

## Leeds Crown Court

### Early Guilty Plea Scheme – Listing Policy

**Effective for all cases sent or committed for trial to Leeds Crown Court after 1<sup>st</sup> April 2012**

#### **The aim and objective of this Statement of Policy is:**

- \* To set out the arrangements for a defendant to plead guilty at the first reasonable opportunity and at the same time be sentenced, enabling these cases to be prepared in a manner proportionate to the plea anticipated.
- \* To indicate the reduction of sentence for a guilty plea that the defendant can expect at each stage

#### **A: General**

1. There will be **active case management** at each hearing of any case that has to be adjourned. Parties must be ready to indicate issues that can be agreed and/or the subject of admissions to avoid unnecessary preparation by the police and the prosecuting authority.
2. Any **basis of plea** must comply with the requirements of *R v Underwood*. References in this Policy document to a guilty plea mean a plea of guilty accepted by the Crown and/or the Court.
3. The question will no doubt often arise as to when was the **first reasonable opportunity for a defendant to admit guilt**. This will be a question of fact for the judge to determine in each case. Advocates should be prepared to explain to the judge why s/he should not treat the first court hearing (ie PBV hearing in either way cases or the Preliminary hearing in indictable only cases) as that first reasonable opportunity in that case.
4. Many Judges will initially be inclined to the view in a **strong case**, having regard to para 5.3 of the guideline on Reduction in Sentence for a Guilty Plea, that the maximum discount that should be allowed for a plea in such a case at the PCMH stage is 25%
5. The **defence statement (DS)** (along with details of defence witnesses) should be filed within 28 days of the purported compliance with section 5 of the CPIA 1996 (this will usually be in both either way cases and indictable only cases when the prosecution has served its case either for committal or in compliance with the order made at the preliminary hearing), unless an

extension of time has been requested. That time will usually expire no later than the PCMH hearing. It is the responsibility of the defendant to provide such a document and so s/he will need to go through the served material within those 28 days and before the PCMH to do that. That will be explained to the defendant at each preliminary hearing and is a "standard direction" given on committal for trial by the Magistrates' Court. The expectation is that the defence solicitors will make arrangements to see the defendant during those 28 days and obtain instructions so that his/her case can be set out in a DS.

6. The judge at the PCMH has no power to extend the time for the service of a DS. Any application for an extension must be made to the Resident Judge within the 28 day period and must set out the reasons for the request.
7. The expectation will be that the parties will have agreed acceptable pleas or identified the triable issues in those cases which are to proceed to trial in advance of the PCMH so that an effective case management hearing can take place.
8. The judge at the PCMH will not proceed to deal immediately with the case unless a DS has been supplied to the court; the case will then be stood out of the list so that defendant will have the opportunity to comply with the requirement, thereby triggering secondary disclosure and leading to fewer late applications for disclosure on the eve of the trial in cases in which no DS has been served. The case will be reinstated later in the day when the DS has been supplied. If no DS is then provided the judge will explain to the defendant the potential adverse consequences at trial for the course s/he has adopted and then enquire of the advocate as to the issues in some detail so as to enable him/her to fulfil his/her duties under the Criminal Procedure Rules.

**B. Cases sent to the Crown Court under Section 51 of the Crime and Disorder Act 1998**

**1. Preliminary Hearing**

- (a) Upon sending a case to the Crown Court at Leeds, Magistrates will direct that a Preliminary Hearing shall take place at the Crown Court 7 days after the sending, or on such other date as the Crown Court shall direct.
- (b) A defendant who intends to plead guilty at the Preliminary Hearing will be arraigned.
- (c) The expectation will be that on an acceptable guilty plea being tendered the case will proceed to sentence with a stand down pre

sentence report being prepared by the Probation Service during the course of the day.

If the case is not suitable for a stand down report and the judge considers that a pre sentence report is necessary, the matter will be adjourned for a full pre sentence report to be prepared and the case will be listed for sentence 3 weeks thereafter.

- (d) Any defendant who indicates an intention to plead not guilty at the Preliminary Hearing will not be arraigned and a timetable will be set.

**2. The Standard Timetable will provide for:**

- (1) the service of the **prosecution case** within **6 weeks**;
- (2) the supply of **defence witness requirements 2 weeks** thereafter;
- (3) the delivery of a **Defence Statement** (and details of defence witnesses) and the holding of a **Plea and Case Management Hearing (PCMH), 2 weeks** thereafter

**3. Sentencing**

All judges will have to consider whether the Preliminary Hearing was the first available opportunity to enter a guilty plea as referred to in the SGC Guideline, and so attracting a discount of up to 33%. If the plea was tendered at a later hearing the judge will have to determine the appropriate discount having regard to s 144 (1) of the CJA 2003 and the Guideline issued by the SGC.

**C. Cases committed for sentence or for trial**

**Plea Before Venue Procedure (PBV)**

The defendant will be asked to indicate a plea at the First Hearing in the Magistrates' Court.

- (a) If a defendant indicates a guilty plea and the Magistrates consider that the case should be committed for sentence, the Magistrates will direct that the case be listed 28 days later for sentence at the Crown Court, or on such date as the Crown Court shall otherwise direct. The Probation Service will prepare a pre sentence report for that hearing.

- (b) If a defendant gives no indication of plea or indicates a plea of not guilty and the case is deemed not suitable for summary trial, the Magistrates will adjourn the case of preparation of committal papers.
- (c) After the First Hearing the committal hearing will normally take place 6 weeks thereafter for defendants in custody and for youths and 8 weeks thereafter for adult defendants on bail.
- (d) A defendant shall then be committed to appear for a PCMH 28 days later (unless that date would be a bank holiday in which case it will be the next following working day), or on such date as the Crown Court shall otherwise direct.
- (e) The expectation will be that the parties will have agreed acceptable pleas or identified the triable issues in those cases which are to proceed to trial in advance of the PCMH so that an effective case management hearing can take place.
- (f) The expectation will be that if an acceptable guilty plea is tendered at the PCMH, the case will proceed to sentence with a stand down pre sentence report being prepared by the Probation Service during the course of the day.

### **Sentencing**

All judges will have to consider whether the PBV hearing was the first available opportunity to enter a guilty plea as referred to in the SGC Guideline, and so attracting a discount of up to 33%. If the plea was tendered at a later hearing the judge will have to determine the appropriate discount having regard to s 144 (1) of the CJA 2003 and the Guideline issued by the SGC.

HHJ Peter Collier QC  
The Recorder of Leeds

22<sup>nd</sup> March 2012