



Independent Assessor of Complaints  
for the Crown Prosecution Service

Complaints audit 2016-17

# **Complaints Audit 2015-2016: Report to the CPS Board from the Independent Assessor of Complaints (IAC), Stephen Shaw**

## **Introduction**

1. Under paragraph 2.8 of my terms of reference I am required to review a sample of complaints that have not proceeded beyond Stages 1 and 2 of the CPS complaints procedure.<sup>1</sup> In line with the Board's wishes, I carry out this complaints audit on an annual basis – sharing the findings alongside my half-year report.

## **Methodology**

2. I have adopted an identical methodology in each of the three years during which I have conducted the audit. A total of 40 Stage 1 and 2 complaints are selected at random from the Service's KIM database. There are 33 that have reached Stage 1 only, and seven that have gone on to Stage 2 but not to Stage 3, making a total data set of 47.
3. I read all the papers associated with each case (but make no further inquiries), and complete a simple spreadsheet. I have separate fields for timeliness, whether the use of language is appropriate, whether the response answers the complainant's questions, and whether the escalation process is explained. In a free text field, I summarise the complaint and add any other comments that have occurred to me.
4. The sample size is not such that disaggregation of the data is likely to be statistically meaningful, and to some extent my approach is an impressionistic one. However, this year as in the past two, I am content that

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<sup>1</sup> The paragraph 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."

the survey does provide a useful snapshot of complaints handling across the Service. Indeed, because those complaints that do escalate to Stage 3 are very unrepresentative of complaints as a whole (although it may be counter-intuitive, the cases I see are actually much more likely to have been upheld at Stage 2 than is the average), the audit offers a better indicator of overall complaints performance than does my own caseload.

### Characteristics of the sample

5. The geographic breakdown of the 40 cases from 2015-16 that I reviewed in this exercise is shown in the table below:

Cymru/Wales	4
East Midlands	3
East of England	4
London	8
Mersey-Cheshire	1
North East	3
North West	2
South East	4
South West	1
Thames and Chiltern	3
Wessex	1
West Midlands	1
Yorkshire and Humberside	5

6. There were no complaints in the sample against CPS Direct or against any of the three central casework divisions<sup>2</sup>.
7. Unsurprisingly, most of the complainants were victims of crime, or those acting on their behalf, as the following table shows:

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<sup>2</sup> The Specialist Fraud Division, the Special Crime and Counter Terrorism Division, and the International Justice and Organised Crime Division.

Victim	25
Representative of victim	9
Witness	1
Defendant	3
Representative of defendant	1
Other (firm of solicitors)	1
Total	40

8. Two-thirds of the complainants in the sample were male (six out of seven of the complainants whose grievances were escalated to Stage 2). I do not have access to any other demographic information, save that most of the cases in which the complainants were involved were heard in the magistrates' courts or involved sexual crime.

### **Findings**

9. I begin by setting out the results as recorded in my spreadsheet. I also provide comparative outcomes for 2013-14 and 2014-15. However, I must caution that the differences may not be statistically significant if the base numbers are low.

### *Timeliness*

10. Table 1 shows whether complaints were acknowledged in line with the CPS time-target. There appears to have been a slight slippage compared with previous years. A total of 42 of the 47 acknowledgements were in time (89 per cent) compared with 45 out of 47 in 2014-15.

**Table 1: Did the acknowledgement adhere to CPS time targets?**

	<b>2015-16</b>	<b>2014-15</b>	<b>2013-14</b>
<b>Stage 1</b>			
<b>Yes</b>	36	39	39
<b>No</b>	4	1	1
<b>Stage 2</b>			
<b>Yes</b>	6	6	7
<b>No</b>	1	0 <sup>3</sup>	0

11. Table 2 shows whether the full response was sent within the 20 working day target. It is clear that performance on this score seems to have deteriorated with 14 of the 47 responses (30 per cent) being beyond deadline. This compares with 17 per cent beyond deadline last year, and just 13 per cent in 2013-14. It may be that further work should be conducted to see if the results from this audit are representative. If they are, then remedial action should be taken.

**Table 2: Did the response adhere to CPS time targets?**

	<b>2015-16</b>	<b>2014-15</b>	<b>2013-14</b>
<b>Stage 1</b>			
<b>Yes</b>	27	34	36
<b>No</b>	12 <sup>4</sup>	6	4
<b>Stage 2</b>			
<b>Yes</b>	5	5	5
<b>No</b>	2	2	2

12. In five of the 14 cases where the response was late, no holding letter was sent to the complainant to alert them to the delay.

