



A value for money inspection of the application of the CPS graduated fees scheme

Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) has today published its value for money report on the Crown Prosecution Service (CPS) graduated fees scheme (GFS), which is the main method for calculating fees payable to self-employed Crown Court advocates instructed by the CPS.

HM Chief Inspector, Michael Fuller QPM, said:

"The current scheme is too complex and too onerous in terms of the amount of checking and auditing required.

There are also significant savings to be made in the cost of Crown Court advocacy provided by external advocates, and this report gives detailed recommendations for improved efficiency.

Most significantly, casework strategy needs to take greater account of the cost of presenting cases in court, without reducing the likelihood of justice being done. This will require something of a cultural shift in the CPS approach to the management and control of its casework. Whilst all legal decisions must comply with the Code for Crown Prosecutors, managers, lawyers and caseworkers need to improve their cost awareness, and understand the costs implications of their casework decisions and processes. Investigators also need to be more aware of the subsequent costs implications of their actions. This will reduce costs, not only for the CPS, but across the criminal justice system.

Overall, the CPS faces unprecedented financial challenges, and in making the difficult financial decisions ahead, it will need to ensure it is achieving the best value for money from all its resources and systems. Action on the report recommendations will help significantly and a less complex system is clearly needed."

Summary of the findings:

- Inspectors examined the application of the GFS in six CPS Areas, examining 162 cases which had associated GFS costs of £1,300,662. Inspectors discovered total potential savings in those files of £202,573, or 15.6% of their total GFS cost. The clear implication is that significant savings are available nationally. However, it would be statistically invalid to assume that potential national savings are available at the same level, and this should be avoided.
- Higher average GFS unit cost spend by CPS Areas is not always attributable to external factors. Those Areas with higher unit costs are generally the ones with less effective casework control, and the greatest potential for savings. Insufficient analysis has been carried out by the CPS to identify the reasons for this.
- Just over 50% of potential savings in the sample resulted from the unnecessary inclusion of documents (page count) as part of the prosecution case. Greater direction and control of page count is therefore needed.
- 19.4% of potential GFS savings in the sample were identified from cases incurring Crown Court advocate fees when they ought not to have reached the Crown Court at all. Incorrect charges, indictments and a general lack of direction, control and review by lawyers accounted for the majority of these cases.
- We found examples of the CPS failing to follow its own guidelines controlling the selection of more than one advocate. In each case, a second prosecution advocate had been instructed without sufficient justification and contrary to the proper application of the relevant criteria, leading directly to unnecessary cost. There was also a lack of consistent recording, monitoring and analysis of such decisions.
- 6.3% of potential GFS savings identified from the sample arose from inaccurate fee claims which were not challenged, or fees were processed incorrectly.
- 3.9% of total potential savings identified resulted from unnecessary court hearings, late decisions to accept pleas, or late guilty pleas arising from a lack of proactivity and progression in seeking the early disposal of cases.

- Generally, very few CPS lawyers or caseworkers understand how GFS costs are calculated; consequently they have a limited understanding of the costs implications of decisions, actions, delays and errors. It is clear that the majority of potential savings found could have been made by CPS lawyers. Training is therefore imperative.
- By its nature, GFS does not pay advocates pro-rata for work actually done. Anomalies therefore arise, and these include cases where, for example, the fee for a guilty plea can exceed the fee for a trial. Also, when documents are provided to the advocate in error, they can be paid for reading them, sometimes more than once.
- Accurate and speedy calculation of fees can be hampered by administrative failures during the life of the case, including gaps in essential case records which make it harder to calculate fees, and dispute inaccurate claims. Very few CPS fees clerks had any monitoring or checking of their work by CPS Area management and there was also a lack of clarity about the levels and purpose of financial delegation.
- A summary of recommendations and good practice is set out below.

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Notes to editors

HMCPSP is an independent statutory body established by the Crown Prosecution Service Inspectorate Act 2000, which came into force on 1 October 2000. The Chief Inspector is appointed by, and reports to, the Attorney General.

Priority recommendations

- 1 The CPS should take action to ensure that prosecutors understand the principles of the GFS system and the effect that casework decisions and case handling have on the costs arising from it.
- 2 Groups should keep records of all applications for multi-advocate cases, whether or not they are approved, so that appropriate analysis can be conducted.
- 3 The CPS, in reviewing the application of the GFS, should address circumstances which give rise to unintended and disproportionate payments.
- 4 The CPS should conduct further analysis to understand the wide variation in GFS average costs across Groups and Areas and take action to reduce average costs where it is evident better controls are needed.

Recommendations concerning process and management of the GFS

- 1 There should be regular management checks and dip sampling of fee payments. Feedback to fees clerks should be provided.
- 2 The CPS should refresh guidance clarifying the appropriate levels and purpose of financial delegation for all individuals involved in fee payments and raise awareness and understanding.
- 3 There should be regular management checks of paralegal completion of the finance folder and the FIST.
- 4 Groups should ensure a more robust system of reporting current and projected expenditure by CCUs.

Good practice

- 1 Areas working with partner agencies to ensure only appropriate evidence is served.
- 2 The experience and advice offered by the CBU.
- 3 Area fees newsletter providing up to date information on fees.
- 4 Ownership of cases for fees purposes by paralegal officers.