

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

Complaints Audit 2016-17

Complaints Audit 2016-2017: Report to the CPS Board from the Independent Assessor of Complaints (IAC), Stephen Shaw

Introduction

1. Paragraph 2.8 of my terms of reference requires me to review a sample of complaints that have not proceeded beyond stages 1 and 2 of the CPS complaints procedure. This is in line with my role 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. In past years I have conducted the review in the September following the end of the year in question. However, in light of the very significant rise in stage 3 complaints that occurred from last summer onwards, I had to postpone the 2016-17 complaints audit until this spring.
3. It is my expectation that the 2017-18 audit will be conducted as scheduled in September 2018, and I will submit it to the Board alongside my half-year report.
4. As I frequently point out, those complaints that do proceed to stage 3 (the independent tier) are very atypical of CPS complaints as a whole. In particular, a very high proportion of stage 3 complaints have already been upheld by the CPS itself, and a significant number of the complainants are defendants. The complaints audit offers a far more representative sample of cases, and thus greater insight into who complains and why, and the way in which those complaints are handled. The audit is particularly useful to me in making my presentations to CPS Areas.
5. It is arguable that Area audits would provide even more assurance and learning, but this has not been something I have been asked to undertake during my period as IAC.

Methodology

6. Some 40 stage 1 and 2 complaints are selected on my behalf from the CPS KIM database. Of these, 33 have only gone through stage 1, and seven have gone on to stage 2 but not to stage 3.
7. I do not recall that there was any science in the original decision to ask me to review a data set of 40 complaints. But a sample of this size is manageable, and seems large enough for some broad conclusions to be drawn. However, as I have explained on earlier occasions, a total of 40 complaints is not such that disaggregation of the data is likely to be statistically meaningful.
8. The methodology I follow in carrying out the audit is not especially sophisticated. I read the papers downloaded from KIM for each case, and complete a standard form with entries for timeliness, use of language, whether the response answers the complainant's questions, and whether the escalation process is explained. Perhaps more usefully, I also summarise the complaint and add my general impressions of the way in which it has been managed.
9. Those impressions may not always reflect a full understanding of the complaint, as I make no other enquiries and do not benefit from any Background Notes. But I am content that they are based on a long familiarity with CPS procedures, and with complaint handling across four Government departments.

Characteristics of the sample

10. The geographic breakdown of the 40 cases from 2016-17 that I reviewed in this audit is shown in the table on p.3. I have also provided comparative data for the last audit in 2015-16.

Sources of complaints for annual audit

CPS AREA	2015-16	2016-17
CPS Direct	0	3
Cymru-Wales	4	1
East Midlands	3	5
East of England	4	4
London	8	1
Mersey-Cheshire	1	2
North East	3	1
North West	2	4
South East	4	3
South West	1	2
Thames and Chiltern	3	4
Wessex	1	1
West Midlands	1	5
Yorkshire and Humberside	5	4

11. It will be immediately evident that the number of cases from CPS London in the 2016-17 sample is significantly lower than might be anticipated. However, I have had it confirmed that the sample was indeed drawn randomly, and can only assume that the absence of London complaints was a statistically rare but not impossible outcome. One benefit is that the make-up of the sample has enabled me to review complaints from some of the smaller CPS Areas that rarely feature at stage 3.

12. As was the case in 2015-16, there were no complaints in the sample against the three central casework divisions (The Specialist Fraud Division, the Special Crime and Counter Terrorism Division, and the International Justice and Organised Crime Division).

13. Unsurprisingly, most of the complainants were victims of crime, or those acting on their behalf, as the following table shows:

Complainant characteristics

Victim or representative of victim	28
Defendant	3
Witness	5
Miscellaneous	4

14. Amongst the miscellaneous category was one complainant who was both a victim and a defendant arising from the same events, and one complainant who had been a suspect but never charged. Two complainants were police officers in the case. Given that these officers were writing in a professional rather than a personal capacity, their correspondence should not have been channelled through the formal complaints process.

