

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

1. This paper summarises the work that I have carried out as Independent Assessor of Complaints (IAC) in the six months from April – September 2014. The board will receive this paper alongside the Complaints Audit that I have conducted in my role as ‘guardian’ of the complaints system.

Input

2. There has been a continuing increase in the number of complaints received. In the period between April 1 and September 30, I received 32 complaints (the annual equivalent of 64). This compares with an annual equivalent figure of 42 in 2013/14 (bearing in mind that I did not actually go ‘live’ until June 2013).
3. More significantly, in the four months from June 2014, I received 29 complaints – an annualised rate of 87. Were this to continue, it might call into question the model of a single IAC. Although my contractual time commitment has been doubled (to 48 days a year), this is still proving to be insufficient.
4. Seven of the complaints received were from the East Midlands, six from London, four from Mersey-Cheshire, three each from the North-East and Wessex, two from East of England, Wales, and Yorkshire, and one each from the North-West, OCD, and Special Crime and Counter-Terrorism. Since taking up my role, I have yet to see any stage 3 complaints from the South-East or South-West (or from CPS Direct or Specialist Fraud).
5. Nineteen of the complainants were victims of crime (including five victims of domestic violence). Almost without exception, their complaints had been triggered by an acquittal. Twelve complainants were defendants, or the relatives of defendants. One complainant was someone seeking to bring a private prosecution.

6. Twelve complainants were women, there were 19 male complainants, and one complaint was from a husband and wife.
7. I have not judged that any of the complaints were referred to me in error. The majority were 'hybrid' complaints; i.e. they embraced both 'legal' and 'service' elements.

Output

8. By the end of September, I had closed 25 cases and draft reports had been submitted in respect of a further seven. All cases were closed by formal report (in 2013-14, I closed one case by letter, and will do so in one of my currently active cases).
9. The time targets to which I work are very tight, particularly in the more complex cases and because I am dependent upon the Areas to provide background notes and to fact-check draft reports. There have been some delays at fact-checking but, while some reports have been late as a consequence, the vast majority have been completed on time.
10. In only six of the closed cases did I find no aspect of the complaint to uphold. However, as I have suggested in previous reports to the board, the very notion of 'upholding' a complaint is not a straightforward one. In many cases, I have upheld a complaint in part because of some relatively minor flaw in complaint-handling. In others, I have upheld the complaint on the same grounds and to the same extent as has been acknowledged by the CPS itself at stage 2.
11. Indeed, I have been extremely impressed by the quality of stage 2 replies and the thoroughness of the reviews on which they are based. From what I have seen, I conclude that the Chief Inspector's criticisms that the CPS's complaints-handling is defensive, lacking in empathy, and fails to address the points raised, are no longer true of stage 2. Efforts to learn the lessons from complaints are also evident.

12. I have annexed summaries of my reviews of three complaints brought by victims of crime.

Other matters

(i) Complaints audit

13. The complaints audit was successfully completed in September. The results overall were encouraging, and consistent with the view I have expressed in this report that the CPS's complaints-handling has improved significantly.

14. One issue arising from the audit – as from one of the stage 3 cases I reviewed recently – concerns uncertainty on the part of CPS staff regarding the eligibility criteria for VRR. As a consequence of my stage 3 case, a draft Gateway to all staff has been prepared.

(ii) Policy on compensation/consolatory payments

15. Further to the recommendation in my 2013-14 annual report, I was very pleased to learn that the CPS will be adopting a policy on compensation and consolatory payments fully in line with Treasury guidance and the approach taken by other Departments. My own terms of reference will need to be amended as a consequence. Any consolatory payments should be both modest and exceptional, but they will allow the CPS to make redress in situations where explanation, apology, and commitment to learn lessons, are not sufficient in the circumstances.

16. Responding to that recommendation has held up publication of the annual report. I hope that it can now follow speedily. It would be good practice if the report could be published within three months of its submission, even if that means issuing a holding response to any recommendations.

(iii) Administrative matters

17. Processes in support of my role have continued to improve. In view of the increasing workload, I plan to work in Rose Court on two days a month during 2015.
18. I have not visited any of the Areas but I have spoken at two Victim Liaison Unit training sessions in Rose Court.
19. Finally, I must express my gratitude to colleagues throughout the CPS who have supported me in my role as IAC. I include both those in Rose Court who have provided administrative assistance and policy advice, and those in the Areas who have responded readily to my requests for further information and who have demonstrated an openness and generosity in respect of my recommendations.
20. I will submit my second annual report in time for the board's meeting in May 2015.

