

Leeds Crown Court
Bradford Crown Court
York Crown Court

Guilty Pleas – Listing Policy

Effective for all cases sent or committed for trial or committed for sentence to arrive in the Leeds, Bradford and York Crown Courts on or after 1st October 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* [2005] 1 Cr App R 178. 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 a stage subsequent to the PBV or preliminary hearing 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 3 of the CPIA 1996 (usually in both either way cases and indictable only cases this will be 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. 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 enabling the prosecution to comply with the duty to keep disclosure under review (s7A of the CPIA 1996) which will lead 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, 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 (where it is required)

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 no less than 3 weeks thereafter and will usually be added to the Friday Early Guilty Plea list.

- (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;
- (4) a trial date will be set.

3. Early Guilty Pleas

- (a) Notwithstanding that a defendant has indicated a not guilty plea at the preliminary hearing, subject to the provisions of this paragraph, at any stage prior to the PCMH in a case which has been sent to the Crown Court, any party may request the court to list the case for an “Early Guilty Plea” (EGP) hearing. Upon such a request being made, the case shall be listed the Friday following 15 working days after the date of the receipt of the request and the procedure for the hearing will be as set out below.
- (b) The request shall be made by email to:
listings@leeds.crowncourt@cps.gsi.gov.uk
listings@bradford.crowncourt@cps.gsi.gov.uk
listings@york.crowncourt@cps.gsi.gov.uk
- (c) At the same time as the request is made, notification of the request shall be given to all other parties in the case. The notification shall preferably be given by e-mail. Alternatively, the notification may be faxed to the other parties. It should **not** be sent by post or the DX system which will delay its receipt

- (d) In relation to a request by the defence:
- (i) Notification to the prosecution at Leeds.EGP@cps.gsi.gov.uk ; Bradford.EGP@cps.gsi.gov.uk ; NorthYorks.EGP@cps.gsi.gov.uk shall include details of the offence(s) in respect of which the defendant intends to plead guilty and of any basis of plea(s).
 - (ii) At the same time, notification shall be given to the probation Crown Court Liaison Officer (CCLO), who will when appropriate contact the relevant Youth Offending Team (YOT); the CCLO email contact ldscrowncourt.egp@west-yorkshire.probation.gsi.gov.uk bfdcrowncourt.egp@west-yorkshire.probation.gsi.gov.uk npc.ycc.admin@north-yorkshire.probation.gsi.gov.uk and it shall include details of the offence(s) in respect of which the defendant intends to plead guilty and of the defendant's date of birth and (with the defendant's consent) his/her current address and telephone number(s).
 - (iii) Within five working days of receipt of the basis of plea(s) the prosecution shall notify the defence, Court and the probation CCLO whether the basis of plea(s) is accepted by the prosecution.
 - (iv) PSR request may be commissioned only when the matters referred to above are resolved and communicated in full via email to the probation CCLO.
- (f) In relation to a request by the prosecution
- (i) The prosecution shall only be entitled to request such a hearing if the papers, draft indictment and initial disclosure have been served, and the date of such service is stated in the e-mail requesting the hearing.
 - (ii) Any defendant who intends to plead guilty shall forthwith give notice of the intention to all other parties in the case. The notice to the prosecution and the probation service shall include details of the offence(s) in respect of which the defendant intends to plead guilty. At this stage any basis of plea(s) shall be served on prosecution. The notice to the probation service additionally shall include details of the defendant's current address and telephone number(s).
 - (iii) Within five working days of receipt of the basis of plea(s) the prosecution shall notify the defence, court and the probation service whether the basis of plea(s) is accepted by the prosecution.
 - (iv) A PSR request may be commissioned only when the matters referred to above are resolved and communicated in full via email to the probation CCLO.
 - (v) At any time up to two working days before the date of the hearing, the defence may serve notice on the prosecution, the probation

CCLO and the court to vacate the hearing, and the hearing will be vacated, if the notice includes confirmation that the defendant has provided instructions that will result in a not guilty plea, and details of the defence witness requirements. The case will then be transferred to a PCMH list on the same day.