13. Although formally within time limits, a number of the responses were sent on the last possible day.

*Language and tone*

<sup>3</sup> In one case in 2014-15, no Stage 2 acknowledgement was sent.

<sup>4</sup> One case was withdrawn before the response was sent.

14. Table 3 shows my assessment of the language and tone of the response, and whether they were appropriate to the circumstances of the complaint and complainant. Once again, I have provided comparative data from 2014-15 and 2013-14.

15. I am conscious that the test of whether a response is worded appropriately is not an objective one, and I think I may have applied stricter judgements this year than in the past.

**Table 3: Was the language and tone of the response appropriate?**

	<b>2015-16</b>	<b>2014-15</b>	<b>2013-14</b>
<b>Yes</b>	38	43	43
<b>No</b>	8 <sup>5</sup>	4	4

16. I judged that all of the Stage 2 responses were appropriate in language and tone.

17. My impression is that there were fewer typographical errors in the letters than in past years, and fewer infelicities in the lay-out of the correspondence (although there is a danger of formatting errors whenever standard paragraphs are used).

18. The principal finding remains that (especially at stage 1) not all of the responses were characterised by empathy or an understanding of the complainant's viewpoint. In many cases this could have been remedied with the addition of a single sentence: "I understand that this must have been very difficult for you."

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<sup>5</sup> See footnote 3.

*Answering the questions posed*

19. Table 4 sets out my assessment of whether the CPS response addressed all of the issues raised by the complainant. The outcomes are very similar to those for the past two years. Each of the cases where I was concerned that the response did not address all of the issues was at Stage 1.

**Table 4: Did the response answer the complainant's questions?**

	<b>2015-16</b>	<b>2014-15</b>	<b>2013-14</b>
<b>Yes</b>	39	40	37
<b>No</b>	8 <sup>6</sup>	7	7 <sup>7</sup>

*Escalation*

20. Table 5 looks as whether the escalation process was explained at the end of the response.

**Table 5: Was the escalation process explained at the end of the response?**

	<b>2015-16</b>	<b>2014-15</b>	<b>2013-14</b>
<b>Yes</b>	33	34	17
<b>No</b>	10	13	22
<b>Not applicable: legal case at stage 2</b>	3		5 <sup>8</sup>
<b>Not applicable (case withdrawn)</b>	1		

21. These figures are in line with last year's (which had shown a strong improvement on 2013-14). I think it is disappointing that in ten of 43 cases where escalation to Stages 2 or 3 was possible the complainant was not expressly informed of their right to do so.

22. Two of the cases where escalation was not flagged up involved complainants from solicitors.

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<sup>6</sup> See footnote 3.

<sup>7</sup> As a result of data errors, the total did not sum to 47 in 2013-14.

<sup>8</sup> See footnote 6.

## *Outcomes*

23. Table 6 shows the outcome of the complaint as recorded on KIM. (Outcome statistics were not collated in 2013-14.)

**Table 6: Complaint outcome**

	<b>2015-16</b>	<b>2014-15</b>
<b>Fully Upheld</b>	11	5
<b>Partly Upheld</b>	13	4
<b>Not Upheld</b>	21	37
<b>Not applicable (not known or case withdrawn)</b>	2	1

24. The change in the course of a year is manifest (from 20 per cent upheld in whole or part in 2014-15 to 53 per cent in 2015-16). Once more, it might be sensible to see if this change is demonstrated across a wider selection of cases.

25. One case went from not uphold to partly uphold between Stages 1 and 2. One case went from partly uphold to not uphold, although this seems to have been an error.

## **Detailed commentary**

26. In an annex, I have reproduced the comments I recorded on each of the cases in the sample. All accounts have been anonymised and references to the CPS Area involved have been removed. Many of the summaries evidence failures in case management; some demonstrate errors in complaint handling. Most demonstrate candour and a willingness to acknowledge mistakes when they have occurred and to learn from them. All provide a fascinating insight into the CPS's work.

