



HM Crown Prosecution  
Service Inspectorate

# Review of complaints handling by the Crown Prosecution Service

*Follow-up inspection*

January 2013





## Chief Inspector's foreword

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HMCPST is committed to promoting improvement, and this principle is embedded in all our work. I am particularly aware that follow-up inspection has a key role in helping the CPS focus on our recommendations.

In March 2009 we published a thematic review of complaints handling by the CPS entitled *When things go wrong*, which made various recommendations and this follow-up report includes a review of how well the CPS has addressed these. Even before our 2009 report was published, the CPS issued a response document acknowledging the weaknesses we found and outlined a plan of action to address our recommendations. Senior managers' efforts have been substantial and show a real desire to address the issues outlined in the 2009 report. Senior managers have also expressed a commitment to look more broadly at strengthening customer service and feedback. The development of this programme led to the introduction of a new feedback and complaints system. This included a refinement of policy, the introduction of new processes and linked the reporting and investigation of complaints into an IT system. The new processes required extensive training of all staff which was made mandatory. The totality of the change to the complaints system since the last inspection represents a significant investment by the CPS.

As a consequence of a new complaints system being introduced and the recent judgement that requires the CPS to establish the victim's right of review (following the *R v Killick* case), this follow-up inspection has been more in depth than usual to include examination and testing of the new processes. Overall we found that there has been a substantial improvement in process, data capture and governance.

However, we also found that the thoroughness of investigation and quality of responses to complaints varied considerably. It is encouraging that the percentage of responses we rated as excellent was significantly better than in 2009. Many of the 'cultural' issues, identified in our previous report, persist including some defensiveness when considering the complaint.

Whilst the new system for the recording of complaints has brought a number of benefits, not least a single method of working, the inspection has identified additional concerns. Application of the new system has resulted in under reporting and mis-classification of complaints. A willingness to learn lessons and improve services also remains weak and there continues to be a lack of independent oversight within the complaints process.

This report sets out to analyse CPS performance and includes new recommendations so as to provide a sound basis for further improvement.



Michael Fuller QPM BA MBA LLM (Hon) LLD  
Her Majesty's Chief Inspector



# Contents

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## Chief Inspector's foreword

<b>1</b>	<b>Follow-up inspection context</b> .....	<b>1</b>
	The findings of the 2009 report .....	1
	Summary of progress against 2009 recommendations and aspects for improvement .....	2
<b>2</b>	<b>Overview and direction of travel</b> .....	<b>3</b>
	The development of a new system of handling complaints .....	3
	Process and policy .....	3
	Investigation and response .....	4
	Data capture and analysis .....	4
	Governance and training .....	5
	Significant changes since 2009 .....	5
	Direction of travel .....	6
	Recommendations .....	6
<b>3</b>	<b>Progress against recommendations</b> .....	<b>7</b>
	Comments from witness care managers .....	9
	Comments from complaints coordinators .....	13
	Definition of a complaint and who can complain .....	19
	Informal resolution .....	19
	Feedback .....	20
	The quality of complaints investigation and response .....	21
	<b>Annexes</b> .....	<b>25</b>
<b>A</b>	<b>Progress made against aspects for improvement in the 2009 report</b> .....	<b>25</b>
<b>B</b>	<b>Methodology</b> .....	<b>26</b>
<b>C</b>	<b>Data summary</b> .....	<b>27</b>
<b>D</b>	<b>Questionnaire to gauge the satisfaction of people who have made complaints to the CPS</b> .....	<b>31</b>
<b>E</b>	<b>Glossary</b> .....	<b>34</b>



# 1 Follow-up inspection context

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1.1 This report details the findings of Her Majesty's Crown Prosecution Service Inspectorate (HMCPISI) from a follow-up inspection of complaints handling by the Crown Prosecution Service (CPS), following on from our full report in March 2009.

## The findings of the 2009 report

1.2 The thematic inspection in 2009 assessed the CPS complaints procedures against the Cabinet Office Best Practice (COBP)<sup>1</sup>, which sets out eight basic principles of an effective complaints system:

- Easy to access and well-publicised
- Speedy with fixed time limits
- Confidential to protect staff and complainants
- Informative for managers to drive service improvements
- Simple to use and understand
- Fair with a full procedure for investigations
- Effective at dealing with the points raised and providing remedies; and
- Regularly monitored and audited

1.3 Our findings were that, in practice, the CPS only met four of these principles. The principles not met were in ease of access, simplicity, informativeness and fair and full investigation. Monitoring and auditing, governance, direction and control were also weak and the complaints policy itself had not been kept up to date.

1.4 In addition there was no evidence either at national or local level that complaints were being systematically analysed in order for lessons to be learned or to elicit trends. Nationally, arrangements for the gathering of data on complaints numbers and timeliness needed to be reviewed because systems were flawed, resulting in both the over counting and under recording of complaints.

1.5 Overall, the 2009 inspection indicated that there was a need for a cultural shift in the CPS's approach to complaints handling, supported by further training of staff to reinforce the principles of best practice. In particular the CPS needed to ensure that staff adopted a more open, less defensive approach, particularly in recognising where complaints have merit, and apologise for failings as well as ensuring letters are drafted in a way which address relevant issues.

1.6 The aim of the follow-up review is to provide an objective view on progress made against the recommendations made in the 2009 report, the direction of travel and current performance. We have rated the CPS's response to each recommendation using the following measures:

- **Achieved** – the CPS has accomplished what was required
- **Substantial progress** – the CPS has made real headway in taking forward its planned actions in relation to the recommendation
- **Limited progress** – the CPS has done something to address the recommendation
- **Not progressed** – the CPS cannot demonstrate any progress
- **No longer applicable** – where there has been a change in circumstance which makes the issue no longer relevant

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<sup>1</sup> Cabinet Office principles are no longer current. The Parliamentary and Health Service Ombudsman's *Principles of Good Complaint Handling*, (PHSO 0188) have comparable principles and have been widely adopted within the public sector: [www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples/principles-of-good-complaint-handling-full/1](http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples/principles-of-good-complaint-handling-full/1).

The CPS's own complaints guidance also has comparable principles to those set out by the Parliamentary and Health Service Ombudsman.

1.7 Findings in this report cannot be used to extrapolate CPS overall performance in complaints handling. This is because cases may vary considerably, and a much larger file sample would be needed to establish statistical confidence that results can be extrapolated more widely.

1.8 A detailed account of the methodology used to gather evidence and data can be found at annex B.

### Summary of progress against 2009 recommendations and aspects for improvement

Recommendations		
1	Revise complaints leaflet ensuring it is fit for purpose	Substantial progress
2	Enhance the CPS website to enable easy accessibility	Substantial progress
3	Provide guidance and training for witness care units	Limited progress
4	Clarify handling complaints from criminal justice agencies	Limited progress
5	Ensure acknowledgement letters detail complaints process	Limited progress
6	Introduce independence where Chief Crown Prosecutor involved in decision	Achieved
7	Ensure escalation procedure and role of Attorney General's Office made clearer	Limited progress
8	Introduce training programme for staff	Limited progress
9	Introduce systems to monitor, capture and quality assure	Limited progress
10	Review governance arrangements	Substantial progress
11	Revise the complaints handling policy	Limited progress
12	Introduce independent oversight	Not progressed
Aspects for improvement		
1	Provide training for staff with specific responsibilities	Limited progress
2	Provide improved supervision of initial investigation	No longer applicable
3	Encourage use of telephone and face to face contact	Limited progress
4	Implement timeliness standards for handling third tier complaints	Achieved
5	Ensure business managers introduce effective systems	Limited progress



## 2 Overview and direction of travel

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### The development of a new system of handling complaints

2.1 The failings identified in our 2009 report fell into four main themes:

- Process and policy
- Investigation and response
- Data capture and analysis
- Governance and training

2.2 CPS senior management responded swiftly to the report's findings and appointed a Chief Crown Prosecutor to oversee a root and branch look at how the CPS could improve its service. This culminated in a new complaints policy, new guidance, a requirement for a complaints coordinator to be appointed in each area and a new e-learning training package for staff. Complaints are now documented electronically through an IT system called Knowledge Information Management Feedback and Complaints System (KIM). The approach towards the complaints strategy has been co-ordinated through a newly formed Complaints Board. In particular, the importance of handling complaints featured prominently within the CPS new core quality standards (CQS), with standard 11 setting out the expectation:

*“We will deal promptly and openly with complaints about our decisions and the service we provide.”*

### Process and policy

2.3 Our 2009 report identified several issues within the complaints handling policy which needed updating including the complaints leaflet, website and access. The CPS developed a structured programme of work to look at addressing the HMCPSI recommendations and strengthening its customer service standards for complaints. The new CPS policy and guidance resulted in an updated complaints policy which included the ability for members of the public to provide negative and positive feedback. The policy also introduced an informal resolution process for complaints.

2.4 The new leaflet is comprehensive and sets out clearly each stage in the process, and is available in different languages and formats. Website access was upgraded and access to finding information and making a complaint is now much easier. These substantial improvements are somewhat undermined by our findings that indicate a high error rate in the mis-recording of complaints.

## **Investigation and response**

**2.5** The most important element in the complaints handling process is the way in which complaints are responded to. Our 2009 report identified a general culture of perceiving complaints as a nuisance rather than an opportunity to improve services. The new procedures and training have endeavoured to address these weaknesses.

**2.6** The rate of excellent replies has increased substantially from six per cent in our previous report to eighteen per cent, however there was a slight increase in the percentage of poor responses to twenty from nineteen.

**2.7** However, the inspection continued to show that too often replies were defensive, lacked empathy, and did not address points raised. Information about escalating complaints should have been included in more acknowledgements and replies. There was also a reluctance to engage with complainants. Capturing lessons from complaints and engagement with witness care units was also weak. Overall, it is evident that CPS culture towards handling complaints has not improved as much as we would have expected, particularly taking into account the investment the CPS has made towards improvement.

