

**MAGISTRATES COURT
PRACTICE DIRECTION
NO. 2 OF 2006**

Appearance of Detainees on video link facilities at Magistrates Courts at Maryborough and Hervey Bay

The purpose of this Practice Direction is to clarify the procedure in relation to the manner of appearance of detainees (defendants in custody) on video link facilities at Magistrates Courts at Maryborough and Hervey Bay.

The *Justices Act 1886* provides for the use of video link facilities for certain proceedings before a Magistrates Court. In particular section 178C provides as follows:-

Use of video link facilities in proceedings

178C(1) This section applies to a proceeding if –

(a) a detainee is entitled or required to be present before a Magistrates Court for the proceeding; and
(b) the proceeding is about an offence with which the detainee is charged, including a proceeding for the detainee's bail or remand; and
(c) video link facilities are available linking the correctional institution where the detainee is in custody and the court.

(2) A proceeding for the detainee's bail or remand **must** be conducted using the video link facilities, unless the court, in the interests of justice, otherwise orders.

(3) In a proceeding, other than a proceeding for the detainee's bail or remand, the court may order the proceeding be conducted using video link facilities only if all parties consent.

(4) The video link facilities may only be used to link the proceeding before the court at the place the court is sitting with the detainee, or the detainee and the detainee's representative, at the correctional institution.

Accordingly, the following procedures will apply –

(1) On all proceedings for bail or remand, the detainee will appear on video link unless personal and video link appearance is excused.

(2) If the detainee's legal practitioner (or the detainee, if unrepresented) seeks a personal appearance of the detainee on proceedings to which paragraph (1) applies, the legal practitioner (or the detainee) must first apply to a magistrate and satisfy the requirements of section 178(2) above.

(3) If it is proposed to sentence the detainee for summary offences and the detainee is required to be present in court (i.e. all parties do not consent to the detainee being sentenced on video link in accordance with section 178C(3)), the practitioner (or the detainee, if unrepresented) must inform the magistrate when seeking a remand for this purpose.

(4) On all hearings the detainee will appear personally at court unless the parties consent to the detainee appearing by video link and the court makes an order in accordance with section 178(3).

(5) On all proceedings where the detainee is to appear on video link:

(a) The representatives of the Prosecution and the detainee (or the detainee, if unrepresented) **MUST** be fully prepared prior to that appearance and ready to proceed on time and in accordance with the order of appearance determined by the Court and must deal with matters as expeditiously as possible; and

(b) 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.

This direction shall take effect as from 3 April 2006.



Judge M.P. Irwin
Chief Magistrate
14 March 2006