

Magistrates Courts

Practice Direction No. 6 of 2008

Appearance of persons in custody - use of video link facilities

1. The purpose of this Practice Direction is to clarify the procedure for the manner of appearance of a person in custody at a correctional institution that has video link facilities linking it and the Magistrates Court conducting a proceedings at which the person is entitled or required to be present.
 2. The *Justices Act 1886* (the Act) in section 178C provides that in these circumstances a proceeding for the person's bail or remand **must** be conducted using the video link facilities, unless the court, in the interests of justice, otherwise orders.
 3. Accordingly, the following procedures will apply to persons in custody where such video link facilities are available:
 - (a.) Unless otherwise ordered, all orders for remand made by magistrates are taken to require appearance by video link.
 - (b.) If the person's legal practitioner seeks a personal appearance of the person on proceedings for bail or remand, the legal practitioner must first apply to and satisfy a magistrate that the person's personal appearance is required in the interests of justice.
 - (c.) If it is proposed to sentence the person for offences within the jurisdiction of the Magistrates Court and the person is required to be present in the court (i.e. all parties do not consent to the person being sentenced on video link, in accordance with section 178C(3) of the Act), the practitioner must, at the callover, inform the magistrate when seeking a remand for this purpose.
 - (d.) On all hearings the person will appear personally at the court unless the parties consent to the person appearing by video link and the court makes an order in accordance with section 178C(3).
 - (e.) A person appearing by video link from a secured booth in a correctional institution is to be identified by a name plate which will be placed in front of the prisoner.
-

- (f.) On all proceedings where the person is to appear by video link:
- (i.) The representatives of the prosecution and the person **must** be fully prepared prior to that appearance, ready to proceed on time, in accordance with the order of appearance determined by the magistrate and must deal with the matter as expeditiously as possible; and
 - (ii.) Any application for a change in appearance requirements **must** be made to the court a minimum of 72 hours prior to the scheduled appearance date.
4. This Practice Direction supersedes Practice Directions No.3 of 2005, No.4 of 2005, No.2 of 2006 and No.5 of 2006 and will apply as from 29 August 2008.



**Judge Marshall Irwin
Chief Magistrate
29 August 2008**