## **Data capture and analysis**

**2.8** The CPS has made a significant investment in improving the way it records complaints. Complaints are now documented electronically through the KIM system. The system is generally user friendly and provides a valuable tool for easy analysis and research and completing work on the complaint from any CPS geographical location.

**2.9** Whilst the new system is a significant improvement on the pre-2009 system, we found that there was some uncertainty in applying the new procedures, with this leading to a number of process and system issues. The inspection found that there was under recording of complaints, and the incorrect classification of feedback and informal resolutions. Additionally we found that the CPS were not regularly making use of complaint categories nor capturing lessons learned. Without complete or accurate data, meaningful information cannot be effectively used to understand trends and improve the quality of service.

**2.10** There has been significant quality assurance work conducted by the Parliamentary and Complaints Unit (PCU, formerly the Correspondence Unit) which has raised standards locally although there is still much more to do nationally. The PCU also has an overview of complaints nationally and produces management reports for the senior CPS team from time to time. Whilst PCU has a quality assurance remit, this does not include assessing the quality of legal decision-making. Over half of the cases we examined included complaints about the standard of prosecution decisions.

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## Governance and training

**2.11** Since the 2009 report the CPS has undergone significant changes. The PCU has also been restructured although it retains national governance of the complaints handling system and co-ordinates policy while Chief Crown Prosecutors retain overall responsibility for their area. Whilst this sets some clear accountability at the local level, it remains a weakness that Area Business Managers (who are responsible for area systems and processes) have no role or remit in the handling of complaints. This lack of oversight at this key strategic level is something that the CPS may wish to address. The implementation of the new complaints handling policy and procedures have been overseen and directed by a newly formed Complaints Board.

**2.12** Complaints coordinators have been appointed for each area or unit which has given areas and the PCU a central point of reference for complaints. The introduction of the KIM IT system has also assisted in the general direction, control and governance of complaints locally.

**2.13** There has been significant investment in training with mandatory training being given to 85 per cent of all staff. However, our findings indicate that that for complaints coordinators was inconsistent and for witness care staff was poor.

**2.14** Whilst the complaints system now has three distinct stages, there is still the absence of an independent assessment. Progress towards a solution has seemingly stalled.

## Significant changes since 2009

**2.15** Since the 2009 inspection there has also been a significant change that will impact the 'complaints landscape' within the CPS. A Court of Appeal judgement in *R v Killick*<sup>2</sup> sets out that a victim has the right to request a review of any decision taken not to prosecute, in cases which are later discontinued or where a lesser charge substituted.

**2.16** This judgement requires that the CPS will need to set up systems and processes (either within or without the current complaints system) to ensure compliance with cases where the victim requests a review of the CPS decision.

**2.17** As part of this inspection 58 per cent of cases examined included a complaint about the decision not to prosecute or to drop a case. This shows how important it is that the CPS establishes processes and systems that ensure clarity for those dealing with complaints and the impact of *Killick*.

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<sup>2</sup> *R v Killick* [2011] EWCA Crim 1608.

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## Direction of travel

**2.18** It is clear that the Director and the CPS senior management team took our 2009 inspection findings seriously and promptly engaged in a programme to address our recommendations and more broadly to include strengthening customer service<sup>3</sup>. Governance structures have been improved and the role of the PCU has been made clear. There has been significant investment in training and IT and a substantial change in policy, procedures and systems that support the complaint handling process. It is encouraging that the percentage of responses we judged as excellent have increased substantially.

**2.19** Confusion has arisen about the new processes which resulted in inaccurate recording and classification. It is also of concern that, despite mandatory training, there is some evidence of a continuing defensive culture and an unwillingness to engage with complainants. Capturing lessons to improve services also remains weak. In addition, the lack of progress towards introducing an independent element into the complaints procedure potentially undermines public confidence, with a number of complaints raised with HMCPSI making mention of the fact that all three stages are very much part of the same line of superintendence.

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<sup>3</sup> Annex H of the 2009 inspection report sets out the CPS response to the report.

## Recommendations

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**1** The complaints policy should be amended and communicated to reflect the new CPS structural changes and associated responsibilities of the Chief Crown Prosecutors and Deputy Chief Crown Prosecutors (paragraph 3.22).

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**2** The CPS needs to provide targeted training and guidance to staff dealing with complaints to ensure that there is the correct classification and capture of complaints (paragraph 3.39).

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**3** The CPS needs to establish validation measures in relation to core quality standard 11, so that it can provide reassurance that it is meeting its commitment to service delivery (paragraph 3.46).

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**4** The CPS should issue clearer guidance as to which issues should be dealt with under the informal resolution process (paragraph 3.60).

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**5** Clearer guidance is needed to enable staff to determine whether to record an issue as feedback or a complaint (paragraph 3.64).

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**6** The CPS should introduce an Independent Assessor for complaints who is independent of the complaints process, in order to increase public assurance and confidence in the system (paragraph 3.78).

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**7** The CPS needs to establish and define a system which takes account of the R v Killick judgement, ensuring that the impact on the current complaints system is clearly communicated and reflected in any revised system (paragraph 3.78).

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## 3 Progress against recommendations

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### Recommendation 1

#### Substantial progress

*The CPS should revise the information contained in its complaints leaflet and ensure it is available at relevant locations. In particular it should ensure that:*

- *The leaflet is comprehensive and fit for purpose*
- *That needs of complainants whose first language is not English or Welsh, or who have other special needs, are met*

**3.1** The CPS complaints leaflet<sup>4</sup> has been significantly changed and now contains clear and comprehensive information and guidance for members of the public about the complaints handling process. In particular it addresses the shortcomings outlined in our previous report. There is also a simple tearaway section which can be filled out for either making a complaint or providing feedback to the CPS.

**3.2** The distribution locations for CPS complaints leaflets have been reduced<sup>5</sup>, but include CPS public reception areas and local courts, via the Witness Service. The new policy places the responsibility on the complaints coordinators to ensure the distribution of complaints leaflets in these public places.

**3.3** The leaflet is published in 12 languages<sup>6</sup> and is downloadable from the CPS website. It is also available in Braille and audio format on request. The tearaway section that forms part of the physical leaflet can also be printed from the website, filled out and posted should the complainant want to make the complaint by post.

**3.4** While the content and usability of the leaflet have improved significantly there are still issues with regard to comprehension and readability. For example, the leaflet indicates that if the complainant is unable to write then a third party can do so on their behalf but then goes on to say that the complainant's permission must be given in writing. Additionally the leaflet does not mention the function of the Parliamentary Ombudsman with regard to victims of crime. This is something that the CPS may wish to consider as nearly 90 per cent of complaints are made by victims of crime.

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<sup>6</sup> English, Welsh, Bengali, Punjabi, Gujarati, Urdu, Arabic, Chinese, Somali, French, Polish, and Tamil.

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<sup>4</sup> The leaflet has been renamed as the Feedback and complaints leaflet.

<sup>5</sup> Previous guidance indicated that the leaflet should be distributed to police stations, Citizen Advice Bureau and libraries.

## Recommendation 2

*Substantial progress*

*The CPS national website should display a visible link on its main web page to enable information about the complaints process and how to make a complaint to be accessed more easily.*

*Local CPS area websites should be developed further to enable complaints to be made direct.*

**3.5** Information about feedback and complaints is prominently displayed on the front page of the CPS website<sup>7</sup> and the link takes the reader to a dedicated web page. The information on the website is clear and well laid out. It has links to relevant local CPS pages where members of the public can make a complaint direct to their local CPS office. Alternatively the complaint can be made electronically to a central repository<sup>8</sup>.

**3.6** There are also useful links to other organisations within the criminal justice system. Each area within the CPS also has its own dedicated website, for local information and contact numbers. Each of these sites also has a prominent link on its front web page that directs anyone wishing to make a complaint or provide feedback to the information outlined above.

**3.7** The website also prompts complainants to talk in person to a member of CPS staff so as to try and get the matter resolved immediately and a link takes the reader to a list of relevant local offices with contact telephone numbers.

<sup>7</sup> [www.cps.gov.uk](http://www.cps.gov.uk)

<sup>8</sup> Where complaints are made centrally they are forwarded onto the local CPS section that handled the case for them to respond.

## Recommendation 3

*Limited progress*

*Guidance and training should be given to witness care unit staff on handling complaints about the CPS and a system for recording complaints established.*

**3.8** Witness care units (WCUs) vary considerably in staff mix, but predominantly nearly 90 per cent are police staff with CPS personnel making up the remainder<sup>9</sup>. Training regarding the new CPS complaints system has been mandatory for CPS staff (including those in WCUs). A training package for all witness care unit staff has been put onto the witness management system (WMS). Unfortunately many WCU managers interviewed were unaware of the existence of such information, therefore training for non-CPS staff has been inconsistent.

**3.9** Despite this, 72 per cent of witness care managers<sup>10</sup> reported that their staff had been given some generic in-house training on handling complaints from members of the public although most of this training was ad hoc and did not deal specifically with complaints about CPS service.

<sup>9</sup> In certain areas WCUs are completely staffed by police personnel. The staff mix has changed considerably over the past five years and depends largely on local funding and local resourcing negotiation between the police and CPS.

<sup>10</sup> HMCPSI received 29 responses from witness care managers nationwide and interviewed a further five managers, making a total of 34 responses.

**3.10** Our previous report highlighted a clear disconnection between the WCU and the CPS office. Follow-up surveys and interviews with a wide variety of WCU staff indicate that little progress has been made towards the CPS understanding the issues that WCU officers handle on behalf of the CPS. Our survey results indicate that 74 per cent of complaints about CPS service received by witness care units are addressed and handled informally. By failing to have systems which capture such complaints or issues properly the CPS is losing an opportunity to fully understand the quality of service it provides to victims and witnesses, or the problems associated with victim and witness issues locally.

