary action is considered under the CPS's HR procedures.

4.4 The IAC can recommend that the CPS consider making a compensatory or modest consolatory payment where there is clear evidence of uninsured material loss or severe distress caused by maladministration or poor service by the CPS.

4.5 Recommendations will be made to the Director of Public Prosecutions. The IAC's recommendations are not binding, but if the CPS decides not to accept a recommendation it will explain its decision in writing to both the complainant and the IAC.

4.6 Victims have the opportunity to refer their complaint to the Parliamentary and Health Service Ombudsman (PHSO), via an MP, following the IAC review where they remain of the view that the Service has failed to meet its obligations under the Victims' Code.

4.7 Complainants who are not victims of crime do not have a right of access to the PHSO; the IAC review is the final stage of the complaints process in these cases.

5. CPS Responsibilities

5.1 The CPS will provide:

- In year data to the IAC to inform the complaints reporting process.
- Open access to complaints and feedback systems and records.
- Access to such information as the IAC requests for the purpose of conducting a review.
- Executive support for the office of the IAC.

5.2 The CPS will ensure that the referral process for the IAC is clear and accessible for complainants and that the executive support arrangements are robust. Fact-checking of draft IAC reports will be undertaken in a timely manner no longer than the timetable in paragraph 3.4 above. Where the CPS is unable to meet that timetable it will inform the IAC immediately.

5.3 The CPS will formally acknowledge IAC reports and recommendations and provide confirmation by letter whether the recommendations have been accepted and implemented.

6. Reporting Arrangements

6.1 The IAC will report bi-annually to the Director for Public Prosecutions and the CPS Board. The CPS will publish the IAC's annual report on its website.

7. Contact Details

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Fax: 020 3357 0567

8. Review Period

8.1 The IAC terms of reference will be reviewed annually.

8.2 Supporting FAQ will be updated on a bi-annual basis.

