

Complaints Audit 2014-2015: Report to the CPS Board from the Independent Assessor of Complaints, Stephen Shaw

Introduction

1. This paper summarises an audit of CPS complaints in 2014-15 that did not progress beyond stages 1 or 2. The audit was carried out in line with paragraph 2.8 of my terms of reference which reads as follows:

“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. I am particularly indebted to Jade Whittle-Barnes who carried out the statistical analysis for this paper, and to Harlyn Collins for his advice and support.

Methodology

3. In line with the Board’s instruction when I presented my first audit twelve months ago, I have followed an identical methodology this year. In other words, a total of 40 Stage 1 and 2 complaints from 2014-15 were selected at random from the KIM database. There were 33 that reached Stage 1 only, and seven that went on to Stage 2 but not to Stage 3. I read all the papers associated with each case, and completed a simple spreadsheet. I completed fields for timeliness, whether the use of language was appropriate, and whether the response answered the complainant’s questions. In a free text field, I recorded other comments on the complaint.

4. The geographic breakdown of the 40 cases is shown in the table below:

Cymru/Wales	2
East Midlands	4
East of England	4
London	5
Mersey-Cheshire	3
North East	2
North West	3
South East	2
South West	2
Thames and Chiltern	2
Wessex	1
West Midlands	1
Yorkshire and Humberside	5
CPS Direct	4
Special Crime and Counter Terrorism	0
Organised Crime	0
Specialist Fraud	0
Total	40

5. A slight majority of the complainants in the sample were male (23 out of 40). I do not know how this compares with the CPS's complaints caseload as a whole.¹

6. Most of the complainants were victims of crime, or those acting on their behalf, as the following table shows:

Victim	24
Victim (police officer)	2
On behalf of victim	6
Witness	3
Defendant	2
On behalf of defendant	2
Other (campaign group representative)	1
Total	40

¹ It may be worth repeating the caveat I offered in my first complaints audit: The sample size allows for broad conclusions to be drawn, but there is no statistical merit in disaggregating the data further (say by gender or category of complainant or by CPS Area). Moreover, demographic details about the sample such as age and ethnicity are not available to me.

Findings

7. I begin by setting out the results as recorded in my spreadsheet. I also provide comparative outcomes for 2013-14, although minor differences will not be statistically significant and even large differences will not be significant if the base numbers are themselves very low. (I have not judged it proportionate to conduct formal tests of statistical significance on the data.)
8. So far as adherence to the CPS time targets for responses to correspondence are concerned, the results are reasonably encouraging. (It should be noted, however, that the figures reflect when a complaint was first formally registered on the KIM database, and do not take account of any mishandling before being registered.) As set out in the following table, 45 of the total of 47 acknowledgements were on time as were 39 of the 47 full responses (2013-14 figures are shown in parenthesis).

Did the response adhere to CPS time targets?

Stage 1	Yes	No	Sent on last possible day ²
Acknowledgement	39 (39)	1 (1)	Not audited
Reply	34 (36)	6 (4)	7

Stage 2	Yes	No	Sent on last possible day
Acknowledgement	6 (7)	0 ³ (0)	Not audited
Reply	5 (5)	2 (2)	2

9. However, the table shows that seven of the 40 Stage 1 responses were sent on the last possible day, as were two of the seven Stage 2 replies.
10. I have also analysed the use of holding letters when a response did not meet the time target. Of the six responses at Stage 1 that were late, in just one case was a holding letter was sent before the deadline. One holding letter was

² This issue was not addressed a year ago, so comparative figures are not available.

³ In one case, no Stage 2 acknowledgement was sent.

sent after the deadline, and in four cases no holding letter was sent at all. At Stage 2, there were two responses beyond the time target; in one of these a holding letter was sent after the deadline, in the other there was no holding letter.

11. The next table shows my assessment of the language and tone of the reply, and whether they were appropriate to the circumstances of the complaint. Once again, 2013-14 figures are in parenthesis.

Was the language and tone appropriate?

	Yes	Yes*	No
Stage 1	34 (27)	2 (9)	4 (1) ⁴
Stage 2	7 (6)	0 (1)	0 (0)

Yes* = with comments on particular elements of the reply

12. The assessment of tone is not scientific, and in retrospect some of the marks I gave may have been somewhat generous. None of the responses was illiterate,⁵ obtuse or unhelpful, but some were not obviously characterised by empathy or understanding of the complainant’s viewpoint.

