

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

Annual Report 2020-21

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Independent Assessor of Complaints for the Crown Prosecution Service: Annual Report 2020-21

Introduction: What is the IAC?

Welcome to the 2020/21 annual report of the Independent Assessor of Complaints (IAC) for the Crown Prosecution Service (CPS). The IAC is completely independent of the CPS, providing an impartial service that complainants can have confidence in.

My role is to:

- Investigate 'service' complaints about the CPS following conclusion of its internal complaints process.
- Look at whether the CPS properly followed the Victims' Code guidance on the services that must be provided to victims.
- Check that the CPS has followed its complaints procedure.

Anyone who has already complained to the CPS and remains dissatisfied with the outcome of their service complaint following Stages 1 and 2 (the two internal stages) of the complaints procedure, can escalate the matter to the IAC for a Stage 3 review. Service complaints include, for example, the conduct of CPS staff such as rudeness or being given wrong information, and service standards such as breaches under the Victims' Code.

'Legal' complaints do not come within my jurisdiction. Legal complaints include how the CPS applied the Code for Crown Prosecutors in deciding whether to prosecute, and decisions about which witnesses are called at a trial or evidence relied upon. These are matters that are rightly reserved for lawyers at the CPS.

The distinction between legal and service can be confusing for complainants. Most complaints that reach the IAC contain both service and legal elements, although in some cases the service element is not the central issue.

The IAC's aim is:

- (for individuals) to right wrongs where possible
- (for the CPS) to drive improvements in the service to reduce the likelihood of similar complaints arising in the future

This year's report includes CPS complaints data for the first time, relating to the number of complaints received at Stages 1 and 2 of the complaints process, to give context to the number of complaints escalated to Stage 3 (the IAC).

You can find the IAC's terms of reference at the end of this report. The annual review of my terms of reference has not resulted in any amendments this year.

Moi Ali

May 2021

The Year's Highlights

The impact of Covid-19

For the entire period of this annual report the United Kingdom has been living under varying Covid-19 restrictions, including complete lockdown at times, and this has had an impact in a variety of ways. For complainants who prefer to use the postal service rather than email, there have been unavoidable delays due to the closure of the CPS office in Petty France, London, where the IAC's office is based, and the arrangements put in place to forward mail. Fortunately, the bulk of correspondence is received via email although a small number of complainants during the year used the postal service and were therefore affected.

Other new working practices as a result of the pandemic have had an adverse impact on complainants. While I have always worked mainly from home (although I am expected to work from London for two days each month) I have had to use electronic files, as my assistant is unable to go to the office to print and collate paper files. This has proved challenging, as files comprise scores of documents. It takes significantly more time attempting to move between multiple files simultaneously on a small laptop screen. Annotating and bookmarking documents so that key sections can easily be found is not a simple process with electronic case files. This has undoubtedly contributed adversely to turnaround times, as reviews are inevitably taking longer than they ordinarily would with paper files.

Covid-19 has featured in a number of cases that have been escalated to my office. A few have complained in passing about delays in the CPS handling of complaints due to home working, delays in mail being relayed onwards from CPS offices, and in one case a letter not being dispatched to a complainant following an administrative error in relaying the correspondence between home and the mail room.

The pandemic has also had an impact on victims and defendants as many trials have been postponed, adding to the stress for both parties. In one case, the trial was postponed due to

Covid-19 restrictions and the Judge urged all parties to consider whether the case could be resolved by “acceptable pleas”, as it was impossible to set a further trial date due to the pandemic. Both defendants offered to plead guilty only to the lesser charge of affray, although they accepted the fact that they had assaulted the victim. The Judge viewed this as a ‘pragmatic compromise’, and the CPS accepted the plea without consulting the victim. The Judge commented that he would have imposed unpaid work but that was unavailable during the pandemic. The victim was dissatisfied with a lesser charge being imposed and the CPS’s failure to consult him.