27. I think there is good complaint handling shown in a significant number of cases (numbers 9, 19, 27, 29, 37, for example). Other cases demonstrated that joint VRR/complaints are managed successfully.
28. Handling that was less adept is illustrated in numbers 5, 13, 21, 22, 35 and 36.
29. It is disappointing that a lack of empathy is still apparent in too many of the cases that I have reviewed during the audit.
30. The problem of incorrect dates, outcomes and other information recorded on KIM is as much a feature of the sample as in past years (numbers 2, 6, 8, 15, 16, 20, 30, 34 and 40).
31. A penchant for legalese is illustrated in numbers 23, 31 and 32.
32. In two cases (numbers 4 and 17), breaches of the Victim's Code had not been identified. This is important both in itself and because such breaches can ultimately result in an investigation by the Parliamentary and Health Service Ombudsman (PHSO).
33. Some complaints concern alleged failings involving other parts of the criminal justice system. For understandable reasons, the CPS declines to comment on the performance or decisions of other agencies, and the advice given in the Victim's Code is that: "Where a service provider (the initial provider) receives a complaint which should have been sent to a different service provider, the initial provider is responsible for ensuring that the complaint is directed to the appropriate service provider to respond."<sup>9</sup> Action along these lines is illustrated in a number of cases in the sample. However, the relevant Ombudsman Principle is to: "Ensure, where complaints raise issues about services provided by more than one public body, that the complaint is dealt with in a co-ordinated way with other

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<sup>9</sup> *Code of Practice for Victims of Crime*, October 2015, paragraph 1.52, p.90.

providers.”<sup>10</sup> There is thus some inconsistency between the approach advocated in the Victim’s Code and the guidance from the PHSO.

## **Conclusions**

34. This report offers a snapshot of the CPS complaints process during 2015-16, and allows comparisons with similar exercises conducted over the past two years.
35. As well as providing this report to the Board, I will feedback the findings in the course of presentations I have been asked to make in a number of CPS Areas.
36. The headlines from the audit are generally encouraging, in that the majority of complainants receive timely, sensitive responses that engage properly with the issues that have been raised. I take the higher uphold rate (aggregating full and part upholds as is the convention amongst Ombudsman and other complaint handlers) to demonstrate not so much a deterioration in the service offered by the CPS but a greater willingness to admit error and to try to learn from it.
37. The handling of complaints at Stage 2 by Deputy/Chief Crown Prosecutors remains work of the highest order. A key finding from this audit has been better quality responses at Stage 1 than I had seen in previous years.
38. However, there has been slippage in respect of timeliness, and holding letters are not being sent in a significant proportion of cases where there are delays.
39. In nearly a quarter of cases where escalation to Stage 2 or to the IAC was possible the complainant was not expressly told of their right to do so.

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<sup>10</sup> Parliamentary and Health Service Ombudsman, *Principles of Good Complaint Handling*, Being customer focused.

40. As well as indicating a need for continued efforts to address these procedural failures, the key message of this audit - as of its two predecessors - is that responses to complaints should engage empathetically with the complainants and the issues they raise.<sup>11</sup> This has been achieved at Stage 2 but there remains some work to be done at Stage 1.

**Stephen Shaw**

**Independent Assessor of Complaints**

**September 2016**

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<sup>11</sup> The respective Ombudsman Principles are as follows:

- Treat complainants sensitively and in a way that takes account of their needs.
- Use language that is easy to understand, and communicate with the complainant in a way that is appropriate to them and their circumstances. For example, public bodies should make arrangements for complainants with special needs or those whose first language is not English.
- Listen to and consider the complainant's views, asking them to clarify where necessary, to make sure the public body understands clearly what the complaint is about and the outcome the complainant wants.
- Respond flexibly to the circumstances of the case. This means considering how the public body may need to adjust its normal approach to handling a complaint in the particular circumstances.

## **Annex: Specific comments on the 40 complaints sampled**

### ***Stage 1 complaints***

**Case 1:** Ms AB complained about a trial in which her sons were victims/witnesses. The language and tone of the Stage 1 response were entirely acceptable, but the response was late. The complaint was recorded on KIM as part upheld but the District Crown Prosecutor indicated in later exchanges that she felt it was fully upheld in respect of matters within the CPS's jurisdiction. Subsequent correspondence was received and treated (pardonably but in my view incorrectly) as an extension of Stage 1. However, after receipt the correspondence was overlooked and it was replied to over a month later. It was then decided (correctly in my view) not to arrange a further letter to represent Stage 2. The complaint engaged in part with CJS responsibilities for those with autism (and the role of intermediaries, which was little understood by the police). A CPS error had contributed to bringing the case to trial. One of Ms AB's key questions was not answered until the second Stage 1 reply.

**Case 2:** Mr AB was a defendant who complained that there had been changes in the charges he faced at court. The response explained that the prosecution could alter the charges, with the court's permission, if the developing evidence suggested this was appropriate. The acknowledgement was formally on time, but only if a period of a week when the complaint was redirected from another department is ignored. This was acknowledged in the Area's excellent Complaints Checklist, but would not be apparent from KIM.

