



IMPLEMENTATION OF SCHEME E

1. The CPS Graduated Fee Scheme (GFS) is changing from February 1 2020 when Scheme E is introduced.
2. This fees bulletin details the implementation arrangements and the changes that will apply from this date. It should be read in conjunction with the [Graduated Fee Scheme E - Manual of Guidance](#) (MoG), which outlines the fee scheme in full.

Scheme E– Outline of the Changes

3. The key changes being brought in under Scheme E are summarised as follows:
 - Increases to a range of Main Hearing and Daily (refresher) fees
 - Increases to Defendant Uplifts for all advocate types
 - A new Daily Fee for cases listed for trial which result in a cracked trial
 - A new payment for the preparation and drafting of bad character and hearsay applications
 - New payments for the consideration of unused material
 - Increases to hourly rates
 - Removal of the witness uplift to invest elsewhere in the Scheme
 - A more flexible approach to the rule relating to advocates appearing in more than one trial on the same day
 - Introduction of new timescales to the Claim and Appeal procedure

Implementation of Scheme E – 1 February 2020

4. Scheme E will apply to all cases sent or transferred to the Crown Court on or after 1 February 2020.
5. Any GFS case sent or transferred to the Crown Court before this date will be remunerated in accordance with either Scheme C or Scheme D through to its conclusion.

Main Hearing Fees and Daily Fees

6. A range of Main Hearing fees and Daily Fees have been increased with particular focus on junior advocates appearing alone. The Scheme E rates can be found at Annex 3 of the [Graduated Fee Scheme E - Manual of Guidance](#).

Payment for Prosecution Witnesses

7. The witness uplift has been removed from Scheme E in order to allow investment in other areas. Accordingly, with one notable exception, the number of prosecution witnesses no longer has an impact on the fee payable.
8. The exception relates to any case with more than 100 served prosecution witnesses prosecuted by a junior advocate alone. All such cases will automatically be paid at the enhanced fee rates, regardless of the number of pages of evidence.

Cracked Trial Daily Fees

9. The biggest change under Scheme E relates to payment for days where a case is listed for trial and meaningful progress is made leading up to a cracked trial on a subsequent day.



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10. Under Scheme D these days attracted either a trial stood out or legal argument fixed fee. Under Scheme E, however, the revised definition for the start of a trial introduced under Scheme D has been extended to include Cracked Trials.
11. Accordingly, if a case is listed for trial and there has been meaningful progress towards a trial but the case cracks before evidence is called or read, a new fee called a Cracked trial Daily Fee (CDF) will be paid for the days prior to the Cracked Trial main hearing. The CDF pays the same as the refresher / Trial Daily Fee (previously the DAF but renamed under Scheme E the TDF)
12. In example 1 below, days 1 and 2 of the trial listing will attract the new Cracked trial Daily Fee (CDF) because meaningful progress was made on those days leading to a Cracked Trial main hearing on day 3.

Example 1			
Day	Listing and outcome	Fee payable under Scheme D	Fee payable under Scheme E
1	Listed for trial; HHJ allows time out of court for discussion re acceptance of pleas	Trial Stood Out (fixed fee – NEF)	Cracked Trial Daily Fee (fixed fee – CDF)
2	Listed for trial; hearing regarding issues relating to possible pleas	Legal argument (fixed fee – PAW)	Cracked Trial Daily Fee (fixed fee – CDF)
3	Listed for trial; defendant pleads guilty	Cracked Trial Main Hearing (8)	Cracked Trial Main Hearing (8)

13. If, however, a case is listed for trial and simply adjourned to a following day when the case cracks, a Trial Stood Out fixed fee (NEF) would be payable for the adjourned day because no meaningful progress had been made, as per example 2 below.

Example 2			
Day	Listing and outcome	Fee payable under Scheme C	Fee payable under Scheme D
1	Listed for trial; case stood out of the list until tomorrow.	Trial Stood Out (fixed fee – NEF)	Trial Stood Out (fixed fee – NEF)
2	Listed for trial; defendant pleads guilty	Cracked Trial Main Hearing (8)	Cracked Trial Main Hearing (8)

Multiple defendant cases

14. In multi-defendant cases where there are different outcomes for each defendant the mixed plea / multiple main hearing rules may apply because “meaningful progress” can be the trigger for the start of the trial process.
15. Accordingly, if two defendants are listed together for trial and defendant A pleads guilty during the course of defendant B’s trial, the main hearing for defendant A would be paid as a defendant uplift on the Effective Trial for defendant B, as per example 3.