Stephen Shaw

Independent Assessor of Complaints

October 2014

Annex: Three Case Summaries

Case 1

Ms AB was a victim of domestic violence. The CPS had failed to present her Victim Personal Statement (VPS) or to apply for a restraining order. Ms AB had been badly let down and she had rightly received a succession of apologies. However, this was a complaint not best resolved by an IAC review. The CPS's failures could not be undone, and for that reason I encouraged Ms AB to take up the offer of a personal meeting.

The DCCP emerged well. Her letters were courteous, sympathetic and candid. She took and reported upon actions designed to prevent a repetition of what had happened to Ms AB. And she recognised that a face-to-face meeting would be the best way of trying to find some kind of resolution when the fundamental mistakes could not be put right.

In the course of this review, I also considered the CPS's approach to email and its practice of sending replies to complaints by standard mail. The security of personal information is a very important one, and it is not hard to understand the reluctance to send letters as attachments to email addresses that are not known to be secure. However, standard mail is not secure either. Indeed, in some cases – for example, for those living in multi-occupied residences – it will be significantly less secure than email.

I was loath to make a recommendation based on a single case, but I do think this is a matter the CPS will wish to keep under review. More and more people expect their contact with public authorities (as with private companies) to be electronic, and the CPS itself has been at the forefront of the Government's agenda of 'digital by default'. There may be digital solutions to a digital problem. It was not clear to me, for example, why the CPS could not operate a system of password protection for its correspondence. I recommended that a copy of my

report be shared with those responsible for data protection and security within the CPS for their consideration.

Finally, I considered the failure of the Witness Care Unit (WCU) to make contact with Ms AB after she gave her VPS. WCUs are a joint responsibility of the CPS and the police, but they are staffed by those employed by the police and are thus in a grey area so far as my jurisdiction is concerned. I did not conduct separate enquiries into why the WCU did not contact Ms AB, but I recommended that a copy of my report be shared with the WCU as a reminder that no one else should fall through the net.

Case 2

Ms AB was another victim of domestic violence. Because of failures by the CPS, the trial of her attacker did not proceed.

In this case, as in many others, I had the benefit of an excellent background note prepared for me by the Area. The note contained the following:

“This case was handled badly throughout. We have failed to action information concerning a witness promptly; we do not appear to have explored the possibility of the witness attending notwithstanding her holiday; we did not have a result promptly from the agent; we did not send a letter to the victim immediately. In short, on this occasion the service provided to a witness fell far short of the standard of witness care and case preparation we would expect.

“As a result the case progression system has been overhauled. Now a dedicated lawyer considers witness queries with a case progression manager as they arrive. Redeployment of resources has moved the point of full file review to a far earlier point in any event. Reminders have been given to all agents and instructions given to the updating team to escalate cases with no HRS [Hearing Record Sheet – the electronic file summary]

to lawyer managers. The importance of prompt victim communication has been covered at team meetings.

“The units are now in a much better position to ensure mistakes like this do not recur. This however does not alter the fact that this victim has been let down by the CPS.”

I judged that these actions were appropriate and proportionate, following a very unhappy story.

Case 3

Ms AB was a victim of crime in the workplace. Threats of sexual violence had been made to her and to her daughter.

There had been a succession of service failures at an administrative level and on the part of lawyers. In short, the CPS failed to warn Ms AB to attend court after recognising an earlier mistake had been made. There was a breakdown in case progression processes when the problem was identified. The failure was then compounded by decisions made by the prosecutor at court. As a result, a man accused of the vilest verbal abuse did not have to account for his behaviour.

The handling of Ms AB’s complaint had also been protracted and had led to further uncertainty and unhappiness.

Such were the succession of failures (in case management, courtroom decision making, complaints handling, and in respect of possible financial redress) that I took the unusual step of recommending that a letter of apology should be sent to Ms AB by the Director of Public Prosecutions herself.

The only positive aspects of this complaint were the Area’s robust actions in its aftermath. These included sharing the lessons with relevant staff so there can be no recurrence, training, and the use of HR procedures.