



Independent Assessor
of Complaints



CPS

Independent Assessor of Complaints
for the Crown Prosecution Service

Annual Report 2015-16

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1. Introduction

1.1 This is the third annual report that I have submitted as the Independent Assessor of Complaints (IAC) for the Crown Prosecution Service.

1.2 My appointment on a three-year contract as the Service's first ever IAC began in May 2013. I am delighted to say that my contract has now been extended for a further three years taking me up to 2019. Although there is no absolute science in these matters, I think that a three-year contract with the possibility of extension to a further three years provides the best outcome both for the incumbent and for the CPS. (It also mirrors the terms of the CPS's non-executive directors.) Too short an appointment leads to uncertainty and a lack of expertise; too long an appointment risks over-familiarity and complacency.

1.3 The administrative support I have received this year has been transformed following the appointment of Ms Jade Whittle-Barnes as the designated Assistant to the IAC. From the complainant's point of view, this has ensured that all stages of assessing whether a complaint comes within my jurisdiction are conducted in my name and not that of the CPS. For the Service itself, the new arrangements have provided a clear and consistent point of contact, and a reduction in the average time I need spend on each review (and thus a saving in public money).

1.4 I am greatly indebted to Ms Whittle-Barnes. I would also like to thank Mr Harlyn Collins, Head of the CPS Parliamentary and Complaints Unit, and all his colleagues for their generous advice and support throughout the year.

1.5 The personal interest in my reports of the Director of Public Prosecutions, Ms Alison Saunders CB, her senior staff, and of the CPS board as a whole, is also a source of strength. One of the non-executive directors, Mr Derek Manuel, has now been tasked by the board with paying particular attention to my work and the CPS complaints process.

2. Caseload

2.1 I received a total of 180 requests for review in the year to 31 March 2016, of which 65 complaints were considered in accordance with my terms of reference. This was lower than I had anticipated in this report a year ago, and compares with a total of 76 complaints in 2014-15 and an annual equivalent figure of 42 in 2013-14 when stricter (and, in my view, not wholly appropriate) eligibility criteria were in place.

2.2 There were 28 complaints in the first half of the year, and 37 in the second. The interpretation of small numbers must always be conducted with great care, but it is of interest that this pattern of a greater volume of complaints in the October-March period also occurred in 2014-15.

2.3 Unlike last year, a majority of the complainants were women.

2.4 Most of the complaints I reviewed were from victims of crime or someone acting on behalf of the victim. Amongst the victims, the largest single principal offence category was offences against the person (58% of all complaints considered), again the majority being the victims of domestic abuse.

2.5 Virtually all complaints followed proceedings in a magistrates' court not in the Crown Court.

2.6 A breakdown of the 65 complaints by CPS Area is shown in Table 1.

Table 1: Stage 3 complaints accepted by CPS Area, 2015-16

CPS Area	Number of Complaints 2015-16
CPS Direct	3
Cymru/Wales	7
East Midlands	7
East of England	6 ¹
London	9
Mersey Cheshire	2
North East	3
North West	4
Organised Crime Division	1
South East	3
South West	4
Special Crime and Counter Terrorism Division	0
Specialist Fraud	0
Thames & Chiltern	4 ²
Wessex	2
West Midlands	3
Yorkshire & Humberside	7
Total:	65

2.7 Of the cases received and closed in 2015-16, I upheld 36 complaints (55% of all complaints considered), part upheld 23 complaints (35%), and did not uphold six complaints (9%). However, to a significant degree this reflects the unrepresentative nature of complaints that progress to the third stage of the CPS complaints system. As I reported in my 2014-15 complaints audit (see below, paragraph 3.7):

“Not only do I uphold (or part uphold) the majority of stage 3 complaints I review, the majority of them have already been upheld (or part upheld) at stage 2, and often at stage 1 as well. This means that the reason a complaint is pursued to stage 3 seems to have much less to do with whether it has been upheld or not at the two internal reviews, and much more with the complainant’s dissatisfaction with the apology or other redress that has already been offered. It also means that those complaints I see at stage 3 are even less representative of the bulk of those that are made than might otherwise have been assumed. This emphasises the importance of the annual audit (and of other systems of quality assurance) in providing oversight of the complaints system as a whole.”

¹ One complaint involved both East of England and CPS Direct.

² One complaint involved both Thames and Chiltern and London.

2.8 I made recommendations in all but 23 cases. (In a small number of reports, I made suggestions for CPS practice falling short of formal recommendations.) The most frequent recommendations were the making of an apology; the sharing of my reports with other criminal justice agencies; the issuing of HQ advice to all Areas; and local Chief Crown Prosecutor advice to Area staff.

