



When things go wrong

A thematic review of complaints handling
by the Crown Prosecution Service

March 2009

ABBREVIATIONS

Common abbreviations used in this report are set out below.

Local abbreviations are explained in the report.

ABM	Area business manager
AGO	Attorney General's Office
BDD	Business Development Directorate
CCP	Chief crown prosecutor
CPS	Crown Prosecution Service
CU	Correspondence Unit
EDU	Equality and Diversity Unit
HMCPSI	Her Majesty's Crown Prosecution Service Inspectorate
IAC	Independent Assessor of Complaints
IPCC	Independent Police Complaints Commission
MP	Member of Parliament
PHSO	Parliamentary and Health Service Ombudsman
PPS	Public Prosecution Service (Northern Ireland)
WCO	Witness care officer
WCU	Witness care unit

CONTENTS

Foreword By HM Chief Inspector

1	Introduction and methodology	1
	The importance of handling complaints effectively.....	1
	Methodology.....	2
	Equality impact assessment.....	3
	Structure of the report.....	3
2	Summary, recommendations, aspects for improvement and good practice	5
	Recommendations.....	7
	Aspects for improvement.....	8
	Good practice.....	9
3	The CPS complaints procedure	11
	A brief overview.....	11
4	Accessibility: how easy is it to make a complaint?	13
	The CPS complaints information leaflet.....	13
	The CPS national and local websites.....	13
	Access by telephone or in person.....	14
	Making a complaint through witness care units.....	15
5	Complaints from other agencies and defence solicitors	17
6	Complaints handling and timeliness	19
	Complaint handling.....	19
	Engaging with complainants directly.....	22
	Complaints concerning more than one agency.....	22
	Putting things right.....	22
	Timeliness of complaint handling.....	23
	Handling complaints from MPs.....	25
7	The quality of complaints investigation and response	27
	The file examination sample.....	27
	Overall standards.....	27
	The standards of investigation and responses.....	29
8	Performance monitoring and analysis	31
	The role of the area or unit business managers in complaints handling.....	32
9	Governance	33
	The role of the Correspondence Unit.....	33
	The complaints handling policy.....	33
	The role of the Attorney General's Office.....	34
	Impartiality and independence.....	35

Annexes

A	Framework for inspection	37
B	Areas and units that assisted the review	39
C	CPS complaints handling policy and guidance	40
D	File examination results	52
E	Evaluation criteria for complaints file examination	55
F	Extract from Cabinet Office Best Practice: how to deal with complaints	56
G	Parliamentary and Health Service Ombudsman: principles of good complaints handling	57
H	CPS response to the report	58

FOREWORD BY HM CHIEF INSPECTOR

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 Crown Prosecution Service 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. Consideration of the handling of complaints by the CPS has been part of HMCPSI's framework for area inspections since its inception. This review set out to take a more in-depth look at the system of complaints handling across the Service.

The number of complaints recorded by the CPS is modest against its overall caseload. In 2007-08 there were 2,252 arising out of 1,279,863 cases. We assessed the handling of these complaints against the eight basic principles of the Cabinet Office Best Practice. Overall the thoroughness of investigation and quality of responses to complaints varied considerably. Although more than half were excellent or good, the balance did not meet the required standard and too many were unduly defensive. This report sets out to analyse CPS performance in a careful and constructive manner so as to provide a sound basis for improvement, including the spreading of the good practice which we found in many areas.

We have received the fullest cooperation from senior managers and staff throughout the exercise. This included particularly constructive dialogue at the draft report stage and a decision by the Director of Public Prosecutions and Chief Executive immediately to commission a programme of work to see how the Service could implement the recommendations and strengthen its arrangements for the handling of complaints and, equally importantly, ensuring that lessons are learned. A synopsis of the key elements of the proposed programme of work is included in a response document by the CPS at the end of this report (annex H). I am therefore confident that we shall see in the short and medium term a significant revision and strengthening of this important aspect of the CPS's relationship with the public.

A thematic review of complaints handling by the CPS

1 INTRODUCTION AND METHODOLOGY

- 1.1 This is the first thematic inspection by Her Majesty's Crown Prosecution Service Inspectorate (HMCPIS) of complaints handling by the Crown Prosecution Service (CPS). Handling by individual areas was included in our cyclical inspection of CPS areas in 2003-04 and 2005-06. These inspections limited their scope to quality issues, while this one includes issues of accessibility, governance and independence as well as qualitative issues.

The importance of handling complaints effectively

- 1.2 During 2007-08 the CPS recorded that it received 4,555 complaints, 0.36% of its caseload¹. However this inspection has shown that there is significant double counting of complaints as well as significant under recording. If double counting is removed the number reduces to 2,252. The extent of under recording is unknown.
- 1.3 The proper handling of complaints is an essential part of any public organisation's accountability mechanism. How effectively an organisation deals with complaints made to it is often an indicator of how open it is to feedback and how it approaches customer relations. Whether the complaint is justified or not, the person making it feels aggrieved and therefore dealing with them courteously and effectively can do much to restore the complainant's confidence in the organisation. In the case of the CPS a failure to handle complaints adequately can damage not only its reputation but also that of the wider criminal justice system.
- 1.4 The Cabinet Office sets out basic best practice principles (annex F) for handling complaints and the Parliamentary and Health Service Ombudsman has recently consulted public bodies on its draft publication the *Principles of good complaints handling* (annex G) which builds on guidance previously contained in the *Principles of good administration* and *Principles for remedy*. In summary an organisation's complaints handling procedure should:
- be easily accessible, well publicised, open and accountable;
 - be simple to understand and use;
 - allow speedy handling, with established timescales for action and keep people informed of progress;
 - acting fairly and impartially ensuring no conflict of interests;
 - be confidential;
 - be effective by dealing with all the points raised and providing suitable remedies; and
 - use feedback and lessons learned from complaints to improve performance.
- 1.5 This inspection seeks to assess the effectiveness of complaints procedures in the CPS; whether complaints are dealt with fully and fairly; and whether procedures are in accordance with best practice.
- 1.6 Specific objectives of the inspection were to assess whether:
- Information about how to make a complaint is clear and easily available.
 - An effective complaints procedure is in place.
 - Complainants receive replies that address relevant issues thoroughly, are timely and are written in a way that is easy to understand.
 - Formal complaints from other agencies and criminal justice partners are investigated thoroughly and dealt with in a timely manner.

¹ Caseload for the purpose of this report has been calculated as 1,279,863 cases. This represents the total of magistrates' courts and Crown Court prosecutions finalised (adjusted to avoid double counting) together with pre-charge decisions which did not result in a prosecution.

- There are adequate governance structures within the CPS to ensure that policy and procedures are up-to-date, that proper escalation procedures exist that and an independent element to the investigation is available.

Methodology

- 1.7 A thematic review seeks to paint a national picture about how the CPS deals with a particular subject throughout England and Wales, based on evidence drawn from a number of areas and, where appropriate, specialisms within Headquarters.
- 1.8 Fieldwork was conducted in eight CPS areas across the country, providing a mix of urban and rural environments and a range of caseload size, Headquarters Serious Crime Division and the Correspondence Unit (CU), which is situated in the Private Office of the Director of Public Prosecutions (DPP) and has overall responsibility for complaints handling policy. A list of areas and units visited is at annex B.
- 1.9 Interviews were conducted with CPS staff including those responsible for receiving initial complaints, managing the system and timely handling; unit heads or other senior lawyers responsible for responding in the first instance to complainants; and chief crown prosecutors (CCPs) responsible for their area's overall handling of complaints and for responding to complainants who remained dissatisfied with the initial response. Interviews also took place with CPS and police staff from witness care units, who are often the first point of contact for witnesses and victims who are dissatisfied with the service they receive from the CPS and other criminal justice agencies.
- 1.10 Systems used to manage the handling of complaints and to calculate timeliness were also examined.
- 1.11 Inspectors examined a total of 170 complaints cases along with all associated correspondence and - in most cases - the original case file, completing a standard questionnaire in each instance to determine whether: procedures had been adhered to; the investigation into the complaint had been thorough; the responses were appropriate and timely; and if escalated procedures had been explained and adhered to. Most files examined were for complaints made or concluded in 2008, although to complete the sample size required in each area some had to be drawn from 2007. Of the 170 cases, 27 were either seen as 'third tier' cases within the Correspondence Unit, for which the CU's file was reviewed, or were area cases that had reached the third tier, for which the prosecution file was also reviewed. Although the way correspondence is handled from Members of Parliament (MPs) was outside the scope of the inspection a small number (eight) made via MPs were also considered. The results of the file examination are at annex D.
- 1.12 A small number of complainants were selected and asked to complete a questionnaire, indicating how satisfied they were with the way their complaint was handled. However the number of responses was low and therefore no conclusions have been drawn from the results.
- 1.13 Inspectors were assisted at various junctures by two experienced and trained members of HMCPSI's cadre of lay inspectors who helped us to assess the thoroughness and clarity of response letters in 41 cases.

Equality impact assessment

1.14 Before carrying out this inspection HMCPsi conducted an equality impact assessment. The methodology ensured that the areas which took part in the inspection included diverse populations and the ethnicity and disability status of complainants was established where possible. The equality impact assessment is available from the Inspectorate at 26-28 Old Queen Street, London SW1H 9HP; telephone 020 7120 1197; email office@hmcpsi.gov.uk.

Structure of the report

1.15 Chapters 3-6 cover the complaints procedure, examine how easy it is to make a complaint and the way, and how quickly, complaints are handled. Chapter 7 looks at the thoroughness of complaints investigation and quality of response and 8 and 9 deal with management, monitoring and governance arrangements. Annex H outlines how the CPS intends to address the issues raised by this inspection through a programme of work which it has commissioned.

2 SUMMARY, RECOMMENDATIONS, ASPECTS FOR IMPROVEMENT AND GOOD PRACTICE

2.1 CPS complaints procedures were assessed against the Cabinet Office Best Practice (COBP), 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.

Although said to be based on the COBP the CPS complaints system, 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.

2.2 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.

2.3 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 national CPS website or any of the CPS area sites and complaints cannot be made via the national CPS or local websites directly to the area concerned. The review also found that despite what it says in the 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.

2.4 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 who may wish 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.

2.5 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.

- 2.6 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. A further 45% were considered good. However 31% of responses were considered only to be adequate and 18% were 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.
- 2.7 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 response needed to address some quite complex legal matters with a complainant who appeared not to have any specialist knowledge or a legal background; these were explained well each time.
- 2.8 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 there could be an escalation, or of the procedure to be followed. Where complaints were escalated there was little evidence of a real review or reinvestigation. 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 to the third tier level always lead to a robust review.
- 2.9 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.
- 2.10 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 training of staff to reinforce the principles of best practice. In particular 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.

- 2.11 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 figure may be inaccurate.
- 2.12 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 DPP'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.

Recommendations

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

- 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).

- 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).
-

- 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).
-

- 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).
-

- 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).

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

Aspects for improvement

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

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

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

- 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).
-

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

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).

Good practice

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).

3 THE CPS COMPLAINTS PROCEDURE

A brief overview

- 3.1 This brief overview contains the main stages set out in the CPS complaints handling procedure (set out in full at annex C). CPS complaints handling policy and guidance applies to all complaints from whatever source, with the exception of complaints from Members of Parliament, Members of the European Parliament, Members of the Welsh Assembly and Members of the Scottish Parliament, for which separate procedures apply. The CPS defines a complaint as:

Any expression of dissatisfaction about any aspect of service provided by the CPS.