15. A total of 24 of the 40 complainants were women (in contrast, in 2015-16 two-thirds of the complainants in the sample were male). As in past years, I have no access to other demographic information or how it compares to those who appear in court as victims, witnesses or defendants.

16. As will become clear in the case studies, at least one Victims' Right to Review (VRR) case had been wrongly logged as a complaint. Similarly, I found one case that had been treated as feedback.

Findings

Timeliness

17. Combining the stage 1 and stage 2 responses, a total of 45 of the 47 complaints were acknowledged in line with the CPS time-target. This was a slightly better performance than in 2015-16 when 42 of the 47 acknowledgements were in time. One of the acknowledgements was simply late; in the other case, no acknowledgement was uploaded to KIM and the relevant field has not been completed. In the circumstances, it seems likely that no acknowledgement was sent.

18. Eight of the 47 responses were beyond the CPS time target. Although this was an improvement on 2015-16 when 14 of the responses were late, it remains a disappointing outcome. While appreciating that the sample size is small, CPS performance against this time target appears to have deteriorated in recent years.
19. I also note that five of the responses (including two of the stage 2s) were sent on the last possible day, which I do not believe is good practice.
20. In one case, the response was late because the start date had been set incorrectly on KIM. In a further case, two holding letters had been sent, but the revised target in those holding letters was also missed.
21. Three responses were completed very speedily – one of them on the very day the complaint was received.
22. Two Areas are now using a checklist completed by the lawyer responsible for responding to the complaint as a quality control measure. This is to be encouraged.

The quality of the response

23. In general, I was content with the language and tone used in the responses, although I found some carelessness in drafting. Some of the responses were also rather terse, or they used legal jargon.
24. As was the case in 2015-16, I encountered fewer formatting errors in the CPS letters than was the case in the early years of this audit.
25. The principal criticism remains that a significant number of the responses demonstrate little empathy or understanding for the complainant. I have made this point (as has the Chief Inspector) repeatedly, and it is disappointing that I must return to it again. Dealing with a complainant in a sensitive manner should not be regarded as an un-lawyerly skill.

26. More happily, I judged that virtually all the responses did properly engage with the questions posed by the complainant. This was a considerably better performance than in each of the previous three audits.
27. Likewise, details of the escalation process were given in all but one response where such escalation was possible. On this criterion, CPS performance has indeed improved (for example, in 2013-14 fewer than half of the responses contained escalation details).
28. In terms of outcomes, of the seven cases that went to stage 2, three were recorded as upheld at both stages 1 and 2, and four were recorded as not upheld at stages 1 and 2. (One of those recorded as not upheld was the VRR case.)
29. Of the solely stage 1 cases, five were fully upheld, two were part upheld, 25 were not upheld and one was treated as feedback.
30. Excluding the two cases wrongly included in the sample, and aggregating full and part upholds as is the convention amongst Ombudsmen and complaint handlers, this gives an overall uphold rate of 30 per cent.
31. This compares with 53 per cent in 2015-16 and 20 per cent in 2014-15.
32. While once more emphasising that the sample size is small, an overall uphold rate approaching one-third would be in line with outcomes in many other complaint processes. It offers some confidence, therefore, that the CPS is addressing complaints objectively and is willing to acknowledge error where it is found.
33. The uphold rate would in fact be slightly higher had not the wrong outcomes been recorded on KIM regarding several cases in the sample.