13. The next issue was whether the reply properly answered all the questions raised by the complainant. (Because of data errors, the totals did not sum to 47 in 2013-14.)

Did the reply answer all the issues raised in the complaint?

	Yes	No	No*
Stage 1	35 (33)	1 (4)	4 (0)
Stage 2	5 (4)	1 (1)	1 (2)

No* = with comments on particular elements

⁴ Some data was missing in 2013-14, so the total does not sum to 40.

⁵ Students of language will be interested to learn that, even within the CPS, the English usage of ‘to appeal’ as an intransitive verb is being replaced by the American transitive idiom.

14. I think the findings on this question are again pretty encouraging. In the vast majority of cases a real effort was made to address the complainants' questions, and it is not hard to sympathise with those CPS staff charged with responding to long and complex complaints that raise several issues at the same time.

15. The last matter I considered was whether the escalation process was explained at the end of the reply.

Was the escalation process explained at the end of the reply?

	Yes	Yes*	No	No*
Stage 1	27 (16)	2 (1)	8 (18)	3 (2) ⁶
Stage 2	5 (0)	0 (0)	2 (2)	0 (0) ⁷

Yes* = with comments on particular aspects of the reply

No* = with comments on particular aspects of the reply

16. These figures show a strong improvement on last year when half of the responses sampled did not include a reference to the next stage of the complaints system. In contrast, in the 2014-15 sample nearly three-quarters of the responses did include a reference to the escalation process. However, this evidently still leaves some room for improvement.

17. Last year another table was included in the audit, asking whether the complaints procedure was mentioned in the full reply. I concluded that this was not a question worth retaining this year as, in almost all cases, the reference to the procedure was made in the initial acknowledgement letter (when a paper copy of the procedure or an electronic link was nearly always provided), and thus any further reference in the full reply would be superfluous.

18. But curiously, last time we did not record the actual complaint outcome. The relevant figures this time round are as follows:

⁶ Data missing in 2013-14.

⁷ In five 2013-14 cases, escalation was not possible and/or appropriate.

Complaint outcome

	Upheld	Part Upheld	Not Upheld	Not recorded
Stage 1	4	3	32	1
Stage 2	1	1	5	0

19. What is particularly interesting about these figures is the extent to which they contrast with my own caseload at Stage 3. 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.

20. 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.

21. 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.

Detailed commentary

22. In an annex to this report, I have reproduced a slightly edited version of the comments I recorded on each of the cases I reviewed. All cases have been anonymised and references to the specific CPS Area that dealt with the complaint removed.

23. Some cases demonstrate good complaint handling (cases 7, 14, 36, for example).

24. Others tell a less happy story (cases 16, 39, 40).

25. Problems with the dates and outcomes recorded on KIM are a recurrent feature (cases 9, 13, 34).
26. Other themes include the relationship between the Victim's Right to Review (VRR) and complaints schemes, and problems with Witness Care Units for which the CPS takes no responsibility. Some complaints concern alleged failings involving other parts of the criminal justice system.
27. Perhaps the most important finding relates to an apparent lack of understanding of the complainant's point of view in CPS responses to complaints (cases 2, 24, 30, 32, 35, 38, for example). This is a disappointing echo of the former Chief Inspector's characterisation of CPS complaint handling as lacking in empathy.

Conclusions

28. This report provides a snapshot of the CPS complaints process during 2014-15, and compares the outcome with a similar exercise a year ago.
29. As was the case in 2013-14, I think the headlines from the audit are encouraging. There has been a generally good performance on timeliness, the language used in most responses is appropriate (with just the occasional lapse into legalese), and most complainants' questions are properly answered. However, in a sizeable minority of cases the escalation process is still not being explained or flagged up.
30. The audit has revealed good practice in some complaints-handling (the performance of Deputy/Chief Crown Prosecutors in this respect continues to impress), but also cases where the handling has been less adept.
31. Perhaps the main concern has been the number of responses I have seen that have adopted a rather bureaucratic tone, and have failed to show much empathy with the complainant.

32. As I said last year, the methodology adopted for this review is relatively straightforward and not too demanding of my time and that of others. As the Board has recognised, there is clearly a strong case for continuing the same approach year-on-year. However, the finding that my personal caseload at Stage 3 is very different in outcome from the mainstream CPS complaints work (paragraphs 19-21 above) may suggest that additional audits or a focus on particular types of complaint would also be worthwhile if resources allow.