- 3.2 The policy does not restrict who may complain but in the main complaints are received from victims or their families, witnesses, defendants, or from solicitors or MPs acting on the behalf of the complainant. Occasionally they are made by third parties not associated with the case.
- 3.3 Once a complaint has been made (either in person, by telephone, in writing or by email), it is initially handled by or referred to the area that dealt with the case or the circumstances that lead to the complaint being made. It is directed to a senior lawyer for a response. This is referred to as a first tier complaint.
- 3.4 Where a complainant is dissatisfied with the first tier response by the senior lawyer any further correspondence is referred to the Chief Crown Prosecutor (CCP) of that area who will then respond to the complainant. This is a second tier complaint.
- 3.5 If the complainant remains dissatisfied with the response from the CCP, they are referred to the Correspondence Unit which handles complaints on behalf of the DPP and Chief Executive. The CU is centrally located within CPS Headquarters, in the DPP's Private Office. The unit will examine the correspondence and case file and make recommendations to the Director's Principal Legal Advisor. The advisor will decide on the most appropriate course of action, which could mean further enquiries being made, and will usually respond on the DPP's behalf. This is a third tier complaint.
- 3.6 If the complainant remains dissatisfied by the CU's response the case can be referred to the Attorney General's Office (AGO). The AGO does not reinvestigate the matter but examines whether the CPS complaints procedure has been adhered to.
- 3.7 The CPS has a target of providing a full response to the complainant within three working days of receipt or, where this is not possible, a full response within ten working days with an acknowledgment letter sent within three days explaining this. Similar arrangements exist for complaints made to Headquarters directorates.
- 3.8 The CPS definition of a complaint is very wide and could, on the face of it, embrace matters which may not be intended as formal complaints. However the procedure gives little guidance on how to distinguish and handle expressions of dissatisfaction of a minor nature which can be easily and quickly rectified. The absence of such guidance has resulted in a somewhat mechanistic approach to complaints handling which sees only formal written complaints entering the system and which causes some confusion amongst staff about what to do in other circumstances.

- 3.9 At the time of this inspection the CPS was reviewing its complaints procedure, including the definition of a complaint. While it may be appropriate to adopt a clearer definition, it will also be important to ensure that the procedure clarifies how minor matters which can be dealt with quickly should be rectified and that legitimate complaints are not excluded from the system.

4 ACCESSIBILITY: HOW EASY IS IT TO MAKE A COMPLAINT?

The CPS complaints information leaflet

- 4.1 The CPS produces a leaflet briefly explaining the complaints procedure. The current leaflet was first produced in 2004 and has not been updated since.
- 4.2 Although the leaflet explains the steps in the complaints procedure and gives brief details of the information that should be included, it has some shortcomings. In particular it does not set out the CPS definition of what constitutes a complaint or indicate who may make a complaint. Nor does it, for example, include a form for easy completion by the complainant or ask what remedy they are seeking. The leaflet provides limited information on the remedies available and some contact numbers are also out-of-date.
- 4.3 The complaints policy indicates that the leaflet should be distributed by CPS areas to the police, courts, Citizen Advice Bureaux and libraries. However no areas visited as part of this review distributed them to any of these locations. Although two were under the impression that leaflets were available at such sites, a check revealed that none were either displayed or available there. When inspectors enquired at magistrates' courts and the Crown Court (including at designated rooms used by CPS lawyers) whether a complaints leaflet was available, they were directed back to the CPS area office. However only two of the CPS offices visited had the leaflet prominently displayed.
- 4.4 The leaflet is available in English and Welsh but no other languages. Staff in CPS area offices were unaware of whether the leaflet was available in other languages, some erroneously believing it was and the majority did not know that translation services were available.
- 4.5 The absence of available leaflets in places where members of the public who come into contact with the CPS are likely to attend needs to be addressed as a matter of urgency. The CPS also needs to consider how the needs of those whose first language is not English or Welsh should be met.

RECOMMENDATION

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.
-

The CPS national and local websites

- 4.6 The national CPS website (www.cps.gov.uk) contains no obvious link on its home page to enable a member of the public to access information about how to make a complaint although details of the procedure, similar to that contained in the complaints leaflet, are available through the "contact us" link on the home page. A complaint may be made by email via the national website. The email will be received in the Correspondence Unit from where it will be forwarded to the relevant area or Headquarters directorate.

- 4.7 Local CPS area websites contain a link back to the national site. However it is not possible to make a complaint by email direct to the area which handled the case, either via the main or any local website. Only one area, CPS West Mercia, provides information about how to make a complaint locally. Accessibility to the complaints procedure through the main and local area websites needs to be improved to enable complainants to have direct access to the relevant area. The development of local sites is to be addressed in new guidance to areas.

RECOMMENDATION

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.

Access by telephone or in person

- 4.8 There was little evidence in areas that a complaint is responded to or even logged² if it is made over the telephone or in person. In a majority of cases a complaint is only logged if it is received in writing. Of the 170 files examined during this inspection only four were originally recorded from a telephone conversation. This may in part be a consequence of the very broad definition and absence of relevant guidance on how to deal with expressions of dissatisfaction. It is important that those wishing to register a complaint should be referred promptly to an individual with the skills and experience to ensure it is recorded clearly and accurately and the necessary actions are initiated.
- 4.9 Although the CPS complaints policy has detailed advice on handling complaints over the telephone it is clear that, in practice, this avenue of access is discouraged. Indeed in one area local instructions strongly emphasised that, although complaints may be made by other means, it was preferable that they should be made in writing and that a request should always be made to this effect.
- 4.10 All CPS support staff and lawyers interviewed who had preliminary dealings with complainants over the telephone or in person indicated that they would ask for a letter detailing the complaint. The reasons given were that it made the complaint more formal, specific issues in the letter could be addressed and that it enabled an audit trail to be established indicating how the complaint had been handled. A significant number of staff took the attitude that if a matter was worth complaining about, it was worth writing a letter.
- 4.11 The consequence of this approach is that it severely limits access to the system for those whose writing skills are poor, are dyslexic, whose first language is not English or Welsh or who have some disability that makes it difficult to write. They may find it awkward or embarrassing to explain why they cannot write in. When asked some staff were able to give good practical solutions for dealing with complainants with obvious difficulties, but equally some staff suggested inappropriate solutions. Further such an approach makes the organisation appear unhelpful - complainants may be put off and therefore legitimate complaints may not be recorded. Equally simple matters that may be capable of being resolved easily may be missed.

2 Complaints should be recorded in complaints logs - a paper or computerised system for entering various details from the complaint letter and tracking timeliness and location of the file.

- 4.12 It should be possible for CPS areas to have a published telephone number for use by members of the public which gives them access to personnel who understand the complaints procedure, are able to assist in making a complaint if necessary and can resolve matters if possible.
- 4.13 Overall therefore while the CPS written complaints handling policy captures some key elements of Cabinet Office good practice, including the need to be easily accessible, well publicised and simple to understand and use, the way the policy is applied does not meet these standards in a number of respects.

Making a complaint through witness care units

- 4.14 Witness care units manage the care of victims and prosecution witnesses from the point at which the defendant is charged through to the conclusion of the case and are staffed, generally, by a mix of CPS and police personnel. They provide a single point of contact for victims and witnesses through the allocation of a named witness care officer (WCO). Any dissatisfaction with CPS service that a victim or witness experiences is therefore most likely to be directed and communicated to the WCO in the first instance.
- 4.15 The majority of staff in WCUs had no knowledge of the CPS complaints procedure and none of the units visited had copies of the CPS complaints leaflet or knew of its content. There was a clear disconnection between WCUs and the CPS in respect of training, guidance and the governance arrangements for handling complaints about the CPS.
- 4.16 In general WCUs handled expressions of dissatisfaction with CPS service (which could be dealt with by CPS or police staff) within the unit and endeavoured to find solutions to the issues leading to dissatisfaction. Most staff had had some training in handling calls and as such would often take a pragmatic course of action to remedy any expressions of dissatisfaction directly. If not the WCO would seek more information or advice and call the victim or witness back. Such contacts would be noted on the Witness Management System³ but not recorded as a complaint.
- 4.17 Where complaints about dissatisfaction with CPS service could not be resolved by the WCO they were invariably referred to the witness care manager, who would endeavour to resolve the issue. If it was clear this could not be resolved by the manager the complainant would be referred to the relevant unit head or CCP. In most cases they would be given the name, address and telephone number of a contact in CPS.
- 4.18 There was unanimous agreement amongst those interviewed in WCUs that a significant number of calls expressing dissatisfaction with the CPS fell within its definition of a complaint, but were never recorded as such, nor were details passed onto the CPS. Only one complaint, examined as part of our file sample, originated from a WCU. In the rare cases that were passed on WCOs received no feedback on the outcome of the investigation; any lessons that might be learnt were therefore lost.

³ The Witness Management System is a computerised system that contains details of victims and witnesses who are likely to attend court and records contacts made and updates given which are in accordance with the Victims' Code.

- 4.19 It is of course appropriate and sensible for WCU staff to act as a filter and try to resolve complaints locally with callers and over the telephone without recourse to lengthy correspondence. However it is equally the case that unit staff should be knowledgeable about the CPS procedure and be aware of when complaints need to continue in the system because dissatisfaction cannot be resolved. It will be easier to achieve a balanced and realistic system if the points raised at paragraphs 3.8 and 3.9 are addressed. By failing to have systems which capture such complaints properly the CPS is losing an opportunity to assess and understand fully the quality of service it provides. The number of complaints is also likely to be under recorded, but to what extent cannot be known.

RECOMMENDATION

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

5 COMPLAINTS FROM OTHER AGENCIES AND DEFENCE SOLICITORS

- 5.1 CPS complaints policy is defined as applying to complaints from members of the public, from whatever source. However this inspection has found that there was confusion as to whether, and to what extent, complaints from other criminal justice agencies and the defence were included in this definition and whether they should be treated in accordance with the policy.
- 5.2 Very few expressions of dissatisfaction by other agencies about the service provided by the CPS are recorded formally as complaints. In most instances complaints from the police, courts and other agencies were considered to be performance issues that were dealt with through joint performance or court user group meetings. Although more formal complaints or concerns made by senior police officers or from members of the judiciary were replied to formally by a senior lawyer, few were recorded or put in the complaints log. In one example during the period of our inspection a senior judge severely criticised the CPS and the facts were widely reported in national newspapers, yet it was not recorded as a complaint. In the sample of 170 files none were from the police on their own behalf, although one was from an officer on behalf of a victim, and only four (2%) were from the Courts Service.
- 5.3 Equally there were very few examples of complaints by defence solicitors concerning, for example, case progression or communications issues being logged and treated as complaints. Correspondence concerning these issues was most often referred to the lawyer in the case to make a response. The file sample included only five such instances.
- 5.4 Overall staff were uncertain as to the process to be adopted and, as a result, practice varied. By failing to capture and analyse complaints from other agencies or the defence the CPS may be failing to capture useful feedback on the quality of its service which could be used to improve performance. The position should be clarified and guidance issued.

RECOMMENDATION

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

6 COMPLAINTS HANDLING AND TIMELINESS

Complaint handling

- 6.1 Complaints are normally received in writing either directly from the complainant or via the Correspondence Unit who forward any they received to the relevant area or division. Letters are normally opened by area administrative staff who determine whether they should be regarded as a complaint. In the main administrative staff had been given no formal introduction to or training on the complaints procedure, on what constituted a complaint, or on how to handle complaints or complainants, although some had received on-the-job training. A minority of staff had received training in dealing with abusive callers.
- 6.2 Administrative staff used a 'common sense' approach, by reading the content of the letter and assessing its tone, to determine whether it should be treated as a complaint. Although in many cases it was obvious we were informed of some examples where it was difficult for staff to know whether a letter constituted a complaint or not. Most would seek the advice of a senior lawyer or CCP if they were in doubt. Paragraph 3.8 identifies the need to review the definition of a complaint and paragraph 4.11 refers to the need for suitably trained staff in CPS offices.

ASPECT FOR IMPROVEMENT

Appropriate training for staff with particular responsibilities for complaints.

- 6.3 Once identified a complaint is entered onto a complaints log and from there, in accordance with the first tier procedure, normally passed to the unit head responsible for the lawyer who managed that case. Although systems varied complaints are usually passed on, and case papers collated, quickly to ensure they are handled in a timely way.
- 6.4 Arrangements for acknowledging complaints varied. In some areas this was as soon as the complaint was received; other areas took the view that if the complaint could be comprehensively answered within three working days there was no point sending an acknowledgement letter. Despite guidelines acknowledgement letters to complainants often did not set out when the substantive reply was due, or if that was unlikely to be possible when a reply was anticipated. There was also little evidence that the complaints leaflet, which amongst other things explains the timeliness targets, was routinely included at this stage. In cases where a target number of days was cited it was not always made clear that this referred to working days. In such cases the complainant's expectation would be of an earlier response than that anticipated by the area.

