

33.12 *Power to order Crown Court*

Practice Direction (Costs in Criminal Proceedings) 2013 para 2.2.4 ¹ In respect of proceedings in the Crown Court commenced on or after 1 October 2012, legal costs (sums paid for advocacy, litigation services or experts' fees) may only be allowed under a defendant's costs order to a defendant who is an individual and only 1) in respect of appeals against conviction or sentence from a Magistrates' Court; or 2) after 27 January 2014 in other relevant Crown Court proceedings provided that the Director of Legal Aid Casework has made a determination of financial ineligibility in relation to the defendant. The relevant proceedings are those in which the accused has been sent by a Magistrates' Court to the Crown Court for trial, where a bill of indictment has been preferred (under [Administration of Justice \(Miscellaneous Provisions\) Act 1933 s.2\(2\)\(b\)](#)) or following an order for a retrial made by the Court of Appeal or the Supreme Court. Where legal costs may be allowed, if the court fixes the amount to be paid under section 16(6C) of the Act it must calculate any amounts allowed in respect of legal costs in accordance with the rates and scales prescribed by the Lord Chancellor. If the court does not fix the amount of costs to be paid out of central funds, the costs will be determined by the appropriate authority in accordance with the General Regulations and any legal costs allowed will be calculated at the prescribed rates and scales.

33.51 *Defendant acquitted of some charges*

See also: *R v Foley* 2014 EWCA Crim 894 (D offered to plead to handling. The prosecution rejected offer. Nearly 8 months later trial started. When discharge looked likely pros accepted handling offer and D ordered to pay all their costs. £250 not £1,000 costs.)

33.64 *Fines, Combined with/The costs order must not be disproportionate*

R(Gray) v Crown Court at Aylesbury 2013 EWHC 500 (Admin) D, a horse trader, was convicted of 11 [Animal Welfare Act 2006](#) offences. The police and the RSPCA searched a farm and 115 equines were seized. Witnesses described the shocking condition some animals were in. The trial, involving D's wife, W, and three other members of his family lasted 52 days, including 34 days of evidence. The prosecution said their costs were just over £732,000 of which just over £43,200 was expert fees which had been paid for out of central funds. D received 24 weeks' imprisonment and was ordered to pay £400,000 costs. W, who was convicted of two counts, was given a community order and ordered to pay £750. The defendants appealed and the hearing lasted 34 days. The Court ordered two counts against D to be dismissed. The rest of the convictions and the costs orders were upheld. D was ordered to pay £400,000 extra costs and W was ordered to pay £200,000 extra costs. They both appealed to the High Court. Held. The normal rule is that costs should not be grossly disproportionate to a fine imposed for the same offence, but in appropriate cases there could be exceptions where justice requires it. Applying the [then] Criminal Procedure Rules, the Judge on appeal was entitled to depart from the rule because of the complexity, the conduct of the parties which involved taking every legal argument that could be taken. D's costs orders upheld. In W's case the Court had not considered what the costs order should have been if she had been tried alone. We remit her case back to the Court for the Court to reconsider the order after performing that exercise.

¹ This paragraph was amended by [Practice Direction Amendment \(Costs in Criminal Proceedings\) Amendment No 1 2014 EWCA Crim 1570](#)