**3.11** Whilst we understand that the WCU officers are often dealing with victims who are concerned and have a certain amount of trepidation about the court process, evidence gathered from surveys and interviews indicated that many witness care officers become a go-between for the CPS when victims and witnesses raised complaints about the CPS. WCU staff often found themselves defending or making excuses on behalf of the CPS in order to avoid victims and witnesses making a formal complaint.

**3.12** Communication and co-operation varied considerably between the WCU and the CPS office. We would expect there to be good liaison between the WCU and the CPS complaints coordinator but our survey indicated that 52 per cent of WCU managers were unaware of who their local coordinator was. WCUs very rarely receive feedback regarding complaints they handle and pass on to the CPS, with 84 per cent of respondents stating they do not receive any feedback at all.

### **Comments from witness care managers**

*“CPS very often insist on a formal complaint in writing before taking action (our feeling is that this is a tactic to hope they [the complainant] don’t bother because it is too much trouble) whereas we try to be more proactive by speaking to the complainant first to avoid the written complaint..... making them less likely to project a negative image of the CPS to others.”*

*“CPS should keep the WCU updated. We are generally the unit that receives the complaint and tries to assist as much as possible, but we never get made aware of an outcome once a complaint is passed onto the CPS. Clear communication is a fundamental problem and concern.”*

**3.13** Clearly, witness care units provide a vital link for witnesses and victims who are required to give evidence in cases brought by the CPS. They handle a multitude of complaints, other issues and queries on behalf of the CPS. Their role should be more valued by local CPS management and their issues and concerns captured in order to give a better service to victims and witnesses. It would be helpful if the CPS could use the existing links with witness care units to ensure that matters relating to complaints are discussed and used to improve the service offered.

## Recommendation 4

*Limited progress*

*The position should be clarified and guidance issued on handling complaints from other criminal justice agencies and the defence.*

**3.14** The new CPS Feedback and Complaints Guidance has provided better clarity for CPS staff about how complaints from other criminal justice agencies should be handled. The policy states that if another criminal justice agency wishes to pursue a complaint in a professional capacity then it should be dealt with in accordance with local liaison arrangements and not recorded as a complaint on KIM, although the guidance emphasises that the general principles of complaints handling should be adhered to. Our survey of and interviews with complaints coordinators indicate that few areas have protocols in place with which to handle inter-agency complaints.

**3.15** Whilst the guidance has provided better clarity for CPS staff on how to handle these types of complaints, we have concerns that those from criminal justice agencies are not being recorded (either as a complaint or as feedback). KIM provides a central reference point, and a point of analysis. An opportunity has been missed to incorporate these types of complaints into the system. It would be sensible for the CPS to start recording those from other criminal justice agencies on the KIM system.

**3.16** We also found that some serious issues raised as a complaint by defence solicitors including case progression, communication and disclosure were simply referred to the lawyer concerned or handled as ordinary correspondence within the Crown Court or Magistrates' Court sections. The lack of any central recording to capture these issues reduces the opportunity to improve local services, processes and systems, and will undoubtedly result in an under recording of complaints about CPS service.

### Comment from complaints coordinator

*"I sometimes feel frustrated when defendants complain as I feel they don't get their complaint properly addressed because of the fact that they are a defendant and the PCU generally give advice to say that it should be dealt with as feedback "because the defendant is seeking to overturn their conviction" - in many cases this is simply not the case."*



**Recommendation 5***Limited progress*

*Acknowledgement letters should include details of the process that is to follow and the target date for a response, or explain if necessary why the reply is likely to take longer.*

*The complainant should be kept informed of any delays which arise thereafter.*

**3.17** The new complaints leaflet contains good information for complainants about the process and response expectations although in nearly half the cases we looked at there was no evidence that this was included within the acknowledgement letter. There was a lack of consistent practice across the areas examined in relation to the content of acknowledgement letters. Only one area regularly included a complaints leaflet, the name of the person to whom the complaint had been referred and the expected response date.

**3.18** Acknowledgement letters were sent within the three day target in two thirds (66 per cent) of all applicable cases<sup>11</sup> (96) examined. Of the 23 acknowledgement letters which were late, the delay was recognised in only two cases.

**3.19** The CPS's new policy has extended the target for full responses from 10 to 20 days. The 20 day target was met in 76 per cent of the cases we examined. Of the 27 cases that did not meet this deadline an adequate explanation was provided for the delay in only seven.

<sup>11</sup> Those cases where an acknowledgement letter was sent, 96 of the 111 cases examined.

**Recommendation 6***Achieved*

*Where the Chief Crown Prosecutor has been directly involved in advising or making decisions in a case which is subject to a complaint, arrangements should be made for the complaint to be referred to another Chief Crown Prosecutor for investigation and response.*

**3.20** The guidance has clarified the position of the Chief Crown Prosecutor's (CCPs) involvement in handling complaints where the CCP has been substantially involved in a case which is the subject of a complaint. It advises that consideration should be given to referring the complaint to another CCP for investigation.

**3.21** The significant re-structuring of the CPS since the updated guidance was issued has meant that the roles and responsibilities of the CCP have substantially changed, with second stage complaints now being referred (in the main) to Deputy Chief Crown Prosecutors (DCCPs). The same principles of independent oversight and review should continue with the DCCP role, in particular where either the DCCP or the CCP have been involved in the decision-making process of the issue complained of.

**3.22** None of the files we examined were inappropriately reviewed by a CCP or DCCP where they had been directly involved in advising or making decisions in the case.

**Recommendation**

The complaints policy should be amended and communicated to reflect the new CPS structural changes and associated responsibilities of the Chief Crown Prosecutors and Deputy Chief Crown Prosecutors.

## Recommendation 7

*Limited progress*

*First or second tier response letters<sup>12</sup> should contain information about how to escalate the complaint should the complainant remain dissatisfied.*

*The Correspondence Unit should make clear the role and limited remit of the Attorney General's Office in handling complaints referred to them.*

**3.23** The complaints leaflet gives clear information on how a complaint can be escalated however in 44 per cent of applicable cases there was no indication that leaflets had been provided to complainants<sup>13</sup>.

**3.24** In addition to the leaflet, it is good practice to outline the escalation procedure in the response letter. In three quarters (74 per cent) of response letters examined there was no indication given to the complainant of how the complaint could be escalated. These findings mirror our 2009 inspection and demonstrate that no progress has been made. This suggests a prevailing attitude of discouraging complainants from escalating a complaint.

**3.25** We found some examples of good responses, included ones that contained contact details of the author of the letter and offered further contact to clear up any ambiguities.

**3.26** The role of and limited remit of the Attorney General's Office has been made clear within the complaints leaflet as well as the guidance issued to CPS staff. This was also been reflected in the stage 3 replies sent by the PCU where appropriate.

## Recommendation 8

*Limited progress*

*A revised training programme is put in place for all staff with responsibilities for handling complaints to ensure that the CPS approach reflects the principles of best practice.*

**3.27** The CPS has endeavoured to address some of the short comings identified in our previous report by introducing a mandatory training programme for all staff through an e-learning package. Eighty five per cent of all CPS staff took up this training, although the breakdown of grades is not available. The CPS has not established a formal method of evaluating the effectiveness of this training.

**3.28** The training programme for the complaints coordinators regarding the operation of the KIM system and subsequent responsibilities was inconsistent. Many coordinators were disappointed with the level of training they received and many were given a manual and expected to 'get on with it'.

<sup>12</sup> The new guidance now refers to these as stage 1 and stage 2 complaints.

<sup>13</sup> This evidence is based on no recorded leaflet having been attached or sent in correspondence with the complainant.

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### **Comments from complaints coordinators**

*“No training whatsoever was provided before the KIM system was introduced on 1 April 2010. We were emailed a manual and given access to a ‘try out’ website 24 hours before the system went ‘live’.”*

*“No formal training was given to complaints coordinators - the new KIM system was introduced with minimal guidance or training. Staff have been left to find their way themselves and interpret the complaints guidance themselves. Some months later some training was given through online videos (with limited benefit).”*

**3.29** In addition to the mandatory training, PCU staff have provided several sessions to senior lawyers and other relevant staff which cover aspects of procedure and drafting replies. The PCU have seen an improvement in responses from units which have been given training. Such training nationally would help to address many of the concerns raised in this report. Unfortunately the Complaints Board have concluded that the PCU sessions are not sustainable in the long term because of the resource implications.

**3.30** Aligned to the new approach to complaints, the complaints policy was also updated (see recommendation 11) and an electronic recording system (KIM) was introduced. Complaints coordinators were also appointed on each area, whose role it is to keep up to date records on KIM and be a single point of contact for CPS staff and other agencies concerning complaints. Coordinators have also given in-house training to new staff. Access to KIM provides the user with various training videos on the functionality of KIM but not on how to deal with complaints.

**3.31** Overall, while the investment in training has been extensive, the findings of this inspection show that there has been a limited effect on some of the cultural attitudes towards handling complaints, and that more guidance is needed on certain processes, such as what constitutes a complaint, what should be recorded as feedback and how informal resolution can be used.

## Recommendation 9

*Limited progress*

*The CPS should introduce robust monitoring systems which ensure that:*

- *Relevant data is accurately captured and analysed*
- *Qualitative issues arising from complaints are objectively evaluated to enable improvements in service delivery*

### **Data capture and accuracy**

**3.32** The introduction of the KIM IT system to record and monitor complaints as well as feedback has provided the CPS, locally and nationally, with a valuable tool with which to capture and analyse data. It captures relevant details of the complainant and the case including what method was used to make the complaint, the type of resolution (i.e. upheld/not upheld) and which core quality standard (CQS) the complaint relates to.