**Case 3:** Ms AB complained that the terms of a restraining order did not include protection of her son. The response explained that, in the particular circumstances, the police had not suggested a restraining order in respect of her son, nor would the CPS have expected the prosecutor to seek a restraining order or that one would have been granted. This was a rather bluntly worded response, not demonstrating much empathy with the complainant.

**Case 4:** Mr AB complained that a case in which he was the victim had been discontinued without his being told. He had thus attended court unnecessarily. This was treated by the CPS as a joint VRR/complaint. A CPS email reads in part: “We haven’t done well here, we discontinued in November and didn’t de-warn the witnesses for trial ...” The response explained that the discontinuance was because the police had not supplied unused material requested by the CPS. It acknowledged that the reviewing lawyer had failed to notify the Witness Care Unit that the case would not proceed, saying that this was “unacceptable and the lawyer in question will be dealt with in accordance with our HR policies”. The tone of the response was sympathetic, but it failed to identify that Mr AB’s rights under the Victim’s Code had been breached.

**Case 5:** Ms AB complained about a series of adjournments and about the outcome of the eventual trial. The response was lengthy and covered all the issues, but some parts had been cut-and-pasted and the resulting formatting inconsistencies made the letter look messy. The reference to the escalation process was somewhat curt, and the language overall was not unduly sympathetic. Some sentences in the response approached 50 words in length.

**Case 6:** Mr AB complained about the outcome of a case that was ended by the CPS when the court refused an adjournment to allow a forensic expert to attend. The CPS acknowledged that it had failed to provide the forensic evidence to the defence in good time, and if this had not happened “it is likely that we would have prevented the outcome in this case.” The response was frank in saying that the CPS had let down the victim and in offering an apology. Curiously, the KIM record mentions Counter Terrorism under the tab for Sensitive Case, but this does not appear remotely justified by the details I have seen so may be in error.

**Case 7:** Ms AB complained about the outcome of a trial for breach of a non-molestation order. A late, not very sympathetic and not very informative Stage 1 response was the outcome, with no direct advice about escalation (the Feedback and Complaints Guidance was simply enclosed with the letter). On the plus side, however, there was an offer of a face-to-face meeting. No explanation was given

for the delay in sending the Stage 1 response other than “I needed to look into the facts of the matter.”

**Case 8:** Mr and Mrs AB complained about a decision not to charge defendants in a case involving sexual abuse of a child. As it was beyond the deadline for VRR, the decision was made to treat the matter as a complaint, but this was then revisited (as it was only just outside the timescale) and it went through the VRR process with the ARU and the complaint was closed down. The initial correspondence was received but not processed for six weeks “due to the unexpected absence of a key member of staff”. Mr and Mrs AB sent a further email and an apology was offered. This delay is not reflected on the KIM record.

**Case 9:** Ms AB, a victim of crime, complained about the “unprofessional manner by my solicitor who represented me”. The Stage 1 letter had an excellent beginning from which others could learn: “I must start by saying how sorry I was to read about the horrible incident that happened to you ... I was very disappointed to discover that the prosecution was unsuccessful and I can understand how devastated you must feel about it.” The response went on to explain that a trial is not a ‘level playing field’. The complaint was recorded as upheld on the grounds that the prosecutor had not introduced herself; this was also recorded as a Lesson learnt. Overall, this was an extremely empathetic response.

**Case 10:** Mr AB, a defendant, complained about the length of time he had been on bail awaiting a CPS decision. The response was sent a day after the charging decision itself (the nature of which was not apparent from the papers I saw). This Stage 1 response acknowledged “two periods of delay in relation to the CPS handling of the case” and offered an apology. For those reasons, it is difficult to understand why the outcome was not at least a partial uphold.

**Case 11:** Ms AB had been assaulted. She had not been told that the sentencing hearing had been brought forward or that a suspended sentence had been imposed. The Stage 1 response said that the prosecutor had made a mistake at

the earlier hearing and recorded the wrong date. Although a letter had been sent by the WCU, the Stage 1 response said it would have been best to have made contact by phone. The response would have been strengthened by some acknowledgement of the extent of Ms AB's injuries (she had sent a graphic photograph with her complaint).

**Case 12:** Mr AB complained that, some 14 months after criminal damage was caused to his car, the CPS had offered no evidence at the trials of two defendants. The CPS had sent letters informing him of the outcomes to an out of date address. The Stage 1 response acknowledged that the prosecutor had not followed then correct procedure in respect of agreeing a witness's evidence with the defence. In addition, at the first trial the prosecution "should have done more to ensure [name of witness] was warned to attend court". Letters had been misaddressed because of a typographical error. Mr AB's witness statement had not been provided to the defence. The Stage 1 response offered a face-to-face meeting (an internal email shows this was to try to prevent escalation to Stage 2) and my only criticism is that this complaint should perhaps have been recorded as a full uphold.