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Example 3		
Day	Listing and outcome	Fee payable under Scheme E
1	Listed for trial for defendants A and B <ul style="list-style-type: none"> Defendant A – discussions as to plea, case adjourned (<i>Meaningful progress</i>) Defendant B – legal argument re admissibility of evidence (<i>Meaningful progress</i>) 	Effective Trial Main Hearing (6) x 2 defendants
2	Listed for trial for defendants A and B <ul style="list-style-type: none"> Defendant A – guilty plea, case adjourned for sentence (<i>Case against defendant A cracks</i>) Defendant B – further legal argument and jury empaneled (<i>Meaningful progress</i>) 	Trial Daily Fee (TDF)
3	Listed for trial for defendant B <ul style="list-style-type: none"> Jury sworn and evidence called (<i>Effective Trial criteria met</i>) 	Trial Daily Fee (TDF)
4	Listed for trial for defendant B <ul style="list-style-type: none"> Guilty verdict (<i>Trial day</i>) 	Trial Daily Fee (TDF)

- In example 3, day 1 sees meaningful progress in respect of both defendants; thus starting the trial process for defendant B. Because defendant A’s plea is then entered during the course of defendant B’s trial, no separate Cracked Trial fee or Cracked trial Daily Fee is payable.
- In the absence of meaningful progress starting the trial process, a separate Cracked Trial fee would be paid, as per example 4 below.

Example 4		
Day	Listing and outcome	Fee payable under Scheme E
1	Listed for trial for defendants A and B <ul style="list-style-type: none"> Defendant A – guilty plea, case adjourned for sentence (<i>Case against defendant A cracks</i>) Defendant B – case adj. overnight insufficient court time (<i>Trial Stood Out</i>) 	Cracked Trial (8)
2	Listed for trial for defendants B <ul style="list-style-type: none"> Defendant B – further legal argument and jury empaneled (<i>Meaningful progress</i>) 	Effective Trial x 1 defendants (6)
3	Listed for trial for defendant B <ul style="list-style-type: none"> Jury sworn and evidence called (<i>Effective Trial criteria met</i>) 	Trial Daily Fee (TDF)
4	Listed for trial for defendant B <ul style="list-style-type: none"> Guilty verdict (<i>Trial – day 2</i>) 	Trial Daily Fee (TDF)

- In example 4, because there is no meaningful progress in respect of defendant B on day 1, the trial process does not commence and a Cracked Trial fee is therefore payable for defendant A. An Effective Trial fee is also payable for defendant B, to include the second day of the trial listing as the first day of the trial process.
- For further information and worked examples in respect of the start of the trial process and meaningful progress under GFS please see [Fees Bulletin 1 of 2019](#).



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Bad Character and Hearsay Applications

20. A £50 fixed fee has been introduced for the preparation and drafting of new bad character or hearsay applications. A new fixed fee (BCH) will be used to effect this payment.
21. This fee is only payable in respect of the drafting of new applications and not payable for the consideration of existing documents or where making minor amendments.

Payment for Unused material

22. Payment for the consideration of unused material will be paid in one of two ways under Scheme E:
- i. Unused material additional fee (UM1)
All elected Cracked Trials and Effective Trial main hearings (incl. retrials) will attract an additional fee (UM1) equivalent to 1 ½ hours. This will be paid automatically and covers up to 3 hours spent considering the unused material.
 - ii. Unused material at the GFS hourly rate – UM2
Reasonable time spent considering unused material, over and above the 3 hours assumed within UM1, will be paid at the GFS hourly rate on production of detailed work records (UM2). Work records must include all work undertaken on the unused, including the first 3 hours covered by UM1

Defendant Uplifts

23. The defendant uplift provisions have been increased under Scheme E as follows:

Junior advocate alone	Leading and Led Juniors	Queen’s Counsel
15%	10%	10%

Hourly Rates

24. The GFS hourly rates for work such as wasted preparation and conferences have increased as follows:

	Junior alone / Led Junior	Leading Junior	Queen’s Counsel
Hourly rate	£40	£57	£75
Conference rate	£40	£61	£81

25. Claims for hourly rate work must be supported by a work log detailing the work done on that specific aspect of the case e.g. consideration of electronic material. A log of all work done on the case is no longer necessary, however, unless specifically stated in the [Scheme E Manual of Guidance](#).

Conducting hearings in multiple cases on the same day

26. The rules relating to the payment of fees for conducting multiple hearings in different cases on the



same day have been amended and are set out at paragraphs 88 to 91 of the GFS MoG.

Claim and Appeal Process timescales

27. The timescales applicable to the GFS Claim and Appeal process have been updated to ensure more timely resolution where issues arise. The process is set out in Annex 6 of the Manual of Guidance.

Further Information

28. Further information about Scheme E, including the Manual of Guidance and Scheme E calculator can be found on the CPS website (<https://www.cps.gov.uk/cps-operational-information>), together with information about all of the other CPS fee arrangements.
29. 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.

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