**3.33** The unique numbering of each complaint on KIM should prevent the double recording mentioned in our previous report however there are still some duplicate records on the system. Recording of timeliness data is much more accurate due to the automatic date functions of KIM. Staff are able to access KIM remotely despite the wide geographical spread of CPS offices and scan in or attach other electronic files such as emails, practically eliminating the need to despatch paper form correspondence between CPS staff.

**3.34** The classification on KIM of whether the complaint referred to a legal or non-legal decision was incorrect in 21 per cent of the cases examined. The core quality standard to which the complaint referred was incorrectly classified in 31 per cent of cases we examined. Overall, we judged the use of KIM to be excellent in 16 per cent of all cases reviewed, good in 42, fair 27 and poor in 14 per cent of cases.

**3.35** The KIM system also provides a readily accessible repository for lessons learned from complaints to be recorded. The purpose is to capture where improvements can be made and to act upon them to improve service or prevent a recurrence of a situation that led to the complaint. There were lessons to be learned in one third of the cases we examined but these were properly recorded on KIM in only five cases, which is a significant under recording by the CPS of how to improve their service.

**3.36** One possible cause of lessons not being recorded and incorrect classifications being made was that legal managers, who may very occasionally use KIM, are unfamiliar with its functions. The complaints coordinators are therefore usually required to complete the KIM data. This includes recording lessons, complaint classification, the CQS indicators and the resolution outcome. While some coordinators referred back to the lawyer to ensure classifications were correct, this was clearly not completed in all cases or consistently.

**3.37** There is evidence of under reporting of complaints and this occurs in several ways: complaints being incorrectly classified as feedback; witness care officers resolving CPS complaints which are never recorded; complaints from criminal justice agencies which are no longer formally recorded; and valid complaints from defendants or their representatives that are often classified as feedback or not recorded at all.

**3.38** Complaints made through Members of Parliament (MPs) are not entered into the KIM system nor counted as a complaint. These are dealt with separately as Parliamentary Correspondence. The CPS received 411 letters from MPs in 2011 and we established from our interviews that most of these letters were complaints about CPS service from their constituents and ought to be more properly recorded as complaints.

**3.39** The culmination of under recording, not capturing lessons learned, and the incorrect classification of feedback, informal resolutions, complaint category and CQS means that the CPS is not providing itself with a clear or complete picture to form meaningful information on which to improve its service to complainants or its services generally.

### **Monitoring and analysis**

**3.40** Our survey of complaints coordinators revealed that only 35 per cent have used KIM to conduct any type of analysis and there was little tangible evidence of such analysis leading to improvements in the system. However the majority of coordinators are required to produce a quarterly complaints report which is generally submitted to the local business manager and also forwarded to the PCU<sup>14</sup>. These reports should then be distributed to the local management team and trends identified. It was not possible to establish to what effect these reports improved services and no examples were provided of where improvements had been made. Only one response provided an example of a DCCP quality assuring response letters through regular dip sampling.

**3.41** The PCU collate and review the area quarterly reports and this information may, from time to time, form a package of information for the Director of Public Prosecutions or the Chief Executive when visiting an area. The PCU also generate ad hoc reports from the KIM system for the Operations Directorate to form part of the area performance review process.

<sup>14</sup> Some of these reports are generated by the area performance officer and not the complaints coordinator.

### **Recommendation**

The CPS needs to provide targeted training and guidance to staff dealing with complaints to ensure that there is the correct classification and capture of complaints.

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**3.42** The PCU has conducted 12 quality assurance assessments of CPS areas including two metropolitan areas. The reports produced as a result of the quality assurance visits are designed to help senior managers and the complaints coordinator to develop actions to address any weaknesses that have been identified. In one area the PCU identified particularly poor practices and invested significant resources to address weaknesses through a series of training sessions, which resulted in raising standards.

**3.43** Many of the weaknesses identified in this report mirror the findings of the PCU quality assurance assessments<sup>15</sup>. However, these do not take account of the legal decision-making process which we found to be relevant in 58 per cent of the cases we examined. The main themes arising from the PCU assessments were circulated to area CCPs (formerly Group Chairs) and the Operations Directorate. Because of PCU resourcing issues these quality assurance assessments have been irregular, the last being conducted in March 2011.

**3.44** We highlighted in our previous report that no work has been undertaken to assess complainant satisfaction. Satisfaction surveys have not been considered by the CPS as part of the monitoring process even though KIM has made it easier to undertake these centrally and locally. We contacted 32 complainants and asked them how they thought their complaint was handled. Ten responded and overall two were satisfied, five dissatisfied and three were neutral about their satisfaction levels. Full results are included at annex D.

**3.45** Whilst all other core quality standards have validation measures none have been introduced on a national basis for complaints handling (CQSM 11). There was little evidence in the areas visited that business managers had introduced local measures to evaluate quality or the accuracy of the new processes that have been introduced, even though the new guidance requires each area to do so. Many of the weaknesses identified in the new system including data capture and mis-classification could be addressed through simple systematic quality checks.

**3.46** The CPS Equality and Diversity Unit (EDU) currently monitors complaints made via the CPS website to consider whether they disproportionately impact on any group identified by age, disability, gender and ethnicity. No reports have yet been generated by the EDU partly due to insufficient information properly to identify trends. The PCU and EDU are taking action to increase monitoring information to ensure that there is adequate information for proper analysis.

### Recommendation

The CPS needs to establish validation measures in relation to core quality standard 11, so that it can provide reassurance that it is meeting its commitment to service delivery.

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<sup>15</sup> The PCU methodology is not the same as the one used for this inspection.

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## Recommendation 10

### *Substantial progress*

*The CPS should review arrangements for the governance, direction and control of the complaints handling system and the role of the Correspondence Unit within it.*

**3.47** The PCU (formerly the Correspondence Unit) still retains national governance of the complaints handling system and co-ordinates policy while CCPs retain overall responsibility for their area.

**3.48** Alongside the new complaints policy the CPS introduced a Complaints Board to implement and oversee the new policy. The Board includes a CCP as chair, members of the PCU, Headquarters Performance Management Unit and a member from the EDU. The Board initially met quarterly but now meets less frequently. The Board has provided a real focus for addressing issues arising from the implementation process.

**3.49** The appointment of complaints coordinators on each area has provided the PCU with a point of reference for disseminating information. Likewise the PCU provides complaints coordinators with a single point of contact for queries and clarification concerning complaints. All of the coordinators that were interviewed found the PCU helpful and a good source of information.

**3.50** The PCU's quality control process and training has made a significant step forward in improving the connection with areas, which we previously found in need of strengthening. It is unfortunate that the PCU's training and quality assurance visits have become irregular. The Complaints Board needs to promote a consistent approach to both these issues.

**3.51** Governance procedures still needs to address the lack of a consistent approach to recording and classification of complaints and sustained quality assurance.

## Recommendation 11

### *Limited progress*

*The complaints handling policy should be revised and steps taken to ensure that the way it is applied meets the principles of best practice.*

*The revised policy should be subject to an equality impact assessment and consulted on, to ensure that the CPS can satisfy itself that the complaints process can be accessed by all and that no group is disadvantaged.*

**3.52** There has been substantial revision of the complaints handling policy<sup>16</sup>. It is clear that the revised version has endeavoured to address most of the recommendations and aspects for further improvement identified in our 2009 report. The CPS has taken a root and branch examination of the way it handles complaints. At the time the new system was designed the CPS Equality and Diversity Unit was consulted regarding the capture of information to assess issues of disproportionately. Recent changes in the law mean that these issues need to be re-visited to ensure the complaints policy meets specific duties. This work is currently being taken forward<sup>17</sup>.

**3.53** The main changes in the new policy include: a revised definition of what a complaint is; a new feedback process, where members of the public can provide positive or negative feedback; and an informal resolution process which enables a speedier resolution of complaints. New updated guidance has also been provided concerning the investigation and response to complaints made. Additionally, the CPS has started to address how the judgement in *R v Killick* may impact its complaints system. The CPS has set up a specific working group to look at the impact and also to examine how its current complaints system and the victim's right of review of decisions can be amended or extended to ensure compliance, but also to provide clarity to all staff about handling complaints or *Killick* cases.

**3.54** It is encouraging that the national survey of complaints coordinators revealed that, overall, most rated the new system better than the old complaints process and none rated it as poorer. In addition, 80 per cent of the coordinators surveyed indicated that they believed complainants now receive a better service under the new system and that there has been a positive cultural shift in the CPS approach to handling complaints<sup>18</sup>, although this view is not consistent with our findings.

<sup>16</sup> The new policy is entitled CPS Feedback and Complaints Guidelines.

<sup>17</sup> The Equality Act 2010. Specific duties set out in regulations came into force on 10 September 2011.

<sup>18</sup> Of the 27 complaints coordinators surveyed, only three were appointed after the new system was implemented whereas 24 had also handled complaints under the old system. Five further coordinators were interviewed during this follow-up inspection. None felt that complainants received a poorer service whilst 20 per cent said that there was no discernable difference between the level of service given to complainants under the old scheme.



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### Definition of a complaint and who can complain

3.55 The definition of a complaint has changed under the new policy to read:

*“Any expression of dissatisfaction about any aspect of our service by a member of the public who has been directly involved in the service complained of”.*

3.56 This definition has been refined to restrict those who wish to complain to members of the public who have been **directly** involved in receiving a service from the CPS, which will in the main be victims, witnesses and defendants or third parties acting on their behalf. Any complaint falling outside the definition is treated as negative feedback and not recorded as a complaint (i.e. someone unconnected to the case feeling the CPS should have done more to secure a conviction). The change in the definition has allowed the CPS to ‘weed out’ those complainants not directly involved in a case in an effort to avoid protracted correspondence from those who may seek to make frivolous or malicious complaints.

