



## When things go wrong

A thematic review of complaints handling  
by the Crown Prosecution Service

Executive Summary

March 2009

## **Introduction**

This is the report of the first thematic inspection by Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) of complaints handling by the Crown Prosecution Service (CPS). One of the essential attributes of good organisations, whether in the public or private sector, is an effective system for handling complaints sensitively, fairly and as quickly as possible. It is even more important in an organisation such as the CPS whose business is by its very nature contentious. Constructive and properly explained responses to complaints do more than resolve individual grievances; they underpin the ability of an organisation to develop and retain public confidence. The handling of complaints was an element of all our cyclical inspections of individual CPS areas in 2003-04 and 2005-06. Their scope was limited to quality, while this inspection includes accessibility, governance and independence as well as qualitative issues.

The number of complaints recorded by the CPS is modest against its overall caseload; in 2007-08 there were 2,252 complaints arising out of 1,279,863 cases.

## **Findings**

### *General*

CPS complaints procedures were assessed against the Cabinet Office Best Practice (COBP), which sets out eight basic principles of an effective complaints system; it should be:

- 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.

The CPS complaints system, although said to be based on the COBP, in fact in its written guidance satisfies four of those eight criteria. However the way that it operates in reality means that compliance with the principles is variable and not assured. There are four aspects of the COBP which are not being met either by the guidance or how it is applied in practice.

The CPS written complaints handling guidance, as a set of processes, meets best practice for:

- speed;
- confidentiality;
- effectiveness (in dealing with points raised); and
- monitoring and auditing, although in practice this is not so clear-cut.

The aspects where neither theory nor practice meets the Cabinet Office standards are in:

- ease of access;
- simplicity;
- informativeness; and
- fair and full investigation.

In addition monitoring and auditing, and governance, direction and control, are also weak and the policy itself has suffered from a failure to be updated. The policy and its procedures were under review at the time of this inspection.

The complaints system is not as easy for members of the public to access as it should be. The complaints leaflet does not define what a complaint is, is not readily available in the places where - according to the guidance - it ought to be, and is not produced in languages other than English and Welsh. Whilst complaints can be made online accessibility is not as user friendly as it ought to be. There is no template or form available to fill in or download on either the CPS national or any of the area websites and complaints cannot be made via the national or local sites directly to the area concerned. The review also found that despite what it says in the CPS complaints handling policy, making complaints over the telephone or in person is discouraged, which may disproportionately impact on those who are less able to complain. Complaints made over the telephone or in person were unlikely to be recorded as such or logged.

Generally staff had been given little training in handling complaints, particularly administrative staff who normally identified in the first instance whether the content of a letter or telephone call constituted a complaint. Similarly staff in witness care units, who are often the first point of contact for victims and witnesses wishing to complain about some aspect of the way they or the case in which they are involved has been dealt with, were unaware of the CPS complaints procedure. There is likely to be a significant under recording of complaints received via these units.

#### *Timeliness*

Once complaints are logged the need for speed and confidentiality is recognised. However this review found that only 66% of complaints were dealt with within the target of ten days, a substantially smaller proportion than the CPS recorded figure (85% in 2007-08) and that areas were calculating timeliness differently.

#### *Thoroughness*

Overall the thoroughness of investigation and quality of responses to complaints varied considerably. Some 6% of responses were found to be excellent - that is complaints had been fully investigated, responses were open, engaged fully with the complaint and complainant and addressed concerns thoughtfully - and a further 45% were considered good. However 31% were found only to be adequate and 18% poor. A response was considered poor if it was unduly defensive, or the merits of the complaint had not been recognised and appropriate apologies offered.

Overall 31% of complaints in the sample had merit, however in a third of those this was not recognised by the CPS. Worryingly there were some cases where failings had been recognised internally within the CPS but not acknowledged in the response to the complainant.

It is common practice for the lawyer involved in handling the case originally to be asked to draft the letter to the complainant on behalf of the unit head, charged under the policy with responding. This practice may mitigate against an initial objective or rigorous analysis and response and closer and more probing supervision is needed.

#### **Clarity of explanation**

More positively, unnecessary or overly lengthy legal explanations were rarely found in responses made to the complainant and there appeared to be a good recognition that jargon ought to be avoided. A majority of responses were written in plain English, or language that suited the complainant's level of understanding as far as that could be ascertained. In a few instances the CPS response needed to address some quite complex legal matters with a complainant who appeared not to have any specialist knowledge or a legal background, and these were explained well each time.

### **Escalation arrangements**

Although clear arrangements exist to enable complainants to escalate their complaint if they are not satisfied with the response, this is not generally made known to them. In only 19% of cases in the file sample was there any indication that complaints could be escalated, or of the procedure to be followed. Where escalation occurred there was little evidence of a real review or reinvestigation of the complaint. Given that the initial investigation and response may have been drafted by the lawyer involved in the case, this is of some concern. Neither did escalation of the complaint to the 'third tier' level always lead to a robust review.

### **Remedies**

An effective complaints system should ensure that adequate remedies are available. In the CPS it is often the case that a complainant cannot be put back in the position they would have been in, had nothing gone wrong. The guidance does not cover alternative remedies but a few areas have made small ex-gratia payments. Where an intention to make a civil claim is notified the guidance properly requires that dealings with the complaint cease. Until such an intention is communicated, however, there is a risk (evidenced in the fieldwork) that areas will be overly defensive and the guidance provides no assistance on this point.

### **Recording and analysis**

At neither national nor local level was there evidence of complaints being analysed, for example by case type, subject matter or complainant, to learn lessons or elicit trends. Nationally arrangements for the gathering of data on complaints numbers and timeliness need to be reviewed. This inspection has revealed that current systems are flawed, resulting in both the over counting and under recording of complaints and that variable practices mean timeliness figures may be inaccurate.