2.9 In 14 cases (22% of all complaints considered) I recommended the making of a consolatory payment to the complainant, either because of a breach of their rights under the Code of Practice for Victims of Crime (Victims' Code) or because of extreme distress caused by very poor service by the CPS. The amounts of such consolatory payments must, in line with HM Treasury guidance, be modest in nature. Those I awarded ranged between £100 and £250 in all cases and combined for a total of £2,650 (see also paragraphs 3.12 – 3.14 below.).

2.10 I have continued my practice of closing complaints by letter rather than by formal report where I judge that a letter is the more sensitive or proportionate form of response.

2.11 All cases were closed within the time targets to which I work.

2.12 I am grateful to CPS colleagues for the development of a new visual image for my letters, reports and presentations.

3. Findings from casework

3.1 One of the messages of my work is that all complainants are individuals, most of whom have never expected to become involved in the criminal justice system, and that responses to complaints must be similarly individual, avoiding the use of stock phrases and standard paragraphs.

3.2 At stage 1 of the process, the depth of investigation and the quality of response continues to give some cause for concern. I have been disappointed in a number of reviews to find an apparent lack of understanding of the complainant's point of view in CPS replies. This is an echo of what HM Chief Inspector of the CPS has said about CPS complaint handling lacking in empathy.

3.3 Particular sensitivity needs to be shown to the victims of domestic violence who feature so heavily in my caseload. Not least, many of these victims continue to be afraid that the offender represents a continuing threat to their safety and wellbeing.

3.4 That said, I do not believe that a generalised critique of CPS complaint handling as defensive and lacking in empathy is justified. I have again been very impressed by the quality of replies from Chief Crown Prosecutors (CCPs) and Deputy Chief Crown Prosecutors (DCCPs) at stage 2, and by the background notes provided to assist my reviews. Both the responses and the background notes are frequently the result of many hours' work, and I have commended the level of detail and the willingness to look at matters afresh that has been displayed.

3.5 Other themes that emerge from my casework include a disappointing number of breaches of the Victims' Code, and continuing problems with the performance of Witness Care Units (WCUs). I remain concerned that there is little consistency in the approach taken by CPS Areas to complaints that engage the service offered by witness care officers attached to WCUs.

3.6 Inaccuracies with the dates and outcomes that are recorded on the CPS database, KIM, are another recurrent feature of my reviews. I estimate that errors on KIM are present in upwards of a third of the cases I review. This obviously calls into question any reliance that may be placed upon KIM in monitoring the performance of the CPS.

Complaints audit

3.7 In September 2015, in line with my responsibility as 'guardian' of the CPS complaints system, I carried out a dip sample of 40 complaints that had not reached stage 3.

3.8 The results have been published separately on my pages on the CPS website, so here I need simply note a generally good performance on timeliness, that the language used in most responses was appropriate, and

that most complainants' questions were answered fully. However, in a sizeable minority of cases the escalation process was still not being explained or flagged up.

3.9 As with my general casework, the audit revealed good practice by senior staff at stage 2.

3.10 My main concern, again echoing what I have said earlier, was the number of responses that adopted a somewhat officious or bureaucratic tone, and failed to show much understanding for the complainant.

3.11 A third complaints audit will be conducted in September 2016.

Consolatory payments

3.12 I reported last year that the CPS had adopted a policy on compensation and consolatory payments in line with the rest of Whitehall and HM Treasury advice in *Managing Public Money*. My Terms of Reference enable me to 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."³ I did so during 2015-16 in a variety of cases, notably where there had been a breach of a complainant's entitlements under the Victims' Code.

3.13 I have been pleased to note that in a number of cases, the CPS had already made an offer of compensation/consolatory payment. If complaints can be settled before coming to stage 3, so much the better for everyone concerned. However, I have also found cases where the breaches of the Victims' Code had been acknowledged, but no thought had been given to financial redress. This is despite the fact that such cases can be considered by the Parliamentary and Health Service Ombudsman, whose principal remedy is a financial payment.

3.14 It is not my view that all breaches of the Victims' Code require a consolatory payment. Indeed, in the summaries I describe some cases where I took the view that such an approach was not justified. **However, I do believe that a consolatory payment should be automatically considered by the CPS itself following any breach of the Victims' Code. I recommend that the CPS amend its complaints consolatory payment guidance to this effect.**

³ Despite the reference to 'compensation', my role is manifestly not to substitute my view for any decision the court may have taken in respect of a compensation order against an offender.

4. Case summaries

4.1 I set out below summaries of all cases received in 2015-16. Some details have been removed or changed to ensure anonymity.

Ms AB complained on behalf of a relative, the victim of an assault causing life-threatening injuries. After a long delay, there had been two trials, at the first of which the jury could not agree, while at the second the defendant (who had pleaded self-defence) was acquitted. I found several service failures, all of which had been frankly acknowledged by the Deputy Chief Crown Prosecutor. There was little more for me to do than to tell the story in its entirety. All in all, the complaint handling had been very good, but both stage 1 and stage 2 responses had been (wrongly) recorded on the CPS KIM database as not upheld.