### Informal resolution

3.57 The new complaints policy has introduced an informal resolution process which addresses the observations made in our previous report that there should be an avenue for the CPS quickly to deal with low level complaints without resorting to lengthy and unnecessary correspondence. However, the guidance provides little detail of how the informal resolution procedure should work and the type of examples which can be expected to be resolved informally. This has resulted in confusion in the categorisation of complaints. Almost 70 per cent of coordinators felt that it was not clear to them whether a complaint should be dealt with and/or recorded as informally resolved or treated as a stage 1 complaint. In our file sample we judged that 21 per cent of the complaints examined were incorrectly dealt with through the informal resolution process.

3.58 The use of the informal resolution procedure also varied widely between the areas we examined. One classified 64 per cent of their complaints as being informally resolved whereas in another only 15 per cent were so classified. In one area it was common practice to only treat a complaint at stage 1 after an informal letter had been sent to the complainant, irrespective of the nature of the complaint. It was then only treated as a formal (stage 1) complaint if the complainant was dissatisfied with the response. Such action creates a further stage into the process which is wrong.

**3.59** Although the informal resolution procedure allows lessons learned from the complaint to be captured on KIM, none were recorded in any of the informally resolved cases we examined. Our file examination showed that in 25 per cent of informally resolved cases, it would have been appropriate to have recorded lessons learned.

**3.60** Once the complaint has been classified as informally resolved the KIM system does not then allow the person updating KIM to state whether the complaint had merit or not. This needs to be changed.

#### **Case study**

The CPS decided not to proceed against a defendant who had been arrested for rape. A letter was sent to the victim explaining this decision and inviting her to telephone if she needed more information. The victim did telephone about her unhappiness with the decision. The member of staff taking the call advised the complainant to follow the procedure in the letter even though this is what she had done. The letter did not include information how to make a formal complaint. With no further contact with the victim, the complaint was recorded as informally resolved.

#### **Recommendation**

The CPS should issue clearer guidance as to which issues should be dealt with under the informal resolution process.

#### **Feedback**

**3.61** The new complaints policy has also introduced a system of recording feedback. Feedback can either be positive or negative. Both types are recorded on the KIM system but are not counted as complaints for reporting purposes.

**3.62** Nearly 90 per cent of complaints coordinators felt that the guidance was unclear about what should be recorded as feedback and what should be recorded as a complaint. It is important for the CPS to ensure there are clear guidelines, otherwise, recording and appropriateness of response will be incorrect. Whilst the guidance advises that where there is uncertainty it should be recorded as a complaint, it is clear that confusion exists.

**3.63** Our examination of 50 feedback cases indicated that 20 per cent should have been recorded as complaints. Three of the cases classified as feedback involved prosecution decisions about the death of a family member.

#### **Case study**

After a police investigation into his wife's death at a hospital, an elderly and severely disabled complainant disputed the CPS's decision not to prosecute anyone involved in his wife's care and treatment. The complaint was incorrectly treated as feedback.

**Case study**

The complainant asked for an opportunity to meet with the CPS to present his arguments and concerns to them. The response letter contained lengthy ‘template’ paragraphs on the CPS’s role. Although the letter went on to explain why there were no grounds for a prosecution, it did not answer all the points raised in the letter and it lacked any empathy for the complainant’s loss. The letter ended, *“I am afraid that I am not in a position to offer to meet with you as suggested”*, without any explanation as to why a meeting was not possible.

**3.64** The under recording of complaints by recording them as feedback was consistent across all the areas we visited, indicating a potential level of misunderstanding and under reporting nationally. Under recording complaints in this way means that valuable information and opportunities to improve services are lost. It also undermines the CPS’s reputation and legitimate expectation that complaints will be treated seriously.

**Recommendation**

Clearer guidance is needed to enable staff to determine whether to record an issue as feedback or a complaint.

**The quality of complaints investigation and response**

**3.65** The standard of responses was judged to be excellent in eighteen per cent of cases, this is a significant improvement on our previous report when only six per cent were assessed excellent. Nearly forty per cent of responses were good (previously forty five per cent), twenty three per cent fair (previously thirty one) and nineteen per cent poor (previously eighteen). All the cases in the complaint sample had been dealt with by a legally qualified investigator.

**3.66** Of those responses judged to be poor, there were recurring examples of a lack of empathy, replies that were defensive, and replies where the merits of a complaint were not recognised. Often there was no apology in appropriate cases.

**Case study**

A defendant was charged with burglary and kept in custody after charge. The reviewing lawyer later noted clear identification issues and commented on the file that the case had no realistic prospect of conviction. Despite this assessment, the lawyer also endorsed the file to the effect that the full Code for Crown Prosecutors’ test was satisfied meaning the case continued in the Crown Court. The case was dropped several weeks later, shortly before the trial. A letter was sent to the victim. When the victim complained, the response letter was defensive and curt in tone and failed to recognise or apologise for the CPS error in allowing the case to proceed for so long.

**3.67** Responses judged to be excellent often demonstrated a willingness to be open and to seek engagement with the complainant. Even where the complaint had no merit, excellent replies were handled thoughtfully and where appropriate with empathy and concerns raised were fully addressed.

#### **Case study**

A CPS decision to accept a late guilty plea to a minor offence attracted high profile media interest. The response letter to the complainant acknowledged openly that a mistake had been made, and apologised. It also dealt carefully with the legal situation which had been misreported in the media. The letter went on to detail how the complaints investigator had, as a result of the complaint, identified some lessons learned which had led to local training to prevent a recurrence.

**3.68** We were encouraged that there were very few examples of the use of inappropriate technical language and though template paragraphs were used this was usually to explain the respective roles of the police and CPS. The better responses tailored these explanations to the specifics of the complaint being made.

**3.69** In 64 per cent of the complaints files examined, there was evidence that the decision and case material was considered afresh when this was required. In some cases we experienced difficulty when trying to assess complaints about pre-charge advice because the case files and evidence were often not available. Procedures for retention of evidence varied considerably

and in some cases no decision is recorded on the CPS case management system (CMS). If case papers are not readily available this seriously hinders an effective review of the decisions that have been made.

**3.70** As with the last inspection, it was often apparent that lawyers involved in the issues that led to the complaint had contributed substantially to the response. It was sometimes difficult to be assured that the decision was properly reconsidered in such cases. Better practice was seen where the response given to the complainant indicated there had been an independent review of the issue complained of, for example where the response stated that the choice of charge would not have been one that they would have personally made given the circumstances. This approach is more likely to satisfy a complainant even though it is not necessarily possible to change the outcome.

**3.71** Inspectors found that 53 (48 per cent) of cases examined were judged as having some merit but in 25 cases the replies did not include an apology despite mistakes by the CPS.

**3.72** Of the 111 files, just over half (58 per cent) included a complaint about the decision not to prosecute or to drop a charge. In ten (nine per cent) of these cases the decision taken was not compliant with the Code for Crown Prosecutors (the Code) including one case where the public interest limb was wrongly applied. The Code test failure was recognised by the complaints investigator in six of these ten cases. In addition there were two cases where the response to the complainant gave inaccurate legal information.

**3.73** In two of the cases, where the complaint was that there was no prosecution, the decision was overturned. There were other cases where the manager acknowledged that a prosecution should have been authorised but it was no longer possible or appropriate. No charge was reinstated after being dropped by the CPS.

**3.74** The findings of our file examination show that there are a large number (58 per cent) of complaints received within the CPS that relate directly to the decision not to prosecute. The *R v Killick* judgement widens the category of cases which the CPS will need to consider as either complaints or requests for a review. It is therefore crucial that the complaints system is clearly understood by all staff and those operating any new system which may be introduced.

**3.75** Of the complaints examined, half were about actions or events that involved other criminal justice agencies, the majority being police (55.4 per cent) and the courts (21.4 per cent). Generally the involvement of other agencies was appropriately recognised and we found no examples of a blame culture. It was rare to see local contact information being given where this would have assisted a complainant. There was little evidence of complaints being shared or discussed with another agency.

## Recommendation 12

*Not progressed*

*The CPS should consider introducing independent oversight into the complaints handling system.*

**3.76** The question as to whether the CPS should introduce some form of independent oversight is still under discussion. The Complaints Board has evaluated various options for an independent appeal body and has approached two public bodies with the proposal of taking on this responsibility without success. Options are still being developed but the lack of progress and potential cost implications have resulted in no obvious solution.

**3.77** Two complaints from victims had exhausted the CPS complaints procedure and went on to be considered by the Parliamentary Ombudsman<sup>19</sup>. Recently the Parliamentary Ombudsman has reported that in both cases the CPS were found not to have met their obligations in dealing with victims. Further, the Ombudsman found that the approach to the complaints made were “*defensive, mechanistic and lacking in empathy*”.

<sup>19</sup> The role of the Parliamentary Ombudsman is to consider complaints about government departments, a range of other public bodies in the UK, and the NHS in England, that have not acted properly or fairly or have provided a poor service. Whilst the CPS is not specifically included as one of the public bodies the Parliamentary Ombudsman has oversight of; since April 2006 it has had a statutory responsibility to consider complaints, referred by MPs, from those who complain that a body has not met its obligations under the *Code of Practice for Victims of Crime* (the Victims' Code).

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**3.78** The absence of independent oversight or appointment of an independent assessor, for example, the Independent Assessor for complaints handling of the Public Prosecution Service for Northern Ireland<sup>20</sup>, has the potential to frustrate the fulfilment of the CPS core quality standard of responding to complaints. The absence of independent oversight also serves to substantiate the futility, expressed by some complainants, about making or escalating a complaint and has the potential to undermine public confidence in the CPS.

#### Recommendation

The CPS should introduce an Independent Assessor for complaints who is independent of the complaints process, in order to increase public assurance and confidence in the system.

#### Recommendation

The CPS needs to establish and define a system which takes account of the R v Killick judgement, ensuring that the impact on the current complaints system is clearly communicated and reflected in any revised system.

