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Dear Kaylee

Enquiry on the treatment of vulnerable victims

The Panel was established under the Legal Services Act to provide independent advice to the Legal Services Board and other key players about the interests of consumers of legal services in England and Wales. We have an important responsibility to ensure that regulators are able to consider the user perspective alongside the interests of providers of legal services. Our goal is that everyone can access high quality and affordable legal services that meet their needs.

While our work isn't directly focused on the treatment of victims of crime or the performance of the CPS, a key focus of our work is the interests of vulnerable users of legal services. We have developed a considerable body of work in this area, some which I hope will provide useful insight for the APPG enquiry. We would be delighted to expand on this further, either at the APPG evidence session or separately.

British Standard on vulnerable consumers

The Panel has adopted the British Standard on Inclusive Service Provision (BS18477). This was developed by consumer organisations, charities and government bodies to:

- Encourage the use of fair, ethical and inclusive practices;
- Show organisations how to identify vulnerable consumers and how to treat them fairly to help them to comply with the law;
- Help organisations to understand what consumers have a right to expect from them;
- Improve accessibility to services for all; and
- Increase consumer confidence in service providers.

In May 2012, we wrote to the Director of Public Prosecutors, among other legal bodies, urging him to adopt the standard. We suggested the CPS

could use this to help inform the Code for Crown Prosecutors and Core Quality Standards documents, assist with the organisation's wider efforts to support victims and witnesses, and for training staff with responsibilities for dealing directly with the public. Unfortunately, we did not receive a reply to our letter. We hope the APPG enquiry will give this consideration.

Focused studies with vulnerable groups

The Panel has pioneered a programme of focused studies that involve original research on the legal needs and experience of particular groups of vulnerable users. These are unique partnerships that bring together the Panel, a legal services regulator and a specialist charity which represents the client group in question. So far we have carried out two studies: with deaf and hard of hearing consumers, in partnership with Action on Hearing Loss and the Solicitors Regulation Authority; and with people with learning disabilities, in partnership with Mencap and the Legal Services Board.

The two studies give real examples of good and bad practice by lawyers and various agencies in the justice system, including in the court system. There are common challenges around lack of awareness, communication barriers and other practices by lawyers, which make it hard for these vulnerable users to access the specialist support they need, cause practical problems and lead to a lack of confidence in the legal system. Copies of both research reports are included with this submission.

We are determined that these studies lead to positive change by enabling other organisations to learn the lessons and take action. In particular, the Law Society has published guidance for solicitors on how to serve deaf and hard of hearing clients; it has committed to prepare similar guidance in relation to our more recent learning disabilities study. In addition, the Panel has produced short factsheets aimed at the profession, which summarise common problems and include good practice tips.

The Panel is keen to continue this research programme, although this is dependent on finding external funding. We would be happy to talk to Victim Support about possible future partnership opportunities.

Third party complaints

Last year, the Panel published a report on third party complaints – those made by individuals who are not the lawyer's client. We argued that, in certain situations, third parties should be allowed to seek redress through the Legal Ombudsman. The report formed part of our submission to the Legal Ombudsman's review of its scheme rules – the document which sets out when consumers can use its service. The Legal Ombudsman decided that no change would be proposed or implemented at present, but agreed in principle that the rules could include specific circumstances where it would be able to look at complaints from third parties.

Bad treatment of victims and witnesses in the criminal justice system was one type of third party complaint discussed in our report. We did not reach a definitive view about whether such complaints should be eligible, but

called for a proper debate on the issue. We said this could provide better accountability to victims and help make sure that lawyers do not overstep the mark in their questioning in court, but also noted the risk of impairing lawyers from performing a difficult role in testing circumstances. As you will be aware, recent cases have thrown a fresh spotlight on these issues.

The current situation is that victims may complain to the lawyer's regulator about possible misconduct. However, while this may lead to sanctions for the lawyer, the regulator may not award redress to the complainant. Since the Legal Ombudsman chooses only to investigate complaints from clients, this leaves victims with nowhere to turn. Although victims are most likely to wish to complain about opposing counsel, there can also be issues with prosecution lawyers. However, complaints here are also ineligible: since prosecutors are CPS employees, the CPS is considered to be the client.

Following its scheme rules exercise, the Legal Ombudsman committed to work with stakeholders over the next months to create a specimen list of third party complaints for consultation and agreed with the Panel that it would establish a steering group to take this work forward. The Panel has recently reviewed third party complaints received by the service during 2013 to date, but which it was unable to consider further. There were a small number of incidents in courts and tribunals, with alleged problems including aggressive behaviour, poor communication, delay, breaches of privacy and failure to cooperate with litigants in person.

We will shortly publish a series of case studies based on this exercise, which we will forward to you. This issue has relevance to your work on behalf of victims of crime that go broader than the remit of the APPG enquiry, and we would be delighted to discuss this further with you.

Yours sincerely



Elisabeth Davies
Chair