Detailed commentary

34. I have annexed detailed commentary on each of the 40 complaints in the sample. All accounts have been anonymised.
35. The cases illustrate the wide range of matters that are considered under the complaints process, although many of the cases involve other parts of the criminal justice system, including the police and courts. Case 37 is unusual in that the stage 1 response contains explicit criticism of a court decision not to grant an adjournment. In my experience it is very rare for a member of the CPS to express such open disapproval of a judicial decision, although personally I have no objection and admire the candour.
36. There seems to be some confusion at the margins between what the CPS deems to be feedback and what it treats as a formal complaint (cases 9 and 12). Equally, the relationship between the complaints system and the Victims' Right to Review may be unclear (cases 14, 19, 28, 35).
37. The problem of incorrect dates and outcomes recorded on KIM is no less frequent than in past audits (cases 4, 5, 7, 13, 22, 23, 30, 32). Such is the extent of the inaccuracies that it must call into question the validity of any management information derived from KIM.
38. Carelessness in drafting is shown in cases 2, 7 and 20. A penchant for legal jargon is illustrated in cases 16 and 25.
39. Greater understanding for the position of the complainant could have been shown in cases 10, 19, 29 and 30.
40. Particularly good practice at stage 1 is illustrated in cases 1 and 33.
41. I was much less impressed by the handling of case 18.
42. One of the most telling findings is that good work at stage 2 can prevent the escalation of complaints to the third, independent tier (cases 34, 37, 39).

Conclusions

43. Some of the outcomes from this audit are rather disappointing. Issues that I have raised repeatedly – errors on KIM, timeliness, a lack of empathy for complainants – still recur all too frequently.
44. More positively, in almost all cases I felt that a genuine effort had been made to engage with the questions the complainant had posed. I have also found fewer formatting and typographical errors in the CPS’s correspondence. The uphold rate is also evidence of a willingness to admit error and to try to learn lessons.
45. A fair conclusion, therefore, might be that, as of 2016-17, the CPS’s performance in handling complaints had reached a plateau. In particular, the excellence upon which I often comment in respect of stage 2 responses has yet to trickle down to stage 1.

Stephen Shaw

Independent Assessor of Complaints

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Annex: Specific comments on the 40 complaints sampled

Stage 1 complaints

Case 1: Mr AB and his partner were the victims of a series of offences, apparently following the partner's break-up with another man. The defendant had been acquitted, and Mr AB criticised many aspects of their experience at court. I identified good practice on the part of the CPS in trying to co-ordinate responses from the other agencies involved (The Witness Care Unit (WCU) and the Witness Service), but this had led to significant delay and two holding letters had been sent. The CPS response acknowledged an error in not ensuring that witness statements were available at the outset of the court proceedings. Overall, I thought the response was excellent, albeit very late.

Case 2: Mr AB was a defendant who complained about the time taken by the CPS in considering whether he should be prosecuted. The CPS response said that the decision had been taken very promptly once the papers had been received from the police. There was some careless drafting in the response (Custody Sargent, for example).

Case 3: Ms AB complained on behalf of her daughter, the victim of domestic violence. It would appear that the principal grounds of complaint concerned a decision by the police to take no action in respect of a further alleged offence. The CPS response simply refers to conversations the complainant and her daughter had had with the reviewing lawyer, and that the CPS would consider if charges other than common assault were justified once the full file of evidence was received from the police. There was follow-up correspondence six months later, but no response in the papers I saw – and it may be that the matter was dealt with over the telephone.

Case 4: Ms AB was a victim of an assault by someone she had first met on social media (he had smashed a glass in her face). She complained about the level of charge brought against the defendant. In response, a CPS Legal Manager advised that the level of charge was to be increased from assault by beating to assault occasioning actual bodily harm (ABH). The victim replied to say that she was happy with this outcome. In the

circumstances, I could not understand why this had been recorded as a partial uphold rather than a full one.

Case 5: Ms AB was a victim of domestic violence. She complained that the prosecutor had made her feel uncomfortable, and had pressurised her into making a decision regarding a restraining order and had not listened to her concerns. The CPS response offered an apology: “I have taken steps to make sure [the prosecutor] is fully aware of the impact of [her] discussion on you to ensure that this does not happen again.” However, the outcome recorded on KIM was that the complaint was not upheld, which seems difficult to justify.

Case 6: Ms AB was an unwilling witness. She took issue with the way in which a statement had been taken from her by the police. In a short, and rather strict response, the CPS explained that Ms AB would need to make a further statement to withdraw the first one – and that, even so, the CPS could still decide to call her to give evidence.