RECOMMENDATION

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.

- 6.5 The approach taken by unit heads depended on the nature of the complaint and how much was already known about the circumstances of the case. In simple cases the unit head responded directly to the complainant without the need to involve the originating lawyer(s). In more complex matters they would respond after requesting the case file and a background note. In most instances the unit head also asked the originating lawyer to draft a reply to the complainant, which would then be examined and amended - usually satisfactorily - although our file sample revealed that this was not always the case.
- 6.6 Whilst this approach might be considered a valuable learning tool, especially for less experienced lawyers, and has some benefits in management terms, it also carries some risk and may mitigate against an initial objective and rigorous analysis. If such a course is to be pursued it will be important to ensure that there is discussion subsequently between the lawyer and unit head during which the proposed response should be carefully tested and probed (and, where appropriate, challenged) before any response is finalised. Our file sample revealed that the merit of a complaint was not always recognised and replies were sometimes unnecessarily defensive (see paragraphs 6.22 and 7.9-7.11).

ASPECT FOR IMPROVEMENT

Improved supervision of initial investigations and responses prepared by originating lawyers.

- 6.7 The complaints procedure allows escalation to the CCP if the complainant is dissatisfied with the initial investigation and response. This inspection has found that where complainants wrote back expressing their dissatisfaction, the complaint was indeed referred to the CCP. CCPs generally used the case file for their review, calling for additional information if necessary before responding.
- 6.8 However the inspection also found that the opportunity of escalating matters was rarely made known voluntarily to the complainant. File examination revealed that only 19% of responses gave some indication that further steps might exist. In the vast majority of cases there was nothing in the response to invite or welcome further dialogue or even suggest that it was possible. The impression given to the complainant is that the CPS is not open to, or willing to consider, engaging further with them. The findings from the file examination were corroborated by a majority of the CPS lawyers who were interviewed. In general they sought to discourage complainants from going any further and therefore information concerning escalation procedures was not included in most responses.
- 6.9 No guidance is given to CCPs on how they should handle complaints about cases on which they have advised or have been directly involved in making decisions, such as road traffic fatalities. In these cases although a complainant can escalate the matter to the Correspondence Unit, inspectors consider that in order to comply with best practice an impartial review should take place at the outset and the complaint referred to another CCP in a different area to deal with.

RECOMMENDATION

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.

- 6.10 Complainants still dissatisfied with the response from the CCP can escalate matters to the third tier, where they are handled by the Correspondence Unit. The CU's practice is to ask for all the case papers and background notes on the complaint. Unit staff prepare a referenced background note and recommendations for the CU's legal advisor, who is also legal advisor to the DPP. Recommendations could include: a judgement that all channels and aspects of the complaint have been covered by the area; that further information should be requested from the area before making a response; that specialist advice is needed before responding; or that the complaint should be reinvestigated by a CCP from another area. The legal advisor usually replies to the complainant on behalf of the DPP although a small number of cases receive a response from the DPP himself, usually where the complaint comes from an MP.
- 6.11 The inspection found that in only in a small number of cases were further enquiries made and in most a response was sent to the effect that the complaint had been investigated and responded to in accordance with the CPS complaints policy and that the complainant had now exhausted all avenues of addressing their complaint, other than referring the matter to the Attorney General's Office (AGO). Each letter explains that the Attorney General exercises a supervisory responsibility for the CPS and that the person may address their complaint to the AGO if they wish. However the AGO's current procedures (which are under review - see chapter 9) mean that they will only consider whether the CPS has complied with its own procedures and that the Attorney General will not consider the merits or substance of the complaint, nor the quality of the CPS response on the merits. A complainant reading the standard reply from the CU would understandably expect that they would have their complaint reconsidered by the AGO, when this is not the case.
- 6.12 The file sample indicated that most cases (94%) were dealt with at the correct level (that is at the first, second or third tier). Where they were not there was often too early an intervention by the CCP in the process, which then left nowhere to which the complaint could be escalated within the area. A CPS internal review of cases⁴ which reached the third tier level in 2007 found that too many had additional tiers built into the process. This inspection concluded that this was apparent primarily in CPS London. There was some confusion as to how to escalate complaints when the tier structure did not fit easily with the area structure. In such circumstances the route taken by complaints varied.

RECOMMENDATION

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.

⁴ In August 2008 a review was carried out by the CPS internally (by a performance manager) of all 91 third tier cases handled by the Correspondence Unit during 2007.

Engaging with complainants directly

- 6.13 It was clear from interviews and the file examination that the vast majority of complaints were initiated by, and responded to, in letter form. Few lawyers ever spoke to the complainant over the telephone or arranged to meet them so that their grievances could be aired. Cabinet Office Best Practice⁵ suggests using the telephone more often rather than automatically sending a letter and the CPS's own procedure recognises that this approach has benefits, although it also refers to disadvantages. The approach may be problematic if the complainant is involved in current proceedings.
- 6.14 Although it rarely occurred, lawyers who sought to clarify issues by telephone often found that they were able to deal with issues quickly and more effectively, and that decisions could be more easily explained or an apology offered where appropriate. It also reduced the time spent on the complaint and letter writing.

ASPECT FOR IMPROVEMENT

Contact over the telephone and face-to-face meeting with complainants should be encouraged in appropriate circumstances.

Complaints concerning more than one agency

- 6.15 Some complaints received by the CPS are about judicial decision-making or another criminal justice agency entirely, for example concerning police conduct or the sentence received after a successful prosecution. Others are partly about the conduct of the CPS and partly about the actions of other agencies. Our file sample revealed a number of complaints where a response from more than one agency was required.
- 6.16 Generally areas liaised well with other agencies, particularly the police, and informed them when they had received a complaint that needed addressing. In appropriate cases the complaint would be forwarded to the agency along with the response made by the CPS, which accords with CPS guidance, although the complainant was rarely told that this was happening. However none of the areas visited had formalised service level agreements or protocols for handling complaints which overlapped with other agencies.

Putting things right

- 6.17 The Parliamentary and Health Service Ombudsman (PHSO) recommends that as a minimum an appropriate range of remedies should be available to a complainant including, for example, an explanation and apology, financial compensation, or a combination of these. It advises that the remedy offered should seek to put the complainant back in the position they would have been in if nothing had gone wrong.
- 6.18 In circumstances where the CPS is at fault, it is quite often the case that it is unable to put a complainant back into the position had nothing gone wrong. For example an incorrect decision to prosecute someone or the incorrect acceptance of a basis of plea that fails fully to reflect the offending cannot be undone. The CPS must also ensure that it does not, in acknowledging mistakes, call into question the character of any third party who will not be in a position to

5 How to deal with complaints, Cabinet Office Best Practice, <http://archive.cabinetoffice.gov.uk/servicefirst/1998/complaint/index.htm>

defend themselves. CPS policy does not explicitly explain or give advice on the type of remedies that should be made available to complainants other than saying that mistakes should be acknowledged, reasons should be provided and plans introduced to make improvements.

- 6.19 During our inspection we were made aware of two cases in which a CCP had made small ex-gratia compensation payments to complainants where, because of mistakes made during a prosecution, the complainant suffered a financial loss. This is not common practice and is not mentioned in the policy. No funding arrangement to make these payments exist. Whilst it is superficially attractive to make such payments, as it quickly and adequately satisfies the complainant, it is doubtful whether such a remedy could be applied where greater amounts of financial loss are involved or where complainants are seeking monetary compensation for pain and suffering.
- 6.20 CPS guidance indicates that where a complainant notifies the CPS that they wish to be paid compensation or take civil action, any outstanding complaints issues should cease and that “no indication must be given that liability is accepted or denied”. However this inspection has found that even where there has been no notification of civil action or claim for compensation, but the CPS fears that such action might follow, an overly defensive approach may result. This would appear to be contrary to the PHSO’s principles of customer focus, the need to be open and accountable and to act fairly and proportionately.
- 6.21 In circumstances where civil claims of compensation are indicated the matter is referred to the Special Crime Division which handles civil proceeding on behalf of the CPS. The division handles approximately 30 civil claims made against the CPS a year, although the numbers that originate as complaints is not recorded.
- 6.22 Many CCPs, unit heads and lawyers felt they had to balance the conflict of responding as openly as possible with knowing there was a possibility that a civil action could ensue. Whilst most took the view that to be open and accountable was the overriding principle, some were far more closed and cautious in the way they approached their responses.

Case study

An area made a poor decision to charge the complainant with offences relating to alleged child abuse. The case was dropped over six months later after a robust analysis of the evidence which could and should have been conducted pre-charge. The area’s internal papers confirmed that the case had been badly handled. A deliberate decision was taken to say as little as possible in response to the complaint in the hope of forestalling a civil action, although none had been threatened by the complainant. As a result, the response to the complainant was dismissive and failed to recognise the clear merits of the complaint. Internally no adverse case report was prepared and there was no evidence that lessons had been learned from the case.

Timeliness of complaint handling

- 6.23 The complaints procedure indicates that complaints should be addressed within three working days or, if that is not possible, an acknowledgement sent within that time and a substantive response sent within ten working days. Replies to MPs’ letters should be dealt with within 15 working days. In 2007-08 the CPS recorded that 85% of complaints were replied to within ten days and 96% of complaints from MPs within 15 days.

- 6.24 Timeliness is calculated from complaints logs and submitted quarterly to CPS Headquarters Business Development Directorate, which calculates performance for the CPS overall. On the face of it performance appears satisfactory. However whilst most logs show the date the complaint was received, date of acknowledgement, date the substantive reply was sent and whether the ten day timeliness target has been met, areas do not all record the start date consistently. Some take the time to run from the date the complaint was received in the area and some from when it reaches the section that is to respond. This is particularly a feature in larger areas.
- 6.25 Of the 170 cases examined during our inspection, 30 (17.6%) were dealt with within three working days. Of the 140 cases that were not, 14 (10.0%) could have been. Where there was no substantive response within three days, an acknowledgement was sent within the three day time limit in only 61% of cases. A few areas sent an acknowledgement letter as soon as the complaint was received whether or not it was capable of substantive reply within three days.
- 6.26 The files examined revealed an average time taken in areas to deal with a complaint of 11 working days. No area responded to all complaints within target and 33% of cases took longer than ten working days to deal with from the date of receipt. This suggests that performance is less good than that recorded by the CPS. In seven cases there was no response sent at all⁶.
- 6.27 In some instances inspectors found it difficult to calculate the time taken from the file papers. Difficulties arose from a failure to date stamp letters when they were first received in areas or when they arrived at the relevant area office, and because some letters appeared to have spent some time in transit before being date stamped. In some cases letters were date stamped two or three weeks later than the date on the letter⁷ and usually the reason for this was not apparent. In such circumstances the actual number of days taken to deal with the complaint, from the complainant's perspective, is likely to have been substantially longer than that recorded.

ASPECT FOR IMPROVEMENT

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.

- 6.28 The Correspondence Unit does not set itself any target for the time it should take to deal with third tier complaints; this needs to be remedied. By the time a complaint reaches the third tier the relevant material, including background notes, should be readily available and often the CU has already had prior contact with the complainant. Whilst some cases may need reinvestigation, complainants should be given an indication of how long they can expect to wait for a response. Of the 16 cases specifically examined as third tier complaints, the process took longer than ten working days in 14 (88%) and on average took 23 days.

6 For the purposes of calculating time taken, a notional 20 days was added in these instances, although the actual time elapsed was considerably longer in most.

7 Where it was impossible to calculate the date of receipt a gap of three days between the date on the letter and receipt was assumed. In fairness to the areas our calculations commenced when they received the complaint, so did not include time when the complaint was making its way to the area from other parts of the CPS or criminal justice system.

ASPECT FOR IMPROVEMENT

The Correspondence Unit should adopt timeliness standards for handling third tier complaints referred to them.

