

## **Practice Guidance Note (draft)**

Lewes and Chichester Crown Courts

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 that 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. For sentencing the Scheme does

#### **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 to Lewes/Chichester 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 15 working days after the date of the receipt of the request, and the procedure for the hearing will be as set out below in Annex A
6. The request shall be made by e-mail to: [lewescrowncourtegp@hmcts.gsi.gov.uk](mailto:lewescrowncourtegp@hmcts.gsi.gov.uk) or [chichestercrowncourtegp@hmcts.gsi.gov.uk](mailto:chichestercrowncourtegp@hmcts.gsi.gov.uk)
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 3 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 Lewes Crown Court / Chichester 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 Friday after 10 working days after the date of committal if the defendant is in custody and the first Friday after 15 working days if on bail, and the procedure at the hearing will be as set out below in Annex A. The Magistrates Court will fix only one date on Committal; an EGP hearing where applicable and a PCMH date in all other cases
- 12. A PSR request may be commissioned only when the matters referred to above are resolved and communicated in full via email to the probation CLO, or where the defendant is a youth to the appropriate YOS officer. E-mail addresses are set out in Annex B.

13. 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 3 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**

14. The defence can request any matter sent under section 51 of the Crime & Disorder Act 1998 to be listed for a preliminary/EGP hearing to enter a plea of guilty. Again the Magistrates Court will only fix one date – either an EGP or a PCMH Hearing.
15. Subject to the provisions of this paragraph, at any stage prior to the PCMH in a case which has been sent to Lewes/Chichester Crown Court, any party may request the court to list the case for an "Early Guilty Plea Hearing". Upon such request being made, the case shall be listed the Friday following 10 working days if the defendant is in custody or the Friday following 15 working days if on bail, after the date of the receipt of the request and the procedure for the hearing will be as set out below.
16. The request shall be made by e-mail to the relevant Court EGP e-mail address.
17. At the same time as the request is made, notification of the request shall be given to all other parties in the case.
18. 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.

19. 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 three 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.

21. **Where application is made, in any case, to withdraw the case from the EGP list under 9 (iii) or 20(iv) above, or for any other reason, the parties will include in such application information which will allow the Court to fix a date for the Hearing of the PCMH. If no such indication is given the Court will list the case on the EGP date for an effective PCMH.**

## Sentencing

22 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:

23 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.

24 In relation to all offences (sent or committed) the presumption referred to in paragraph 22 above will be subject to

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

25 In relation to an offence triable either way which is committed to the Crown Court for trial, the presumption referred to in paragraph 23 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.

26 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 23 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).

## **ANNEX A**

Procedure relating to the EGP Court Hearings:

1. Cases identified by the CPS the Defence or both as EGP cases, will be listed for “Early Guilty Plea” at Lewes / Chichester Crown Court only before the Resident Judge or a nominated Deputy
2. These cases will generally be listed **on Friday mornings in the 10.00 am list** with a time estimate of 30 minutes. The court will expect to complete them within this time unless either Defence or Prosecution have notified the court not less than 3 days before the hearing that a longer time is required, and the reason for it.
3. In the event that either CPS or Defence would, for good reason, prefer a different day or time, to suit an advocate’s convenience the List Officer may try to accommodate this.
4. At the hearing the following steps are to be taken:
  - A The Defendant will be identified
  - B The parties will first be asked to confirm that the case is to proceed as an EGP
  - C Any basis of plea will be considered, whether agreed or not disputed and the possible need for a Newton hearing decided.
  - D The Defendant will be arraigned.
  - E The case will proceed as a sentence hearing in which the D can expect a reduction of one third in his sentence.
5. Where an EGP case has been removed from the EGP list under para 21 above but no request for another date has been suggested by the parties, it will be presumed that the case will proceed as an effective PCMH on the original EGP date.



**ANNEX B**

**Lewes Crown Court**

**The Law Courts  
High Street  
Lewes  
BN7 1YB  
Switchboard 01273 480400  
Fax Number 01273 485269**

**Probation Trust**

**[probation.lewescc@sspt.probation.gsi.gov.uk.cjism.net](mailto:probation.lewescc@sspt.probation.gsi.gov.uk.cjism.net)**

**Crown Prosecution Service**

**[Cpstu.brighton@cps.gsi.gov.uk](mailto:Cpstu.brighton@cps.gsi.gov.uk)**

**For requests to the Crown Court for an EGP hearing post committal or sending  
from the Magistrates' Court:**

**[lewescrowncourtegp@hmcts.gsi.gov.uk.cjism.net](mailto:lewescrowncourtegp@hmcts.gsi.gov.uk.cjism.net)**

**Youth Offending Teams**

**East Sussex [youthoffendingteam@eastsussex.gov.uk.cjism.net](mailto:youthoffendingteam@eastsussex.gov.uk.cjism.net)**

**West Sussex [youthoffendingteam@westsussex.gov.uk.cjism.net](mailto:youthoffendingteam@westsussex.gov.uk.cjism.net)**

**Brighton and Hove [brighton-hove.yot@brighton-hove.gov.uk.cjism.net](mailto:brighton-hove.yot@brighton-hove.gov.uk.cjism.net)**

**Chichester Crown Court**

The Court House, Southgate  
Chichester, PO19 1SX  
Switchboard  
01243 520740  
General Fax  
01243 538252

**Chichester Probation Trust**

[egprequests@sstp.probation.gsi.gov.uk.cjism.net](mailto:egprequests@sstp.probation.gsi.gov.uk.cjism.net)

**Crown Prosecution Service**

[cpstu.chichester@cps.gsi.gov.uk.cjism.net](mailto:cpstu.chichester@cps.gsi.gov.uk.cjism.net)

**For requests to the Crown Court for an EGP hearing post Committal or sending  
from the Magistrates Court**

[chichestercrowncourtegp@hmcts.gsi.gov.uk.cjism.net](mailto:chichestercrowncourtegp@hmcts.gsi.gov.uk.cjism.net)

01243 520740

**Youth Offending Team**

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