

**HER WORSHIP THE DEPUTY HIGH BAILIFF'S SUMMARY PRACTICE
DIRECTION 2013**

PLEA BEFORE VENUE AND COMMITTAL FOR SENTENCE PROCEDURE

The objects of this Practice Direction are to:-

- Implement the changes brought about by the amendments made by the Summary Jurisdiction and Miscellaneous Amendments Act 2013 to sections 15-17 of the Summary Jurisdiction Act 1989
- Allow defendants charged with an offence or offences which by statute can be tried either in the Summary Court or at the Court of General Gaol Delivery (“either way offences”) or charged with an offence or offences which are triable on Information but, by virtue of Schedule 2 of the Summary Jurisdiction Act 1989 as amended, can be dealt with summarily (Schedule 2 Offences) to receive maximum credit by pleading guilty at the earliest opportunity and then to be committed for sentence to the Court of General Gaol Delivery without the need for full committal proceedings.
- Allow the court to commit for sentence to the Court of General Gaol Delivery those convicted of either way offences or Schedule 2 offences after a trial in the summary court if further information comes to light after the Court has accepted jurisdiction which mean that the sentencing powers of the Summary Court are insufficient. e.g a defendant’s previous convictions.

This Practice Direction will come into operation for all Defendants who make their first appearance before a Court of Summary Jurisdiction on or after the 3rd February 2014

1. The following procedure will be used in respect of all defendants who make their first appearance before a Court of Summary Jurisdiction (“a Summary Court”) court on or after the 3rd February 2014 charged with an either way or Schedule 2 Offence.
2. At the first hearing, or a subsequent hearing if the matter is adjourned, the charge will be written down and read to the defendant, once he has confirmed that he understands the charge then the plea before venue procedure (PBV) will be explained to him in the following terms:-

“For this charge you may be tried either in this court or by a jury at the Court of General Gaol Delivery. First however, this court must ask whether, if the case proceeds to a trial you would plead “guilty” or “not guilty”. Before you answer that question I want to explain what will happen then. If you say that you would plead Guilty that will be treated as a guilty plea having been entered, the Court will then hear a summary of the prosecution case against you, your mitigation and any previous convictions. The Court will then decide what sentence it thinks you should receive. Do you understand?

If the Court believes that you would receive greater punishment than this court can give it will send you to the Court of General Gaol Delivery to be sentenced. Otherwise you will be sentenced here. If you say that you would plead Not Guilty or fail to indicate how you would plead the court will decide whether to send you to the Court of General Gaol Delivery for trial. Do you understand that or do you want anything to be explained further?

3. The Court will then say to the Defendant: “If the charge against you was to proceed to trial would you plead guilty or not guilty?”
4. The following procedure will then apply depending upon whether a “Guilty plea” or “not guilty plea” or “no plea” is indicated

a. Guilty plea indicated

- i. If, after considering the facts as outlined by the Prosecutor and any basis of plea put forward by the Defendant, the Defendant’s previous convictions and any other relevant factors, the summary court concludes that its sentencing powers are insufficient the defendant will be committed for sentence to the Court of General Gaol Delivery in accordance with section 17 of the Summary Jurisdiction Act 1989 as amended.
At the same time the Court may also commit for sentence any other offences in respect of which it has power to deal with the offender.
- ii. If, after considering those factors the court concludes that its sentencing powers are sufficient then it will proceed to sentence or, in appropriate cases, adjourn sentence for a Sentence Enquiry Report or Pre Sentence Assessment to be prepared.

b. Not guilty plea or no plea is indicated, (“the Mode of Trial Procedure”)

If a “not guilty plea” or “no plea” is indicated the procedure to be adopted by the Court will not differ from the current procedure. The Court will ask the Prosecutor and the Defendant in turn for their representations as to which is more suitable, trial at the Court of General Gaol Delivery or summary trial.

The Court will then decide which mode of trial appears more suitable, having regard to the representations made, particularly to the nature of the case, whether the circumstances make the offence one of a serious character and whether the summary court powers of sentence would be adequate to deal with the defendant should he be convicted of the offence after trial.

The Defendant’s previous convictions are not relevant to this decision and will not be considered by the Court at this stage.

If the Court concludes that summary trial appears more suitable the matter will be then adjourned to a Pre Trial Review or trial date as appropriate in accordance with the Deputy High Bailiff’s Practice Direction 2012.

If trial on Information appears more suitable the court will adjourn the matter for committal proceedings to take place.

5. It is not expected that the Plea before Venue or Mode of Trial Procedures will normally be lengthy or complicated. Advocates are expected to be in a position to deal with both procedures at an early stage in the proceedings and without the need for lengthy or repeated adjournments.

SUMMARY OF PLEA BEFORE VENUE AND MODE OF TRIAL PROCEDURE.

1. Defendant appears before a court of summary jurisdiction charged with an “Either-way” or “Schedule 2” offence
2. The Charge is read to him and it is explained to him that he may indicate a plea to the charge, if indicates a guilty plea he may be committed for sentence
3. Defendant indicates his plea.

i. Guilty Plea Indicated	ii. Not Guilty Plea or No Plea indicated
Prosecutor gives facts of offence and details of any previous convictions and may also make representations as to whether, in his view, the summary courts sentencing powers are adequate.	Court hears representations from the Prosecutor and the Defendant, on the basis of the Prosecution case taken at its highest and a conviction after trial decides whether its sentencing powers are adequate or it is otherwise desirable for the case to be heard at GG.
Defence Advocate makes representations re sentencing powers and gives details of the basis of plea if any	If the Court accepts jurisdiction then proceed to adjourn to trial or PTR.
Court, after considering representations made, the basis of plea, the defendant’s record and any relevant sentencing guideline cases decides whether its powers to sentence are sufficient,	If court declines jurisdiction fix committal date and adjourn.
If court finds sentencing powers sufficient then they either sentence there and then or adjourn sentence for reports	If, after summary trial, the defendant is convicted the court may commit for sentence if the facts as disclosed by evidence at trial are more serious than those put at MOT or the Defendant’s previous convictions are such that the court’s sentencing powers are insufficient.
If sentencing powers insufficient then commit for sentence to GG in custody or on bail and may include any other offences which it has power to deal with.	

Jayne Hughes
Deputy High Bailiff

Date: 2013