Case 7: Ms AB was a victim and complained about the outcome of a trial. Her name has been wrongly recorded on KIM, and the start date set incorrectly. More troublingly, the CPS response began with the salutation ‘Dear Sirs’. The response apologised if the distinction between wounding with intent and unlawful wounding (to which the defendant had pleaded guilty) had not been fully explained. Despite this apparent acknowledgement of poor service, the complaint was recorded as having been not upheld.

Case 8: Mr AB was both a victim and a defendant arising from the same events. He complained about the police investigation to the Chief Constable, saying he was the entirely innocent party, and copied his letter to the CPS. The CPS response simply stated that advice had been given to charge Mr AB with two offences.

Case 9: Ms AB was the mother of a victim of crime. She complained that the agent prosecutor had “bullied” a vulnerable witness (her daughter) into giving evidence. The complaint was acknowledged, but nothing further happened for nearly two months when a holding letter was sent. In the meantime, no approach had been made to the

agent prosecutor for his views. Eventually, the brief CPS response said that the Service was satisfied the agent prosecutor had acted professionally, and that the matter was being treated as feedback as Ms AB was not a party to the events. Without making additional enquiries, it is not possible to say why the CPS had not ascertained if Ms AB was making a complaint on her daughter's behalf.

Case 10: Ms AB was the witness to a road traffic incident involving two of her neighbours. She had not wished to attend court (and the CPS had been informed of this), but on the morning of the trial had received a witness summons. The CPS response, which was lacking in empathy, acknowledged that the "summons was not requested appropriately" and offered an apology. However, the phrase "I have provided feedback to the police" might indicate an attempt to shuffle responsibility elsewhere when there had been a very late review of the case by the CPS itself.

Case 11: Mr AB was a victim and his complaint was part of ongoing correspondence pre-trial in which he expressed concerns about delay. A speedy response had been sent. Further correspondence from the complainant appears to have been treated as an extension of stage 1 (probably sensibly). When the complainant then wrote to CPS Headquarters, the matter was passed back to the Area. I felt this case illustrated the difficulties the CPS faces when proceedings are still active. The complainant had asked, amongst other things, for details of the defendant's lawyers, and whether the defendant was in receipt of Legal Aid, questions the CPS could not properly answer.

Case 12: Mr AB was a suspect in a very serious allegation of historic sex abuse where no further action had been taken. He had been on bail for five months and his complaint concerned the time taken by the CPS to reach its decision. His complaint was originally logged as feedback, but CPS Headquarters advised that it should be treated as a complaint as it concerned CPS decision making. The initial response was a tad legalistic and showed limited empathy for Mr AB. A further letter from the complainant was treated (in my view correctly) as an extension of stage 1.

Case 13: Mr AB complained on behalf of his son, who was a victim of crime. Mr AB said that the CPS had made an unauthorised disclosure of his son's details to the defence

solicitors. The CPS responded the same day, which was commendable. The response said it had been ascertained that the defence lawyers had deleted the email they had been sent in error: "Please accept my apologies for the mistake that we made. You understandably feel let down and I agree that we have not given you the service that you were entitled to." However, the letter contained no mention of possible escalation to stage 2, and I was surprised that no consideration had been given to a consolatory payment given that "we take any unauthorised disclosure very seriously ..." Bizarrely, the complaint was recorded as not upheld on KIM.

Case 14: Mr AB had received a victim letter after a case of criminal damage had been stopped. Considerable damage had been done to Mr AB's property but CCTV coverage did not cover all the periods when that damage had been caused. The matter appears to have been dealt with as a complaint rather than under VRR, but the details on KIM do not make any of this very clear. The CPS response contained a welcome acknowledgement that "this must have been an upsetting time for you". So long as it does not become a stock phrase, similar words could inform many of the CPS's complaint letters.