In another case, that of a sexual assault, the CPS offered no evidence in court and the proceedings ended as a direct result of the pandemic. Originally the defendant had been found guilty, but the case was adjourned for sentencing and the conviction was subsequently undone. There was to be a ‘finding of fact’ hearing, which was delayed due to the pandemic. At various case reviews, it had been considered that due to the nature of the charge, and its impact on the victim, it was in the public interest to proceed with the case. At a subsequent Case Management Hearing, however, the Judge asked the CPS to re-review the case in light of the pressures on the court system due to the pandemic. He stated that with the delay caused by the pandemic, despite the nature of the charge and its severe impact on the victim, the sentence he would impose would be an absolute discharge: the defendant would walk free. Following this change in circumstances caused by the impact of the pandemic on the ability of the Crown Court to list the case for trial, and the view expressed by the Judge of the likely sentence, the case was further reviewed and the public interest test was at that point found no longer to be met given the pressures on the courts. This was devastating news for the victim.

Covid-19 was a feature for the mother of a murder victim who wanted a meeting with the CPS and was willing to accept that it had to be conducted using an online platform rather than in person. She was unhappy with the size and composition of the meeting, however, which she felt would be unduly stressful. In such a sensitive case as this one, with grieving close relatives, distanced meetings are especially difficult.

For one woman the pandemic made itself felt in a different way. The elderly victim asked to reread her statement before giving evidence, as was her right. In normal times, paper statements would have been provided on the day by the CPS. Unfortunately, her statement was unavailable because barristers had been asked to print statements where possible during the pandemic, to reduce the number of people handling the paper and thereby to reduce potential infection. The barrister, believing normal practice to have resumed, did not bring a printed statement and he was unwilling to allow the victim to handle his laptop. As a result, she was unable to recall the specific details of what had happened a year earlier, and the defendant walked free.

In one especially sad case, a woman lost the husband she had been married to for half a century in a tragic road accident and was left alone and isolated throughout lockdown as she awaited justice for the death of her husband.

Case complexity

A striking feature this year has been the complexity of cases. In previous years there has been a balance of cases: some have been very straightforward, others of intermediate complexity and a few have been particularly complex. This year almost all the cases reviewed have fallen into the latter category. This has added considerably to the time taken to complete a review: it has almost doubled. Bigger case files containing more correspondence take longer to read; more complex issues require more briefing; and more convoluted cases require more to-ing and fro-ing with CPS Areas, all adding to timescales. It could be argued that this is a good sign, indicating that more straightforward cases are now more likely to be dealt with by the CPS to a complainant's satisfaction, such that there is no need to escalate to the IAC. It is largely the more intractable cases that reach my in-box. Perhaps as a consequence of the nature of Stage 3s, and complainants' extreme dissatisfaction by the time they reach me, case follow-up has been more frequent this year. In previous years, it has been unusual for complainants to continue to correspond with the IAC during and well after a case has concluded. This year, extended correspondence has followed in a few cases. It needs to be read and replied to, which takes time away from live cases. I have had to take a hard line on the level of post-review correspondence in which I can engage.

New 'home' for the IAC

During the year the IAC's office moved from its 'home' in the Communications Directorate to a new home in the Operations Directorate. Although I have 'met' key members of that team and discussed how we might work most effectively, we are yet to meet in the real world. It is our hope that once normal office-working resumes, we can sit down together quarterly to discuss real cases, identify wider CPS learning, and look at whether system or other changes can help avert similar problems in the future. The benefit of the IAC's office sitting within the operations team is that it will allow for more joined-up working that can directly lead to changes and improvements for the CPS and ultimately for victims.

I continued to be involved as appropriate in the work being led by the Change Unit, although that work has now concluded. I recorded a video for CPS complaints handling staff, sharing tips on how to get it right first time by looking at issues from the complainant's perspective. I also 'visited' complaints handlers using Microsoft Teams. Although it is a medium that has enabled contact during the pandemic, it is not conducive to lively and participative events. I also made a virtual visit to London South CPS, but other planned visits did not take place due to travel restrictions.

Last year I visited CPS Direct (CPSD), the out-of-hours service, and this year I was asked to provide written feedback on complaints letters they had written. This feedback will form part of a training session the team is organising to help improve complaints letters and thereby avert escalation to Stage 3.