**Case 13:** Mr AB said he had been the victim of a dog attack but the CPS could not tell him if any application for compensation had been made. The history of this complaint was not entirely clear from the paperwork. It appears that a holding letter was sent in July (in a letter wrongly dated as June). There had also been correspondence with Mr AB's lawyers, and the court transcript had been obtained. At least two holding letters were sent and the actual response was three months late. This explained that the Judge had said in court that the defendant (who was out of work) should not be subject to any additional financial costs beyond over £2,000 in kennel fees – thus no application for compensation was made or would have been agreed. But the response offered no further apology for the delay and gave no reference whatsoever to the possibility of escalation.

**Case 14:** Mr AB complained that his request to remain anonymous while a witness was not respected. A holding letter was sent, but it was itself late and promised a full response by a date that was also not met. A further holding letter was sent eleven days after the revised target. An apology for the delay was offered in the eventual Stage 1 reply. This accepted that details of Mr AB's workplace address should not have been included in his statement and therefore disclosed to the defence. A police risk assessment was arranged. The letter gave details of the custodial sentences imposed, although without saying that the men were already serving sentences (and therefore that the total time they would remain in prison would be much longer).

**Case 15:** Mr AB complained about the enforcement of a restraining order. He also said correspondence was not acknowledged or replied to. He therefore sent a follow-up message. This time it was acknowledged and the VLO said she should have noted that part of the complaint concerned the CPS. She apologised. The full Stage 1 response followed shortly thereafter – but with no investigation of why Mr AB's earlier letters had not been answered. There was no reference to possible escalation to Stage 2. None of the delays is reflected on the KIM record which begins with Mr AB's follow-up message. It is also questionable whether not upheld was the correct outcome to have logged.

**Case 16:** Mr AB complained about a live case in which the charge had been changed from assault with intent to cause grievous bodily harm to common assault. The Stage 1 response said that the custody sergeant had wrongly charged the defendant: "This was not the authorised charge and there was never any prospect of this charge succeeding at court because the key legal requirements were simply not met regarding the level of injury." The KIM record begins when the letter from Mr AB was registered as a complaint, but an earlier period (when Mr AB had written to the prosecutors in the case) was not accounted for. The Stage 1 response was appropriately detailed and cross-referred to the Feedback and Complaints Policy but without giving specific details of how to escalate.

**Case 17:** Mr AB's complaint was made on his behalf by a support agency (Mr AB is a victim of non-recent sexual abuse and a vulnerable person). The CPS had decided not to prosecute his alleged attacker, but no victim letter had been sent. The Stage 1 response was short and did not deal with the delays in replying to the correspondence; nor did it acknowledge that Mr AB's rights under the Victim's Code had been infringed. The CPS letter appeared to distinguish between the victim letter issue and his other complaints, but it was not clear to me that this was correct.

**Case 18:** Mr AB complained that video evidence relating to charges of sexual abuse of which he was the victim had gone missing. This was an ongoing case, but the Stage 1 response accepted that DVDs sent by the police had gone missing and offered an apology. The letter said that a security breach had been reported, but set out to reassure Mr AB that the disks had not been booked out of the office and were never sent to defendants. It also explained new procedures designed to ensure that a similar error could not recur. (It appears that other disks went missing at the same time.)

**Case 19:** Mr AB had come into the CPS office to make his complaint in person. He said he and other witnesses had been told that the defendant had pleaded guilty and they were not required to give evidence; it had subsequently become clear that this was not the case and the defendant had pleaded not guilty. This had caused the witnesses distress. The complaint was well and speedily handled by the Deputy Head of the RASSO Unit who had met with Mr AB. An apology and explanation were offered (the mistake had actually been made by a Witness Care Officer, and had come about from her confusing two defendants with similar names).

**Case 20:** Ms AB's elderly mother had been the victim of a robbery in the street. The CPS had accepted a plea to handling stolen goods. An initial email does not seem to have been actioned - hence I believe the acknowledgement was not on time (albeit this is not shown on KIM). The Stage 1 response was reasonably

candid (one reason for accepting the plea was that Ms AB's mother has Alzheimer's and might not have been able to give evidence) and sympathetic. It seems that a letter from the police had given Ms AB incorrect information relating to the trial of her mother's assailant.