### **Policy and implementation**

The complaints policy itself is substantially out-of-date and needs to be revised to ensure that not only the content of the policy itself, but also the way it is applied, meets the principles of best practice. At the time of this inspection such a review was being conducted and any proposed changes will be further informed by this report. Currently guidance and training on complaints handling is delivered through a relatively small Correspondence Unit within the Director of Public Prosecution's office, which is also responsible for handling third tier complaints. Whether the unit is able in its current form to provide the governance and direction needed for managing the complaints handling system, or whether it should continue to do so, needs to be reviewed.

### **Way forward**

This inspection has shown that there is a need for something of a cultural shift in the CPS's approach to complaints handling, supported by further staff training to reinforce the principles of best practice. In addition to the matters specifically mentioned above as requiring review, the CPS needs to ensure its staff adopt a more open and generally less defensive approach, particularly in recognising where complaints have merit, and apologising for failings and in ensuring that letters are drafted in a way which addresses the relevant issues. It is pleasing that the CPS has responded very positively to the review and put in place a programme of work to address the weaknesses so that the process of securing real improvements gets underway during this calendar year. A synopsis of their proposals is attached at annex A.

## Recommendations

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- 1 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; and
  - that the needs of complainants whose first language is not English or Welsh, or who have other special needs, are met (paragraph 4.5).

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- 2 The CPS national website should display a visible link on its main 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 (paragraph 4.7).

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- 3 Guidance and training should be given to witness care unit staff on handling complaints about the CPS and a system for recording complaints established (paragraph 4.19).

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- 4 The position should be clarified and guidance issued on handling complaints from other criminal justice agencies and the defence (paragraph 5.4).

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- 5 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 (paragraph 6.4).

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- 6 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 (paragraph 6.9).

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- 7 First or second tier response letters 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 (paragraph 6.12).

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- 8 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 (paragraph 7.17).

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- 9 The CPS should introduce robust monitoring systems which ensure that:
  - relevant data is accurately captured and analysed; and
  - qualitative issues arising from complaints are objectively evaluated to enable improvements in service delivery (paragraph 8.10).

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10 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 (paragraph 9.4).

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11 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 (paragraph 9.9).

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12 The CPS should consider introducing independent oversight into the complaints handling system (paragraph 9.15).

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### **Aspects for improvement**

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1 Appropriate training for staff with particular responsibilities for complaints (paragraph 6.2).

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2 Improved supervision of initial investigations and responses prepared by originating lawyers (paragraph 6.6).

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3 Contact over the telephone and face-to-face meeting with complainants should be encouraged in appropriate circumstances (paragraph 6.14).

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4 All incoming items of post - including potential complaints - should be date stamped on the day of arrival as well as, where appropriate, in the office that is to deal with it (paragraph 6.27).

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5 The Correspondence Unit should adopt timeliness standards for handling third tier complaints referred to them (paragraph 6.28).

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6 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 (paragraph 8.11).

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### **Good practice**

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1 One area uses a form to accompany a complaints file which is signed off at its conclusion by the Chief Crown Prosecutor, who notes whether any lessons could be learned from the complaint, either by the individual lawyer concerned or the area as a whole (paragraph 8.9).

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The full text of the report may be obtained from the Corporate Services Group at HMCPs Inspectorate (telephone 0207 210 1197) and is also available online at [www.hmcp.si.gov.uk](http://www.hmcp.si.gov.uk).

## **ANNEX A: CPS SYNOPSIS TO THE REPORT**

The Director of Public Prosecutions welcomes this report and its careful and constructive analysis of the overall way in which the CPS responds to complaints. Although the report recognises that good practice exists in many parts of the organisation, there are aspects where improvement is needed that will require the Service to develop a new approach, including a cultural shift.

The CPS has taken advantage of the period during which the report was being prepared for publication to develop a structured programme of work. It will consider how best to implement the recommendations and look more broadly at strengthening customer service and feedback. The aim of the Service is to complete development of the programme within three months and take forward the implementation process throughout the remainder of 2009.

The key elements of the work will be as follows:

- Overall it will aim to produce a complaints handling system that is reflective of a confident, outward-looking organisation, is less defensive, addresses dissatisfaction and is more outcome-focused.
- CPS complaints publications will be reviewed to ensure that they are more accessible and suitable for use by all potential users and we will improve the current functionality of the Service's websites to facilitate easier submission of feedback and complaints.
- The complaints policy and guidance will be refreshed so that they reflect the principles of current best practice, make the commitment to the public clear in simple terms and ensure that our system is both transparent and effective.
- There will be greater clarity around the definition of a complaint, when a formal process kicks in, and who should be involved at each stage so that investigations are effective, proportionate and outcome-focused. The effectiveness of the current timescales will also be reviewed.
- The Service will devise a detailed structure for the monitoring and analysis of customer feedback at both local and national level supported, if practical, by enhanced IT capability. It will capture key information and ensure that the Service learns and improves from all those with whom it engages.
- The CPS will examine whether the focus of the system should be more locally-driven and governed than at present, recognising the potential to develop strong performance through areas and the embryonic group structure, and whether this can be aligned with the broader concepts of customer service and community engagement.
- Guidance will be produced on how to handle feedback from and about other agencies and individuals within the criminal justice system, including draft local protocols, to ensure a more effective response for those complainants.
- A comprehensive training plan will be developed for relevant front line and witness care unit staff, on a refreshed approach to customer feedback and complaints.
- The CPS will examine options for an element of independent oversight of complaints handling for non-prosecutorial decisions to increase public confidence in its approach.