Ms AB complained in respect of a prosecution that had been discontinued. I discovered that there had been significant service failures. Ms AB had not been informed of the discontinuance within 24 hours as is required by the Victims' Code. And her letter of complaint had simply been filed and never answered. I also found that both stage 1 and stage 2 responses had been recorded as not upheld when they should have been part upheld. I recommended a consolatory payment of £100 in light of the breach of the Victims' Code and other failures. I was also concerned that the matter had been treated exclusively as a complaint and not under the Victim's Right to Review (VRR). My report contained no fewer than seven recommendations.

Mrs AB had been injured in a car accident, and complained about the way the prosecution of the driver had been managed. I found that the handling of Mrs AB's correspondence had been poor: the stage 1 reply was over a month late, and it was possible that Mrs AB had never received the stage 2 reply at all. I recommended that the Chief Crown Prosecutor apologise to Mrs AB, and assure himself that the delays at stage 1 were not symptomatic of a more general failure to meet CPS targets.

Ms AB was a victim of domestic violence. The only complaint in remit was that phone calls had not been returned by the CPS. The Area had acknowledged service failures, and while my review was intended to ensure that all lessons were learned I had no need to make formal recommendations.

Mr AB's car had been taken from outside his house. One of the perpetrators had been charged with unlawfully taking a vehicle without the driver's consent, but pleaded not guilty. Successive mistakes by the CPS meant that Mr AB was not identified as a witness who needed to be in court, and when the case came for trial the CPS offered no evidence. It also emerged that the CPS had concluded that there was in fact sufficient evidence to have brought the more serious charge of theft. The Area had acknowledged its failures, apologised and taken management action in respect of the two prosecutors involved, but Mr AB remained unconvinced that justice had been done. The Area had concluded that compensation was not due, but finding a breach in the spirit (and possibly the letter) of the Victims' Code, I recommended a consolatory payment of

£250, judging that this is what the Parliamentary and Health Service Ombudsman (PHSO) would offer if the case were subsequently referred to her.

Mr AB was principally concerned by the decision of the CPS not to bring charges of harassment against his former partner. However, he also claimed that an email had not been acknowledged or handled properly. I found there was no evidence that the email (and a follow-up) actually arrived. The CPS was keen to close down the correspondence but I felt it could have handled Mr AB's grievance more sensitively.

Ms AB complained that stage 1 of the complaints process had been ignored, and the DCCP should not have replied because of his previous involvement in her case. I found there had been many previous emails and that, in the circumstances, the DCCP was entirely within his rights to accelerate the complaint. Complaints procedures exist to solve people's problems not to ensure the slavish following of procedures. The DCCP was also fully entitled to reply given that his previous involvement had been marginal. My investigation found much to praise in the Area's handling of the matter, notwithstanding errors on KIM and that the stage 2 reply was late. I asked for my commendation of a member of CPS staff to be passed on to her.

Ms AB complained that she had been unable to read her Victim Personal Statement (VPS) at court. Instead, the prosecutor had only allowed her to read two paragraphs from her special measures statement. The CPS had acknowledged that it would have been easy for the agent prosecutor to have obtained the VPS (as it was not in the court papers but readily available on CMS) and had apologised. I found this to have been a clear breach of the Victims' Code and recommended £250 in consolation.

Mr AB was the victim of an assault. The CPS had initially charged common assault but, following review, this had been increased to assault occasioning actual bodily harm (ABH). Unfortunately, this information had not been included in the agent prosecutor's brief and the defendant had pleaded guilty and been sentenced for the lesser charge. In addition, a second VPS had not been provided by the police until the late afternoon before the trial, and this too had not been in the prosecutor's bundle. As a consequence, no application had been made for a restraining order. This was a very sorry tale, albeit the subsequent complaint handling was well conducted. I recommended £250 for the breach of the Victims' Code in respect of the additional VPS.

Mr AB was the victim of a burglary. The police had not forwarded a compensation claim form, and the CPS had not made a claim in court. The Area concerned had acknowledged its error but declined to pay compensation or make a consolatory payment. I agreed that compensation was not due, but in light of the CPS's acknowledged error proposed a £100 consolatory sum.

Mr AB had been charged with two assaults. One case had been dropped, and Mr AB had pleaded not guilty to the other charge on grounds of self-defence and been acquitted. He complained on a number of grounds, but the only service issues concerned two incorrect statements at the plea hearing (for one of which the police

were ultimately responsible), a day's delay in acknowledging and responding at stage 1, and the fact that the Chief Crown Prosecutor had not responded personally. Mr AB sought compensation, but I felt his complaint had generally been well handled, and that the flaws identified were minor. The CPS is updating its complaints leaflet to reflect the role of Deputy Chief Crown Prosecutors in responding at stage 2, but in any event I took the view that it is standard practice in all organisations for chief executives to delegate responsibilities to their deputies.