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<sup>20</sup> For example The Independent Assessor for complaints's handling of the Public Prosecution Service for Northern Ireland determines whether a complaint has been handled fairly, thoroughly and impartially. The Assessor also audits complaints for quality purposes and presents an annual report and influences the adoption of best practice.

# Annexes

## A Progress made against aspects for improvement in the 2009 report

1	<p><i>Appropriate training for staff with particular responsibilities for complaints.</i></p> <p>This aspect for improvement has been addressed under recommendation 8.</p>	<b>Substantial progress</b>
2	<p><i>Improved supervision of initial investigations and responses prepared by originating lawyers.</i></p> <p>The new policy states that complaints should now be reviewed afresh by someone not involved in the original decision. This change in policy renders this aspect for improvement as no longer applicable. However, despite the new policy, the practice of requesting the originating lawyer to prepare a response or substantial background note still continues. We found that in a handful of cases the response was prepared by the originating lawyer and appeared unaltered by the lawyer manager, a practice which makes it difficult to be assured that issues were considered afresh.</p>	<b>No longer applicable</b>
3	<p><i>Contact over the telephone, and face to face meeting with complainants should be encouraged in appropriate circumstances.</i></p> <p>Although contact over the telephone has increased, there is still an over reliance on requesting complaints to be in writing, even though the guidance and training encourage staff to deal with complaints over the phone. Witness care units reported a reluctance on behalf of CPS to talk to victims and witnesses who had concerns or complaints to make.</p> <p>We found no evidence that face to face meetings with complainants had increased or were encouraged.</p>	<b>Limited progress</b>
4	<p><i>The Correspondence Unit should adopt timeliness standards for handling third tier complaints referred to them.</i></p> <p>The PCU has been set timeliness standards of responding to complainants within 40 working days of receipt. This information has been included in the complaints leaflet.</p>	<b>Achieved</b>
5	<p><i>The Area/Unit Business Manager should become actively involved in the complaints process by making sure systems are effective and that worthwhile analysis is undertaken.</i></p> <p>There continues to be little tangible evidence that business managers have an active role in the management or analysis of complaints, although the quarterly complaints report generated by the area is disseminated to them and should be discussed at senior management meetings.</p>	<b>Limited progress</b>

## B Methodology

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Inspectors examined 111 complaints made by members of the public. Files were examined to evaluate whether procedures had been adhered to, responses were appropriate and timely and there was a thorough investigation.

The complaints were recorded on KIM and where the issue of the complaint referred to some element of prosecution decision-making (52 cases), the case file was also examined.

We examined 50 feedback entries to evaluate whether they had been recorded in accordance with CPS policy.

Interviews were conducted with Parliamentary and Complaints Unit staff and internally across five districts with:

- Complaints coordinators
- Witness care managers
- Witness care officers

Questionnaires were sent to 36 complainants, who were selected from the file read to determine what their experience was of the CPS complaints system and whether they perceived their complaint was dealt with thoroughly and fairly. Ten complainants responded to the questionnaire.

Complaints coordinators were sent a survey questionnaire to gather views and assessments of the complaints handling procedure outside the areas/units visited. Twenty complaints coordinators responded to the survey.

Witness care managers were sent a survey questionnaire to assess the way witness care units interact with the CPS when complaints about the service CPS provide are made to them by victims and witnesses. Twenty nine witness care managers responded to the survey.

A selection of files and all files assessed as Code test failures were peer reviewed by another inspector, to ensure quality and consistency of assessment.

An assessment of the usability of the KIM system and analysis of available data was made.



## C Data summary

Level of complaint recorded on KIM	Stage 1	50.5%	56 out of 111
	Stage 2	7.2%	8 out of 111
	Stage 3	6.3%	7 out of 111
Complainant type	Informal	36.0%	40 out of 111
	Victim	88.3%	98 out of 111
	Defendant	8.1%	9 out of 111
	Witness	2.7%	3 out of 111
Main subject of complaint	Third party	0.9%	1 out of 111
	Prosecution decision	57.7%	64 out of 111
	Case presentation including sentence	27.9%	31 out of 111
	Witness care issue	8.1%	9 out of 111
Complaint category on KIM as entered by CPS	Other	6.3%	7 out of 111
	Legal decision	71.2%	79 out of 111
	Mixed	16.2%	18 out of 111
	Non-legal decision	10.8%	12 out of 111
Is this complaint category correct	Not entered	1.8%	2 out of 111
	Yes	79.3%	88 out of 111
Nature of offence/incident	No	20.7%	23 out of 111
	Personal offence	70.3%	78 out of 111
	Property offence	22.5%	25 out of 111
	Traffic	4.5%	5 out of 111
	Public offence	1.8%	2 out of 111
	Other	0.9%	1 out of 111
Court type	Magistrates/Youth Court	54.1%	60 out of 111
	Crown Court	30.6%	34 out of 111
	Not charged	15.3%	17 out of 111
Number of days to deal with complaint	20 and under	73.0%	81 out of 111
	21-30	11.7%	13 out of 111
	31-96	12.6%	14 out of 111
	No response	2.7%	3 out of 111
Is there evidence that acknowledgement was sent within three days	Yes	65.8%	73 out of 111
	No	20.7%	23 out of 111
	Not applicable	13.5%	15 out of 111
If no did the late acknowledgement recognise the delay	Yes	8.7%	2 out of 23
	No	78.3%	18 out of 23
	Not applicable	13.0%	3 out of 23

Is there evidence the explanatory leaflet was sent/made available?	Yes	48.6%	54 out of 111
	No	38.7%	43 out of 111
	Not applicable	12.6%	14 out of 111
If there was a missed deadline on the response was an adequate explanation provided	Yes	25.9%	7 out of 27
	No	74.1%	20 out of 27
How was the complaint submitted	Letter/fax	64.0%	71 out of 111
	Electronic	21.6%	24 out of 111
	Telephone	14.4%	16 out of 111
Is there any evidence that the complainant had difficulty making the complaint	Yes	17.1%	19 out of 111
	No	82.9%	92 out of 111
Was this difficulty acknowledged	Yes	10.5%	2 out of 19
	No	89.5%	17 out of 19
What method was used to respond to the complaint	Letter/fax	86.5%	96 out of 111
	Email	5.4%	6 out of 111
	Telephone	5.4%	6 out of 111
	No response	2.7%	3 out of 111
Was the response method appropriate	Yes	96.3%	105 out of 109
	No	3.7%	4 out of 109
Overall was KIM used effectively	Excellent	16.2%	18 out of 111
	Good	42.3%	47 out of 111
	Fair	27.0%	30 out of 111
	Poor	14.4%	16 out of 111
Where an informal resolution was used was this appropriate	Yes	42.5% (15.3%)	17 out of 40 17 out of 111
	No	57.5% (20.7%)	23 out of 40 (23 out of 111)
	Not applicable	64.0%	71 out of 111
Was the complaint investigated by an appropriate person	Yes	86.5%	96 out of 111
	No	9.9%	11 out of 111
	Not known	2.7%	3 out of 111
	Not applicable	0.9%	1 out of 111
Was the case including evidence considered afresh when responding to the complaint	Yes	64.1%	59 out of 92
	No	20.7%	19 out of 92
	Not known	15.2%	14 out of 92

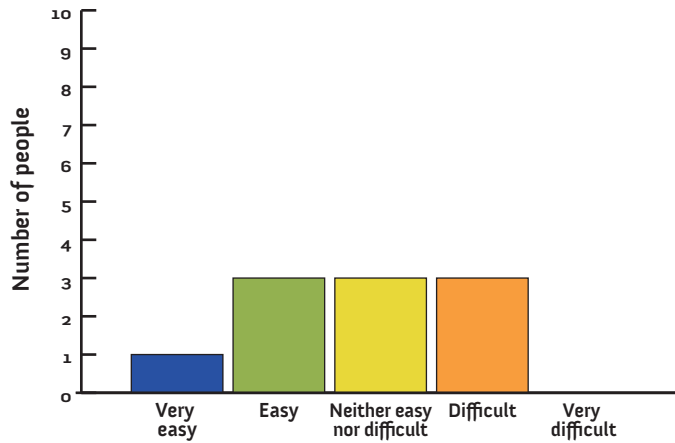
Where the complaint was about a prosecution decision was this compliant with the Code for Crown Prosecutors	Yes	70.3%	45 out of 64
	No	15.6%	10 out of 64
	Not known	14.1%	9 out of 64
Was the decision to charge/not charge changed or reversed as a result of the complaint investigation	Yes	1.8%	2 out of 111
	No	55.9%	62 out of 111
	Agreed but no prosecution possible	1.8%	2 out of 111
	Not applicable	40.5%	45 out of 111
What is the recorded disposal of the complaint	Upheld	7.2%	8 out of 111
	Part upheld	7.2%	8 out of 111
	Not upheld	48.6%	54 out of 111
	Informal resolution	35.1%	39 out of 111
	Ongoing	1.8%	2 out of 111
Did the complaint have merit	Yes	47.7%	53 out of 111
	No	52.3%	58 out of 111
Did the response correctly identify the merits	Yes	31.5%	35 out of 111
	No	14.4%	16 out of 111
	Not applicable	54.1%	60 out of 111
Did the response explain why the complaint lacked merit	Yes	50.5%	56 out of 111
	No	9.0%	10 out of 111
	Not applicable	40.5%	45 out of 111
Did the complaint involve another CJS agency	Yes	51.4%	57 out of 111
	No	48.6%	54 out of 111
Which agency is also involved	Police	56.1%	32 out of 57
	Court	21.1%	12 out of 57
	More than one	15.8%	9 out of 57
	Witness care	5.3%	3 out of 57
	Defence	1.8%	1 out of 57
Was there any consultation with the other agency as part of the response process	Yes	26.3%	15 out of 57
	No	66.7%	38 out of 57
	Not known	7.0%	4 out of 57
Should there have been any consultation with the other agency	Yes	18.0%	20 out of 111
	No	20.7%	23 out of 111
	Not applicable	61.3%	68 out of 111

