

## **GFS Appeals Committee**

### **Re The Digital Case System - IDPC**

The CPS Fees Appeal Committee met on 13<sup>th</sup> November 2018 and considered two appeals brought in relation to material uploaded to the Digital Case System (DCS)

This ruling applies to both appeals and does not turn on the individual facts of the cases but a general principle. The issue the Committee has been asked to consider is whether material served by way of the Initial Details of the Prosecution Case (IPDC) and up loaded onto DCS should be counted as evidence and therefore, subject to paragraph 74 of the GFS Manual of Guidance, should be treated as pages of prosecution evidence.

This ruling does not intend to set out the background to the two cases the subject of these appeals.

In both matters the Committee have been provided with and considered:-

- Notices of Appeal
- Final Written Reasons
- Taxation notes
- Fees Bulletin no 2 of 2018

Counsel submits that this material should be treated as evidence for the purposes of remuneration: “key witness statements” and “key exhibits”. This is material which the prosecution rely on and counsel has had to consider in preparation for the Plea and Trial Preparation Hearing. There is no dispute between the parties that both these cases were guilty pleas.

The CPS rely on paragraph 62 of the Manual of Guidance which states only pages formally served in evidence and copied to all parties either as part of the sending bundle or subsequently served under a written notice of additional evidence (NAE) can be counted, subject to paragraphs 66-68.

### **Background**

After sending of a case to the Crown Court and prior to the PTPH, under Better Case Management (BCM) the prosecution must serve the principal parts of the prosecution case IDPC in sections G and H of DCS. Those sections are titled “Key statements “and “Key exhibits “. In the event of a not guilty plea, formal service of the case is made in sections I, J and K: Statements, exhibits and transcripts of ABE interviews.

### **Findings**

The Committee considered the wording of the Manual of Guidance, the description and nature of the material, the aims of BCM and the changes in the sending / committal

process as a result. This material was the statements and exhibits which the prosecution rely in order to put their case and the defence representatives provide advice to their client/s. This material cannot be described as advanced disclosure and clearly goes beyond that intention. Providing the material is correctly served the Committee found it difficult to conclude the material cannot be viewed as anything else but evidence upon which the prosecution can open their case to the court and the defence are able to enter a plea.

If a not guilty plea is entered and the case adjourned for trial the evidence will then be served and up loaded onto DCS in sections I, J and K. This ruling should only be applied to guilty pleas and that there should be no double counting of material in relation to cracked trials or trials.

The Committee considered paragraph 62 of the Manual of Guidance, relied upon by the CPS. That paragraph was clearly drafted when different procedures were in place for the sending of cases to the Crown Court and does not draw a distinction between when the material served and how it should be treated. They went onto consider Fees Bulletin no 2 of 2018. That Bulletin postdates the main hearings in this case and therefore cannot be relied upon.

### **Ruling**

The Committee found in favour of the appellants and the appeals are successful.