

## **CRIMINAL COURTS PRACTICE NOTE NO. 2 OF 2022**

### **The Summary Case Management Pilot Project**

### **Dundee, Hamilton and Paisley Sheriff Courts**

**This Practice Note takes effect from 5 September 2022**

**and replaces Practice Note No. 2 of 2019**

#### **Introduction**

[1] This Practice Note applies from 5 September 2022 and replaces Practice Note No 2 of 2019. It applies to summary criminal cases in which the first calling (pleading diet) occurs on or after 5 September 2022 in Dundee, Hamilton and Paisley Sheriff Courts.

[2] Proper judicial control over the use of court time is an important part of the entitlement to a fair and public hearing within a reasonable time. Sheriffs therefore have a duty to manage actively all stages of summary criminal proceedings.

[3] The objective of this Practice Note is to pilot, in three sheriff courts, measures designed to promote greater efficiency and the better use of available resources. It provides guidance on the practices, which the Crown and the defence will be expected to adopt, to enable the sheriff to perform an active case management role, at the first calling or at any continued without plea diet. The Summary Case Management (SCM) Pilot will focus upon early disclosure and early judicial case management in order to reduce the number of cases proceeding unnecessarily to a trial diet. The measures introduced by the SCM Pilot will allow the accused to be better informed and advised of the case against him or her before he or she is called upon to tender a plea.

[4] An evaluation of the effectiveness of the measures will be carried out at six monthly intervals. The SCM Pilot is expected to last 18 months.

[5] This Practice Note will not apply to cases in which the accused is unrepresented at first calling or at any continued without plea diet. It will not apply to those accused who have been remanded in custody for trial at the first calling.

### **Pre-Appearance**

[6] In relation to all summary complaints involving charges of domestic abuse<sup>1</sup>, key evidence will be received by the Crown from the police, and will be disclosed to the defence, prior to the first calling (whether an accused is appearing from custody, on an undertaking or is cited to attend court). Key evidence is the evidence required for proof of the offence such as a statement from the complainer or other eye-witnesses, photographs, video evidence and any available forensic evidence. The disclosable summary of evidence will be intimated by the Crown to the defence prior to the first calling.

[7] In relation to any other complaint, specified disclosure material may be available to the defence prior to or at the first calling. The disclosable summary of evidence will be intimated by the Crown to the defence prior to the first calling.

[8] The summary of evidence and the disclosure of key or specified evidence will allow the defence to engage meaningfully with the Crown to facilitate early pleas of guilty, failing which, to prevent the unnecessary citation of witnesses in relation to evidence which is capable of agreement. It will facilitate early and meaningful judicial case management. The court will assume that, in every such case, there is either scope for resolution of the case or for the agreement of evidence.

[9] As disclosable evidence cannot be made available unless the Crown is in receipt of a letter of engagement, defence agents will be expected to submit letters of

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<sup>1</sup> charges under the Domestic Abuse (Scotland) Act 2018 and any charges with a domestic abuse aggravation.

engagement to the Crown immediately upon receiving instructions to represent an accused.

[10] In order to maximise the effectiveness of the pilot and to secure its aims, letter pleas of not guilty are discouraged. Appearances are necessary to allow judicial case management at the first calling (or at any continued without plea diet) in all cases that are not immediately resolved by a plea of guilty.

#### **First calling (Pleading diet) in domestic abuse cases**

[11] At the first calling of cases involving charges of domestic abuse, the court will expect the accused to provide his or her agent with sufficient instructions to allow the agent to:

- (a) comply with the terms of this Practice Note;
- (b) comply with the terms of section 257 of the Criminal Procedure (Scotland) Act 1995; and
- (c) provide the court with sufficient information for the completion of a case management note,

failing which the case will be continued without plea in terms of section 145 of the 1995 Act for a period of up to 2 weeks, without the court calling upon the accused to tender a plea.

#### **First calling (Pleading diet) in non-domestic abuse cases**

[12] At the first calling of cases which do not involve charges of domestic abuse, where the defence have received specified disclosure material in terms of paragraph 7 above prior to the first calling, the court will expect the accused to provide his or her agent with sufficient instructions to allow the agent to:

- (a) comply with the terms of this Practice Note;

(b) comply with the terms of section 257 of the Criminal Procedure (Scotland) Act 1995; and

(c) provide the court with sufficient information for the completion of a case management note,

failing which the case will be continued without plea in terms of section 145 of the 1995 Act for a period of up to 4 weeks, without the court calling upon the accused to tender a plea.

[13] In the event that, at the first calling, the Crown or defence consider that the provision of specified disclosure material may make a material difference to a plea or the early resolution of issues in the case, the case will be continued without plea for a period of up to 4 weeks for such material to be disclosed, without the court calling upon the accused to tender a plea.

### **Judicial Case Management**

[14] A copy of the disclosable summary of evidence will be provided to the sheriff. The court will expect agents to have discussed the summary of evidence and any key or specified disclosure material with their clients prior to a first calling or, if the case is continued in terms of paragraphs 11, 12 or 13 above, prior to any continued without plea diet.

[15] At a first calling (or, if the case is continued in terms of paragraph 11, 12 or 13 above, at any continued without plea diet), if a plea of not guilty is tendered in relation to (a) cases involving charges of domestic abuse or (b) cases in which specified disclosure has been made available, the sheriff will take a proactive approach to case managing the proceedings. The sheriff will complete a case management note in the form set out in the schedule to this Practice Note. The Crown and the defence will be expected to provide the sheriff with sufficient information to enable the sheriff to ascertain the matters set out in the case management note.

[16] Upon completion of the case management note, a pre-intermediate diet meeting, an intermediate diet and a trial diet will be assigned.

CJM Sutherland  
Lord Justice General

Edinburgh

1 September 2022

## Schedule: Pro forma Case Management Note

PF v

### CASE MANAGEMENT NOTE

Sheriff:

(TO BE COMPLETED IN CAPITAL LETTERS)

Issue	Crown	Defence
<b>PART 1 - PREPARATION</b>		
1. Are there any disclosure issues? If so, provide details.		
2. Are there any further inquiries? If so, provide details.		
3. Do the defence wish to record any plea of guilty which has not been accepted by the crown to preserve any potential sentence discount?		
<b>PART 2 - FOCUSING ISSUES</b>		
1. What can be agreed and joint minuted?  - Identification? - Police Interviews? - Police and other witnesses? - Medical evidence? - SOUE? (Hearing required?) - Other?		
2. Issues in dispute?  - Identity? - Actus reus? - Mens rea? - Special defence? - Statutory defence?		
<b>PART 3 – PRACTICAL ISSUES</b>		
Are there any practical issues to be addressed:-  - Vulnerable witnesses? - Equipment required? - Interpreters? - Length of Trial? - Dates to avoid? - Other?		
Any other relevant matters:  [Please use reverse to record any additional notes as required]		