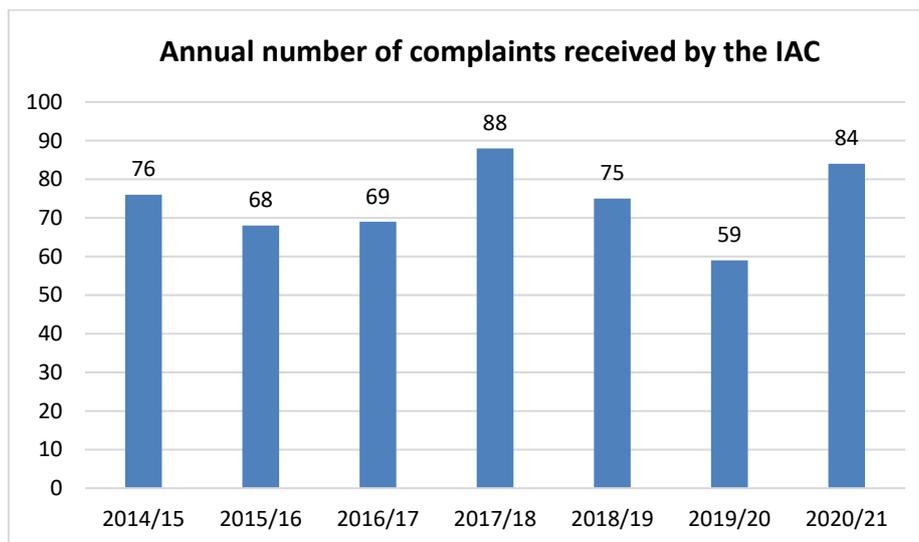
In February 2020 my leaflet on the IAC's service was published in a bid to manage complainants' expectations and to encourage them to be more specific in detailing any aspects of their complaint they remain dissatisfied with. While it is undoubtedly useful to complainants to have a plain English leaflet sent to them before they approach the IAC, it has unfortunately not resulted in the hoped-for specificity when it comes to complaints escalations. Few complainants have sent me clear details of why they remain dissatisfied or what they hope to achieve by escalating.

During the year I spoke with the Home Office, who are considering the implementation of an Independent Complaints Examiner following the Windrush report by Wendy Williams. The IAC model is on a similar scale to that envisaged by the Home Office and I shared information on how my office works, complaints levels, processes and costs. I had a similar conversation with another prosecution service seeking to establish a role akin to the IAC's.

So, despite not seeing anyone in person for more than a year, it has been a busy and productive period, but I am looking forward to meeting colleagues in person again in the coming year.

Caseload Comparisons and Performance

The number of complaints received by the IAC's office has risen dramatically, from 59 complaints last year (2019/20) to 84 this year. What appeared last year to be a three-year downward trend has shown itself simply to be part of the normal fluctuation year-on-year.



Annual number of complaints received by the CPS

2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
807	1176	1216	1007	983	953	1012

Of the 84 cases received, 12 were rejected or withdrawn. Seven were rejected as not falling within the IAC's remit, due to being wholly or primarily concerned with legal matters; two borderline cases were rejected following a case conference/discussion; one was rejected with a personal letter from the IAC for reasons of proportionality; one was withdrawn; and one is still on hold as it is a live case.

Sixty-eight Stage 3 requests were formally accepted by me between 1 April 2020 and 31 March 2021. Of these, 62 were completed and dispatched (in 2019/20 65 reviews were completed) and a further six were completed but awaiting final checks.

In 2019/20, 20 cases were carried over from the previous year (cases that arrived the previous year, although they may not have completed formal assessment or been accepted); this year there were just 14 carried-over cases.

By the end of this year, with the increased number of cases arriving in-year, there were 24 live cases carried into 2021/22. Nine new cases came in in March 2021 alone. I had hoped to see that number reduce, but the case complexity this year, combined with the other issues outlined above, made that impossible.

Unpredictable monthly variation in the number of complaints received continued this year, although numbers were more stable than in previous years, varying from three to nine, but generally sitting between seven and nine new complaints each month. With the IAC contracted to work 48 days a year, and each case taking between one and two days to complete, it is clear that the role cannot be done in the allocated time. As has been the case for a number of years now, the CPS funded additional days to help manage the workflow and avert significant backlogs from developing. This is a sign of that organisation's commitment to the independent third tier review. It is willing to invest in the service so that complainants can have confidence in it.