**Case 21:** Ms AB complained that she had not been told the court date in the case in which she was the victim. She also raised questions about the evidence relied upon and whether her Victim Personal Statement had been read. The acknowledgement letter referred to Ms AB expressing "some dissatisfaction" about the court case – a phrase better avoided given the extent of the distress demonstrated by the complainant. The Stage 1 response said responsibility for informing victims of the court date rested with the police. It answered all the points raised by Ms AB but in a strictly functionalist manner – with no engagement with the raw emotion that was such a feature of the complaint itself.

**Case 22:** Ms AB complained about the outcome of a trial for alleged stalking and breach of a restraining order. The VLO wrote at length to explain why the CPS preferred to reply by letter rather than over the phone. As it turned out, the Stage 1 response was late (as was the holding letter), and was poorly laid out. It simply asserted (without quoting from the non-CPS prosecutor's account) that the writer was satisfied that the case had been presented properly and professionally. It might be better practice to include details of what the prosecutor recalls about his/her presentation of the case.

**Case 23:** Ms AB's complaint came from her Independent Domestic Violence Adviser (IDVA). She said that she had sought a restraining order against an abusive former partner, but no application had been made. The Stage 1 response – which was sympathetic and understanding in tone – accepted that the prosecutor had failed to see the document in which Ms AB had asked for a restraining order: "I want to reassure you that we are working with the Witness Care Unit and other service providers to ensure that these applications are highlighted and not missed in the future." However, there was no reference to

the escalation process and some legalese (“The case was therefore set down for trial.”)

**Case 24:** In this case, solicitors made a non-case specific complaint about the failure of the CPS to comply with a promise made in Court that they would receive advance disclosure packs by email well before the hearings – “this simply does not occur”. The letter continued: “Whilst I appreciate the continual slashing of your budget causes significant issues, making promises that cannot be achieved unless they are backed with resources perpetuates this problem.” The Stage 1 response said IDPC packs should be provided in advance of the first hearing when requested, and gave details of who to approach if there were further problems. It is questionable whether this matter was an ‘expression of dissatisfaction ... by a member of the public or their representative’ and therefore came within the remit of the CPS complaints policy. In any event, there was no reference to escalation to Stage 2.

**Case 25:** Mr AB complained about the outcome of a burglary case where he was the victim. He had not been warned for trial and after the court declined to grant an adjournment the prosecutor offered no evidence. The Stage 1 letter explained what had happened as a result of two errors. First, the prosecutor had not noted the defence request for Mr AB to give evidence on the Hearing Record Sheet. Second, the request from the court was never received. Given that Mr AB is a victim denied justice, I felt the response did not evidence a great deal of sympathy, although there are perhaps only so many ways of saying sorry.

**Case 26:** A firm of solicitors complained about “an outright refusal to provide service of case papers where repeated requests had been made” and “the rude and ignorant manner in which we have been treated” (the latter including the termination of a phone call). The Stage 1 response said that disclosure had been attempted both by email and fax (although the solicitors no longer had a fax machine) and the papers were in standard Word format. There was also a contemporaneous account of the phone call (in which the solicitor was accused of having been discourteous and raising his voice). There was no reference to

escalation. Unlike case 24, this one probably did come within the ambit of the complaints process in that it related to a specific case – not that the defendant is at all likely to have been aware of the correspondence.

**Case 27:** Mr AB is the victim of non-recent sexual abuse. He complained that he was sent to the wrong court on the day of the trial. The Stage 1 response acknowledged that the CPS had missed an email notification from the court about the change of venue. It also accepted that there had been other minor mishandling of the case. There was good practice in sharing Mr AB's letter with the police and WCU (since some of the matters Mr AB had raised was their responsibility).

**Case 28:** Mr AB complained on behalf of his young daughter who had been the victim of a dog attack. His was a wide-ranging complaint, alleging incompetence by the police and CPS and further criminal activity on the part of the dog's owner and wider family. The defendant had been acquitted, but the Stage 1 response had explained that nothing could or should have been done by the prosecution that would have affected the outcome. The response was a lot shorter than the complaint, but I felt this was proportionate in the circumstances.

**Case 29:** Mr AB complained that the CPS had altered a charge from aggravated burglary to burglary and assault. The Stage 1 response explained that this had followed a lengthy discussion between the prosecutor and the Judge. There was some suggestion on Mr AB's part that previous correspondence had gone unanswered, but there was nothing on the CPS file to validate this. I felt the complaint had been well handled.