Case 15: Ms AB was a victim of domestic violence. The defendant had been acquitted and no restraining order had been imposed. Ms AB complained that she had not been informed of the trial outcome. There was good practice on the part of the manager of the Victim Liaison Unit in referring that part of the complaint engaging witness care to the WCU manager to answer. The stage 1 response was rather thin and unsympathetic given the DV context, said that Ms AB had not been told the trial outcome because of a mistake by the court (the "DV marker was missed").

Case 16: Mr AB was a witness. He had appeared at court but the case had been adjourned (not for the first time) three days earlier following a request from the defence. The CPS had failed to tell the WCU. The CPS response was two weeks late, and rather brief given that the complaint was entirely justified. It contained unnecessary jargon ("vacated the trial", "warning and de-warning of witnesses"). A note on KIM reads: "Finally concluded this case somewhat over time. It's clear that advocate sent

back the urgent de-warn message but it was not processed in the post hearing actions. Part of an ongoing issue of inadequate staffing levels ...”

Case 17: Mr AB was a minicab driver who said he had been robbed and assaulted. In addition to robbery, alternate charges of making off without payment and theft had been laid, and the two defendants had offered pleas that were accepted. The CPS response usefully gave details of the outcome at the subsequent sentencing hearing, but the letter was inconsistent in its typeface (presumably where standard text had been inserted).

Case 18: Ms AB was the victim of common assault. She had needed an interpreter at court but none had been booked. When the court refused an application for an adjournment, the case was dismissed. The CPS response was sent on the final day of the time target. It provided very limited details of escalation. Moreover, given that the whole point of the complaint concerned a translator, I felt the response was poorly drafted. One sentence reads: “As there was no information on the file produced by the police for that hearing about the requirement for any interpreters, the lawyer raised a request that the Police Witness Care Unit be asked whether any interpreters were needed for the trial.” This is a sentence of 42 words that I had to read twice to understand its meaning, and which would be wholly obscure to someone with limited command of English. The thrust of the CPS letter was that the WCU had been responsible for the failure to ensure a translator, and gave details of the Professional Standards Department rather than the manager of the WCU. All in all, I felt the response would have benefited from a second opinion, something not likely to have occurred when it was sent at the last possible moment.

Case 19: Mrs AB complained on behalf of her son whose car had been vandalised. The CPS had discontinued the case as the defendant had been sentenced on other matters. The details on KIM are very confusing. However, it would appear that the matter was managed as a joint VRR/complaint, and that the stage 1 response was two months late. The CPS said that the police had failed to supply evidence, but nonetheless the reviewing lawyer had considered the second test in the Code for Crown Prosecutors and concluded that, as only a nominal penalty was likely in light of the defendant’s other

convictions, it was not in the public interest to proceed. (If this was indeed the case, it would appear that the Code had not been applied properly.) I also felt there was a lack of empathy given that Mrs AB's son's insurance premiums had been hiked by £500 in consequence of the damage he had suffered.

Case 20: Ms AB was a landlord. He said his property had been wrecked and that he had been subject to homophobic abuse. Mr AB complained that only a charge of common assault had been brought against the defendant, but in fact it seems more likely that no charges were brought. The exact course of events is difficult to follow. The Complaints Co-ordinator replied to Mr AB to say that no CPS charging decision had been sought, to which Mr AB replied with a copy of a police letter saying the decision had been taken by the CPS. An undated CPS letter on the file apologised "for any pervious (sic) confusion in dealing with your complaint". The letter also apologised unreservedly for an error in a previous letter indicating that the CPS had not been asked to advise on charges. The author helpfully provided a phone number, but given the circumstances this should have been recorded at the very least as a part uphold rather than as not upheld.

Case 21: Ms AB was the victim of domestic violence but seems not to have supported the prosecution. She contrasted the decision to prosecute her partner with other alleged failures to prosecute cases of harassment of which she said both she and her partner were victims. The CPS response said that a District Crown Prosecutor had tried to ring Ms AB on three occasions (and left his contact number) but without success. The response said that prosecution was in the public interest and reflected CPS policies on cases of domestic violence. (Since the man had been carrying a knife and pleaded guilty, and the complainant had barricaded herself in a room, this seems entirely appropriate.) Limited details were given regarding escalation, and the details given were inaccurate (in suggesting that a request for stage 2 had to be submitted within ten days).