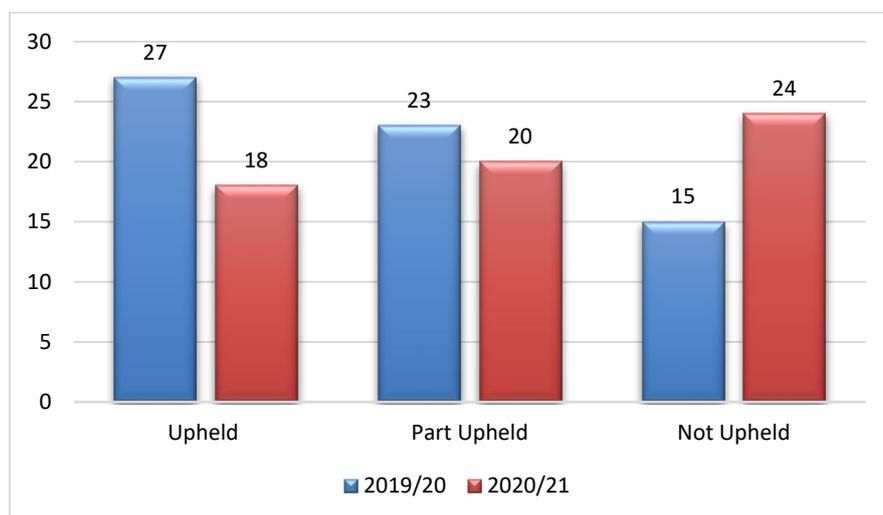
Inevitably there will be a queue of cases because at any given point, Stage 3 escalations will be awaiting eligibility checks or the preparation of background briefings for those that are proceeding to a full review. Additionally there will be cases that have been sent back to the relevant CPS Area for a Stage 2 addendum (an opportunity for the Area to correct an issue and give the complainant a satisfactory resolution that may avert the need for an IAC review). This cannot be avoided. My aim last year was to maintain an average 'backlog' on my desk of no more than seven cases, and this has been achieved. My ultimate intention remains to create shorter waits for complainants awaiting a review of their cases, and while this has been achieved in some cases, overall it has not. With the assistance of the Operations Department an analysis is being conducted to see how this can be achieved.

Of the cases completed in 2020/21, 41 complainants were victims or the relatives or representatives of victims, and just 1 was a witness. Nineteen of the complainants were

defendants or those who had been considered for prosecution. One complainant was a defendant who considered himself a victim.

In addition to the cases reviewed, I had to consider a further six case files to determine whether they came within remit. Mostly it is clear-cut as to whether a matter falls within the IAC's jurisdiction. Occasionally, as in these cases, the IAC needs to review the file before determining whether a case can be accepted. This can involve considerable resources – my own and my assistant's – to reach a view. It was determined in each of these cases that they were not in remit.

The table below shows the outcomes of my reviews. Once more this year, the majority of cases were either wholly or partly upheld (38 cases), compared with 24 that were not upheld. Last year, however, only 15 were not upheld: there has been a significant rise in cases not being upheld. I have included charts for both years to illustrate the change. This could be another indication that the CPS is improving its case handling, so fewer legitimate concerns are reaching the IAC.



I made recommendations in 24 cases compared with 26 cases in 2019/20. By far the most recommended action was for a consolatory payment. In two cases I recommended that the complainant be sent a copy of, or reimbursed for purchasing, a transcript of the trial. In one case I asked the CPS to liaise with the police around the issue of postal requisitions. In a few

cases I asked the CPS to send a further reply to a complainant, to issue an apology or to arrange a remote meeting.

Performance

All 62 cases closed in 2020-21 were completed within the 40 working day target included in the IAC's terms of reference. There is a delay before cases reach the IAC, as my office makes eligibility checks, and organises case files and briefing notes for cases that are accepted. The clock starts once a complaint is formally accepted by the IAC, as has been the case since the outset. For the 40-day performance target to be meaningful, the clock should be started as soon as the files are ready for the IAC rather than at the point at which the IAC requests them. With the move to the operations team, better data is being gathered to show where the hold-ups are in the process from arrival of a complaint at the IAC's office to dispatch of an IAC determination. It is hoped that a better understanding of the Stage 3 complaint journey will enable improvements to be made to shorten it.

My assistant keeps all complainants informed about the completion of initial eligibility checks and notified when their cases are referred for the IAC's attention.