**Case 30:** Mr AB was the victim of criminal damage. The defendant had serious mental health problems. Mr AB's own complaint was dealt with separately from and subsequent to correspondence between his Member of Parliament and the CPS. The Stage 1 letter acknowledged that "we let you down by failing to apply for a restraining order" – which suggests that the outcome should have been recorded on KIM as part upheld and not as not upheld.

**Case 31:** This was a complaint by the National Stalking Helpline on behalf of Mr AB. He was concerned that the case in which he was the victim had been charged as voyeurism rather than as stalking. The papers on the file did not make clear why the Stage 1 response was almost four months late, although this was a complex matter, nor whether any holding letter was sent. The eventual reply was long and sensitively worded, but gave no details of further escalation. It also contained some very long sentences (I counted one of 105 words) and some legalese (“listed under the slip rule”). The letter said that the complaint was upheld (there were several errors in process and decision-making) which implies that the outcome on KIM should not be part upheld.

**Case 32:** Ms AB withdrew her support for a prosecution against a member of her family. She did so in part because of a lack of communication from the CPS and WCU: being told different things by different people, but not being told about a hearing at which evidence of her bad character was admitted by the court. The papers on the CPS file do not include her actual letter of complaint. There was some legalese in the Stage 1 response (“the defence applied to the court to adduce aspects of your previous convictions”), but it was otherwise sympathetic. An apology was offered for the fact that Ms AB had found out about the bad character application from the defence, and the WCU had not been made aware of it. The partial uphold outcome seems correct as there was no evidence of the CPS supplying contradictory information.

**Case 33:** Mr AB, a police officer, complained that he had been given the wrong date for trial. In consequence, the case in which he was the victim had been stopped. The Stage 1 response was a joint VRR/complaint reply – although it did not say so explicitly. Only limited details were given of the escalation process in respect of both VRR and complaint. The uphold outcome reflected two errors. First, there had been a mistake by the prosecutor in recording the wrong date for trial. Second, there was a misjudgement by an administrator in sending an email to the WCU rather than contacting them by phone when it became clear, with two days to spare, that the date given was incorrect.

### *Stage 1 and 2 Complaints*

**Case 34:** Mr AB complained that he had not been told the trial date in a long-running case. The victim letter he had received had said the case had been dropped because he and another victim were not present – and he said this had placed the blame on his shoulders. He sought compensation. The Stage 1 acknowledgement is wrongly shown on KIM as having been late; it was in fact on time. The Stage 1 response explained that the failure to alert Mr AB to the trial date had come about because of an error by the court in putting the wrong case number on the list sent to British Transport Police. The court had also ignored previous advice that Mr AB was not available on a particular day of the week. In the circumstances, the part uphold that was recorded is slightly generous – the fault here was on the part of HM Courts and Tribunals Service not the CPS. The Stage 1 letter contained no details of CPS escalation. It also said that the victim letter had been correct on the basis of the information the CPS had to hand. There was no reference to Mr AB’s request for compensation.

Mr AB engaged Stage 2 notwithstanding that he had not expressly been told he could do so. He said it was unacceptable for his complaint to be bounced around the various parts of the criminal justice system. He said it was “a half apology which is in fact merely a passing on of the blame”. The Stage 2 response repeated that the court had made the mistake, but also criticised the contents of the victim letter (“The quality of this letter falls below the standard I would expect.”). An unreserved apology was offered. The outcome recorded on KIM was not upheld, but this seems incorrect. No information was given about escalation, notwithstanding that this was clearly a service complaint. (The victim letter was not on the CPS complaint file so I can offer no independent judgement upon it.)

**Case 35:** Mr AB is a victim of non-recent child abuse. He said the CPS had failed to make a bad character application in respect of the defendant. A holding letter was sent beyond the initial deadline. No further holding letters were sent even

though the Stage 1 response was two months late. When it came, the response acknowledged that the barrister instructed by the CPS had handled the case poorly and that Mr AB had been given poor service: “we will be reviewing whether we will be instructing him in cases of this nature in future.”

Unfortunately, it appears that Mr AB did not receive the Stage 1 letter when it was sent – this was ascribed to “a technical failure rather than individual oversight or error.”

Mr AB wrote again with a series of questions. The CPS considered whether this correspondence should be treated as an extension of Stage 1 or whether the matter should be escalated to Stage 2. Mr AB said he wanted both outcomes, but it was decided to treat his further letter exclusively at Stage 2 to avoid duplication. However, the correspondence on the CPS file indicates that the Stage 1 responder was in fact the only person to reply – some two months after the time-target had expired. The letter was not especially empathetic. The complaints handling is obscure from the information on the CPS file. No outcome was recorded on KIM – presumably because there never was a formal Stage 2 response.