Case 22: Ms AB was a witness in a trial for robbery, the outcome of which formed the basis of her complaint (the defendants had been acquitted). She criticised both the police and the judge. The first acknowledgement is a very strange affair that appears to be the Victim Liaison Manager's attempt to answer the points raised informally. The complainant then wrote again and this was treated as a formal complaint. The wrong

response date has been recorded on KIM, but the response itself helpfully offered the District Crown Prosecutor's phone number suggesting that a conversation might be an alternative to Ms AB proceeding to stage 2.

Case 23: Ms AB was the daughter of someone killed in a road traffic incident. She wrote to express anger and disappointment at the family's treatment by the CPS, as the family had not sought a prosecution and did not blame anyone for the tragedy. In the event, the CPS had decided to stop the case at the last moment, causing further unnecessary distress to Ms AB and her family. She criticised standard wording in the victim letter that suggested the family would find the decision not to proceed to be "disappointing". Commendably, the formal response was prompt (albeit the wrong date was recorded on KIM). It was well drafted given the circumstances, explaining that the CPS had kept the case under continuous review.

Case 24: Ms AB is a police officer. She complained about the conduct of a CPS agent prosecutor in a case of domestic violence: "I was absolutely disgusted with the attitude of [name] towards a domestic violence victim who was clearly visibly distressed ... I find her attitude very dismissive." Ms AB alleged the prosecutor was reluctant for the case to proceed and that a better option would have been for a voluntary restraining order. The CPS recorded the complaint as having been upheld, but said the agent prosecutor had acted with good intentions. Nonetheless, "her conduct was misguided and fell below the standard expected of an advocate acting on behalf of the CPS ... I will be speaking to [name] about her approach to this case to ensure that this does not happen again."

Case 25: Ms AB had been run over by a driver with no driving licence. She alleged that the WCU had asked the CPS to apply for a new court date, but they had not done so. The response said that the WCU had advised witnesses not to attend without authority from the CPS, and that the CPS had had no advance notice. However, it also acknowledged that an application to change the trial date could have been made earlier, and there had been a further mistake in not requiring a police officer to attend. Attempts were being made to contact the WCU manager to ensure that no further witnesses were de-warned (one of a number of examples of legal jargon) without the CPS's approval. However, no

details were given as to how Ms AB could pursue her complaint with the WCU. And given the acceptance of CPS errors, the outcome recorded on KIM of not upheld seems mistaken.

Case 26: Mr AB wrote on behalf of a female victim of crime regarding the decision to offer restorative justice to the youth defendant. The victim's car had been damaged at Mr AB's premises. The CPS response said that it had not been in the public interest to proceed with a charge of criminal damage (the local Youth Offending Team had made representations to the CPS in support of the defendant who was only 14 and had been in care for most of her life). Although no specific advice was given about possible escalation of the complaint, I felt the CPS letter was well drafted given the circumstances.

Case 27: Mr AB is a police officer. He said the letter sent to a victim when the case against the defendant was discontinued was inaccurate, "and on this basis I will not be passing it to the victim". (The victim letter had said that a witness had presented evidence contradicting the victim's account; the police officer said the CPS had made a mistake in not tendering a witness to the defence.) The response was not very collegiate towards the officer, and was a few days late. My own feeling was that this was a matter that should have been settled over the phone or face-to-face, and should never have entered the formal complaints system.

Case 28: Ms AB complained about the decision not to proceed in a case involving domestic violence, and about the tone of the victim letter she had received. She sought VRR in respect of all of the charges, and said the letter she had received did not represent "a fair and objective appraisal of the case" and was more supportive of her husband. The matter appears to have been dealt with as a joint VRR/complaint (the escalation details given in the response related to VRR). The CPS apologised and said the charging lawyer had been wrong in authorising some of the charges, and the complaint was part upheld. Unfortunately, two holding letters had to be sent before the full response, but I felt the tone of the full response was appropriate. I do not underestimate the difficulties of finding the right tone in a letter when replying to a victim who is understandably distraught.