Reasons for complaint and resolution

One new theme emerged this year: racism. It is perhaps stretching it to call it a theme, as it was mentioned in just three cases. In two of these cases I found no evidence of racism whatsoever; in the third I wondered whether unconscious bias may have been a factor, although I found no firm evidence to support this. The complainant had been subjected to an unprovoked violent, racially aggravated assault that required surgery. His complaint was that he received a lesser service from the agent prosecutor because of racial bias. I found that he did indeed receive a service that fell far short of what he should have expected, but as is so often the case, proving the motivation for this shortfall, and the reasons for the false assumptions made about him, was not possible. I discussed the case with the Area in question and we agreed that training would be beneficial.

Other than this, there has been no significant change in the reasons for complaint this year compared with previous years. Typical themes continue to be:

- Last minute review/preparation: this lies at the heart of so many complaints. Case files are often reviewed too close to the court date, typically the day before, when it is often too late to secure missing information. This may mean that a trial has to be adjourned, or dropped altogether. Victims then feel that justice has not been done.
- Active case management: even when files are reviewed in a timely fashion, there can be issues with the diligence of the CPS in chasing the police for overdue or missing information. There have been cases this year where the police have failed to complete action plans and the CPS has failed to chase up or to escalate the matter as per the protocol. This in turn impacts on victims as in some cases it has resulted in the discontinuance of a trial. It also affects defendants, in cases where when further lines of enquiry are made, there is insufficient evidence and the case is discontinued. A lack of active case management can create an avoidable delay in deciding to drop charges, that adds to defendants' distress and becomes a source of complaint.
- Compensation: a failure to seek compensation for victims of crime continues to be a theme. In several cases a victim has completed the necessary paperwork indicating

that they want compensation, but the prosecutor has overlooked it and made no request to the court.

- Agent prosecutors: they continue to feature disproportionately in complaints cases and some may not be fully up to date with CPS policies and procedures or know sufficiently well the entitlements under the Victims' Code – although where checks are made following a complaint, they have undertaken the necessary training.
- Victim Personal Statements (VPSs): the failure to offer the victim an opportunity to read out their VPS is not only a breach of the Victims' Code: it causes distress to those wanting the defendant and the court to understand how they have been affected by a crime. It can be hugely cathartic. Many believe that the outcome would have been different if only the court had understood the full impact of the crime on them.
- Incomplete or inadequate Hearing Record Sheets (HRSs): the HRS is the CPS's record of what happened at court, so it is a vital document if there is a complaint. Sometimes it is insufficiently detailed so it is impossible to establish what happened – such as whether compensation was asked for; what the reasons were for the magistrate refusing an adjournment; or what instructions were given in phone calls to the CPS.
- Behaviour at court: Sometimes victims complain about poor communication at court, insufficient time with the counsel representing the prosecution, or insensitivity and brusqueness.

Consolatory payments

A common resolution for complainants is a consolatory payment (a payment to make amends for stress, distress or hurt caused by service failures or maladministration, often known as a goodwill payment). In line with HM Treasury guidance, consolatory payments from the public purse must be modest – meaning in practice no more than £500. The IAC can recommend that the CPS makes a consolatory payment in circumstances where an apology and explanation do not represent sufficient redress. In the cases closed during 2020-21, I made 18 payments. The lowest payment I recommended was £100, the highest was £500 and the total came to £6,633 (compared with £4,550 in 2019/20; £2,600 in 2018/19; and £3,470 in 2017-18). This may add weight to my view that only the more

serious cases are being escalated to me, and that lower level cases are being handled to an acceptable standard by the CPS.

The CPS can make consolatory payments without the intervention of the IAC and it is not uncommon for a payment to have been offered before a case reaches the IAC. Unless the amount of that payment is so low as to be unreasonable, the IAC will not substitute a larger amount at Stage 3. There was just one case this year where I believed that an additional payment was merited.

Sometimes CPS Areas consider making a consolatory payment but are concerned that the modest amounts available may cause further offence. Sometimes they are right. Generally, though, my experience is that even small consolatory payments can make a significant difference for complainants, as in the following cases this year. In the first, witnesses to a violent event later discovered that some of their personal details had inadvertently been shared with the defendant:

“We are very happy that our complaint was upheld and acknowledged in a way we feel it has been taken seriously and dealt with accordingly. We are actually moving house because of what happened. The £250 payment is welcomed as we are incurring all the cost of moving house due to reasons that are not of our own making. Thank you for your help with this.”