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Annex: Specific comments on the 40 complaints sampled

Stage 1 complaints

Case 1: Mr AB is the brother of a man killed by a passing driver. The Crown seems to have offered no evidence when the Judge questioned the validity of expert testimony on the defendant's use of a mobile phone (the exact course of events is not clear from the Stage 1 letter). The Stage 1 response was completed and sent well within time limits but no reference was made to Stage 2.

Case 2: Mr AB is a victim of assault and robbery. Charges against his attackers had been reduced following guilty pleas. As a consequence there was no charge of robbery and no application for compensation. The Stage 1 reply was not unduly sympathetic. It was explained that most contact had been via a Witness Care Officer, but Counsel had spoken to the victim and (it seems) asked his views on the acceptance of the plea (although this is not entirely clear). Mr AB wrote a second letter but this was treated as a request for further information at Stage 1. Complaints should only be escalated once they have exhausted Stage 1, but it can be a matter of judgement as to when this point is reached. In my view, this complaint could easily have been escalated to Stage 2 at this point. The second response contained no information not provided in the first letter. Like a number of cases reviewed this year, the circumstances giving rise to this complaint were far from mainstream.

Case 3: This was a very sensitive case. Mr AB is the father of a child victim of rape. His complaint concerned the delay in bringing the matter to trial. There was some legalese in the Stage 1 reply ("seeking to vacate the trial date"), but otherwise it was both sympathetic and helpful ("I have requested that the lawyer with conduct of this case make enquiries with the court to see if there is an earlier date available [for the trial].") Further correspondence was dealt with under VRR after the prosecution was withdrawn. A note on KIM is in these terms: "letter received from complainant. Letter asks for a Stage 2 and the Legal Manager has written back offering a VRR but explaining it will not alter the

decision as she agrees with it.” Some clunkiness in the KIM IT is also evident from the paperwork (i.e. the inability to correct tabs wrongly opened).

Case 4: This was a VRR recorded as a complaint. A note on KIM records: “Victim called in to request VRR after NFA [no further action] decision on her sister in law. Due to expiry of STLs [statutory time limits] the Legal Manager who dealt with the VRR addressed her response as a Stage 1 to allow escalation process.”

Further notes on KIM record:

(1) Victim called after receiving the letter and was told about timescales for complaint. This was not treated as a request for Stage 2 (probably correctly).

(2) “IT issues” had meant that the Stage 1 letter sent by email did not arrive and had to be re-sent.

(3) "Unable to upload police evidence due to fault."

This case illustrates the difficulty of differentiating VRR and complaints. The actions at Stage 1 were generous to the complainant, but it is questionable whether they were strictly in line with CPS policy.

Case 5: Ms AB is a victim of domestic violence. The defendant was acquitted. Her letter of complaint was long and somewhat difficult to follow. The Stage 1 reply was in standard terms but with some unduly protracted sentences. Amongst other things, the reply said: “In your letter you also complained about the police investigation and support, Victim Support and Witness Service. I confirm that I have emailed each of the aforementioned criminal justice agencies with a copy of your letter as it will be for them to respond to you about your complaints specific to each of their departments.” This was good practice but, as I have queried previously, should the CPS slope shoulders in this way with regard to the Witness Service?

Case 6: Mr AB is a police officer and the victim of an assault. The defendant had originally been charged with GBH and affray but the CPS accepted a guilty plea to the affray charge. The complainant was informed by the Victim Liaison Unit (VLU) and then wrote in, asking why no compensation order had been sought.

The Stage 1 response said the Crown Advocate should have asked for a compensation order and apologised: “I have given them certain advice as to future applications to the court.” The response gave advice about the Criminal Injuries Compensation Authority, but did not mention the possibility of a civil claim.

Case 7: Mr AB complained about the decision of the CPS “at the last possible moment and without consultation” not to oppose an appeal. The Stage 1 response (a hybrid VRR/complaint response) did not acknowledge or apologise for a delay in replying. It acknowledged that the Mr AB had not received a proper service and not been kept properly informed. There had also been delays in reviewing medical evidence regarding the defendant. The case management system (CMS) had not been updated when the decision was taken not to oppose the appeal, and Mr AB therefore attended court unnecessarily. No Direct Communication with Victims (DCV) letter was sent either. The response said: “I have personally asked for a system to be implemented in the team as a matter of urgency to make sure that this situation does not arise in the future.” This was a very frank and high quality response. It is arguable that escalation should have been flagged both through the VRR and complaints systems – especially as the case seems to have involved a breach of the Victim's Code. However, the further correspondence was correctly judged not to require escalation, as the complainant had said he was satisfied.