Handling complaints from MPs

- 6.29 Complaints and other correspondence from Members of Parliament are specifically excluded from the CPS complaints handling procedures and are subject to separate guidance to CPS staff on how they are to be addressed. Despite there being a separate process some areas record MPs' complaints on the general complaints logs and treat them in the same way, although this is far from consistent across all areas. Some maintain completely separate logs and others record MPs' complaints on both sets of logs, thereby duplicating entries.
- 6.30 The guidance sets a target of 15 days for replies, five days longer than that for complaints from members of the public. Within the file sample there were eight letters from MPs recorded as complaints, mostly on behalf of constituents. All but one was dealt with within the 15 day target, and the average number time taken was 13.8 days.

7 THE QUALITY OF COMPLAINTS INVESTIGATION AND RESPONSE

The file examination sample

- 7.1 The complaints examined as part of the file sample came from a variety of sources, but by far the largest number were from or on behalf of victims (56.6%). Complaints by or on behalf of those suspected or convicted of offences formed the second largest category (29.4%) with those from witnesses or their representatives making up nearly 6%. Court staff or judiciary accounted for 2.4% of complaints and the rest were classed as “other”, which included members of the public not directly connected to the case. Of the complaints by or on behalf of victims and witnesses just over half related to their treatment as a victim or witness, as opposed to the outcome of the case or any other aspect of case handling.
- 7.2 The ethnicity and any disability of complainants is not recorded or monitored. Where it was possible to establish their ethnicity or disability from the complaint or the prosecution file, it was captured in our file examination. In 60 cases ethnicity was established and, of those, 52 complainants (86.6%) were white British, four (6.7%) were people of other white backgrounds and four (6.7%) were black or of another minority ethnic background. In only 16 cases was it possible to establish disability status.
- 7.3 Not all the complaints were directed solely at dissatisfaction with the CPS. More than one agency or person may have been the subject of complaint so in the 170 cases there were 321 ‘heads’ of complaint, of which 54% related to the CPS, 3% to prosecuting counsel or an agent, 23% to the police and 8% to the courts. At least 147 of the 170 complaints raised an issue with some aspect of CPS performance and in 25% this was not the first time there had been a complaint on the subject matter.
- 7.4 Of complaints handled by CPS areas only two were dealt with substantively by a non-lawyer. All other cases were handled by a CPS lawyer (a prosecutor, legal manager or the CCP).
- 7.5 In assessing the way complaints were handled and responded to account was taken of the sensitivities that complaints often pose including witness credibility issues, disclosure of information or personal information that a complainant may not be entitled to, and public interest concerns.

Overall standards

- 7.6 The standard of responses to complaints was considered to be excellent in 6% of cases. Nearly 45% were good, with 31% merely adequate and 18% poor (annex E sets out the standards against which complaints files were marked). Not all areas had an excellent case in their file sample, but every area had at least one poor response and the Correspondence Unit had three.
- 7.7 The 31 poor cases included some where there had been no reply sent to the complainant at all. Responses were scored as poor where the response was unduly defensive, or the merits of a complaint had not been recognised and appropriate apologies offered. There were examples of thoughtlessness or lack of empathy in phrasing in cases involving road traffic fatalities, such as using the word “accident” rather than “collision” or “incident” or, in one instance, commenting in the response to the complainant that the area would not have even considered a possible charge of dangerous driving if her husband had not died.

Case study

Allegations of forgery against a defendant were dropped after the judge made comments about the public interest in proceeding. There had been no change in circumstances since the decision to charge and there was no record of the reasoning for the decision to drop the case, nor any indication that the police or victim were consulted prior to the decision to do so. The response to the victim's complaint suggested, inaccurately, that the decision to drop the case was taken by a lawyer who was new to the case, relied on irrelevant matters, and failed to address the lack of change in circumstances. The complainant rightly pointed out that the CPS should have been more robust in its response to the judge's comments and is disillusioned with the criminal justice system as a result of this case. The complainant is understandably dissatisfied with the way the area addressed the issues he raised.

Case study

An internal Correspondence Unit report on a third tier complaint recognised that the area's response to a complaint had not been satisfactory. The area had failed to make clear that the complaint about the standard of advocacy was well founded, had been defensive, and had included irrelevant matters in their replies to the complainant. Despite this the third tier response suggested that the area's handling of the complaint was adequate and also failed to provide any explanation for the inordinate delay (nearly four months) in writing to the complainant.

- 7.8 Excellent replies were seen where complaints had merit⁸, but also where they did not. Commonly occurring features in excellent responses were openness and full engagement with the complaint and the complainant and where the response addressed the concerns fully and thoughtfully, particularly where some of the issues were sensitive, difficult to explain, or risked offending the complainant.

Case study

An unrepresented defendant raised technical issues in relation to a motoring allegation against him. The response to him gave detailed information on complicated matters of fact and law in a way that was readily understandable by a lay person. The handling of the complaint and of the prosecution of the defendant generally was scrupulously fair and professional.

Case study

The mother of a witness with disabilities made a complaint on behalf of her son about inconvenience caused to the witnesses over two days when the trial did not proceed. Both the acknowledgement letter and the final response were very empathetic and the latter accepted responsibility on behalf of the criminal justice system, rather than seeking to blame other agencies for their part in the undoubted failings in the case.

8 For the purposes of this inspection the complaint was considered to have merit where the CPS appeared, objectively, to have made an error in judgement or was otherwise at fault and therefore the complainant had legitimate cause for complaint, although it is recognised that all complainants feel that their complaint has 'merit'.

Case study

A complainant who had made a number of previous complaints against various criminal justice agencies, alleged that the area had maliciously prosecuted him and had caused the police to intimidate a witness. Heads of complaint were also raised with the area regarding the actions of the police, courts, Independent Police Complaints Commission and his own solicitor. In a prompt reply the complainant's lengthy assertions, which lacked merit, were dealt with comprehensively and clearly. The conduct of other agencies was addressed without blame or defensiveness.

The standards of investigation and responses

- 7.9 In most instances the complete case file was used to respond to complaints, but this did not ensure that the complaint itself was thoroughly investigated. In 53 of the 170 cases in the file sample (31%) inspectors considered that there was merit in all or part of the complaint, usually relating to the timeliness and/or standard of case progression, keeping victims and witnesses informed, and the quality of the legal decisions taken in prosecutions. Of these 53 the merit was only recognised fully and/or acknowledged appropriately in two-thirds of them. In some instances the failing was in the robustness of the CPS investigation or analysis of the subject matter of the complaint. Worryingly there were also cases where the CPS recognised its own failings internally, through memos or other correspondence, but failed to acknowledge them fully or at all in the response to the complainant.
- 7.10 In cases where a complainant was not satisfied and contacted the CPS again further responses tended to be geared towards maintaining, explaining or defending the position taken in the initial response, regardless of any additional material or arguments put forward by the complainant. Rarely was there evidence that the CPS had reinvestigated or revised its position from the first reaction to a complaint.

Case study

A reply to a complaint by a young suspect's guardian acknowledged and apologised for the delay in dropping a case. However it failed to make clear that the charge should not have been authorised by the area without the additional evidence sought from the police but not supplied. A second tier response by the Chief Crown Prosecutor did not seek to correct the failings in the first tier reply and was quite abrupt in its tone.

- 7.11 Overall in a third of the cases where people complained about the service provided by the CPS, and those concerns were justified, this was not recognised properly by the CPS. This unacceptably high level indicates a general defensiveness and lack of robustness in the investigation and openness in complaints handling. These findings are supported by the very small number of cases (ten) where it was apparent that the opportunity had been taken to learn a lesson or feed back to CPS staff individually or collectively. Even in these cases it was not always apparent from the file that action promised to a complainant had actually been carried out.
- 7.12 In general, where a complaint did not have merit the response to the complainant explained that properly and where it did (and had been recognised by the CPS as having merit), appropriate apologies were offered. Responses also dealt well with parts of a complaint that related to actions or omissions by another agency or part of the criminal justice system and in only four

cases was there any indication of the CPS accusing another agency of fault for particular issues in the complainant's letter. However there were instances where a complainant's letter was passed to the relevant agency to take further action without the complainant being informed that this had been done, which was unhelpful.

- 7.13 Standard or template paragraphs were used in many of the replies to complaints. These mainly concerned the role of the different agencies within the criminal justice system and the Code for Crown Prosecutors. Whilst there were very few cases (ten of the 170 seen) where template paragraphs could be said to have been wholly inappropriate as part of the response, there were many more where they were unlikely to have been of much assistance to the complainant or to have taken the response any further, and could have been omitted. Many complaints were not directly related to the respective roles of the police and CPS, for example, or to the tests under the Code for Crown Prosecutors, so whilst the information may have been of interest to the complainant it did not advance the reply on the complaint itself. The CPS internal review commented on the same issue in the context of letters sent under the Direct Communication with Victims scheme, but not in relation to complaints responses.
- 7.14 Unnecessary or overly lengthy legal explanations were rarely found and there appeared to be a good recognition that jargon ought to be avoided, with only nine cases using legal terms or other phrases inappropriately. There was also good use of plain English and 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.
- 7.15 There were 34 cases where more information should have been in the CPS response, such as more detailed or better explanations for decisions, or more information about what had taken place in a case. Lack of empathy was apparent in 17 cases, which contributed to the response being scored as merely adequate or poor. Responses at the third tier tended to refer to the previous correspondence between the area and complainant rather than to demonstrate by a fresh or full explanation that a proper reconsideration had taken place.
- 7.16 The standard of investigation and responses made by CPS areas to complaints made through MPs was possibly less good than those made by other complaints although the numbers examined (eight) were small, so direct comparison is difficult. However none of the responses to MPs was considered to be excellent and inspectors considered two of them to be poor.
- 7.17 This inspection has shown that there is a need for something of a cultural shift in the CPS's attitude to complaints handling, supported by further training of staff, to reinforce the principles of best practice. In particular the CPS needs to ensure its staff adopt a more open and generally less defensive approach, particularly in recognising where complaints have merit, apologising for failings and ensuring that letters are drafted in a way which addresses the relevant issues.

RECOMMENDATION

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.

8 PERFORMANCE MONITORING AND ANALYSIS

- 8.1 None of the areas or units visited had formal arrangements in place to undertake analysis of the complaints they received or of the way they were handled. The logs used to record complaints are not standard or prescribed by CPS Headquarters and areas have each created their own, which has led to distinct differences in the information recorded. Even where specific and potentially useful information is captured, such as details of the complaint or case type or the status, gender or ethnicity of the complainant, no meaningful analysis then takes place to identify trends or improvements that can be made to service delivery.
- 8.2 Equally, at a national level, no Headquarters department takes responsibility for analysis of complaints received across the CPS or for matters such as ensuring accessibility, quality, or analysing trends. Although recently an ad hoc review of complaints that had reached the third tier was instigated by the Correspondence Unit and the findings circulated to each CPS area, the review did not give any detailed analysis of, or information on, the cases reviewed and did not seek to evaluate how the complaints had been handled within the unit itself. The CU has systems to collect information concerning complaints made through their office and third tier complaints, but this forms only part of the national picture.
- 8.3 Best practice indicates that complaints procedures should help to drive improvement. Arrangements need to be established to ensure that complaints are monitored in such a way that the CPS can extract meaningful information on aspects of its performance.
- 8.4 Because there is a lack of any meaningful analysis lessons learned and sharing of any trends and themes through management or team meetings, internally or externally with partner agencies, rarely occurs, although locally some unit heads may share issues from specific complaints with partner agencies.
- 8.5 Systems are in place within CPS Headquarters Business Development Directorate to collate the number of complaints and whether they are dealt with within agreed timescales. Timeliness data for the whole of the CPS and individual areas is then disseminated. Such data forms part of the areas' performance information and may be discussed within its performance framework if there are concerns.
- 8.6 This inspection has found that the collation system is flawed and that it gives the wrong impression, both in terms of numbers of complaints received and time taken to deal with them. This is because complaints initially recorded and acknowledged by the CU, which are then forwarded to areas to deal with, are also included as complaints in the figures submitted by areas. In effect therefore some complaints are double counted. The number shown to be received nationally during 2007-08 is 4,555, but when complaints initially registered by the CU are discounted this reduces to 2,252. However this inspection has also found that complaints initially received by witness care units and those made by telephone or in person are unlikely to be recorded, resulting in significant under recording.
- 8.7 For the purposes of assessing how quickly complaints are responded to, two calculations are made: the timeliness of areas' responses within ten days (84.6%)⁹; and the timeliness of both area and CU responses (92.4%). Both appear relatively favourable. However the first timeliness figure is based on area returns from their logs which, as explained in paragraph 6.27, may capture different start dates depending on local practice. The second figure appears even more favourable, however it should be discounted as an indicator of performance. Complaints received by the CU, in most instances, receive an automatic acknowledgement before being passed on to an area to deal with. This is counted as a 'reply' and the timeliness of the acknowledgement is

9 These percentage figures relate to the number of replies made within the ten day target during the period 2007-08.

captured when in fact the area makes the substantive reply sometime later, the timeliness of which will also be logged, counted and collated nationally. The way in which performance information about complaints handling is captured and collated needs substantial review.