In the following case a mother complained in a case where her daughter had suffered abuse. I awarded her the maximum amount of £500, which she put to good use:

“I appreciate my complaint has been taken seriously and failings have been not only admitted to but the acceptance of the severe effect it has had on my daughter and the recognition of what she has actually had to endure over a 2-year period. I am very pleased to hear this report is being shared with the Director of Public Prosecutions...In your email you have offered a good will payment of £500 to acknowledge avoidable service failures. My complaints were never made for

monetary gain but we will gratefully accept this payment and it will be used towards good and positive things for [daughter's name] to look forward to."

Another mother received the maximum payment of £500.

"Thank you for investigating my complaints, I do feel that given what you have said changes will be made to dealing with bereaved parents in such cases. I would like to accept your goodwill gesture of the £500.00 and this will be used towards my sons monument, that will be ready in the New Year, so this will be a mark to his memory."

Compensatory payments: case studies

In addition to consolatory payments, the IAC has the power to award compensation where appropriate. This year there were two cases where I recommended that the CPS make such payments.

In one case, a defendant had complained, amongst other things, that published information about his case was incorrect. Some of the errors were minor, but some were more serious. I determined that the mistakes should never have happened, but I did not accept the defendant's view that they damaged his reputation (he had already successfully damaged that himself by his breach of trust against his employer). That said, it was reasonable to want the record to be accurate, and given his multiple attempts to get it corrected, in the circumstances I found that the CPS should reimburse him for the transcript he had to purchase in order to provide the correct information. I did, however, reject his request that the CPS should waive the court order for him to pay prosecution costs of £2,000 because of the errors in the information published and the alleged impact it had on his employment and employability. Notwithstanding the fact that the CPS does not have the power to waive a court order, I rejected any notion that the CPS should make any consolatory payment as the damage to his employability was the result of his own actions and the criminal conviction he pleaded guilty to in a court of law.

In the other case, involving the victim of a jewellery theft, I did not specify an amount but left it to the CPS to determine. A substantial amount of jewellery had been stolen from Mr

A's home: he was involved in the jewellery trade. The defendants pleaded guilty to this and other similar burglaries and received long prison sentences.

Under the Proceeds of Crime Act (POCA) there was an application to confiscate from them an amount equal to their profits from the crime. In deciding the amount to be compensated, the defendants disputed the victims' valuations of the property stolen. The CPS agreed with the defence that the value of victims' claims should be limited to the insurance valuations. If an insurance company had paid out the full valuation, there would be no compensation. If the insurance company had paid out less than the valuation, this could be the basis for a compensation claim – and one victim received a six-figure sum via this route. If there had been no insurance payment, there would be no compensation claim.

Mr A had provided information that his insurance company had declined his claim as his cover was domestic and did not include business activities. The CPS later accepted that it made an error in accepting the basis of plea and that it should not have accepted a basis with a nil value for Mr A's losses. It was accepted that the correct approach would have been to seek to obtain the best possible evidence of valuation, which had in part already been provided. This would have given Mr A the opportunity to provide evidence on the value of items taken. The court could thereafter have given a finding on the information provided, which would most likely have resulted in a compensation payment.

This case was different from the other cases involving a failure to seek compensation for victims. It is never possible to say with certainty what, if anything, a judge would have ordered by way of compensation had it been sought. Most of the time, the CPS does seek compensation where it is the victim's wish. Occasionally it is overlooked, which can result in a complaint. When the complaint is escalated to my office, I have more often than not found that although compensation certainly should have been sought, it most likely would not have been awarded due to the young age and/or the financial circumstances of the defendant. This case was different: the CPS accepted that the court would likely have awarded a compensation payment.

At Stage 1 the CPS told Mr A that “As there was no insurance payment in your case, this resulted in an acceptance that although there was a clear significant value to the items taken, no formal valuation would be put against the items taken from you. This has resulted in the court failing to consider compensation in your case at sentence.”

My investigations established that although Mr A asked for compensation, his request appeared to have been overlooked: the CPS did not ask the court for any. That service error, although not strictly a breach of the Victims’ Code, was a breach of its spirit. Attention was paid to the uninsured losses of one of the other victims: he alone was not considered for compensation and was treated differently to that other victim.