Case 8: This was an unusual case involving allegations of breaches of the Hunting Act 2004. The response was legalistic, but appropriately so given its context and the recipient. The complaint had started as a VRR but, on instruction from the Legal Manager, it was treated as a complaint as Mr AB did not fit within the VRR criteria (he was a campaign group representative and not directly the victim of the criminal behaviour).

Case 9: This was the second case in which the victim-complainant is a serving police officer. The prosecution had been withdrawn but without notice to the victim. The Stage 1 response accepted that the police officer had not been

consulted, but argued, very oddly, that there was no need for a DCV letter as “we received your request via our complaint unit and thereafter we follow the timescales for dealing with this as a complaint.” KIM records the complaint as not upheld but, in light of the acknowledgement that the victim was not consulted, this should have been a partial uphold at least.

Case 10: Mr AB is the father of a victim of domestic violence. Her attacker had been convicted and received a non-custodial penalty. Mr AB argued that a more serious charge than assault by beating should have been brought, and that the Court had not had the full details of the level of injury. The response was straight-batted but not objectionably so.

Case 11: This is another domestic violence case. Ms AB argued that threats against her property had been treated as more important than threats against her. The reply covered the choice of charge, corrected Ms AB's account of the penalty imposed, and explained why the case had been dealt with early (the Court decided “there was Court time available”, and the CPS had not been aware the victim was going to attend). The complaint had been sent to the police. Seven days passed before the police sent it to the CPS.

Case 12: Mr AB is a victim of crime, the defendant having been convicted but given an absolute discharge. This was a straightforward complaint alleging that the whole case had been a waste of time. The reply was equally straightforward, beginning with standard paragraphs about the relative roles of the police, CPS and Court.

Case 13: Ms AB said she had been left in the witness room at Court all afternoon and not kept updated regarding the defendant's trial. She had left the room at 5:45pm when the Court was to be locked up. A personalised acknowledgement letter was sent from the Victim Liaison Officer (VLO) and there were two personalised letters from the Legal Manager, keeping Ms AB up to date with his review. The Legal Manager made detailed enquiries with the prosecutor and the Witness Service. The passage of time meant that no one could give an accurate

account of what had happened. The Stage 1 response offered an unreserved apology – which renders the not upheld recorded on KIM very odd indeed. I felt that the Legal Manager had handled this very well – but what actually had occurred and why, remains a mystery. Moreover, it appears from an email on the file that Ms AB had made an initial telephone call nearly two months earlier but nothing had been done about it. (The email reads in part: “it seems the complaint has passed through a myriad of hands but nobody seems to have done the obvious although there is so much code and abbreviations used on CMS that I cannot really work out who did what. It was certainly passed around a lot.”) None of this is recognised on KIM which also records the wrong trial date.

Case 14: The complaint was brought by a solicitor suggesting that the wrong charge had been brought (dangerous driving rather than causing death by dangerous driving) in a case in which his client was a victim. The Stage 1 response was both sympathetic and gave a clear explanation of the legal decision-making.

Case 15: Mr AB is a defendant who was not happy that the case against another person allegedly involved had been discontinued. The Stage 1 reply referred to Mr AB’s telephone call but evidence suggests he complained solely by email.

Case 16: The complaint was from a family support worker on behalf of a victim of domestic violence. The matter was held up while the CPS checked that the victim gave permission for a third party to complain on her behalf (family support worker emailed on 5/3 but CPS did not ask for a signed authorisation until 20/3. This delay was not reflected on KIM.) The full reply was by email. The reply said that no names would be included as the address was “not seemingly a secure one”, although it was in fact a gov.uk address. The response was poorly drafted and blamed the Witness Care Unit (WCU) for giving the wrong trial date to the police officer witness: “as the WCU is a Police Unit and not one that the CPS has any control over, I am unable to clarify this further”. No attempt was made to ask the WCU for an explanation: “If you do require any clarification of this, I would direct any further enquiries to the Police.” Had the

complaint been raised to stage 2 and a DCCP conducted an investigation, more details about what actually occurred might have emerged. This was one of the weakest replies in this year's selection.

Case 17: Mr AB is a witness – he asked why his obligation as a witness had not been discharged as he had already given evidence at a trial that the defendant had failed to attend. Mr AB also asked why he was the only witness expected to give evidence. The reply was a little short, but it is difficult to see what else could have been done as the case was ongoing. This was not really a complaint against the CPS: it seems the Court may have erred in allowing a second trial as there had been no error at the first hearing – the defendant was in prison, but this had been known to the defence. (It was not known to the CPS as the defendant had been charged under a slightly different name.) It was understandable that the complainant felt put out, but this was not the fault of the CPS. The complaint letter had been sent to the Witness Care Unit and had been forwarded within a week. I think it is acceptable that this time is not reflected on KIM.

