

Fees Bulletin No.2 of 2016

Page counts and cracked trials



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Page counts and the service of the case and definition of cases adjourned for trial.

Introduction

This fees bulletin clarifies a number of points raised recently in relation to page counts and the formal definition of a case being adjourned for trial.

Page count and service of the case

The Graduated Fees manual states at paragraph 62 -

Only pages formally served in evidence and copied to all parties either as part of the original committal / send / transfer bundles or subsequently served under a written notice of additional evidence (NAE) can be counted.

Pages of the Initial Details of the Prosecution Case (IDPC) should not be added to the page count.

There is a distinction between the IDPC, for the purposes of case management and service of the prosecution case under the Crime and Disorder Act 1998 (Service of Prosecution Evidence) Regulations 2005.

This means that any case which has a main hearing prior to the formal service of the case does not have a page count and therefore will be paid using the standard base fee.

Defence advocates/solicitor requests

It has become apparent that Defence advocates and solicitors have been requesting CPS staff to provide documentation clarifying page counts in cases where only IDPC material has been served.

A page count can only be provided in relation to evidence served as part of the service of the case, or by way of a subsequent Notice of Additional Evidence. If defence advocates/ solicitors request a page count for IDPC material, we should decline to do so. The position is that as the formal service of the case has not yet taken place, there is no page count to provide. Matters of defence remuneration are between the Legal Aid Agency and the advocate or solicitor and not a matter for the CPS to become

involved. Indeed, to provide a page count for IDPC material would be for the CPS to mislead the Legal Aid Agency into believing that the case had been served.

Cases Adjourned for trial.

Fees bulletin 2 of 2015, detailed when a case is deemed to be formally adjourned for trial. This is defined as -

1. The defendant has been arraigned
2. The case has been given a trial date.

Both of these criteria must be met for a cracked trial fee to be payable in a main hearing after the PTPH that does not result in a trial.

However, there are two exceptions to this rule –

1. Any case that is resolved on the day that it is listed for trial, where the defendant pleads guilty, the prosecution offers no evidence, or the indictment is stayed will be paid as a cracked trial, regardless of whether the defendant has been previously arraigned.
2. If Fitness to Plead is an issue, and the case is adjourned for a Fitness to Plead hearing, any resolution of the indictment other than a trial or determination hearing will be remunerated as a cracked trial.

If there are any queries in relation to this bulletin please e mail the CBU mailbox.