The CPS accepted the mistake and had already apologised, but no meaningful remedy had been offered. I took into account the following when considering what would constitute a fair remedy:

- Mr A was an innocent victim of crime.
- The defendants admit they burgled him.
- The CPS accepts it made a mistake and that its approach to his losses was wrong.
- The CPS should have asked for compensation and its failure to do so was a breach of the spirit of the Victims’ Code.
- That decision had a detrimental effect on Mr A.
- There was no guarantee that the Judge would have awarded compensation, but the courts confiscated significant assets under POCA and the CPS accepts that Mr A would likely have received a payment had one been sought.

I consulted the CPS Consolatory Payments Guidance, which asks: “Has the complainant suffered uninsured material loss because of a service failure by the CPS?” The CPS argued that as the loss was insured, albeit that the insurers chose not to settle, Mr A did not qualify for a consolatory payment; and that he was negligent in failing to insure his business assets separately from his domestic possessions, and that when those assets were stolen, the CPS owed him no duty of care as the loss stemmed from his failure to properly insure his assets

in the first place. The CPS argues that it delivered justice for Mr A by prosecuting the burglars.

I had sympathy both with Mr A and with the CPS. He should have taken out separate insurance for the jewellery that belonged to his business, and had he done so, he might well have had his losses covered in full or part. Equally, the CPS should have asked the court for compensation but overlooked it somehow – a service failure. Had the matter not been overlooked, he would most likely have received some compensation from the court.

For that reason, I concluded that although his failure to secure appropriate insurance cover contributed to his losses, he did suffer a material financial loss because of a CPS service failure.

The CPS Consolatory Payments Guidance is intended to ensure that public funds are not used to cover losses that could be settled by other means. In this case, the only other means for settling this lay in civil action, which is costly – and Mr A did not have the funds to go down that avenue. Furthermore, civil action was required only because the CPS made a mistake. The spirit of the guidance is that the CPS should make payments where there has been a loss as a result of a CPS error and there is no other remedy. I recommended that the CPS act in that spirit and not stick to the letter of the guidance. Mr A subsequently received a small payment.

Last year I recommended that the CPS review its consolatory payments guidance to improve clarity and consistency. That review has just been completed.

Complainants' Voices

Those who complain to the IAC have already gone through two stages of the process and have been left feeling dissatisfied. Some remain dissatisfied after an IAC review, but for others there is real value in this third independent tier. A review can help bring reassurance and closure, as these quotes from complainants during the year demonstrate.

For many, an independent review can help heal. It can also bring comfort when they learn that their complaint has made a difference.

"I would have no objections to having this information in Ms Ali's annual report, I feel quite privileged that my experience has been remembered and recorded in this way. It adds another layer of healing after such a long emotional journey. Many thanks for asking for permission, I really appreciate that too."

"Thank you so much for your response. It feels as if someone actually understands the situation from a human perspective."

"Thank you for looking into this complaint and taking it so seriously. I am really pleased to see that some learnings have come from this. I think time plus this response have made some impact at me now 'putting this to bed'."

"I am grateful for your compassionate and thorough response...I am happy to hear that the issues I have raised may help the justice system run in a better and fairer manner in future. Many thanks again for your investigation, it is hugely appreciated."

"Can I first of all thank you for the care and attention shown in your obvious independent review of matters. I am genuinely pleased that you have absorbed and understood the issues raised and that you have raised questions consistent with my own of the CPS."

“I am very satisfied that the case has been investigated thoroughly...”

“May I thank you for your full consideration of my complaint and I fully understand your decision...”

“I would like to thank Mr Ali [sic] unreservedly for such a complete and competent enquiry. The Metropolitan Police should take note as to how an internal investigation should be undertaken.”

“I would like to thank Ms Ali for carefully reviewing my complaint about the Crown Prosecution Service and upholding it.”

These quotes show how much complainants by and large simply want their perspective to be understood and acknowledged. If there is organisational learning, they want it taken on board. Victims, the IAC and the CPS all want a better criminal justice system that places victims at its heart: we are all on the same side in that respect.

Moi Ali

Independent Assessors of Complaints

May 2021

Acknowledgements

As ever, special thanks must go to Tony Pates, Assistant to the IAC, who manages casework administration and liaises with CPS Areas on my behalf. Without him my role would not be possible.

Thanks also to Mercy Kettle (Head of the Parliamentary and Complaints Unit) for her considerable assistance in the running of the IAC's office and for her valued quality assurance work. Both Mercy and Tony are employed by the CPS, yet they always respect my independence, have never sought to influence me, and always provide the support that I require.