Case 18: Ms AB is the victim of an assault. She asked why one of her attackers had not been charged with assault but only with affray. A note on KIM reads: “This case has caused some confusion as to whether this should be dealt with by the area or by us (CPS Direct). After much to-ing and fro-ing we have agreed to take this forward so the victim is provided with a response in a timely manner. Acknowledgement letter sent out via email with a copy of the complaints booklet attached.” It is clear that the complainant was properly informed about the to-ing and fro-ing, but there was no apology at Stage1 for the consequent lateness of the reply.

Case 19: Mrs AB is the mother of a defendant. Her complaint letter was very long and covered all aspects of arrest, police investigation and presentation of the case by the CPS: “the conduct of the ... lawyer for the CPS was questionable as she delivered inaccurate and misleading information about the case to the magistrates.” Mrs AB's letter was dated mid-January. The Stage 1 response was dated the beginning of April and included an apology for the delay. The response

promised to “look into the matter” of the conduct of the prosecutor and asked for clarification. It acknowledged case handling errors by the CPS. A note on KIM provides some background to the response: “I have sent a booklet with the full response from the level D. This complaint was received today in Magistrates’ HUB Business Support Unit. The response had already been prepared by the level D on Crown Hub but the complaint was not previously logged nor had an initial response letter been sent. I have now logged the complaint and sent the full response to Mrs AB along with our policy booklet.”

Case 20: This case involved historical sex abuse suffered by Ms AB many years ago. It illustrates the difficulty the CPS faces when handling complaints about cases that are still live. In this case, the trial had been postponed because of the defendant’s ill health. Ms AB argued that the defendant should have been “medically examined to ensure his fitness for trial beforehand”. A further email was answered by the VLO: “it is important that we do not discuss the evidence any further with you as the case is ongoing.”

Case 21: Mr AB is the grandfather of a child witness. He complained about the decision to discontinue a prosecution for assault (this was a joint request for VRR and a complaint about handling). Stage 1 was a joint VRR/complaint response. Mr AB emailed again asking for escalation, arguing that the views of social services had been presented on a ‘take it or leave it’ basis. The VLO replied the same day: “as the CPS complaints procedure does not apply to complaints about other partner organisations, unless there was a specific CPS issue that remains unresolved, your complaint will not be escalated.” This was on the advice of a senior colleague and correct in the circumstances.

Case 22: Mr AB is the father of a young victim of indecent exposure. He complained that his daughter and their family had learned of the defendant’s acquittal from the newspapers. He also asked why he had not been called as a witness. There was a dating error on the acknowledgement letter (it was dated May but referred to a complaint made to the WCU in June), but the Stage 1 response was of good quality.

Case 23: Mr AB is the victim of assault. Only one of the possible attackers was prosecuted. The reply explained the legal decision-making in the case. Escalation was said to be via the Senior District Crown Prosecutor.

Case 24: Ms AB is a victim of domestic violence. The trial was stopped on procedural grounds. The Stage 1 response said that this was the result of a police mistake: "This is a matter of some concern and I have raised this issue with the relevant senior police officer in an effort to ensure that this sort of error does not occur again." The response was not characterised by great empathy and described the escalation process as being set out in "a standard paragraph" – a phrase I think best avoided.

Case 25: Ms AB was the victim of a robbery from her shop. She complained about the identification evidence and said that the defence questions were ageist, sexist and 'anti-disabilities of any kind': "I was greatly surprised that there was no intervention by yourself or the judge..." I frequently encounter a similar expectation that prosecutors will prevent robust questioning by the defence. The Stage 1 response did not flag up the escalation process.

Case 26: Ms AB was a DVLA witness in a road traffic case. She was left unattended and unsupported in the Court canteen and was subject to abuse from the defendant. The papers include an apology from the Court (the usher was new and was to receive additional training). The CPS letter also offered profuse apologies for a series of errors. It is probable that there were breaches of the Witness Charter (Standard 14: Safety at court).