Did the response recognise the role of other agencies in an appropriate manner	Yes	75.0%	42 out of 56
	No	25.0%	14 out of 56
Were all the complaint issues raised covered in the response	Yes	73.9%	82 out of 111
	No	18.0%	20 out of 111
	Not known	4.5%	5 out of 111
	Not applicable	3.6%	4 out of 111
Did the response contain an apology where appropriate	Yes	26.1%	29 out of 111
	No	22.5%	25 out of 111
	Not known	1.8%	2 out of 111
Did the response contain an appropriate level of empathy	Yes	54.1%	60 out of 111
	No	33.3%	37 out of 111
	Not known	4.5%	5 out of 111
	Not applicable	8.1%	9 out of 111
Did the response contain unnecessary explanations or detail	Yes	9.0%	10 out of 111
	No	83.8%	93 out of 111
	Not applicable	7.2%	8 out of 111
Did the response contain inappropriate template material	Yes	9.9%	11 out of 111
	No	82.9%	92 out of 111
	Not applicable	7.2%	8 out of 111
Did the explanation include how to escalate the complaint	Yes	25.5%	25 out of 98
	No	74.5%	73 out of 98
What was the overall quality of the response	Excellent	18.0%	20 out of 111
	Good	39.6%	44 out of 111
	Fair	23.4%	26 out of 111
	Poor	18.9%	21 out of 111
Were any lessons properly recorded and actioned	Yes	13.5%	5 out of 37
	No	86.5%	32 out of 37

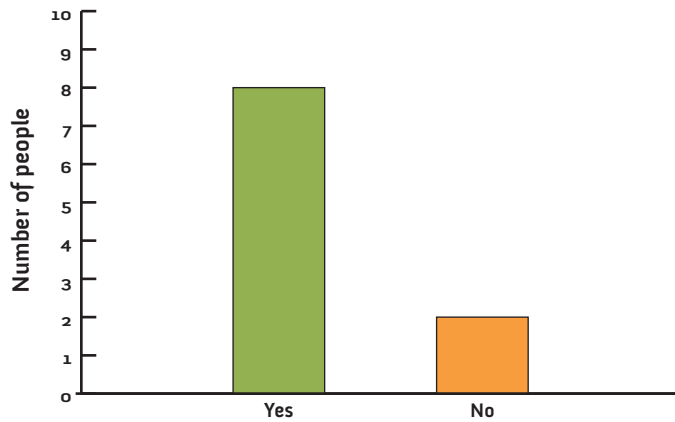
## D Questionnaire to gauge the satisfaction of people who have made complaints to the CPS

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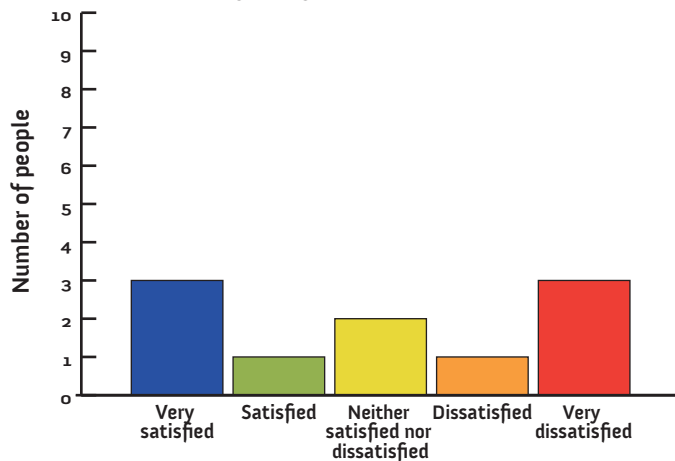
Was it easy for you to find out how to make a complaint about the CPS



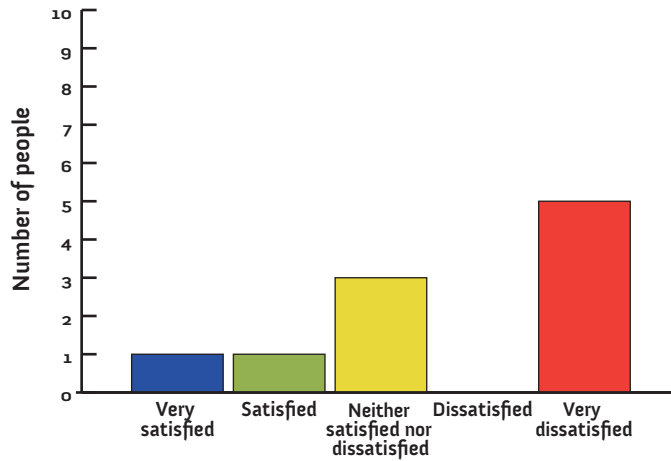
Did you receive an acknowledgement either by telephone or in writing when you first made your complaint



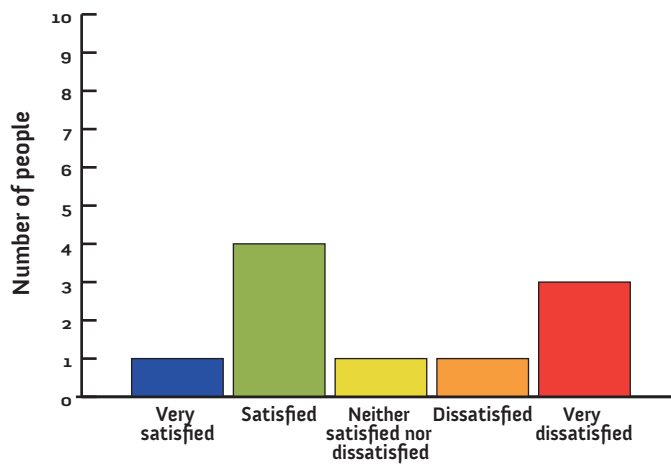
How satisfied were you with the overall time it took for your complaint to be handled (from beginning to end)



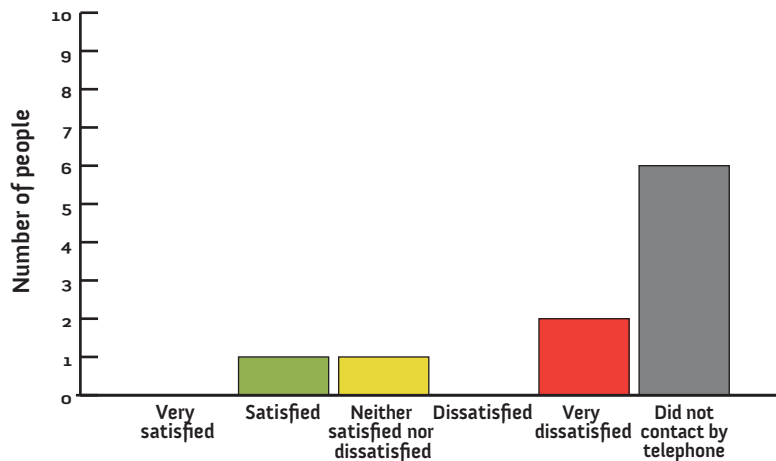
**How satisfied were you that the reply you received from the CPS answered all the issues that you raised**



**How satisfied were you that the reply to your complaint was easy to understand**

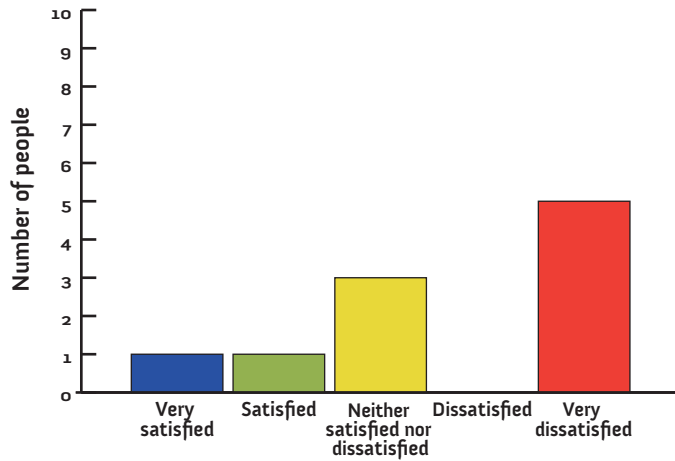


**If you contacted the CPS on the telephone about your complaint at any stage, how satisfied were you with the service you received**

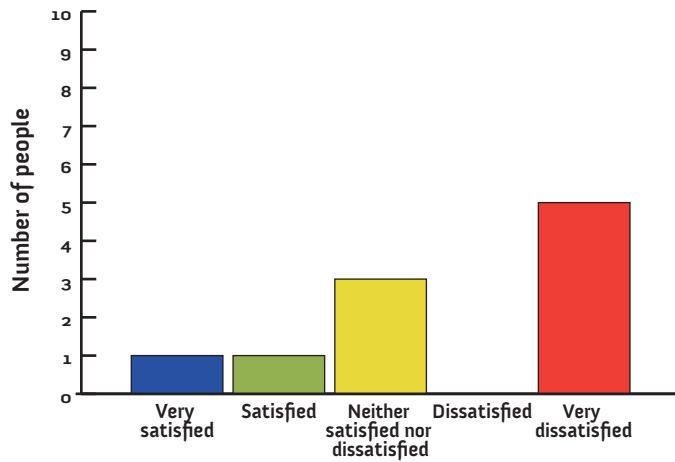


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**How satisfied were you that your complaint was dealt with fairly and impartially**



**Overall, how satisfied were you with the way that the CPS handled your complaint**



## E Glossary

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### **Area Business Manager**

The most senior non-legal manager at CPS area level.

### **Associate Prosecutor**

A CPS employee who is trained to present cases in the Magistrates' Court on pleas of guilty, to prove them where the defendant does not attend or to conduct trials of non-imprisonable offences.

