

Practice Guidance Note

Cambridge, Peterborough and Huntingdon Crown Court

Early Guilty Plea Protocol

PREAMBLE

EARLY GUILTY PLEA SCHEME (CROWN COURT) PRACTICE GUIDANCE NOTE

Background

The Early Guilty Plea Scheme is a process intended to produce an effective and prompt disposal of Crown Court Guilty pleas. As a very high proportion of Crown Court cases are eventually disposed of by a guilty plea, the scheme aims to identify these cases early, but still producing a just and expeditious outcome. It does not increase the sentencing discount, but provides an early 'first reasonable opportunity' for the defendant to enter a guilty plea, contrary to large number of current cases where the plea is often entered at a later stage. These later pleas adversely impact on victims and witnesses and criminal justice resources and the Early Guilty Plea Scheme aims to tackle this problem by dealing with guilty pleas earlier. At the Early Guilty Plea hearing, the usual and current statutory provisions are applied for sentence discounts so the actual sentencing hearing remains essentially unchanged.

Aims and objectives

The aim and objective of an Early Guilty Plea Hearing is for a defendant to plead guilty in the Crown court at the first reasonable opportunity and at the same time to be sentenced.

The Scheme aims to consider not only those guilty pleas that naturally occur at the earliest opportunity but to identify those cases where the defendants are reluctant to enter an early guilty plea and ensure that through review and discussion with defence practitioners that these do enter a plea earlier than they would have done.

It requires the CPS and defence to identify at an early stage cases destined for the Crown Court that are likely to result in such a plea. These cases are then fast tracked to a bespoke hearing, whereby plea and sentence will be dealt with at one hearing, with the aim of avoiding adjournments and late pleas. These hearings are usually a number of weeks before pleas are ordinarily entered. This process, therefore, avoids the usual adjournments and cases are frequently disposed of much sooner than in non-Early Guilty Plea cases. Probation reports, to assist the Court in sentencing, are prepared in advance of the hearing so that there is a limited possibility of further delay.

Plea before venue

This scheme does not replace plea before venue or pleading in the Magistrates' Court and being committed for sentence if necessary. Ideally defendants should plead at plea before venue but for a number of reasons they do not. The early guilty plea scheme provides a practical way of addressing this issue within the existing legislative framework.

Case Management Initiative

The Early Guilty Plea Scheme also compliments the Case Management Initiative as robust interrogation can take place earlier and even if an Early Guilty Plea case is withdrawn from scheme there is the ability to keep the case listed and turn it into a PCMH.

EARLY GUILTY PLEA HEARINGS

Aims and Objectives

1. The aim and objective of an “Early Guilty Plea Hearing” is for a defendant to plead guilty in the Crown Court at the first reasonable opportunity and at the same time to be sentenced.
2. A defendant who indicates an intention to plead guilty at the hearing will be arraigned.
3. A defendant who indicates an intention to plead not guilty at the hearing will not be arraigned and the case will be adjourned to the date already fixed for the PCMH. No provisional trial date will be set because the prosecution will not have obtained witness availability dates.
4. Any defendant who does not plead guilty at the hearing, and pleads guilty at a later hearing, will not be afforded maximum credit for that guilty plea unless a successful submission is made that the “Early Guilty Plea Hearing” was not the first reasonable opportunity for the defendant to have pleaded guilty.

Procedure

5. Subject to the provisions of this paragraph, at any stage prior to the PCMH in a case which has been sent or committed to either Cambridge, Peterborough or Huntingdon Crown Court, any party may request the court to list the case for a “Early Guilty Plea Hearing”. Upon such request being made, the case shall be listed for hearing 28 working days after the date of receipt of the request, and the procedure for the hearing will be as set out below unless that would be after PCMH.
6. The request shall be made to the List Officer by e-mail to listing@cambridge.crowncourt.gsi.gov.uk (for Cambridge Crown Court) or listing@peterborough.crowncourt.gsi.gov.uk (for Peterborough or Huntingdon Crown Court).
7. 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, the particulars of which will be available from the standard Magistrates’ Automatic Directions Form provided to the parties at the time of sending the case to the Crown Court. 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.
8. In relation to a request by the defence
 - 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 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.

9. 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 primary disclosure have been served, and the date of such service is stated in the e-mail requesting the hearing.
- ii. Following receipt of a prosecution request, 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 current address and telephone number(s). 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.
- iii. At any time up to two working days before the date of the hearing, 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; or
 - b. Details of some other good reason satisfactory to the court.

Cases committed to the crown court under s.6 of the mca 1980

- 10. In any case committed to Cambridge, Peterborough or Huntingdon Crown Court, 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 and request the Magistrates to fix an "Early Guilty Plea Hearing" at the Crown Court
- 11. The Magistrates shall fix a date for an "Early Guilty Plea Hearing" at the Crown Court. The date for such a hearing shall be the first Tuesday after 28 working days if the case has been committed to Cambridge Crown Court, or the first Thursday after 28 working days if the case has been committed to Peterborough or Huntingdon Crown Court.