Mr AB had been the victim of racially motivated burglary. He was not present at the trial date and the case had been dismissed. The review focused on what responsibility the CPS took for the Witness Care Unit. I repeated the recommendation that I had made in this annual report a year ago for greater clarity in respect of complaints engaging a WCU.

Mrs AB's husband had been convicted of an offence. She made a variety of criticisms of the CPS's handling of the case, and I found that a press notice, the contents of which Mrs AB challenged, remained on the CPS website. It was also clear that Mrs AB had felt unsupported in respect of her VPS. Other matters raised were either 'legal' in nature or where the evidence was not conclusive either way (for example, whether the prosecutor had been too passive in court). I recommended that my report be shared with the prosecutor, and that the press notice be taken down from the website.

Ms AB was the victim of domestic abuse; the defendant had been acquitted. The CPS had acknowledged a failure in handling some evidence, and that Ms AB's statement was not available to her until ten minutes before giving evidence. It had declined to pay compensation. I concluded that there had been no actual breach of the Victims' Code, and that this case did not reach the threshold for a consolatory sum. In respect of the complaint handling, I said that the holding letter should have been sent earlier than the last day on which the substantive reply was first due. This was far from the only occasion on which I have identified this practice: it may be within the letter of the complaints process but it is not within its spirit.

Mr and Mrs AB complained in relation to a hate crime of which Mr AB had been the victim. This defendant too had been acquitted. I discovered there had been failures on the part of the police and, particularly, by the WCU. Surprisingly, the CPS Area had operated a procedure whereby prosecutors did not separately check that witnesses had been warned for court - a process now introduced. I made one recommendation: that the CCP remind prosecutors that they have a responsibility to check whether special measures are required in cases of hate crime, and that they cannot simply rely upon the police.

Mr AB was a defendant in a trial. He had been acquitted but made subject to a restraining order, subsequently put aside on appeal. He complained about a range of matters: that the CPS had not explained why his case passed the evidential test in the Code for Crown Prosecutors, that the prosecutor had misled the court, that a proper investigation had not been held into his complaint, that the prosecutor was rude and

swore in front of him, that the CPS had failed to comply with the Criminal Procedure Rules, and that the stage 2 response did not explain where the CPS had committed service failures. Some of these matters were out of remit; those I could consider, I did not uphold. I replied by letter.

Ms AB was a lawyer representing two clients who had been injured when their car was hit by a vehicle whose driver was over the alcohol limit. She raised a total of eight complaints, one of which concerned the fact that no VPSs had been taken from her clients. It was clear that this was the case, but the CPS argued this had been the responsibility of the police. In large part I agreed, but I also felt that the absence of statements/VPSs might have been spotted/challenged when the CPS had reviewed the file for court.

Mr AB had been a defendant; charges against him had been dropped. His complaint covered a variety of issues, but I was content that in the main it had been dealt with proportionately and reasonably. However, the Area had been wrong to conclude that he had raised no service issues, and it was not clear that his needs as a person with special needs had been fully recognised. The Area's subsequent actions in respect of training and advice for staff had been excellent.

Mr AB's wife had been killed in a road accident. He complained initially about the delay in bringing a charge and about the charge itself (a legal matter outside my terms of reference). The CPS later acknowledged that there had been a delay, that Mr AB had not been offered a meeting in person (a breach of the Victims' Code), and that he had been given incorrect advice with respect to a possible Attorney General referral to the Court of Appeal against an unduly lenient sentence. In addition to those three failures, I also criticised the stage 1 reply for being insufficiently candid about the causes of the delay and for failing to identify that the failure to hold a meeting breached the Victims' Code. However, I made no recommendations, judging that the apologies received in person and in writing, combined with the action taken to prevent a recurrence, represented sufficient redress. I also decided that a small consolatory payment for the Victims' Code breach would not be seemly to the memory of Mr AB's wife; moreover, the Area had made good the initial failure to hold a meeting by organising one between Mr AB and the Senior District Crown Prosecutor and the DCCP who had drafted the stage 1 and 2 responses respectively.

Mr and Mrs AB complained in respect of a prosecution for fraud that had been abandoned with the CPS offering no evidence. The CPS subsequently acknowledged that the decision had been wrong (in the sense of being premature). Much correspondence had ensued - some of which had gone missing and some of which had been mishandled - and Mr and Mrs AB had understandably become more and more frustrated. They asked for compensation and said there had been a whitewash. The CPS had acknowledged a succession of administrative errors. I did not find that there had been a whitewash and I did not consider that compensation was justified. I recommended that a meeting be held with Mr and Mrs AB to try to bring matters to a close.

