



1. This fees bulletin clarifies the position relating to the payment of retrial fees under the CPS Graduated Fee Scheme D and draws attention to an amendment made to the Manual of Guidance (MoG) at paragraph 138 (version 2 – 22 November 2019).

**Definition of an Effective Trial**

2. For the purposes of scheme D, the definition of a trial was expanded to include all days of the trial process, including days prior to the swearing of the jury, provided those days constitute meaningful progress that lead to a jury being sworn and evidence called.
3. In circumstances where a jury is discharged, the scheme D definition states that “*Where a jury is sworn but discharged and a subsequent jury is sworn on either the same day or within 7 calendar days, and evidence is then called or read, the case is considered to be one effective trial.*” (para 122c)
4. Example 6 contained in [Fees Bulletin 1 of 2019](#) – Implementation of Scheme D outlines how the scheme D changes will apply and provides a worked example of how in respect of paragraph 122c (Example 6 – page 4).

**Definition of a Re-trial**

5. Unfortunately, although paragraph 122c makes clear the position under scheme D, paragraph 138 relating specifically to retrials failed to reflect this change, as originally drafted. Accordingly, it has been amended to read as follows:

*If a jury is discharged and another jury is sworn **either the same day or within 7 calendar days** and evidence is subsequently called before the jury, the trial proceedings are considered to be one effective trial and the graduated fee for that length of trial will be payable. If there is a gap of more than seven calendar days then it is considered to be a retrial.*

6. We apologise for any confusion but trust this clarifies matters.

**Further queries**

7. Should you have any queries regarding this bulletin or any other fee related matter, please contact your Case Auditor or the [CBU@cps.gov.uk](mailto:CBU@cps.gov.uk) mailbox.
8. Information relating to CPS fee schemes, including the amended MoG can be found on the CPS website: <https://www.cps.gov.uk/cps-operational-information>

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