- 8.8 No work has been undertaken to assess complainant satisfaction. In addition there was little evidence found in the file sample of feedback to complainants about any action or service improvement made or proposed as a result of their complaint.
- 8.9 Overall there was little evidence of complaints being used to improve performance. Some unit heads believed improvements had been made to their systems and processes as a result of a complaint being made, but only one area provided supporting evidence. However one area had developed a pro-forma to accompany a complaints file which was signed off at its conclusion by the CCP, who noted whether any lessons could be learned from the complaint, either by the individual lawyer concerned or the area as a whole. This is good practice.
- 8.10 Other than the recent ad hoc review of third tier complaints there has been no systematic evaluation of the quality of complaints handling. There was no evidence of peer reviews being conducted (where other lawyers, CCPs or areas unconnected with the cases review them), no systematic quality checks at any level, and no independent evaluation of the quality of responses. The main source of quality control remained with the CCP in respect of first tier complaints and the CU for second tier. We received anecdotal evidence that quality issues were fed back to unit heads by the CCP and to the CCP by the CU. However the results from our file sample would indicate that a more systematic and robust approach needs to be instituted.

RECOMMENDATION

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.
-

The role of the area or unit business managers in complaints handling

- 8.11 The CPS guidance does not designate a role for the area business manager (ABM) or unit business manager¹⁰ in the complaints handling process and our inspection revealed that the involvement of the ABM in complaints handling or associated processes was negligible. Most ABMs interviewed did not regard complaints as one of their responsibilities. However we consider that there was real scope for ABMs to lead on many aspects of the complaints process, particularly in respect of qualitative and trend analysis and ensuring effective handling, as well as overseeing issues of accessibility and community awareness.

ASPECT FOR IMPROVEMENT

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.

¹⁰ Area and unit business managers are responsible for ensuring performance, best value and business functions in areas and specialised units are aligned with national and local targets.

9 GOVERNANCE

The role of the Correspondence Unit

- 9.1 The role of the Correspondence Unit is outlined in the complaints handling policy as providing a focal point for all complaints from members of the public received within Headquarters; providing advice and guidance to all staff on complaints handling; acting as a liaison point for third tier complaints; and liaising with other government departments and with staff to coordinate responses to correspondence from MPs and responses to Parliamentary questions. In addition the CU is responsible for the content and update of the complaints handling policy and also provides training to areas on request.
- 9.2 Although the unit is responsible for the complaints handling policy inspectors considered that there was no real connection between the CU and the areas in respect of governance; there was little evidence to suggest that the unit took responsibility for complaints handling system on a national basis. Whilst the unit regularly answer enquires from areas concerning the handling of complaints, other than the policy itself the dissemination of additional guidance or best practice has been limited. Area and Headquarters directorates therefore adapted their systems in the way they thought best.
- 9.3 Training has to be requested and the numbers of areas receiving training from CU personnel has been relatively small thus far. Generally areas took the view that they worked in isolation from the CU and most thought they would benefit from more contact and guidance, for example on how to interpret the CPS's broad definition of a complaint. However the unit is exceptionally small consisting of only the equivalent of four full-time staff, one of whom is a senior manager. Such expectations from the relatively small CU team may be difficult to deliver, although some of its work could be alleviated if people were able to complain direct to the relevant CPS area, via local and national websites, without first having to pass through the CU.
- 9.4 Whether or not the CU is able, in its current form, to support the complaints handling policy and provide the necessary governance, direction and control needs to be re-examined.

RECOMMENDATION

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.

The complaints handling policy

- 9.5 The CU confirmed that the current complaints handling policy guidance is out-of-date. Revision of a new policy has been deferred for at least the last two years. Although the policy itself states that it has been updated as recently as March 2008, this refers only to the amendment of small errors and may give a misleading impression that it is continually being revised and updated.
- 9.6 References to equality duties are clearly out-of-date. The current policy makes reference to the Race Relations (Amendment) Act 2000 but not to any other of the equality Acts. The policy needs to be aligned with equality and anti-discriminatory legislation across all equality strands and monitoring systems need to be established. Currently the ethnicity, gender and background of complainants are rarely captured in a systematic way, so the prospect of analysis to ensure

equality of treatment, opportunity and to eliminate discrimination is severely limited. Although there has been consultation on a revised policy internally, with the CPS Equality and Diversity Unit, this largely took place two years ago¹¹.

- 9.7 The CPS has decided that the complaints handling policy will not be subject to an equality impact assessment. Inspectors take the view that as an important interface with the public it is a policy which ought to be impact assessed to ensure any potential barriers to access or progress are removed or minimised and to quality assure it in line with current equality and diversity practices and other legislation.
- 9.8 Although the CPS definition of a complaint is seen by some within the service as being too broad, it is in fact no broader than that used by other public bodies. Indeed some public bodies do not define a complaint at all, seeing it simply as an expression of concern or unhappiness about the way the complainant has been treated. This inspection suggests that there is some apprehension about the definition which causes the service to seek to put all complaints on a very formal footing, rather than view their handling as a function of the customer service all public organisations are required to provide. Less than easy access for, and limited engagement with, complainants and a failure to acknowledge shortcomings are features of the approach. While the CPS definition of a complaint may need to be reviewed, work needs to be done to ensure that proportionate responses are given quickly to more minor expressions of dissatisfaction and that systems are in place to capture those that need to go further.
- 9.9 The Parliamentary and Health Service Ombudsman is currently developing a set of principles of good complaint handling and has produced a draft document which has recently been the subject of a 12 week public consultation exercise. Whilst the CPS is in the process of making some revisions to its own policy, it needs to ensure that not only the content of the policy itself, but that the way it is applied nationally, meets the principles of best practice.

RECOMMENDATION

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.

The role of the Attorney General's Office

- 9.10 A complainant can only refer the complaint to the Attorney General's Office (AGO) after exhausting all three tiers of the CPS complaints handling procedure. Following receipt of the relevant information the AGO is able to conduct a review into how the department has handled the complaint and whether it has been dealt with correctly. The AGO does not reinvestigate complaints and has no analytical role to play.

¹¹ The Independent Police Complaints Commission (IPCC) provide their complainants with a pro-forma which includes monitoring information. This enables the IPCC to analyse their complaints, for example by age and ethnicity amongst other things, which assists them to evaluate whether all groups are being dealt with proportionately.

- 9.11 The AGO received 67 referrals in 2007-08 from complainants that had exhausted the CPS handling procedures. This represents two thirds of all third tier complaints handled by the CU in that period and would indicate that, despite the three stages of complaint handling, a significant number remain dissatisfied with CPS responses.

Impartiality and independence

- 9.12 There is no independent review of complaints handling outside of the CPS. Views from areas about the introduction of an independent element at the latter stages of handling a complaint were mixed. Most lawyers believed that their objectivity and impartiality in responding to complaints and the further escalation measures provided enough independence within the existing system. However most also understood that in order to be more transparent and to increase public confidence an independent element could be welcome. Some questioned how such a system could be resourced and how an independent person or body could review a legal decision without devaluing the independent status of the CPS to make prosecution decisions.
- 9.13 Inspectors found a number of examples to indicate a general defensiveness and lack of openness which cumulatively lend weight to the need for an independent element within the complaints handling system. These include: the drafting of letters by lawyers involved in the case which is subject to the complaint; the fact that a third of complaints identified in our file sample as having merit were not recognised as such by the CPS; that there was little evidence that the CPS reinvestigated or revised its position from its first response; there was an absence of central or peer review; and there was a absence of examples of lessons having been learnt as the result of complaint.
- 9.14 The Cabinet Office Best Practice guidelines indicate that all services provided directly to the public should have an independent review procedure that suits their own circumstances and encourage, where possible, a role for the public within the review. Such an arrangement would demonstrate the fairness of the reviewing system and give a clear message that the CPS was an organisation open to scrutiny.
- 9.15 The Public Prosecution Service (PPS) in Northern Ireland has appointed an Independent Assessor of Complaints (IAC) for external oversight. Only complaints that have exhausted the PPS internal complaints procedures can be dealt with by the IAC and the remit involves determining the fairness, thoroughness and impartiality of how complaints were handled. They may not deal with complaints about decisions to prosecute a case or not. The IAC is able to make recommendations for change to the Director of Public Prosecutions (Northern Ireland) (DPP NI) who is obliged to respond. The IAC also reviews around one third of all complaints made to identify trends and reports annually to the DPP NI.

RECOMMENDATION

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

ANNEX A: FRAMEWORK FOR INSPECTION

1 Information about how to make a complaint is clear and easily available

- 1.1 There is clear information on the national CPS, area and other relevant websites about how to make a complaint.
- 1.2 Any information is downloadable.
- 1.3 A complaint can be made and is accepted in a variety of formats including online, by email, over the telephone, in writing and in person.
- 1.4 The definition of what constitutes a complaint is clear.
- 1.5 Leaflets are available in courts, police stations, libraries and other relevant public places.
- 1.6 Leaflets and information are available in different languages.
- 1.7 Arrangements for making a complaint do not discriminate against individual or groups.
- 1.8 Analysis is undertaken to assess ease of access to the service and bring about improvement.

2 An effective complaints procedure is in place

- 2.1 National and local complaints procedures comply with best practice.
- 2.2 Relevant staff are clear about what constitutes a complaint and how complaints should be handled.
- 2.3 Complaints are accurately recorded and logged.
- 2.4 Procedures allow minor issues to be resolved quickly and recorded (eg where possible a simple explanation is given to the satisfaction of complainant).
- 2.5 Complaints are analysed at local and national level to elicit trends.
- 2.6 The ethnicity, gender and background of complainants is analysed to ensure equality of treatment, opportunity and to eliminate discrimination.
- 2.7 Lessons from analysis are learned and disseminated.

3 Complainants receive replies that address relevant issues thoroughly, are timely and are written in a way that is easy to understand

- 3.1 Complaints are thoroughly investigated and the relevant issues raised in them are addressed.
- 3.2 Complaints are handled at the right level and escalated where necessary.
- 3.3 Replies to complainants are written in plain English, appropriate to the circumstances and personal to that individual.
- 3.4 The response includes information about how to appeal or escalate the complaint if the complainant is dissatisfied.
- 3.5 Responses to complaints are timely.
- 3.6 Where a complainant is dissatisfied with a response the ongoing complaint is dealt with quickly and appropriately (including escalation where appropriate).
- 3.7 Systems to track progress and timeliness are in place, accurate and recording is up-to-date.
- 3.8 Complainants are informed of any likely delay and the reasons for it, likely timescales are explained, and this contact is recorded.
- 3.9 Where a complaint is made about both the CPS and another agency (eg the police) there are agreements in place regarding responsibilities for investigation and response.
- 3.10 Where CPS receive complaints that concern solely another agency they are dealt with quickly and passed on appropriately.

4 Formal complaints from agencies and criminal justice partners are investigated thoroughly and dealt with in a timely manner

- 4.1 Formal complaints are recorded and investigated.
- 4.2 Lessons learned lead to inter-agency discussion to improve performance.

5 There are adequate governance structures within the CPS to ensure policy is up-to-date, proper escalation procedures exist and an independent element to the investigation is available

- 5.1 Escalation procedures are clear and are utilised in appropriate cases.
- 5.2 An effective mechanism exists of ensuring time barred cases are fast tracked.
- 5.3 The role of the Attorney General's Office is clear and understood.