4. 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

1. 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 for the preparation of committal papers.
- (c) The prosecution shall serve the committal papers no later than 14 days before the day fixed for the committal hearing.
- (d) The CPS shall identify those cases which they have identified as likely guilty pleas and shall notify the defence of that view and discuss with the defence any basis of plea.
- (e) After the First Hearing the **committal for trial hearing** will normally take place 6 weeks thereafter for defendants in custody and for youths and 8 weeks thereafter for adult defendants on bail.

- (f) (Save where paragraph (g) below applies) 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. [NB at York Crown Court the PCMH is held 28 days after committal in custody cases and after 42 days in bail case]

2. Early Guilty Pleas

- (g) In any case where the defence have had at least 14 days prior to committal to consider the committal papers and the CPS or the defence has identified the case as a likely guilty plea the Magistrates will be informed of that at the committal hearing and requested to fix an “Early Guilty Plea” hearing at the Crown Court; the defendant shall then be committed to appear for an Early Guilty Plea hearing on the first Friday after 15 working days after the date of committal
- (h) In relation to a case identified by the prosecution as a likely EGP case:
 - (i) The prosecution shall only be entitled to request such a hearing if the papers, draft indictment and primary disclosure have been served, and the date of such service is stated in the e-mail requesting the hearing.
 - (ii) Following receipt of notification by the prosecution that this is a likely EGP case, any defendant who intends to plead guilty shall forthwith give notice of the intention to all other parties in the case. The notice to the prosecution and the probation service shall include details of the offence(s) in respect of which the defendant intends to plead guilty and of any basis of plea(s). The notice to the probation service additionally shall include details of the defendant’s date of birth (and with his/her consent) their current address and telephone number(s).
 - (iii) Within five working days of receipt of the basis of plea(s) the prosecution shall notify the defence and the probation service whether the basis of plea(s) is accepted by the prosecution.
 - (iv) A PSR request may be commissioned only when the matters referred to above are resolved and communicated in full via email to the probation CCLLO.
 - (v) At any time up to two working days before the date of the EGP hearing at the Crown Court, the defence may serve notice on

the prosecution and the court to vacate the hearing, and the hearing will be vacated, if the notice includes:

- (a) confirmation that the defendant has provided instructions that will result in a not guilty plea, and details of the defence witness requirements, in which event the case will be transferred to a PCMH list; or
 - (b) details of some other good reason satisfactory to the court.
- (i) In relation to a request by the defence for the case to be treated as an EGP case
- (i) Notification to the prosecution shall include details of the offence(s) in respect of which the defendant intends to plead guilty and of any basis of plea(s).
 - (ii) At the same time, notification shall be given to the probation service by e-mail or fax and it shall include details of the offence(s) in respect of which the defendant intends to plead guilty and of any basis of plea(s) and of the defendant's date of birth (and with his/her consent) their current address and telephone number(s).
 - (iii) Within five working days of receipt of the basis of plea(s) the prosecution shall notify the defence and the probation service by e-mail or fax whether the basis of plea(s) is accepted by the prosecution.
 - (iv) A PSR request may be commissioned only when the matters referred to above are resolved and communicated in full via email to the probation CCLO.

3. 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.

D. PCMHs

1. The expectation will be that the parties will have 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 (See Section A above).
2. The expectation will be that if an acceptable guilty plea is tendered at the PCMH in a case which had not been identified as an Early Guilty Plea, the case will nevertheless when possible proceed to sentence with a stand down pre sentence report being prepared by the Probation Service during the course of the day.

HHJ Peter Collier QC
The Recorder of Leeds

HHJ Benson
The Acting Resident
Judge at Bradford

HHJ Ashurst
The Recorder of York

30th August 2012