I said last year how much I appreciate the interest in the IAC's work shown by the Director of Public Prosecutions, Max Hill; the Chief Executive of the CPS Rebecca Lawrence; Board Member Caroline Wayman in particular, and the Board in general; the senior leadership of the CPS Areas; and the CPS Change Unit.

I am pleased to say that the interest and support of previous years has not waned. The CPS continues to show a genuine interest in and commitment to organisational learning from complaints. Complainants should take heart from that.

Moi Ali

May 2021

Annex A: IAC's Terms of Reference

1. Introduction

1.1 The Independent Assessor of Complaints for the CPS (IAC): reviews complaints about the quality of service provided by the CPS; checks that the CPS has followed its published complaints procedure; and can review complaints aspects of the Victims' Code.

2. Role and Remit

2.1 The IAC considers service complaints at Stage 3 of the CPS Feedback and Complaints procedure. Service complaints are those relating to the service standards and conduct of CPS staff. Examples 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 legal complaints, for example those that are solely about prosecution decisions. Legal complaints are only considered at Stages 1 and 2 of the procedure. Victims who wish to request a review of decisions not to bring charges, discontinue proceedings, or offer no evidence in cases, should use the Victims' Right to Review scheme (VRR).

2.3 The IAC will not consider service complaints relating to live or ongoing criminal or civil proceedings. Such complaints may be considered once 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: for example, those that embrace both legal and service aspects.

2.5 The CPS must refer complainants to the IAC following the completion of Stage 2 of the complaints procedure, if the complainant remains dissatisfied. (Complaints linked to ongoing civil proceedings must be deferred until the conclusion of all civil proceedings.)

2.6 Complainants can contact the IAC directly where the CPS has not followed its complaints procedure, even if Stages 1 and 2 have not been completed. This could include circumstances where poor 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. Where there are exceptional factors, the IAC may accept a complaint outside of this time limit.

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.

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 post holder with quasi-judicial functions, the IAC sets their own procedure. However, in general an IAC review will consist of an examination of the papers at Stages 1 and 2 of the complaints procedure and any other relevant information. The CPS

Area/Central Casework Division will prepare and submit the relevant paperwork and a background note for consideration by the IAC.

3.2 The IAC will consider the information provided and where necessary request further information.

3.3 The IAC will decide the extent to which any part of a complaint should be reviewed after taking into consideration the information supplied by the CPS Area/Central Casework Division and any other relevant information. 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.

3.4 Where a detailed review is required, the IAC will send to the relevant CPS Area/Central Casework Division a draft response within 30 working days of the matter being referred to the IAC. This is to allow for fact-checking in advance of the final response and recommendations being concluded. The timescales will begin once the complaint has been submitted to the IAC by the CPS Parliamentary & Complaints Unit.

3.5 The CPS will have a maximum of 5 working days to respond to the draft report.

3.6 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 a response can be expected.

3.7 The IAC will acknowledge receipt of complaints within 3 working days.

3.8 The IAC's review will be in the form of a report, a letter or whatever other form they judge most appropriate.

3.9 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 these terms of reference, although ultimately it is for the IAC to decide whether or not to accept complaints.

3.10 Reviews will be sent on behalf of the IAC to the complainant and the Director of Public Prosecutions. They may also be sent to the relevant Chief Crown Prosecutor / Head of Division and the Chief Executive of the CPS.

4. Remedies and Compensation

4.1 The IAC can recommend redress including: an apology by the CPS; changes to CPS policies and practices that could help prevent a recurrence of the circumstances giving rise to the complaint; a modest payment where there is clear evidence of uninsured material loss or severe distress caused by maladministration or poor service by the CPS.

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

4.3 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.

4.4 Victims may 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. The IAC will notify complainants of their right to consideration by the PHSO when appropriate.

4.5 Complainants who are not victims of crime cannot access 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:

- Open access to complaints and feedback systems and records
- Unrestricted 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 within agreed timescales. 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 annually to the Director of Public Prosecutions and the CPS Board. The CPS will publish the IAC's annual report on its website.

7. Contact Details

Independent Assessor of Complaints for the CPS
c/o CPS, 102 Petty France, London SW1H 9EA
Email: IAComplaints@cps.gov.uk

8. Review Period

8.1 The IAC terms of reference will be reviewed annually.