Case 29: Ms AB was the elderly victim of an assault. She complained that one of the suspects had not been charged. In a further letter, Ms AB said the prosecutor “was very nice but didn’t get any justice for me.” She said her Victim Personal Statement (VPS) had not been read out. The CPS response explained that the defendant had been acquitted – hence Ms AB’s VPS could not be read to the court. It gave full details of the court and the Independent Police Complaints Commission (IPCC, now Independent Office for Police Conduct), although any initial complaint that Ms AB wished to make about the police investigation would presumably have been a matter for the force concerned rather than the IPCC. Overall, I did not think the terms of the CPS response were particularly sensitive given the age and vulnerability of this victim.

Case 30: Ms AB complained on behalf of a vulnerable victim of domestic violence. The victim had not been present in court and the prosecutor had offered no evidence. Ms AB sought a re-trial, alleging that the CPS had been asked in advance if the victim needed to attend but had not replied. It emerged, in fact, that a letter from the WCU had been sent to the wrong address. When the CPS had learned on the Friday before the trial the following Monday that the victim could not attend, it had sought to have the case postponed but this had been refused by the court. I felt that the CPS response could have demonstrated more empathy, but was otherwise comprehensive. Concerns had been raised with the police and the court. Unfortunately, the response was very late. A holding reply had been sent on the initial target date, which I do not think is good practice, and no further deadline was set. In the event, it was more than a further month before the full response was sent. On KIM, the complaint was recorded as part upheld, but I am not sure that was quite right given that – so far as the substantive matter was concerned – the CPS had done nothing wrong.

Case 31: Ms AB, a victim of crime, complained about the level of charge brought against the defendant. Her complaint preceded the first court hearing. The response was very speedy, well drafted, and comprehensive. Given the inevitable restrictions imposed given the impending proceedings, I felt this was well-handled.

Case 32: Mr AB was a cyclist who had been hurt when hit by a car. At trial, the defendant had been acquitted. Mr AB claimed that the CPS had sent “a completely unprepared, unskilful, un-professional so-called solicitor ... who had no qualification to conduct a traffic violation in court.” In terms of the complaint handling, the start date was wrongly set on KIM meaning that the acknowledgement was out of time (although KIM shows otherwise). The full response was actually sent the next day, but was concise and not especially sympathetically-worded. It said that Mr AB’s comments about the agent prosecutor would be fed back to her Chambers.

Case 33: Ms AB was a victim of harassment with fear of violence. Her complaint concerned the sentence imposed on the defendant, the terms of the restraining order, and bail decisions. I felt the response was both considerate and literate, reflecting well on its author and the Service she represents. A note she recorded on KIM explained the decision not to uphold as “ultimately the complaint is about the court’s decision”.

Stage 1 and 2 Complaints

Case 34: Ms AB complained that she had not benefited from a compensation order for criminal damage caused to her car. A senior member of CPS staff had twice spoken to the complainant, and the formal response said that the Associate Prosecutor (that is, a prosecutor with limited rights of audience) had wrongly acceded to incorrect advice from the court’s legal adviser that one charge of criminal damage was out of time (the six-month statutory time limit does not apply to criminal damage). The response said that the Associate Prosecutor had also failed to notice the MG19 (the form on which the police set out the details of any compensation claimed) in time, as well as a related exhibit. (The response actually says that the CPS administrator had not included the MG19 in the Associate Prosecutor’s bundle, but this was not the case.) The complaint was upheld, but no offer of financial redress was made.

The stage 2 response offered sincere apologies for the failure to apply for compensation on the victim’s behalf. It also apologised for the error at stage 1 when it had been suggested that the MG19 had not been included in the Associate Prosecutor’s file as the result of an administrative oversight. At stage 2, an offer to pay compensation was

made, subject to satisfactory receipts etc, and this seems to end the matter without the need for recourse to stage 3 (although subsequent correspondence suggests that the figure for repairs to Ms AB's car has risen).