12. In addition to fixing such a date, the Magistrates will also fix a date for a PCMH. This would be the first Friday after the Early Guilty Plea Hearing
13. In relation to a request by the defence, written notification shall forthwith be given by the defence to the probation service or Youth Offending Service (YOS) via e-mail, and shall include details of the offence(s) in respect of which the defendant intends to plead guilty and of the defendant's current address and telephone number(s). Within five working days of receipt of the basis of plea(s) the prosecution shall notify the defence, court and the Probation CCLO (Crown Court Liaison Office)/YOS whether the basis of plea(s) is accepted by the prosecution.
14. A PSR request may be commissioned only when the matters referred to above are resolved and communicated in full via email to the Probation Service.
hfs.admin.northherts@hertfordshire.probation.gsi.gov.uk (Herts Probation)
CambridgeEGP@cppt.probation.gsi.gov.uk (Cambridge cases)
PeterboroughEGP@cppt.probation.gsi.gov.uk (Peterborough cases)
15. In relation to a request by the prosecution or the defence
 - i. 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). 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.
 - ii. 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/YOS.
 - iii. 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/YOS 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.

Cases sent to the crown court under s.51 of cda 1998

16. The defence can request any matter sent under section 51 of the Crime & Disorder Act 1998 to be listed for an EGP hearing to enter a plea of guilty.
17. If at the Magistrates Court, it is identified that the defendant will pursue a plea of not guilty and as a result an Early Guilty Plea hearing is not necessary, a preliminary hearing date will be fixed

for 7 days thereafter at the Crown Court. At the preliminary hearing, the usual 10 week timetable for service of papers, witness requirements and PCMH will be set.

18. Subject to the provisions of this paragraph, at any stage prior to the PCMH in a case which has been sent to Cambridge, Peterborough or Huntingdon Crown Court, any party may request the court to list the case for an “Early Guilty Plea Hearing”. Upon such a request being made, the case shall be listed the first Tuesday after 28 working days thereafter if the case has been sent to Cambridge Crown Court, or the first Thursday after 28 working days if the case has been sent to Peterborough or Huntingdon Crown Court.
19. If it is agreed at the Magistrates Court that an Early Guilty Plea will be entered, but the offence or circumstances mean that a PSR is not required, an Early Guilty Plea Hearing will take place 7 days after the case has been sent to the Crown Court.
20. The request shall be made to the List Officer by e-mail to listing@cambridge.crowncourt.gsi.gov.uk (for Cambridge Crown Court) or listing@peterborough.crowncourt.gsi.gov.uk (for Peterborough or Huntingdon Crown Court).
21. At the same time as the request is made, notification of the request shall be given to all other parties in the case.
22. In relation to a request by the defence
 - 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 CCLO/YOS by e-mail and it shall include details of the offence(s) in respect of which the defendant intends to plead guilty and 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 CCLO 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/YOS.
 - v. If notification is given to the Prosecution at the Magistrates Court hearing that the defendant will plead guilty and the circumstances are such that a PSR is not required, an Early Guilty Plea hearing will be fixed for 7 days after the Magistrates Court hearing.

23. 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). 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.
- iii. 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/YOS.
- iv. 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/YOS 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.

Sentencing

24. In applying the Sentencing Guidelines Council Definitive Guideline for "Reduction in Sentence For A Guilty Plea", by reason of the fact that the "Early Guilty Plea" scheme is now in existence, the following principles will apply:

25. In relation to all offences (sent or committed) there will be a presumption that the first reasonable opportunity to enter a guilty plea and to obtain a one-third reduction in sentence will be at an "Early Guilty Plea Hearing", and that there will be a smaller reduction thereafter, namely a one-quarter reduction at the PCMH, less than a one-quarter reduction thereafter, and a one-tenth reduction when a guilty plea is entered at the door of the court or after a trial has begun.

26. In relation to all offences (sent or committed) the presumption referred to in paragraph 25 above will be subject to

- i. The Court being satisfied that the defendant (and any legal adviser) has had sufficient information about the allegations;

- ii. Paragraphs 5.2 – 5.5 of the Guideline (the recommended one-third reduction being reduced to a recommended reduction of 20% where the prosecution case is overwhelming);
- iii. Paragraph 3(b) of Annex 1 of the Guideline (the Court may consider that, in circumstances where the defendant [and any legal adviser] would have had sufficient information about the allegations, it would be reasonable to have expected an indication of willingness to plead guilty even earlier, perhaps whilst under interview or at a preliminary hearing).

27. In relation to an offence triable either way which is committed to the Crown Court for trial, the presumption referred to in paragraph 25 above will also be subject to paragraph 3(c) of Annex 1 of the Guideline (recommended reduction at the first hearing in the Crown Court of one-third being reduced to 30% if no plea is indicated at the Magistrates' Court). For the avoidance of doubt, to obtain the maximum reduction a defendant must request the Magistrates' Court to fix an "Early Guilty Plea Hearing" at the Crown Court or agree with the prosecution request for such a hearing by indicating that a guilty plea will be entered at such a hearing.

28. In relation to an offence which is triable only on indictment which is sent to the Crown Court for trial, the presumption referred to in paragraph 25 above will also be subject to paragraph 3.(d) of Annex 1 of the Guideline (it may well be that the first reasonable opportunity would have been during the police station stage; where it is not the case, the first reasonable opportunity is likely to be at the first hearing in the Crown Court).