ANNEX B: AREAS AND UNITS THAT ASSISTED THE REVIEW

Areas

Cheshire
Derbyshire
London South (Sidcup)
London North (Camden and Enfield)
Norfolk
Northumbria
South Wales
Surrey
West Yorkshire

Headquarters directorates

Special Crime Division
Organised Crime Division
Counter Terrorism Division

CPS Headquarters

Correspondence Unit

ANNEX C: CPS COMPLAINTS HANDLING POLICY AND GUIDANCE

Definition of a Complaint

A complaint is defined as:

'Any expression of dissatisfaction about any aspect of service provided by the CPS'

It may not always be easy to distinguish between a complaint and a query but if the person contacting you thinks it is a complaint, or if you are not sure, then it should be treated as such.

Why have a complaints system?

The CPS is a public service, publicly funded and accountable to the public. If a member of the public has a complaint about any aspect of our service, they are entitled to be treated with respect and to have their complaint dealt with quickly and efficiently as close to the source of the problem as possible. If the complaint is handled well, it is more likely that it will be resolved at an early stage rather than escalating into a long and rancorous exchange of correspondence. It is in no-one's interest that a complaint that could have been resolved without difficulty at an early stage reaches the Director, the Law Officers or an MP.

A complaints system should not be a defensive response to the identification of a fault or deficiency, but can be a positive means of promoting public confidence in the CPS.

Handling complaints properly shows that we listen to the views of those who come into contact with us, learn from our mistakes and identify opportunities to improve our service.

Service First: general principles

The CPS complaints system, on which guidance is given below, embraces the principles and philosophy of the *Service first: How to deal with complaints booklet*. The principles are that complaints systems should:

- be easily accessible and well publicised;
- be simple to understand and use;
- allow speedy handling, with established time limits for action, and keep people informed of progress;
- ensure a full and fair investigation;
- be confidential;
- address all the points at issue and provide an effective response and appropriate redress; and
- provide information to management so that services can be improved.

The above principles, properly implemented, are no more than members of the public, who are affected by our decisions, have the right to expect. Our complaints handling procedure is publicised in our complaints leaflet so that the public can find out easily how to contact us. This leaflet is distributed through area to police, courts, Citizen Advice Bureaux and libraries and has been reproduced on the Internet on our web site at www.cps.gov.uk.

Role of the Correspondence Unit (CU)

The Correspondence Unit (CU) has five main areas of responsibility:

- To provide a focal point for all complaints from members of the public received within National HQ, replying where possible and redirecting where appropriate;
- To provide advice and guidance to all staff on complaints handling;
- To act as a liaison point for third tier complaints. An explanation of the three stages of the complaints procedure is given later in this chapter;
- To liaise with other Government Departments and with staff to co-ordinate responses to correspondence from MPs; and
- To liaise with other Government Departments and with staff to co-ordinate responses to Parliamentary questions.

Procedure for handling complaints from members of the public

This guidance deals with **all** complaints from whatever source, with the exception of correspondence from Members of Parliament (MPs), Members of the European Parliament (MEPs), Members of the Welsh Assembly (AMs) and Members of the Scottish Parliament (MSPs), for which separate procedures apply.

Complaints may be made in person, by telephone, in writing or by email. The same degree of attention must be given to every complaint regardless of its source. All complaints must be treated fairly and without bias. Responses should be clear and concise and in plain English.

Stages in the complaints handling procedure

- 1 The first tier is the Head of Division at Headquarters (HoD), Criminal Justice Unit (CJU) or Trial Unit (TU), which dealt with the case in question, and complaints should initially be directed to the relevant HoD or Unit Head, who can arrange for a reply to be sent.
- 2 The second tier is the Chief Crown Prosecutor (CCP) or Headquarters Director (HQD). Complaints should be referred to the CCP or HQD when there is continued dissatisfaction with replies from the first tier, or where the complainant alleges impropriety by the HoD or Unit Head.
- 3 Complaints, which cannot be resolved satisfactorily at a local level, are referred, through the Customer Service Unit, to the Director of Public Prosecutions or Chief Executive. The HQD, CCP and complainant have the third tier of the procedure available to them. Examples of where it might be appropriate to refer the complaint to the CU for a third tier response are where the complainant alleges persistent impropriety against the CCP, or the CCP has been closely involved in the original decision making process about which the complaint is being made. In addition, a CCP or HQD may refer a complaint to the CU in cases where they have an impasse e.g. comprehensive responses have been provided to each of the issues raised but the complainant refuse to accept the explanations provided.

On receipt of the third tier complaint the CU Head will liaise with the CCP to request relevant information and papers. The CU Head will then pass this material, together with recommendations on how the complaint should be handled, to either the Director or Chief Executive. The CU will either send a reply with the Director or Chief Executive's approval or the matter will be referred to a senior member of staff (e.g. CCP, HQD or other member of the Senior Civil Service).

Timescale for dealing with complaints

Where possible, a full response should be sent to the complainant within 3 working days of receipt into the Department, starting on the day of receipt. Where a full response is not possible, an acknowledgement should be sent within this time and the full response sent within 10 working days.

Where a complaint is referred to another office for response, or information and papers are needed by another office in order to prepare a response, care must be taken to ensure the transfer of information is carried out as quickly as possible, the aim being that the responding office send their response within the agreed timescales.

It is appreciated that full consideration of relevant material may take time and that, on occasion, delays may occur.

Where it is not possible to reply within the agreed time limit, an interim reply should be sent, explaining the delay and advising the complainant when they may expect a reply. Interim replies should be used sparingly and not as a way to extend deadlines.

Content of responses

Complaints against the Service must be thoroughly researched to ensure that the final reply is accurate. This may involve checking with other agencies to confirm a sequence of events or consulting our records. Those responsible for signing the final reply must confirm that the response is accurate and comprehensive.

It is inevitable that on occasions mistakes may happen; if they do, they should be acknowledged. When performance has not reached the desired standard, reasons should be provided, supported, where necessary, by plans to introduce improvements. It is important that we are as honest and open as possible and replies should never be defensive.

The reply should be tailored towards the need of the complainant, in terms of the language and tone used, for example, sensitive responses to victims of crime, even if there is little information we can give them. The extent of the information contained in the reply may be affected by a number of factors. These may include the stage of the case or the relationship of the complainant to the case. It is not appropriate to include an explanation of the evidence, particularly where the case is live, where the complainant is not directly involved in it or where the complainant may be planning to take legal action against the CPS. The use of jargon or legal terms or phrases which may not be understood by others and lengthy explanations of complex legal issues should be avoided.

Every issue raised in the complaint must be addressed in the final reply. If we cannot answer a query that has been raised, such as a question about conduct of another party in the case, the fact that we can't answer it should be explained.

Wherever a complaint implicitly or explicitly raises potentially sensitive issues (e.g. relating to possible racism, homophobia, or other discrimination), the reply should express state the CPS's policy commitments to such issues, and refer to specific actions taken by the CPS to ensure that those policy commitments were applied in the particular case. where there has been an admitted error, the reply should explain clearly what steps the CPS proposes to take, or has taken, to ensure that the error will not happen again.

Care should be given to ensuring that no information is contained in a reply to a complaint, which the Service would not be content to see in the public domain. Complainants often take their grievances to the press and/or other individuals or organisations for assistance in pursuing a complaint. It is therefore possible that sensitive information, or that which should not be disclosed, is inadvertently made public, such as the names of witnesses or youth defendants.

You must not, under any circumstances, name suspects who have not been charged, youths or rape victims in your replies. If you are responding to a request for this information, you should refer the requestor to the police.

General guidance on writing letters can be found in the manual *Communicating with Victims – a Guide*. See also **<Care and Treatment of Victims and Witnesses, elsewhere in this guidance>**

Dealing with complaints

Our aim must be to deal with complaints as quickly as possible and in a professional manner. Any member of staff may receive a complaint or be the subject of a complaint. It is therefore essential that all staff are aware that we have a complaints procedure, and that they are given the best opportunity through training and development to perform effectively in all aspects of their work.

It is in the interests of both the complainant and the Service for complaints to be dealt with quickly and effectively. To this end, staff are encouraged to resolve complaints by telephone as well as in writing, although the use of the telephone will not always be appropriate and in such cases it will be necessary to deal with the complaint in writing. It will therefore be necessary to decide on the best way in which to respond to a complaint.

Handling incoming telephone calls that are complaints

After the caller has introduced him/herself and given some indication of what the call is about, you should ensure that you:

- Clarify the complaint;
- Clarify the outcome sought by the complainant.

If the complaint can be dealt with immediately, safely and without any risk of compromising the CPS/ victim/defendant/witness then a reply can be given. An example would be where resolution of the complaint would require only the provision of basic information that is already in the public domain, such as the date of the next hearing.

If the caller is a solicitor or any other person, organisation or business that purports to have an interest in the case ask them to put the complaint in writing.

If answering the complaint will touch on issues of confidentiality (the most common instance will be explaining casework decisions to victims) you must be satisfied that the complainant is bona fide. Where the complainant is a victim or a witness, the following procedure should be observed, having ascertained that the complaint relates to confidential matters:

- Inform the complainant that you will call them back immediately.
- Ask the complainant for their telephone number.
- Check the number provided against that provided to us by the police (assuming they have done so).
- If the number is available, is the same and you have no reason to doubt the bona fides of the complainant, call back and deal with the complaint.
- If you have any concerns about identity or the person's locus in requesting certain types of information, you can politely decline to provide details over the telephone and encourage the caller to write instead. There is no reason why you should not explain that this is for security reasons – we are protecting the caller's confidentiality as well as the other parties in the case.

Using the telephone to respond to complaints

You should always consider, whether the initial complaint is received in writing, by telephone or in person, dealing with the complaint by telephoning the complainant.

When telephoning a complainant there are additional sensitivities to those that may be encountered when communicating by letter. It is important that these are recognised and managed if the telephone call is to be effective. Poor preparation risks doing more harm than good.

The main sensitivities are:

- The telephone call may occur at an inconvenient time when the complainant is occupied with other things;
- The telephone call may occur at a time when the complainant is distressed or angry;
- A telephone call may not be a good means of contacting the complainant because of their personal circumstances;
- The telephone number provided might not be one that affords privacy to the complainant. It may be a work number or that of a neighbour or family member.

Disadvantages:

- The record of the conversation will be limited to a note made after the call has been concluded;
- The unprepared member of staff risks being drawn into saying something that is not appropriate;
- Endeavouring to resolve a third tier complaint by telephone will be difficult as the papers are quite often by that stage voluminous and such an approach will preclude the Director or Chief Executive's involvement.

Advantages:

- Telephone contact ensures that the complainant receives a response quickly;
- Telephone contact allows the complainant to question or seek immediate clarification of any point from the person who is dealing with the complaint.

If it is decided that a telephone call is the best way of communicating the decision to the complainant, the following practice should be followed in all cases:

- Prepare for the call. Ensure that you have the information you need in order to deal with the complaint in language that the complainant will understand. Avoid using jargon, and ensure that you are at ease with any appropriate language or cultural background issues that may be relevant to the particular conversation. If in doubt, then contact EDU. Think of what you might be asked and consider how you would respond.
- On occasion it may be a useful precaution to have a colleague present when making the call.
- Try not to make the call in an open plan office and avoid being disturbed while you make the call.
- Explain exactly who you are and that you are telephoning from the Crown Prosecution Service – don't say CPS, the person may not know what it means.
- Always check with the complainant that it is convenient to talk and, if not, arrange a time when you can call back.
- Ask the complainant if they wish to make a note of what you say and offer to repeat the explanation to enable them to make a note at their own speed.
- If possible make a note during the call of any point of importance. It will assist both in drafting an accurate note after the call has concluded and ensuring that the follow up letter is accurate.
- Tell the complainant that you are going to do confirm the fact and content of the call in writing. Personalise the letter reflecting the conversation held.

A full note should be made of what was said and should be placed on the complaints register and relevant file. The contents of the conversation should be confirmed in a letter to the complainant, a copy of which should also be placed on the relevant file.