**Case 36:** Mr AB complained about delay in making a charging decision. Although not fully reflected in the data on KIM, his complaint was mishandled. Indeed, it was not registered as a complaint until Mr AB made contact again to ask what had happened. Although thereafter the time-targets were met, I take the view that neither acknowledgement or response were on time. An apology was offered by the VLO. The Stage 1 response was short and not notably sympathetic. I have also judged (as did Mr AB) that it did not cover all the periods of delay. The outcome was recorded as part upheld (“We are slightly outside our 28 days to make a decision” according to the note on KIM), but Mr AB was not told this. This was some of the poorest handling at Stage 1 in this year’s sample.

The Stage 2 response was much better. An apology was offered for the mishandling of the complaint, and further action explained: “In short someone

failed to register the complaint and the mistake was identified by you contacting us again ... The complaint was then registered in line with usual procedures rather than after taking into account the time you had already waited for the response. I have given instructions that complainants should not be disadvantaged by our mistakes and that the response should be given in a much shorter time period.” The Stage 2 letter also acknowledged a gap of six weeks between receipt of the police file and it being reviewed by the CPS. The part upheld outcome reflected (correctly in my view) that much of the delay was at the hands of the police.

**Case 37:** Mr AB is the victim of non-recent sexual abuse. He complained that the number of counts faced by the defendant had been reduced without his agreement or knowledge. The Stage 1 response was detailed and respectful. It had been explained that the indictment had been re-drafted at the request of the Judge and this did not reduce the totality of the offending. The prosecutor had felt that Mr AB had understood what had been done and had no objection; an apology was offered if this was not the case.

Mr AB said he was totally dissatisfied with the Stage 1 response. In his escalation letter he asked for a meeting with whoever could deal with his concerns. In her Stage 2 letter the Deputy Chief Crown Prosecutor (DCCP) agreed to a meeting. She said she was sorry that Mr AB had not been informed that the indictment had been re-drafted (and the reasons and consequences). She also said that the prosecutor had discussed the matter with Mr AB and was sorry if he had misinterpreted Mr AB’s views. As Mr AB had also criticised the police officer in the case, the DCCP arranged for copies of the correspondence to be shared (with Mr AB’s consent) with the police for them to take forward.

**Case 38:** Mr AB complained about a decision to offer no evidence at court in a case where he was the victim. This was dealt with as a joint VRR/complaint and subject to the shorter timescale for VRRs. The Stage 1 letter was long and detailed, if not especially empathetic. A learning point from this and other Stage

1 responses is that it would be good practice to spell out the mechanics of the escalation process rather than simply referring to Stage 2.

The Stage 2 response was one day late. It was more sympathetically worded, but a lot shorter than the Stage 1. The key element was that, contrary to what Mr AB had been told, the CPS had not received additional evidence from the police. (It was not clear to me if such evidence existed, if the police had followed it through, or whether the CPS should have chased.) This was treated as an exclusively legal complaint, and thus no details of possible escalation to the Independent Assessor of Complaints were given. However, if the CPS had mishandled evidence, or failed to ensure that the police provided materials they had indicated they would do – it is strongly arguable that there was a service element too.

**Case 39:** Mr AB had been acquitted on appeal. He complained about false allegations made by his ex-wife. There were a number of typographical errors in the Stage 1 response, and it is not clear why it needed to wait until the penultimate day of the time-target given that the reply was short and straightforward. However, I felt (as did the complainant) that the letter did not indicate much time and consideration had been given to the matter.

There is little that needs to be said about the Stage 2 response. The Chief Crown Prosecutor concluded that there had been sufficient evidence to meet the test in the Code for Crown Prosecutors, and that the complaint handling at Stage 1 had been adequate.

**Case 40:** Ms AB complained that a charge against her former partner had been dropped. She was also unhappy with the sentence eventually imposed. A holding letter was sent on the original target date. There was no mention of this delay in the Stage 1 response, which focused on the evidential basis for the change of charge. There was then further correspondence and Ms AB was told her complaint would be escalated to Stage 2. However, it was subsequently decided to deal with the additional issues as part of Stage 1, and a further letter

was sent by the District Crown Prosecutor. This apologised for the fact that the change of charge was so close to the trial date.

Ms AB asked for her complaint to be escalated (the dates on KIM reflect the initial escalation and are therefore incorrect). The Stage 2 response was both sensitively worded and detailed. It was followed by two further exchanges of correspondence.