Ms AB's son was the victim of sexual offences against a child. Ms AB had successfully argued for a referral to the Court of Appeal against a lenient sentence, and argued that she should have been consulted before the prosecutor accepted a plea of guilty to one of the counts, allowing another to remain on file. Although the CPS Area had described consulting victims about plea as 'best practice', it is in fact a commitment in the Code for Crown Prosecutors. I made one recommendation, and separately the CPS agreed to review aspects of its policies on children and young people.

Ms AB had been a witness. The details of her personal phone number had been disclosed to the defence as 999 recordings had not been edited by the police or the CPS. This was not acknowledged at stage 1, but an apology had been offered at stage 2. I discovered there was another witness whose details had also been revealed, but that no apology had been offered to him. Ms AB said she had been made unsafe as a consequence. I recommended £200 in consolation, plus a letter to the other person whose details had been disclosed.

Ms AB was a victim of crime. There had been seven adjournments in the case before the CPS offered no evidence. I found a succession of failures in complaint handling, a failure to complete a case management form properly (which resulted in the abandonment of the case as Ms AB had not been warned for court), and a breach of the Victims' Code in that she had not been told the court outcome or why the CPS had offered no evidence. The stage 1 response was late and not very sympathetic. The stage 2 reply was well-drafted and on time, but failed to mention escalation to the IAC. I made two recommendations: £150 for breach of the Victims' Code and a letter from the Chief Crown Prosecutor to Ms AB in acknowledgement of the findings of my report.

Ms AB was the victim of domestic violence. Her attacker had been acquitted. I found there had been failures in complaint handling (the stage 1 letter was simply not sent), not entirely reflected on KIM. However, the major issue, leaving aside the administrative failings, was about providing a sensitive and supportive service to the victims of domestic violence. This is an issue that arises time and again in my reviews. Finding the right words when a victim of domestic violence is upset or angry following an acquittal is no easy task. But that very fact makes it all the more important that replies to correspondence should be understanding and empathetic.

Ms AB was the victim of a serious offence committed in her home. After giving a statement to police, she subsequently retracted it and decided not to assist the prosecution. Indeed, a fundamental aspect of her complaint was that the CPS continued the prosecution against her wishes. The only service issues were minor ones, only one of which I upheld: a slight delay in handling the correspondence after stage 2 and requiring Ms AB to contact the IAC rather than referring the correspondence on.

Mr AB had been assaulted. His attacker had been charged with common assault, but subsequent information that Mr AB's injuries were more serious than first thought were not acted upon by the prosecutor who simply

relied on the initial witness statement. Mr AB's complaint had been upheld at both stages 1 and 2, and I found the complaint handling to have been of a very high standard. So too was the background note provided by the DCCP. I recommended a consolatory payment of £250.

Mr AB had been considered for prosecution. He made a number of complex inter-relating complaints about the CPS and police. It was apparent that Mr AB's personal data had been improperly disclosed (a matter not for me but for the Information Commissioner's Office) and that the CPS had failed to address this in a timely fashion. I found significant errors in complaint handling (notably delays and failures to acknowledge or apologise). I recommended that, in any revision of the complaints process, it should be made clear that time limits should be disregarded in exceptional circumstances.

Mr AB was the victim of non-recent sex offences. The three tapes containing his police interview had been mislaid by the CPS. The letter responding to his complaint was then sent to another man with the same name at a completely different address. The CPS had offered repeated apologies and explained what it had done to prevent any recurrence. And after six months, the tapes were eventually located. However, while I praised the CPS complaint handling as both candid and sensitive, I concluded that this case met my terms of reference for a consolatory payment and proposed a sum of £250.

Mr AB is a police officer, assaulted during the course of his duties. The CPS had acted slowly in alerting the court to Mr AB's inability to attend the trial and, in the event, the prosecution offered no evidence. There was then a failure to tell Mr AB the outcome (a breach of the Victims' Code). The complaint handling had been poor - a late and unsympathetic reply at stage 1, and the incorrect recording of the outcome at stage 2. Nonetheless, I argued that the apologies Mr AB had already received represented adequate redress. The public interest would not be served by asking the CPS to make a consolatory payment to a police officer for administrative errors in a prosecution arising out of the officer's normal duties.

Mr and Mrs AB complained that the CPS had failed to acknowledge their role as representatives of an elderly relative. As a result they had not been informed about the dates of court hearings. They also complained about the terms of the responses they had received at stages 1 and 2. I found a number of service failures, and that the stage 2 reply had not covered all aspects of the matter.

Mr AB complained that previous responses to his complaint had been inaccurate. He said that, contrary to those responses, a videotape of evidence had indeed been taken to the court on the day of trial, and that the prosecutor's account of her conversation with two witnesses was incorrect. The Area and Mr AB both provided further evidence. From this it was clear that the video evidence had been taken to the court, just as Mr AB had said, albeit it probably could not have been used (as it had not been disclosed to the defence) and in any event it arrived after the CPS had already offered no evidence. The second limb of Mr AB's complaint amounted to one person's word against another's and was probably the result of a misunderstanding.