### **Case management system (CMS)**

IT system for case management used by the CPS. Through links with police systems CMS receives electronic case material. Such material is intended to progressively replace paper files as part of the T3 implementation. *See also Transforming through technology (T3).*

### **Case progression manager (CPM)**

An administrative member of CPS staff who manages the progression of cases through the optimum business model system. They oversee and manage the prioritisation of OBM cases; ensuring cases are ready for trial on their trial date. *See also optimum business model (OBM).*

### **Code for Crown Prosecutors (the Code)**

The public document that sets out the framework for prosecution decision-making. Crown prosecutors have the Director of Public Prosecutions' power to determine cases delegated to them, but must exercise them in accordance with the Code and its two stage test - the evidential and the public interest stages. Cases should only proceed if, firstly, there is sufficient evidence to provide a realistic prospect of conviction and, secondly, if the prosecution is required in the public interest. *See also threshold test.*

### **Committal**

Procedure whereby a defendant in an either way case is moved from the Magistrates' Court to the Crown Court for trial, usually upon service of the prosecution evidence on the defence, but occasionally after consideration of the evidence by the magistrates. *See also either way offences.*

### **Complex Casework Unit (CCU)**

A unit set up within each CPS area which handles the most serious cases, such as organised crime, people or drug trafficking, and complex frauds.

### **Conditional caution**

A caution which is given in respect of an offence committed by the offender and which has conditions attached to it (Criminal Justice Act 2003).

### **Contested case**

A case where the defendant elects to plead not guilty, or declines to enter a plea, thereby requiring the case to go to trial.

### **CPS core quality standards (CQS)**

Standards which set out the quality of service that the public are entitled to expect. The standards reflect legal and professional obligations.

### **CPS Direct (CPSD)**

This is a scheme to support areas' decision-making under the charging scheme. Lawyers are available on a single national telephone number out of normal office hours so that advice can be obtained at any time. It is available to all areas.

### **Core quality standards monitoring (CQSM)**

A system of internal monitoring against the standards, whereby each area undertakes an examination of a sample of completed cases to assess compliance.



### **Court orders/directions**

An order or direction made by the court at a case progression hearing requiring the prosecution to comply with a timetable of preparatory work for a trial. These orders are often made under the Criminal Procedure Rules.

### **Cracked trial**

A case listed for a contested trial which does not proceed, either because the defendant changes his plea to guilty, or pleads to an alternative charge, or because the prosecution offer no evidence.

### **Criminal Justice: Simple, Speedy, Summary (CJSSS)**

An initiative introducing more efficient ways of working by all parts of the criminal justice system, working together with the judiciary, so that cases brought to the Magistrates' Courts are dealt with more quickly. In particular it aims to reduce the number of hearings in a case and the time from charge to case completion.

### **Criminal Procedure Rules (CPR)**

Criminal Procedure Rules determine the way a case is managed as it progresses through the criminal courts in England and Wales. The rules apply in all Magistrates' Courts, the Crown Court and the Court of Appeal (Criminal Division).

### **Crown Advocate (CA)**

A lawyer employed by the CPS who has a right of audience in the Crown Court.

### **Custody time limits (CTLs)**

The statutory time limit for keeping a defendant in custody awaiting trial. May be extended by the court in certain circumstances.

### **Direct communication with victims (DCV)**

A CPS scheme requiring that victims be informed of decisions to discontinue or alter substantially any charges. In some case categories a meeting will be offered to the victim or their family to explain these decisions.

### **Discharged committal**

A case where the prosecution is not ready to commit the defendant to the Crown Court, but the Magistrates' Court refuses to adjourn the case.

### **Discontinuance**

The formal dropping of a case by the CPS through written notice (under section 23 Prosecution of Offences Act 1985).

### **Early Guilty Plea Scheme (EGP)**

A scheme introduced by the Senior Presiding Judge in a number of Crown Court centres which aims to identify cases where a guilty plea is likely. The aim is to separate these cases into EGP courts which expedite the plea and sentence thereby avoiding unnecessary preparation work.

### **Either way offences**

Offences of middle range seriousness which can be heard either in the Magistrates or Crown Court. The defendant retains a right to choose jury trial at Crown Court but otherwise the venue for trial is determined by the magistrates.

### **File endorsements**

Notes on a case file that either explain events or decisions in court or that provide a written record of out of court activity.

**Indictable only, indictment**

Cases involving offences which can be heard only at the Crown Court (e.g. rape, murder, serious assaults). The details of the charge(s) are set out in a formal document called the “indictment”.

**Ineffective trial**

A case listed for a contested trial that is unable to proceed as expected and which is adjourned to a later date.

**Instructions to counsel**

The papers which go to counsel setting out the history of a case and how it should be dealt with at court, together with case reports. These are sometimes referred to as the “brief to counsel”.

**Judge directed acquittal (JDA)**

Where the judge directs a jury to find a defendant not guilty after the trial has started.

**Judge ordered acquittal (JOA)**

Where the judge dismisses a case as a result of the prosecution offering no evidence before a jury is empanelled.

**No case to answer (NCTA)**

Where magistrates dismiss a case at the close of the prosecution evidence because they do not consider that the prosecution have made out a case for the defendant to answer.

**Optimum business model (OBM)**

A CPS initiative for handling its casework. The model sets out a framework of structures, roles and processes, and aims to standardise these across different units and areas to improve efficiency and effectiveness.

**Paralegal Career Family Structure**

A new CPS career structure which defines the roles and responsibilities for non-legal staff from paralegal assistant to Associate Prosecutor.

**Paralegal officer (PO)**

A member of CPS Crown Court staff who deals with, or manages, day-to-day conduct of prosecution cases under the supervision of a CPS lawyer. The PO often attends court to assist the advocate.

**Plea and case management hearing (PCMH)**

A plea and case management hearing takes place in every case in the Crown Court and is often the first hearing after committal or sending in indictable only cases. Its purpose is twofold: to take a plea from the defendant, and to ensure that all necessary steps are taken in preparation for trial or sentence and that sufficient information has been provided for a trial date or sentencing hearing to be arranged.

**Pre-charge decision (PCD)**

Since the Criminal Justice Act 2003, this is the process by which the police and CPS decide whether there is sufficient evidence for a suspect to be prosecuted. The process is governed by the Director’s guidance, the latest edition of which came into effect in early 2011.

**Pre-trial application**

An application usually made by the prosecution to the court to introduce certain forms of evidence in a trial (e.g. bad character, hearsay etc).

**Proceeds of Crime Act 2002 (POCA)**

Contains forfeiture and confiscation provisions and money laundering offences, which facilitate the recovery of assets from criminals.

**Prosecution Team Performance Management (PTPM)**

Joint analysis of performance by the CPS and police locally, used to consider the outcomes of charging and other joint processes.

**Prosecutor's duty of disclosure**

The prosecution has a duty to disclose to the defence material gathered during the investigation of a criminal offence, which is not intended to be used as evidence against the defendant, but which may undermine the prosecution case or assist the defence case. Initial (formerly known as "primary") disclosure is supplied routinely in all contested cases. Continuing (formerly "secondary") disclosure is supplied after service of a defence statement. Timeliness of the provision of disclosure is covered in the Criminal Procedure Rules. *See also unused material.*

**Review, (initial, continuing, summary trial, full file etc)**

The process whereby a crown prosecutor determines that a case received from the police satisfies and continues to satisfy the legal test for prosecution in the Code for Crown Prosecutors. One of the most important functions of the CPS.

**Section 51 Crime and Disorder Act 1998**

A procedure for fast-tracking indictable only cases to the Crown Court, which now deals with such cases from a very early stage - the defendant is sent to the Crown Court by the magistrates.

**Sensitive material**

Any relevant material in a police investigative file not forming part of the case against the defendant, the disclosure of which may not be in the public interest.

**Special measures applications**

The Youth Justice and Criminal Evidence Act 1999 provides for a range of special measures to enable vulnerable or intimidated witnesses in a criminal trial to give their best evidence. Measures include giving evidence through a live TV link, screens around the witness box and intermediaries. A special measures application is made to the court within set time limits and can be made by the prosecution or defence.

**Streamlined process (Director's guidance)**

Procedures agreed between the CPS and police to streamline the content of prosecution case files; a restricted amount of information and evidence is initially included where there is an expectation that the defendant will plead guilty.

**Summary offences**

Offences which can only be dealt with in the Magistrates' Courts, e.g. most motoring offences, minor public order and assault offences.

**Threshold test**

The Code for Crown Prosecutors provides that where it is not appropriate to release a defendant on bail after charge, but the evidence to apply the full Code test is not yet available, the threshold test should be applied.

**Transforming through technology (T3)**

A national CPS programme introducing electronic working and aiming to provide, through the use of enhanced technology, a more efficient Service. The CPS proposes to change its business processes by moving to full digital working by April 2013.

It involves electronic files being put together by the police and being sent digitally to the CPS. Cases will then be prepared electronically and prosecuted from laptops or tablets in court.

**Unused material**

Material collected by the police during an investigation but which is not being used as evidence in any prosecution. The prosecutor must consider whether or not to disclose it to the defendant.

**Upgraded file**

The full case file provided by the police for a contested hearing.

**Witness care unit (WCU)**

Unit responsible for managing the care of victims and prosecution witnesses from a point of charge to the conclusion of a case. Staffed by witness care officers and other support workers whose role it is to keep witnesses informed of progress during the course of their case. Units have often a combination of police and CPS staff (joint units).



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HM Crown Prosecution Service Inspectorate

London Office:

One Kemble Street

London WC2B 4TS

Tel. 020 7210 1197

Fax. 020 7210 1186

York Office:

United House, Piccadilly

York, North Yorkshire, YO1 9PQ

Tel. 01904 54 5490

Fax. 01904 54 5492

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