Case 35: Mr AB was the victim in a neighbour dispute. The CPS had decided not to proceed. Although uploaded onto the complaints database, this matter seems to have been treated under VRR throughout. As a VRR, there was a significant failure in that Mr AB was signposted to the Appeals and Review Unit (ARU) in the first CPS response. The ARU declined jurisdiction as statutory time limits applied to the offences in question and the matter was passed back to the Area.

An apology was offered by the Chief Crown Prosecutor in endorsing the decision to take no further action.

Case 36: Ms AB was a witness in a sexual offences matter following which the defendant had been acquitted. She complained that she had not been allowed to give all her evidence to the court. Ms AB also asked why two further witnesses had not been called. The stage 1 response explained that Ms AB's additional evidence was hearsay. It was also explained that the other two witnesses had not been called as their evidence was more likely to harm the prosecution than to assist it.

In a follow-up letter, Ms AB said she had not been told in advance that material in her statement was hearsay and could not be used. She said she had been stopped in her tracks twice by the judge ("If I had continued with this I would have been held in contempt. I should not have been put in this situation.") The stage 2 response went into greater detail than the stage 1 about the rules of evidence. There was then further correspondence that I am content was rightly treated as an extension to stage 2.

Case 37: Mr AB had received a victim letter as the CPS had offered no evidence because he was not present in court to present his evidence. In fact, Mr AB was on holiday and had informed the CPS. In his complaint he sought compensation. This matter seems to have been treated as a joint VRR/complaint. The stage 1 response acknowledged that the CPS should have asked the court to move the court date. Having failed to have done

so, the prosecutor was unsuccessful in Mr AB's absence in seeking an adjournment. The response included this sentence: "The decision of the court appears harsh as it has scant regard to your position as a victim of crime." The response also criticised the terms of the victim letter ("not of the best quality and potentially inflammatory"), although I have not seen a copy and cannot comment directly. Ms AB's attention was drawn to the Criminal Injuries Compensation Authority (CICA), although given what I understood to be the circumstances of the offence I am not sure that CICA would be able to assist him.

At stage 2, a consolatory payment of £200 was offered. It appears that this brought matters to a close.

Case 38: Mr AB was an acquitted defendant in a domestic abuse case. He sought compensation as a non-conviction restraining order had been imposed. Mr AB said all his accusers had lied and that the jury had taken minutes to acquit him. The stage 1 response was appropriately worded, and understandably brief.

The stage 2 response was similarly concise. It was emphasised that the judge had not directed that there was no case to answer, and had agreed to impose the non-conviction restraining order.

Case 39: Mr AB complained that the prosecutor had failed to request a restraining order against a convicted drug dealer targeting young people in a residential home. The stage 1 response upheld the complaint and offered an apology. It said the mistake was not typical of the experienced advocate who had been in court. The response suggested that nothing could be done to rectify the problem (i.e. there was no mention of the possibility of a civil order, much less of the CPS making financial restitution to pay for one to make good its error).

At stage 2, a further unreserved apology was offered. It was explained that the prosecutor had had no advance notice of the case (the defendant had not appeared at the first hearing and had been arrested): "This required the advocate, during the course of the court sitting, to access the electronic case file and read it. She had difficulty doing this. I do not offer this as an excuse because the advocate clearly should have ensured

that she had properly prepared before presenting the case to the court.” The Chief Crown Prosecutor had contacted the police to see if there could be further action, “in particular, if an application for a civil injunction could be considered.” Overall, the stage 2 was far more detailed than the stage 1, and the complainant wrote back to say he would not be pursuing matters any further.

Case 40: Mr AB was an acquitted defendant in an historic sex offence case. He submitted a generalised complaint on the CPS website that I think could reasonably have been judged as out of time. The stage 1 response simply explained the CPS’s role, and said that the CPS could not seek to go behind the jury’s verdict.

The stage 2 response was in similar terms.

