

GFS Appeals Committee

Re [REDACTED]
Appeal brought by [REDACTED] and [REDACTED]

The CPS Fees Appeal Committee met on 24th January 2018 and considered the above matter.

Operation [REDACTED] was a case heard at [REDACTED] Crown Court and involved four defendants charged with offences of Cheating the Public Revenue and Furnishing False Information. The case was sent to [REDACTED] Crown Court on [REDACTED].

A consolidated indictment featuring all four defendants was preferred on 24th March 2015. The evidential bundle was served on 7th July 2015. The initial preliminary hearing was on 6th August 2015. This core bundle of evidence was served in one complete form containing all of the evidence served at that time in relation to all four defendants.

At the PCMH hearing on [REDACTED] the judge directed that the case would be split into three separate trials. [REDACTED] and [REDACTED] would face separate trials and [REDACTED] and [REDACTED] would be the subject of the third trial.

At a later hearing on [REDACTED], the defendant [REDACTED] pleaded guilty to the indictment facing him. The judge confirmed trial fixtures for the remaining two cases at this hearing. The trial of [REDACTED] was fixed for [REDACTED] and the trial for [REDACTED] and [REDACTED] was fixed for [REDACTED].

[REDACTED] subsequently pleaded guilty at a hearing on [REDACTED], and [REDACTED] and [REDACTED] pleaded guilty at hearings on [REDACTED] and [REDACTED].

It is submitted by the appellants that the hearings of [REDACTED], [REDACTED] and [REDACTED] should all be paid as elected cracked trial fees. It is accepted that the cracked trial of [REDACTED] would be covered by the fee payable on [REDACTED] due to the fact that a cracked trial main hearing fee covers a two day period. If the three hearing were treated as elected cracked trials then each hearing would attract the pages of prosecution evidence and the witness uplifts.

In support it is submitted that the CPS should deviate from the usual rules concerning the payment of multiple cracked trials and pay each of the cracked trials as elected cracked trials because the subsequent cases were quite distinct from the first crack of [REDACTED]. Each case was prepared for trial and the defence advocates had indicated that the not guilty pleas would be maintained to trial. It is further submitted that in relation to [REDACTED] and [REDACTED] counsel had to prepare and respond to an application to dismiss proceedings.

The CPS relies on the guidance set out in paragraph 110 of the CPS GFS Manual of Guidance. The relevant sections of the GFS Manual of Guidance are:-

Paragraph 45. For the purposes of a graduated main hearing fee, an indictment is a case.

Paragraph 46. It follows that if counts are severed from an indictment, resulting in the creation of more than one indictment, there will be more than one case. Each case attracts a separate main hearing fee per defendant, subject to the case uplift provisions at paragraphs 86-90, the defendant uplift provisions at paragraphs 96-101 and the multiple cracked trial provisions at paragraph 110.

Paragraph 110. Where there is more than one cracked trial main hearing concerning any number of defendants on any number of indictments arising out of a single core bundle of evidence, the cracked trial main hearing fee will only be paid on one occasion. Accordingly, the advocate should elect which cracked trial main hearing event will attract the cracked trial main hearing fee. All other cracked trial events will be remunerated by way of the daily fee (see annex 3). An uplift is payable for each additional defendant (see paragraphs 96-101). This provision also applies where a retrial results in a cracked trial hearing.

The appellants submit there are three distinct cases in accordance with paragraph 46 and that in this case paragraph 110 does not apply as the core bundle changed during the course of the proceedings with the addition of various Notices of Additional Evidence.

1. Findings

The Committee are satisfied that the cracked trial outcomes in this case have emanated from a single core bundle of evidence, therefore applying paragraph 110 of the CPS Manual of Guidance counsel can only be remunerated for the pages of evidence and a witness uplifts once.

Therefore the appeal fails.

2. Other issues

From information provided to the Committee, the CPS have paid an elected cracked trial fee for the first crack and did not give counsel an opportunity to elect the cracked trial to attract the pages/witnesses. The appellants should be given an opportunity to consider which cracked trial should attract an elected crack trial fee and any appropriate additional payment be made if necessary.

CPS Fees Committee