Case 27: Mr AB was the victim of robbery in a betting office. He complained that he had not been informed about a hearing under the Proceeds of Crime Act (POCA). The CPS reply explained the quantities of compensation awarded, but said the CPS was not present during the POCA hearing and that Mr AB would have to pursue this via the police. A more customer-friendly reply would have been to have forwarded the complaint to the police without expecting the

complainant to do it himself. Like most Stage 1 replies, this one was shorter than I tend to see at Stage 2.

Case 28: Mr AB was a witness in a road traffic case. He criticised the conduct of the appeal hearing that had resulted in the overturning of a conviction for careless driving. The Stage 1 response blamed the police for late warning of witnesses and said: "I am sorry if you felt the prosecutor did not spend much time with you on the day of trial", quoting the prosecutor's recollection of the day in question. The response did not refer to Stage 2 but said: "If you remain dissatisfied you can refer your complaint on a formal basis to [complaints inbox]."

Case 29: Mr AB is a victim of violence against the person. His letter asked for an explanation why the CPS prosecutor did not interview him prior to going into court: "which was clearly the downfall of what was a fairly solid case". The complaint was made on the CPS website, but there was no copy in the file. The reply said (rightly): "the rules around the discussion of evidence with victim and witnesses are very clear and are often very different to those portrayed in the media." One sentence in the Stage 1 reply was 51 words long and the response was not notably empathetic. An email in the file shows that the complainant then wrote again to comment on the trial outcome. The email reads in part: "it is not a second tier complaint ... To make life easier I decided to telephone him to ascertain what he wanted from the letter and after a 40 minute conversation he is very happy and does not want me to do anything further. He expressed his gratitude that I took the time to ring him and feels that he now has a much better understanding of the situation. I believe the matter is now closed ..." This was very good practice.

Case 30: Mr AB is the victim of an attack. The CPS reduced the charge against his assailant from GBH to ABH. In his letter, Mr AB wrote: "This is the second time I have complained about this case and I have had no response from you. Please do so this time." The complainant had written to the police and the covering police email reads: "This is now the third email that I have sent

regarding the below and as you can quite clearly see the victim in the case is becoming extremely agitated and annoyed that CPS have not got back to him nor ourselves to provide him with any answers. I am forwarding this to a number of CPS mailboxes, simply because there does not seem to be a standard CPS mailbox, in the hope that somebody will be able to answer my questions.” However the complaint was not registered on KIM until nearly a fortnight later. The Stage 1 reply gave a detailed explanation of the charge, and apologised for the delay in responding to the initial complaint that had been sent to a CPS Direct lawyer who had left the CPS. As with almost all of those I have reviewed this year, the letter was well written and nicely laid out, but perhaps a little lacking in sympathy.

Case 31: Mr AB is the victim of assault. His letter said he had not received confirmation of the trial date: “Had I had a letter confirming the trial I would have attended, I am the victim here and I feel very disappointed that justice was not served.” An internal CPS email reads: “The DCV letter from WCU indicates not guilty after trial however CMS shows Offered No Evidence (whilst HRS [the hearing record sheet] shows ‘dismissed’).” According to the Stage 1 reply, the WCU “which is part of the police service” had tried to contact the victim. At the trial the CPS asked for an adjournment but this was refused and “the prosecutor had no choice but to offer no evidence. The case was dismissed by the court.” The reply gave contact details for the police to complain about the service received from the WCU. It indicated that this was a legal complaint and therefore could only go to stage 2. However, any failures by the WCU (assuming they come within the CPS complaints system) would of course be service complaints and could therefore go to Stage 3.

Case 32: Ms AB wrote to the CPS asking for a review of a sentence imposed in a case arising from domestic violence. There was clearly nothing in the complaint for the CPS, but the response – while perfectly literate – showed no empathy or understanding for the victim. This was one of the poorest ones in the whole audit: a template response made up of stock paragraphs on the roles of police/CPS and the Code for Crown Prosecutors. The CPS escalation process was

not properly explained but the reply gave the details of the Court for any further complaint about the sentence.

Case 33: Ms AB is the victim of assault; two defendants had been acquitted. A police error was only spotted by the CPS the day before the trial, when it was too late (more than six months after the incident). A note on KIM reads: “part upheld in that the police error was not spotted by CPS until after it was too late to be rectified.”

Stage 1 and 2 Complaints

Case 34: Mr AB is both a defendant and a victim in a case involving his ex-wife. He made a complex complaint criticising the police and asking questions about proposed prosecutions – all made more difficult by bail conditions/access to his children. The dates on KIM seem inconsistent. The case was stopped and the Stage 1 letter acknowledged that, as a victim, Mr AB should have received a VRR letter when it was decided that no one was to be charged.