Should the complainant request personal data relating to themselves or others, ask the complainant to put the request in writing (not e-mail) and to forward it to the Data Protection Officer, CPS Headquarters, Room 302, Ludgate Hill, London EC4M 7EX.

Requesting the complaint in writing

Asking a telephone complainant to put a complaint in writing may be necessary if, for example, you are unable to clarify the nature of the complaint over the telephone; the complaint is of a complex nature; you are unable to satisfy yourself that the complainant is genuine.

However, this does risk aggravating the situation rather than resolving the complaint. To avoid this, make it clear that you want to provide as full and fair a response as possible and therefore need fully to understand the complaint. Furthermore, you want to ensure that issues of confidentiality are respected.

Some complainants may not be able to contact us in writing, and in these circumstances, consideration should be given to asking the complainant to make his or her complaint on audio or video tape, with a covering note verifying their signature and that the information submitted is correct.

It may be that that you will be in a position to suggest to complainants that there are local non-statutory bodies that may be able to provide them with help and advice in making their complaint, and/or provide advocacy services for them (e.g. Race Equality Council, LGBT community group, learning disability group, women's groups, etc). When advising complainants of such organisations, it is important to make clear that the organisation you are suggesting they may wish to contact is independent and external to the CPS.

Responding in writing to complaints

In most situations the most appropriate means of dealing with the complaint will be by way of a letter, so that there is a clear record of the points raised and the answers given. General guidance on writing letters can be found in the manual supporting the direct communication with victims initiative *Communicating with Victims – a Guide*.

Dealing with complaints in person

Area / Headquarters should ensure that systems are in place to ensure the security of staff dealing with members of the public on a face to face basis, either in a CPS building or in court. Efforts should be made to assist complainants at court or who arrive at CPS premises as much as possible. However, as with telephone calls, care must be taken not to discuss sensitive or confidential issues in a place in which the information could be overheard, or where there is a question as to the locus of the complainant. It may be appropriate to offer to take a note of the complainant's requests or queries and contact them later with answers by telephone if possible or by letter.

Complaints which are not case related

Although the majority of complaints will be related to a specific case, there will inevitably be those relating to other issues. These should be directed to the most appropriate section for response, not necessarily within the area. Therefore, if the complaint relates to financial matters, for example, the non-payment of witness expenses, or personnel issues, it should be directed to the Service Centre Manager. This should be considered the first tier response, the second tier being the CCP from the originating area, as usual.

Unit, area or Headquarters staff should deal with complaints received about national policy, but must be careful to ensure responses are in line with national policy and should therefore liaise appropriately. In addition, area should notify the appropriate HQ Directorate of recurring policy complaints. Local Diversity Units and EDU are available to brief area staff about relevant minority or other cultural matters.

Allegations of criminal conduct or misconduct by staff

When an allegation of criminal conduct is made against a CPS employee, the complainant should be told that the CPS cannot investigate such allegations, and that instead they should contact the police.

Allegations of misconduct of a disciplinary nature, which may include allegations of discrimination, must be dealt with in accordance with the Personnel Management Manual.

When criminal misconduct is alleged against police, the complaint should be acknowledged and passed, with a covering letter, to the relevant police force. This should be addressed to the Chief Constable and/or the Police Complaints Authority.

Complaints which are about other organisations

It is always helpful to outline the role of the Service, distinguishing where necessary between roles of the various agencies within the criminal justice system. Many complaints arise because functions of the different agencies are not widely understood by members of the public.

The CPS response should not criticise the conduct of other criminal justice agencies when responding to complaints. If it appears that the true grievance lies with another agency or its staff, the respondent should acknowledge the complaint and forward it to that agency inviting a direct response to the complainant. However, it may be that issues raised in the complaint are matters about which the various organisations involved should respond, and it may therefore be appropriate for contact to be made separately at the relevant level.

Complaints which relate to the professional conduct of a third party undertaking work for the Crown Prosecution Service, e.g. counsel and or solicitor agent, should where appropriate, be referred to the relevant professional body. Guidance on this point may be obtained from the CU, which will include advice on any inquiries, which the CPS should undertake to validate the complaint.

Complaints from victims or families of victims

It is essential that victims or their families are treated with the utmost sympathy. Losing a spouse, close relative or friend, or suffering personal injury or financial loss may often lead to a sense of bewilderment, anger or deep personal distress when expectations about the conduct or outcome of criminal proceedings cannot be fulfilled.

If anger or hostility is expressed, try to see it in the context of the suffering the victim is experiencing. However hurtful or unfair the comments may appear, it is all the more important – within reasonable limits – that a sympathetic and considered response is given.

Although the eventual outcome of a particular case may be seen as unsatisfactory to the victim or victim's family, a full response, which explains how these events happened, may generate understanding of the significant factors on which decisions are based. It also conveys the sense of careful and individual consideration which the victim or their family may feel has been lacking. In some cases, it may be a good idea to suggest that the complainant contact a support agency, or refer them to existing information to aid their understanding.

If a victim expresses disappointment with a decision when responding to a letter sent out under the Direct Communications with Victims Initiative, the complaints procedure will **not** be engaged. The complaints procedure will only be engaged if the victim is dissatisfied (rather than disappointed) after appropriate explanations for the decision have been provided, either in writing or during the course of a meeting.

The *Direct Communications with Victims* manual offers guidance on communication with victims and their families in cases where charges have been dropped or substantially altered.

Complaints from defendants

A defendant claiming that his or her conviction is unsafe should be advised to take independent legal advice as to whether a challenge to the conviction should be pursued, or the case referred to the Criminal Cases Review Commission (CCRC). The reply should be provided quickly so as not to jeopardise the bringing of an appeal where tight time limits may apply.

Defendants in pending cases or a convicted defendant taking steps to appeal against his conviction and/or sentence should be informed that the CPS cannot comment on the case and that they should consult with their representatives as to what action should be taken.

Vexatious Litigants

Vexatious litigants are entitled to have full access to our complaints procedure.

However, their complaints can be fast-tracked through the complaints procedure, when the complaint relates to the decision not to prosecute and the vexatious litigant is the victim/witness. In these circumstances, if the vexatious litigant remains unhappy with the reply sent in accordance with the first tier, the relevant Chief Crown Prosecutor/HQ Director should review all the available evidence. If they are content that the correct decision was made, they should submit a report, along with the case papers and all the correspondence, to the Correspondence Unit, who will arrange for the matter to be referred to a senior member of staff (e.g. Chief Crown Prosecutor/HQ Director/Senior Civil Servant) immediately.

You can access a list of vexatious litigants on the Court Service's website: www.courtservice.gov.uk.

Dissatisfied complainants

Despite every attempt to ensure care and consideration of complaints, there may unfortunately be occasions when a complainant remains dissatisfied with explanations given and action taken. Before referring a complaint to the second or third tier, care must be taken to ensure all issues raised have been dealt with and that continued dissatisfaction does not stem from any inadequate response to the original complaint. All responses to a complainant, from whatever level, must be fully researched to ensure accuracy.

Situations may arise where it is felt that no useful purpose would be served by continuing correspondence. However the decision to terminate correspondence may only come from the Director or Chief Executive and complainants should therefore be directed to the CU. The 'third tier' response to the complaint should aim to bring the correspondence to a close.

Abusive complainants

It is essential to maintain a professional manner when dealing with complaints, whether by telephone, in writing or at a meeting. It is quite natural for people under stress or who are feeling angry or upset to react in an abusive or aggressive way to a member of staff with whom they are dealing. It is important that that member of staff does not also become aggressive or angry, as this will inevitably exacerbate the situation.

Having said this, however, a balance must be drawn between the ability and desire to assist a complainant and what can reasonably be achieved in the circumstances, or the personal safety of staff. Under no circumstances should the safety of staff be compromised, so careful planning should be undertaken prior to any arranged meeting, and steps should be taken in court buildings or other places where it is likely or possible that staff and potential complainants can meet unexpectedly, to ensure protection if necessary. General guidance on holding meetings can be found at chapter 7 of the manual *Communicating with Victims – a Guide*.

Where a complainant demonstrates an unacceptable level of abuse or aggression during a telephone conversation, consideration can be given to terminating the call, although this must be done politely and with a warning that this course of action is intended unless the behaviour demonstrated by the complainant changes.

In meetings or telephone conversations where aggression or a high level of distress is demonstrated by the complainant, it may be appropriate to advise them that you do not intend to continue at that time, but that you will do at another time when they are less distressed. The decision to end a conversation or meeting should always be clearly and fully explained, so that the complainant can in no way feel that they are being dismissed or their complaints ignored, or that they are to blame for the fact that contact with them is being ended at that time.

Where letters are concerned, it is acceptable not to reply at all to letters whose content is exclusively abusive or threatening, but to leave them on file with a note explaining that no reply has been sent and the reasons why. Alternatively, it may be appropriate to respond to the complainant explaining that their tone was unacceptable and that further correspondence will not be entered into unless the complainant amends his or her tone.

It should be borne in mind that there are some medical conditions (e.g. Alzheimer's disease, some forms of Asperger's syndrome, and diabetes) which can make it difficult or impossible for people to make an important and well-argued communication, without giving the appearance of being verbally abusive or aggressive. Some mental illnesses, and some prescription or other pharmaceuticals can cause similar effects. Some people with learning difficulties (and others who feel severely marginalized) also find positive formal social communication a challenge.

It is therefore important to study any such communication carefully, and to ensure that if it has content that raises a genuine issue, that issue should be addressed in a careful and considered response.

If an individual is threatening or abusive, if it is felt that a risk to the safety of staff may be present, or if a physical assault occurs, the matter should be reported to the police. Abuse or physical assault against a member of staff should also be reported to the Departmental Health and Safety Officer. Advice on Health and Safety Matters can be obtained from the Departmental Health and Safety Officer, and advice on security matters may be sought from the Departmental Security Officer in Headquarters.

Campaigns

Some cases may generate excessive volumes of 'campaign' correspondence. It may be appropriate to devise a standard response to be sent to all correspondents or to write to the organisation or individual managing the campaign to explain the position. There may come a point where the benefit of replying is outweighed by the cost to the Service and to the public at large and responses should no longer be sent. Advice on campaign correspondence can be sought from the CU Head.

Dealing with correspondence from MPs

Guidance on the procedures for handling correspondence from MPs, MEPs, AMs and MSPs is obtainable from the Private Office.

However, there may be occasions when correspondence is received from an MP on behalf of a complainant and from the complainant personally at the same time. In these circumstances, it is important to reply fully to the person directly involved in the matter from which a complaint has arisen.

Therefore, a full reply should be sent to the complainant and a shorter reply, together with a copy of the letter to the complainant, should be forwarded to the MP, in accordance with normal procedures. Be careful to familiarise yourself with your Area's policy as to the level of authority required to answer a letter from an MP.

Meetings

There are circumstances in which it would be appropriate to offer a meeting with a complainant, in order to ensure that they feel they have had the opportunity to fully explain the reason for their complaint. This equally gives the Service an opportunity to explain its actions, role and responsibilities and to take steps to improve service if necessary. A meeting can often take the place of voluminous correspondence and resolve a complaint more quickly than correspondence would. However, a degree of caution should be exercised when determining in which cases a meeting should be offered, and all necessary steps should be taken to ensure the safety and security of staff during any such meeting.

General guidance on holding meetings can be found at chapter 7 of the manual *Communicating with Victims – a Guide*.

Civil claims/compensation claims

Where notification has been received from a complainant that he or she intends or wishes to take civil legal action against the Crown Prosecution Service, or that they wish to be paid compensation, the case should be referred to Casework Directorate, Ludgate Hill, so that legal advice can be taken and instruction given as appropriate. Further guidance on this subject is contained in the Prosecution Manual chapter, *Civil Proceedings against the Crown Prosecution Service*.

It should be noted that where notification has been received that a complainant intends instituting civil action against the CPS, consideration of any outstanding complaints should cease. Complainants should be advised that any outstanding matters will be considered once any civil action has finished.

Race Relations Act

Under the Race Relations (Amendment) Act 2000, (RR(A)A 2000), the CPS has a statutory duty to promote race equality and to eliminate unlawful racial or religious discrimination. Discrimination in service delivery takes place when people from some racial or religious groups are treated less favourably than others.