However, I was also concerned that the WCU had not warned the witnesses in good time, and this matter seemed not to have been fully addressed at the earlier stages. I recommended an apology from the Chief Crown Prosecutor and that a copy of my report be sent to the manager of the WCU.

Ms AB is an Independent Sexual Violence Adviser (ISVA) who complained on behalf of a victim of non-recent sexual abuse. The CPS had acknowledged unacceptable delays in processing an International Letter of Request (ILOR). I also found very poor complaint handling. I upheld Ms AB's grievance in the strongest terms: serious delays in case-handling had been followed by delays and errors in managing Ms AB's complaint.

Mr AB had been assaulted. Sixteen months later when the case came to trial, the district judge accepted a defence submission of no case to answer because of the absence of identification evidence. I found that the casework was some of the worst in any IAC review I have conducted. The background note provided by the CPS referred to "shambolic" handling by both the CPS and the police. Much of this handling was legal in nature, but there were also service elements (e.g. a failure to respond to three emails from the police). I recommended that the Chief Crown Prosecutor write to Mr AB to acknowledge the findings of my report and to offer a face-to-face meeting.

Mr AB had been the victim of assault; his possessions had also been damaged. The CPS accepted that Mr AB had not been told for five months that a separate charge of criminal damage had been dropped. Likewise his request for a restraining order had not been actioned. Mr AB had asked for compensation, and I found failures in complaint handling that had meant delays, and a significant error at both stages 1 and 2. However, I was not persuaded that the errors - and their likely consequences - were such that compensation was justified.

Ms AB had been the victim of harassment. At trial the magistrates accepted a defence plea of no case to answer. Ms AB made two complaints. One concerned a telephone conversation in which Ms AB had allegedly made threats to kill and the CPS worker had alerted the police. I did not think any reasonable criticism could be made of the CPS worker in these circumstances. Nor did I uphold the second matter concerning the time the prosecutor had given to Ms AB before trial. However, I also found the complaint handling to have been some of the worst I had encountered: no acknowledgements, no escalation, no adherence to time limits.

Ms AB had been the victim of domestic violence; her husband had been acquitted at trial. There had been failures involving the court (in moving the trial from one courtroom to another where the video link facilities were not satisfactory). However, my review concentrated upon the very poor complaint handling. The KIM record bore no resemblance to what actually had occurred, and correspondence that I had asked to see had gone missing.

Ms AB was another victim of domestic violence. Her former partner had been convicted but conviction and sentence had been quashed on appeal. There had been a failure by the WCU and the CPS to warn Ms AB and

another witness to attend. The case also raised questions about the CPS's complaint handling. Successive correspondence had been answered by the DCCP but treated as a continuation of stage 1.

Ms AB's father was a victim of crime; her mother was a witness. Ms AB asked a number of questions about the trial outcome and use of evidence that were outside my jurisdiction. However, her complaint also raised three service issues: the quality of the complaint handling (which I judged to be very good, although the stage 2 response was late); the prosecutor's failure to speak to her parents before an appeal hearing (a breach of the spirit but not the letter of the Victims' Code and Witness Charter); and the failure to consider whether Ms AB's mother (who was seriously ill) could give her evidence by video link as she had difficulty sitting in one position for any length of time. The CPS had acknowledged a failure to provide Ms AB's mother with appropriate assistance, and apologised and offered advice to staff on the needs of vulnerable witnesses. I recommended that the CCP offer a face-to-face meeting with the complainant.

Ms AB was a victim of crime. The police had referred the papers to CPS Direct but they had been unable to advise because Ms AB's statement was on videotape and CPS Direct could not play the tape. It was unclear why the case file had not then been referred to the relevant CPS Area. The police officer in the case said she had received an email saying that CPS Direct would do this, but no email could be traced by either the CPS (which had deleted all emails after three months, in breach of national policy) or the officer herself. Something had gone badly wrong, but it was not clear to me where exactly the fault lay.

Mr AB complained that the CPS had failed to chase for relevant video evidence in relation to a neighbour dispute. It was apparent that the CPS had judged it had sufficient evidence in any event, and it turned out that the police had lost the evidence concerned. There had been a couple of minor errors in complaint handling. I made no recommendations and closed the case by letter.

Mr AB raised a number of service complaints following a decision by the CPS to offer no evidence in the case of his partner who had been a victim of domestic violence by a previous partner. The victim had been unable to attend the trial, and the magistrates had declined to grant an adjournment. Mr AB sought large sums in compensation, but I identified only one minor flaw on the CPS's part and suggested that the CPS would now be within its rights to close the correspondence down.

Mr AB complained that he had been offered a VRR in circumstances where VRR did not apply (a case of alleged careless driving). He said his time had been wasted and he wanted compensation. Although I made one recommendation (the Chief Crown Prosecutor to assure himself that all staff understand what is within the ambit of VRR), I did not endorse the complainant's claim for financial redress.