Mr AB sought to escalate his complaint in mid-October, but the reply in November was from the same person who replied at Stage 1 (despite the acknowledgement saying it would be referred to the DCCP). There was a further escalation. In January the VLO wrote: “Please accept my apologies regarding the letter I sent to you ... advising that [the DCCP] would be reviewing your complaint at Stage 2 ... having looked at your letter ... it was decided that it was more beneficial for [name] to address the concerns you raised in a further letter which he did...” So the ‘real’ Stage 2 response was sent by the Chief Crown Prosecutor in mid-February. The CCP said he had taken a different view of earlier CPS involvement: “I do not accept your contention that there has been any breach of the Code for Crown Prosecutors, although I think this point should have been made clearer in earlier correspondence for which I apologise.” The CCP said his reply represented the end of the procedure for legal complaints but enclosed a copy of the complaints guidance, presumably leaving open the possibility of a service complaint to the IAC although this was not explicitly

stated. As noted, the dates on KIM are very difficult to follow – presumably a further indication of the lack of flexibility in the IT (no changes can be made once entries are saved). A note by the VLO reads: “This complaint set up to replace C#### due to Stage 2 being activated in error and [name] unable to revert back to Stage 1.” My view is that this should have been escalated to Stage 2 after October. There is no explanation on the system (nor was one given to Mr AB) why it was felt more appropriate for the Stage 1 responder to reply again.

Case 35: Mr AB is a victim of crime and his complaint appears to be a way of letting off steam as the case against his attackers collapsed. He wrote: “I don’t want to hear anything else about this anymore, because I’m already stressed enough!” The Area took advice from HQ and responded nonetheless. However, no acknowledgement was sent (although a date was put on KIM for record-keeping purposes only). The Stage 1 reply was detailed, but lacking in empathy.

An angrily worded response was then received from Mr AB, and it was decided that this represented a Stage 2 complaint (a decision that could have gone either way). An appropriately short (but much more sympathetically worded) reply was sent by the DCCP. The escalation process was not explained but I am not sure if there were any service issues in any event.

Case 36: Ms AB is (I think) a defendant, although the Stage 1 reply says she is a victim. KIM doesn’t say, and other evidence suggests Ms AB is bringing civil proceedings against the CPS. She complained about her single point of contact at the CPS, saying he did not reply to her queries completely. She asked for an apology and compensation saying she had been discriminated against. The Stage 1 response from the Acting DCCP said the CPS had put in place a reasonable adjustment to meet Ms AB’s needs, and she was content the point of contact would reply as soon as he was able. She suggested future contact by email, but ignored the question about compensation (perhaps pardonably).

Ms AB escalated her complaint. She said that the CPS has not complied with the Equality Act Code of Conduct. She added that the CPS failed to provide a good

service and there had been delays in responses. Ms AB said she would not agree to communicate by email only. The acting CCP replied in a letter that was appropriately short and to the point. There was a further email from the complainant declining an IAC referral: "It is clearly a pointless exercise and I am under no obligation to do so." I felt her correspondence had been very well managed by the DCCP and CCP.

Case 37: Mr AB is a victim – he complained that no compensation had been awarded for the theft of his phone. Indeed, no application for a compensation order had been made. He was particularly critical of the WCU. The Stage 1 reply was not unduly sympathetic and included a sentence with no evident meaning: "It is expected that on an anticipated guilty plea additional material will be received after the first hearing, it is not therefore a part of the process that cases awaiting arrest on warrant are updated." The reply said that there were two learning points, and apologised that a claim for compensation had not been put before the Court, acknowledging the "shortcomings of the system".

The Stage 2 response acknowledged that the CPS "fell short" of the highest standards of service and apologised. It said that, notwithstanding the absence of the MG 19, "I would have fully expected the prosecutor in that situation to request the information from the police for the next hearing. I regret to say that the prosecutor failed to take this action. This is particularly frustrating as it would appear that you had already completed the form at this stage." The reply went on to say that both the prosecutor and the Stage 1 responder had interpreted the complainant's statement as meaning that he had recovered his phone: "I am unable to see how that conclusion was reached." The reply also revealed that when the MG 19 had been received it was not added to the case papers: "the administrative system failure had not previously come to light and has now been rectified to prevent this situation occurring in future cases". The Stage 2 response included an offer of a £100 ex gratia payment. The WCU matters were forwarded to the police. This was well handled at Stage 2. The caseworking errors and the Stage 1 response tell a less happy story.