The RR(A)A 2000 extends the scope of the Race Relations Act 1976 and outlaws race discrimination by public authorities in any of their functions. The remedy for a breach of the law lies in the civil courts.

A potential claimant can submit a form to a prospective respondent under section 65 of the Race Relations Act 1976. By virtue of the RR(A)A 2000, the respondent could be a member of CPS staff. A failure to respond, an evasive or equivocal response or a late response **could** allow the civil court to draw an adverse inference. The RR(A)A 2000 does allow public prosecutors or investigators to decline to answer the questionnaire in certain circumstances relating to criminal proceedings.

Strict time limits apply as regards responding to the questionnaire. If such a questionnaire is received, it should be referred immediately to the appropriate unit head, who should make the CCP or HQD. Casework Directorate deal with civil claims and should be notified immediately, as should the Equality and Diversity Unit. Full guidance can be found in **Casework Bulletin No. 14 of 2001**.

Deciding whether or not the receipt of such a questionnaire amounts to a complaint (rather than a request for information) will depend on the circumstances in which it is received. It may be advisable to enter the case in the complaints register in order that it can be easily identified.

Requests for information under Data Protection or Freedom of Information legislation

The Data Protection/Freedom of Information Officer part of Records and Security in HQ deal with requests for information under Data Protection or Freedom of Information legislation. Such requests take precedence over complaints given the strict timescales involved and the need to ensure that the Unit has all the relevant papers. Any such requests should therefore be forwarded to them immediately. Please note the time limit for Data Protection Act subject access responses is 40 days (and will be 20 days for FOI when that access regime comes into force in 2005). Subject access forms are available on the CPS Internet site.

However, it is quite likely that such a request will form part of a wider complaint, and it is important that the other issues raised are dealt with as soon as possible. In these circumstances, it would be appropriate to forward a copy of the correspondence to the Unit to allow them to deal with the Data Protection/Freedom of Information issues while the complaint is dealt with by the area. However, there may be occasions where, due to the volume of papers, it is not practicable to consider the complainant whilst the Unit deal with requests under the legislation. In such circumstances, the complainant should be advised that their complaint will be considered once their requests for information have been resolved.

Monitoring

Monitoring complaints is essential if we are to gather information on the quality of the service we provide. It is important for us to know how our service is perceived, what we can do to improve and how we can help those who come into contact with us. As well as acting as a useful management tool, information showing national and area trends can help us focus on developing solutions to particular needs.

Monitoring the number of complaints received by the CPS and timeliness of responses is currently carried out by national headquarters. Information is also collected in relation to our performance target objectives, particularly about the treatment of victims and witnesses.

However, each area must also review its complaints handling to monitor the timeliness and quality of reply, and to discern any pattern or other issue, which requires remedial action.

ANNEX D: FILE EXAMINATION RESULTS

Who made the complaint?	Defendant or rep	29.4% (50/170)
	Victim or rep	56.5% (96/170)
	Witness or rep	5.9% (10/170)
	Police	0% (00/170)
	Court	2.4% (4/170)
	Other	5.9% (10/170)
If the complainant is a victim or witness, was the complaint about their treatment (not outcome)?	Yes	55.4% (56/101)
	No	44.6% (45/101)
How was the complaint submitted?	Telephone	2.4% (4/170)
	Letter	84.1% (143/170)
	Email	11.8% (20/170)
	Other	1.8% (3/170)
Is there any evidence that the complainant initially had difficulty in making the complaint?	Yes	3.5% (6/170)
	No	96.5% (164/170)
If the complainant had difficulty, was it dealt with appropriately?	Yes	50% (3/6)
	No	50% (3/6)
Was the complete case file used to respond to the complaint?	Yes	84.1% (143/170)
	No	15.9% (27/170)
What method was used to respond to the complaint?	Telephone complainant	2.9% (5/170)
	Letter to complainant	89.4% (152/170)
	Email complainant	3.5% (6/170)
	Via rep	1.8% (3/170)
	Other	2.4% (4/170)
In your opinion was the response method appropriate?	Yes	98.2% (167/170)
	No	1.8% (3/170)
Was this the first complaint by this complainant about this subject matter?	Yes	75.3% (128/170)
	No	24.7% (42/170)
About which criminal justice agencies did the complainant make significant complaint?	CPS	182
	Police	73
	Witness Care	10
	Court	27
	Other	29
Which tier was the complaint dealt at?	Level 1	63.5% (108/170)
	Level 2	20.6% (35/170)
	Level 3	14.7% (25/170)
	Other	1.2% (2/170)
Was the complaint dealt with at the correct level?	Yes	93.5% (159/170)
	No	6.5% (11/170)

Were any issues relating to standards limits dealt with appropriately?	Yes	60% (3/5)
	No	40% (2/5)
Was the complaint dealt with within three days of receipt?	Yes	17.6% (30/170)
	No	82.4% (140/170)
If not dealt with in three days, would it have been possible to do so?	Yes	10% (14/140)
	No	90% (126/140)
If not dealt with within three days, was an acknowledgement sent within three days?	Yes	61.4% (86/140)
	No	38.6% (54/140)
For all files, on average how many days did it take to send the substantive reply?	Average days	11
Where there was a delay in response to the complaint did the letter give reasons for the delay?	Yes	26.2% (17/65)
	No	73.8% (48/65)
Where action(s) by another agency contributed to the subject matter of the complaint, did the response recognise the role of those others in an appropriate manner (ie explanatory, but not seeking to blame)?	Yes	95.2% (79/83)
	No	4.8% (4/83)
Did the complainant have merit?	Yes	31.2% (53/170)
	No	68.8% (117/170)
If the complaint had merit, did the response to the complaint correctly identify the merits?	Yes	66% (35/53)
	No	34% (18/53)
If the complaint had merit was an apology offered?	Yes	67.9% (36/53)
	No	32.1% (17/53)
If the complaint did not have merit, did the response explain appropriately why the complaint lacked merit?	Yes	94.7% (108/114)
	No	5.3% (6/114)
Should anything have been added to the response?	Yes	21.3% (34/160)
	No	78.8% (126/160)
Should anything have been omitted from the response?	Yes	13.7% (22/161)
	No	86.3% (139/161)
Did the response display an appropriate level of empathy?	Yes	89.4% (143/160)
	No	10.6% (17/160)
Did the response use plain English and language that was appropriate to the complainant's level of understanding, as far as that could be ascertained?	Yes	91.9% (147/160)
	No	8.1% (13/160)
Did the response contain inappropriate legal terminology or jargon?	Yes	5.6% (9/160)
	No	94.4% (151/160)
Did the response contain lengthy explanations of unnecessary caselaw or law?	Yes	2.5% (4/160)
	No	97.5% (156/160)
Did the response contain template paragraphs and sentences which were not appropriate?	Yes	6.3% (10/158)
	No	93.7% (148/158)

Did the letter explain to the complainant how to appeal or escalate the complaint if they were unhappy with the response?	Yes	24.8% (38/153)
	No	75.2% (115/153)
Overall, what was the quality of the response?	Excellent	5.9% (10/170)
	Good	44.7% (76/170)
	Adequate	31.2% (53/170)
	Poor	18.2% (31/170)
Was the complainant satisfied with the response provided?	Yes	13.5% (7/52)
	No	86.5% (45/52)
Was the complaint used as an opportunity to learn any lesson of general application or to feedback to the individual lawyer/unit concerned?	Yes	71.4% (10/14)
	No	28.6% (4/14)

ANNEX E: EVALUATION CRITERIA FOR COMPLAINTS FILE EXAMINATION

The perfect complaint response is one where:

- The investigation and response to the complainant is thorough and addresses all the issues raised, together with any not raised but identified in the investigation of the complaint.
- The response is timely or any unavoidable delays are explained fully and a revised timescale provided within good time.
- The letter to the complainant is empathetic and conveys an excellent understanding of the concerns of the complainant and their impact.
- The language and tone used are appropriate to the level of understanding, as far as it can be ascertained, of the complainant or anyone making the complaint on their behalf.
- The letter does not contain jargon or unnecessary explanations of legal or procedural matters.
- Standard templates are not used unless they were necessary in adding clarity to the response or would significantly increase the complainant's understanding of the subject matter of the complaint.
- There is typographical and factual accuracy in the response and the formatting or presentation does not detract from its readability or accessibility.
- The involvement of other agencies is dealt with in a way that neither passes over responsibility inappropriately nor attaches blame, but is honest in dealing with the issues raised and displays a partnership approach.
- Where all or part of the complaint had merit this is recognised, apologies are offered where appropriate and an indication is given of the steps that will be taken to prevent a recurrence.

Any follow-up or escalation is treated seriously and there is proper consideration of any comments made by the complainant; any new evidence or fresh perspective on the subject matter submitted by the complainant are reviewed appropriately.

Excellent responses: featured most or all of these characteristics and any failings or omissions were very minor in nature.

Good responses: featured some of the above characteristics and failings or omissions generally did not detract significantly from the central message, standard of the letter or the substantive handling of the complaint.

Adequate responses: featured some of the above characteristics but failings or omissions detracted significantly from the central message or substantive handling of the complaint.

Poor responses: featured few of the above characteristics and failings impacted significantly on the standard of response. Poor responses were also those where the merits of a complaint had not been recognised, wholly or in part, in the response to the complainant or where there had been no substantive response sent.

ANNEX F: EXTRACT FROM CABINET OFFICE BEST PRACTICE: HOW TO DEAL WITH COMPLAINTS

Basic principles of effective complaints systems

A complaints system should be:

- *easy to access* and *well publicised*;
- *speedy* – with fixed time limits for action and keeping people informed of progress;
- *confidential* – to protect staff and those who complain;
- *informative* – providing information to management so that services can be improved;
- *simple* to understand and use;
- *fair* – with a full procedure for investigations;
- *effective* – dealing with all points raised and providing suitable remedies; and
- *regularly monitored and audited* – to make sure that it is effective and improved.

ANNEX G: PARLIAMENTARY AND HEALTH SERVICE OMBUDSMAN: PRINCIPLES OF GOOD COMPLAINTS HANDLING

Good complaints handling by a public body means:

1 Getting it right

- Ensuring those at the top of a public body provide leadership to support good complaints management and develop an organisational culture that values complaints.
- Having clear governance arrangements in place, which set out roles and responsibilities and ensure that lessons are learnt from complaints.
- Including complaints management as an integral part of service design.
- Ensuring that staff are equipped and empowered to act decisively to resolve complaints.
- Focusing on the outcomes for the individual and the public body, rather than on procedures and processes.
- Signposting people to the next stage of the complaints procedure in the right way and at the right time.

2 Being customer focused

- Ensuring people can access the service easily, letting people know about advocacy services where appropriate to do so.
- Dealing with people promptly and sensitively, bearing in mind their individual circumstances.
- Responding to people's needs flexibly, including, where appropriate, co-ordinating responses with any other bodies involved in the same complaint.
- Having simple and clear procedures.

3 Being open and accountable

- Publicising clear, accurate and complete information about how to complain, and how and when to take complaints further.
- Providing honest, evidence-based explanations and giving reasons for decisions.
- Keeping full and accurate records.

4 Acting fairly and proportionately

- Ensuring that complaints are reviewed by someone other than the original decision-maker.
- Ensuring that decisions and actions are proportionate, appropriate and fair.
- Ensuring that staff complained about have the opportunity to have their say before any decisions are reached.

5 Putting things right

- Providing appropriate and adequate remedies.

6 Seeking continuous improvement

- Using feedback and the lessons learned from complaints to improve service design and delivery.

(Consultation draft July 2008)

ANNEX H: CPS RESPONSE 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.

HM Crown Prosecution Service Inspectorate

London Office:

26 – 28 Old Queen Street

London SW1H 9HP

Tel. 020 7210 1197

Fax. 020 7210 1195

York Office:

United House, Piccadilly

York, North Yorkshire, YO1 9PQ

Tel. 01904 54 5490

Fax. 01904 54 5492

Website:

www.hmcp.si.gov.uk

© Crown copyright 2009