Ms AB was a further victim of domestic violence. Because the full case file had not been prepared in time, the CPS could not make disclosure to the defence. When the court declined an adjournment to allow for

disclosure to take place, the prosecutor offered no evidence and the charge was dismissed. There were differences in the accounts given by the police and CPS, but both had to accept a share of the blame. I judged that the CPS's failure to progress the case was sufficient to justify a modest consolatory payment of £150.

Mr AB complained about the sentence imposed on a man who had defrauded him. Mr AB said that information he had provided the CPS had not been forwarded to the barrister. The complaint was poorly answered at stage 1 (the reply was late and it did not answer Mr AB's principal grievance). At stage 2 there was a full response, explanation and apology. I concluded there was no additional remedy that could be offered to Mr AB beyond the apology he had already received.

Ms AB complained that the CPS had failed to lay a charge of common assault against her attacker. This was exacerbated by the fact that agreement to the charge had only come about as a result of Ms AB's own insistence that an initial decision not to charge be reviewed. Thereafter I found a chapter of woes. The WCU had decided not to tell Ms AB that the statutory time limits had passed and she was under a misapprehension that a charge could be brought for another month. And the stage 1 complaint was very poorly handled: the acknowledgement was very late, the reply was very late, and it contained no reference to the time limit for escalation to stage 2. I made three recommendations including a consolatory payment.

Ms AB complained about a range of matters ultimately relating to a decision not to prosecute her son's attackers. A remarkably candid background note acknowledged a host of failures (including that the legal decision-making had been flawed). Very exceptionally, I took the view that the DPP herself should apologise to Ms AB given the circumstances. I offered praise to the Area concerned for its candour and for conducting a further review (the fifth) of the case.

Mr and Mrs AB complained on behalf of their daughter following the ending of a trial in which she was the victim. Mr and Mrs AB raised a variety of matters - some of which were out of my jurisdiction and some of which involved issues that are not the direct responsibility of the CPS. I upheld three limbs of their complaint but was content that no additional redress was required given the apologies and explanations Mr and Mrs AB had already received. The stage 1 reply had been badly delayed (albeit from the best of intentions), but I judged that both it and the work of the Deputy Chief Crown Prosecutor at stage 2 were of the highest order.

Mr AB complained about a decision not to prosecute but to accept a binding over. Mr AB was concerned that justice had not been done (and raised an evidential issue relating to CCTV that was not in remit), as well as specific service complaints against the CPS. I upheld his complaint but offered no additional redress. There had in fact been a breach of Mr AB's rights under the Victims' Code, but this was the result of a misunderstanding and for reasons that were well intentioned.

Mr AB had been considered for prosecution but charges had not been brought. He complained about the contents of a letter sent to his alleged victim, saying that it misrepresented his police interview and had disadvantaged him when used in a civil case. On the substantive issue, I found that the CPS letter was an accurate paraphrase of the police MG5 form on which the CPS was entitled to rely. However, I found failures in the initial complaint handling: in particular, that it had been wrongly assessed that, as a defendant, Mr AB had no right to use the CPS complaints system. I recommended that the CCP apologise for the complaint handling failures and ensure that all staff are aware that the CPS complaints procedure is open to victims, witnesses, and (except in some particular circumstances) to defendants too.

Ms AB was a witness in a case in which her father had been the victim. An administrative error by the CPS (compounded by other failures by the WCU) meant she was not given the correct time for the trial. In her absence, the prosecutor asked for an adjournment, but the magistrates declined and no evidence was offered and the case dismissed. The complaint handling by the CPS had been exemplary with two face-to-face meetings arranged (with adjustments for Ms AB's special needs) and excellent letters. Nevertheless, when Ms AB asked for compensation I had to consider that aspect anew and recommended a consolatory payment of £100 for breach of the Witness Charter.

Mr and Mrs AB complained about the mishandling of two prosecutions against their neighbour. Although the Area had argued that there had been no service issues, I concluded that there were three: the misaddressing of some CCTV evidence; the failure to offer compensation; an earlier Victims' Code breach. I recommended £100 in recognition of the breach of the Victim's Code.

Mr AB complained that the prosecution of the man who had assaulted him had been mishandled. Mr AB said the prosecutor had been abrupt and had failed to speak with him after the acquittal. He made other complaints - principally legal in character. I found that the responses at both stages 1 and 2 were late, albeit the stage 2 reply was comprehensive. I also agreed that the prosecutor should have spoken to Mr AB at the end of proceedings. However, the apologies and explanations represented sufficient redress.