Case 38: Mr AB is a victim of violence against the person. He complained following a DCV letter indicating that the case would not proceed as the court would not grant an adjournment. The Stage 1 reply explained that the prosecutor had had major surgery at short notice (the case had been adjourned part-heard). The prosecutor at the next hearing had asked for an adjournment to enable the original prosecutor to attend, but the court had declined to grant one. The language and tone of the response was very bureaucratic and not sympathetic.

Mr AB asked for escalation, although given the explanation he had received it is difficult to see what more could have been said. At Stage 2, the DCCP repeated the explanation at Stage 1 and offered to meet the complainant in person. Self-evidently, this was very good practice.

Case 39: Mr AB – the father of a defendant – wrote to highlight what he considered to be irregularities with the prosecution case. He suggested that two prosecution witnesses had given false evidence and therefore perverted the course of justice. The Stage 1 response said that matters had been drawn to the attention of the police and defence solicitors, and referred to the CPS’s duty to review cases on an ongoing basis. The escalation process was not explained, perhaps as this was considered a matter for the police at this stage. The complaint was recorded on KIM as upheld, but this was an odd outcome in the circumstances.

Mr AB then wrote again. His complaints were partly about the charge brought against his son (and the absence of charges against those he considered had been harassing his son). Mr AB also accused a District Crown Prosecutor of putting the phone down on his wife. Two months later, the DCCP asked the defendant if his father could act on his behalf. Two months after that, a meeting was held between the DCCP and the defendant’s parents. Three weeks later, the DCCP sent a follow-up letter. This Stage 2 response was therefore very late, and it contained no reference to escalation. A note of the face-to-face meeting includes: “Due to illness the complaints system broke down, for which [the DCCP]

apologised and confirmed that no disrespect was meant to them.” Although recorded as not upheld – which is closer to the truth than the uphold recorded at Stage 1 – both Stages 1 and 2 should really have a neutral or N/A code (unfortunately, I understand the system does not allow for this). I found the dates on KIM to be confusing and inconsistent. Not all papers were on file.

Case 40: Ms AB is the victim of criminal damage. She submitted a separate VRR and complaint. According to a note by the VLO: “Originally taken forward as solely a VRR but then split into a VRR and complaint.” (It is not clear why the separate complaint was not immediately recognised.) The complaint was about the prosecutor’s alleged unpreparedness and failure to introduce herself before the trial (described as a “gross dereliction of duty”). The file shows that the CPS investigator phoned the complainant to say he would deal with the VRR and Stage 1 separately (this appears to indicate that the VRR was completed late). He also apologised for the delay. It looks as if nothing was done about the complaint for one month after its receipt; a delay not recognised on KIM. Letter number 1 apologised for the poor service and said the VRR was still on-going. Letter number 2 of the same day apologised for the service received. It is not clear if there was any actual investigation of the complaint – the CPS letter said the prosecutor “should” have introduced herself and “should” have given the complainant copies of all her statements. It added: “the prosecutor concerned is currently being dealt with under our Human Resources policies”. Ms AB was told that further information had been sought from the WCU, but the escalation process was not explained.

Ms AB sought escalation in early December. The DCCP wrote in mid-January: “I am troubled by this case and am not content that I am able to answer all the points you have raised at this stage. I have asked for additional information so that I can complete my investigation.” Ms AB replied that she was grateful that the matter was being looked into thoroughly. The Stage 2 response was dated mid-February. The DCCP apologised for the delay and said the service received “has fallen way below the standard we are committed to providing”. He added: “Having read the case papers, I share your concern that the prosecutor was not

sufficiently prepared and in command of the facts on the trial date. Although I consider the decision to stop the case was the correct ultimate outcome, I do not accept that this happened for the right reasons at the time.” The DCCP went on to say that Ms AB’s experience at court was “completely unacceptable”. He added:

- (i) The police file was of poor quality.
- (ii) CPS prosecutors should have challenged the police about the quality of the file.
- (iii) The case should have been stopped sooner.
- (iv) Earlier replies had suggested that the Judge had made a formal ruling regarding the evidence, but this was not the case.
- (v) PACE Codes of Practice had not been followed by the police.
- (vi) Management action would be taken against the prosecutor who had accepted the case initially yet failed to identify weaknesses in the evidence and in police procedures.
- (vii) Other actions to be taken in feeding back to the police and briefing prosecutors.

In short, this was a very unhappy story from start to finish. Until Stage 2, the complaints handling was also poor, but that was probably the least of it.