Ms AB was a victim of crime who had suffered a host of failures on the part of the CPS. This was a very important review because of the learning for the CPS in respect of cases transferred out of Area and those where the victim lives many miles from the court. The complaint handling had been woeful, but the analysis and actions taken by the respective DCCPs for the two Areas were hugely impressive. Although I felt this was one of the most important reviews I have conducted this year, it was not one where I needed to make findings of fact. This was the second case where I recommended an apology from the Director of Public Prosecutions. I also recommended a consolatory payment of £250.

Mr AB was a victim of crime who said he had been pressurised into accepting the dropping of a charge involving him personally. He also alleged that the prosecutor was animated and difficult to understand. For

his part, the prosecutor said that he was not animated and that the decision on charging had been consensual. Like other cases where it is one person's word against another, this was a difficult complaint to resolve. I concluded that the same events could be very differently perceived (in particular whether a decision on charging was 'rushed'). The emotional demands on victims of crime are very different from the professional demands on Crown Prosecutors. I made no recommendations.

Ms AB was a victim of crime; a failure by the prosecutor meant that no application for a compensation order had been made. In the circumstances, I determined that this was not a case where compensation from the CPS was justified; even if an application had been made, it was most unlikely that an order would have been imposed. However, there were concerns about the complaint handling and related matters, and I partially upheld the complaint. Amongst other things, this case raised questions about the relationship between informal resolution and stage 1, and about the seniority of those who draft the background notes on which I rely.

Mr AB was a defendant, acquitted after a trial. He raised a variety of criticisms of the CPS, the vast bulk of which were 'legal' in nature. However, he also said that the CPS had not followed its complaints procedure, and had given incorrect information, as the DCCP and not the Chief Crown Prosecutor had responded at stage 2. As in an earlier case, I judged that flexibility in the complaints process, and the delegation of responsibilities, were features of all large organisations, and did not uphold the complaint.

Ms AB and her family had been victims in three related cases. She said that the CPS had offered an inadequate service in all three cases (two of which had been successful, but one of which was dismissed when witnesses had not been warned to attend). She also criticised the responses at stages 1 and 2. I found there had been service errors in all three cases, but none was as significant as the failure of the WCU to warn Ms AB's sons as witnesses. The stage 2 response ran to 5,000 words and I also benefited from a first rate background note. In the circumstances, I upheld the complaint but did not believe that further action or apologies were required.

Mr AB had been assaulted at work. The fact he could not attend the trial was not identified until too late, an independent witness was not warned for trial at all, and the CPS had failed to consider if CCTV was sufficient evidence in the absence of Mr AB and had failed to disclose it to the defence. Mr AB had been offered £500 in consolation, but felt this was insufficient. While sympathising strongly with Mr AB, I argued that the sum was in line with Treasury guidance and such payments were not intended as substitutes for possible court orders, the responsibilities of Criminal Injuries Compensation Authority, or civil legal action against the perpetrators.

Mr AB's mother had been the victim of harassment and a public order offence. There had been a long delay in bringing the matter to trial, whereupon it was discovered that important evidence had not been served on the defence, and CCTV evidence had not been properly analysed. The prosecution offered no evidence after

the defendant accepted an indefinite restraining order. The subsequent complaint handling had been excellent (if a little slow and there was a recording error on KIM), and there was little more that I could offer beyond the apologies, explanations and commitments to administrative improvements that had already been offered.

Ms AB had been the victim of a very serious and unpleasant assault. Her principal concern was the CPS's decision not to pursue a charge of sexual assault, but she also raised some service issues. I replied by letter, given that most of my review focused on issues at the margins of Ms AB's grievance.

Mr AB complained regarding inaccurate details in a CPS press notice following a sentencing hearing.

Apologies had been offered and the errors quickly corrected, but Mr AB sought compensation. I did not feel that this was justified. I recommended that my report and the original press notice be shared with the CPS's Head of Communications in case there was a need for wider advice to the Service on the drafting of press notices.

Mr AB had been the victim of harassment but the defendant had been acquitted at trial. Mr AB said the prosecution had been poorly handled and made a number of specific allegations, but I did not find that any of them were made out.

Ms AB's daughter had been the victim of domestic violence. The prosecution had failed to apply for a restraining order and the family had applied for a non-molestation order from the County Court at their own expense. There had been a succession of other errors and the Area had offered £250 and apologised. I concluded that the sum was in line with what I would have offered. I had no evidence of a general problem on the part of the CPS in applying for restraining orders in domestic violence cases but I recommended that CPS HQ offer further advice to all Areas.

Ms AB was a further victim of domestic violence but no charges had been brought against her attacker. My review revealed a catalogue of service failures: delays, wrong advice, and unanswered correspondence over a long period. I made three recommendations: the Chief Crown Prosecutor to apologise; £150 in consolation; and a copy of my report to be shared with the Chief Constable (as police mistakes had initially contributed to the problems).

Annex: 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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Independent Assessor of Complaints for the CPS
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2 Southwark Bridge
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SE1 9HS

Email: IAComplaints@cps.gsi.gov.uk

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.

