

PRACTICE DIRECTION NUMBER 1 OF 2008

SUPREME COURT OF QUEENSLAND

TAKING EVIDENCE BY TELEPHONE AND VIDEO LINK

1. This Practice Direction supersedes Practice Direction 1 of 2000. It relates to proceedings in the Trial Division.
2. Designating the following procedure is intended to streamline the taking of evidence by telephone and video link, and in particular, to avoid delay and disruption and maintain the decorum of the proceeding.
3. The party seeking to have evidence or submissions taken by telephone or video link should inform the other party accordingly, before the trial, to determine whether there is any objection (Rule 392 UCPR). If there is objection, an application may be made to the Applications judge or to the trial judge if the identity of that judge is known.
4. The trial judge, when known, should in any event be apprised in advance of the wish to give evidence or submissions by telephone or video link, and the judge's agreement obtained or any necessary order made.
5. In anticipation of the taking of the evidence or submissions by telephone or video link, the legal representative of the party calling the witness must attend to the following matters:
 - a. arrange for the witness to have immediate access to the telephone or video conferencing facility;
 - b. ascertain from the witness the form of oath to be taken and ensure that the witness is equipped to comply with the formalities of the oath, or confirm that the witness intends to affirm;
 - c. explain to the witness:
 - i. that the evidence is being given in a formal court proceeding and being recorded;
 - ii. that the witness may be cross-examined by counsel and questioned by the judge;
 - iii. that the witness must be careful only to answer the questions asked;
 - iv. that the witness must ensure he or she is not interrupted by any other person while giving the evidence; and
 - v. that the witness must give the evidence while alone, and without seeking or accepting assistance from any other person.
6. A witness attending by video link must be present at the video conferencing facility at least 15 minutes prior to the commencement of the video conference, so the link may be set up.

7. It is most convenient if the witness telephones the court, or in the case of a video link, initiates the link, rather than vice versa. The legal representative for the party calling the witness should:
 - a. ascertain in advance from the bailiff, the telephone number, or videoconferencing number, of the trial courtroom, and inform the intended witness of that number;
 - b. impress upon the witness the need to telephone the courtroom precisely at the time designated by the judge,
 - c. advise the witness to be in possession of a bible if an oath is to be taken, and
 - d. advise that it must be the witness (rather than someone on his or her behalf) who actually calls in.

8. In the unusual event that arrangements cannot be made to have the witness call into the court, the following paragraphs 9 and 10 apply.

9. This paragraph applies to a proceeding being conducted at Brisbane.
 - a. Prior to the time the evidence is to be given, the bailiff will advise the Chief Bailiff or Deputy Chief Bailiff, or if necessary the staff at the Sheriff's Office, of the following matters:
 - i. the number of the court room and the name of the judge;
 - ii. the name of the person required to give evidence;
 - iii. the name of the organisation, if applicable, where that person is to be contacted;
 - iv. the telephone or videoconferencing number, including any STD area code; and
 - v. the time at which the court requires the evidence to be given.

 - b. If the audio visual equipment at the remote site is not compatible with the Supreme Court equipment, a gateway booking with an external service provider must be organised by and at the cost of the party requesting the link.

 - c. For evidence to be taken or submissions given via telephone, a couple of minutes prior, the Chief Bailiff (or other court officer, as the case may require) will place the call with the long distance operator, with a request for a "callback charge". When the call is connected, and it is clear the witness is waiting on the line, the Chief Bailiff will switch the call through to the courtroom. The Chief Bailiff will then announce to the court that the witness is on the line.

 - d. The Chief Bailiff will ensure that a call cost is received and passed on to Court Corporate Services for collection.

 - e. For evidence to be taken or submissions made via video link, a couple of minutes prior, the Chief Bailiff (or other court officer, as the case may require) will call the appropriate videoconferencing number. When the video link is established, and it is clear the witness is waiting via the video conferencing equipment, the Chief Bailiff will announce to the court that the witness is available via video link.

10. Where the court is sitting at a centre outside Brisbane, comparable arrangements suited to the particular centre are to be made.
11. Legal representatives for the parties must ensure the taking of evidence via telephone or video link does not detract from the formality and solemnity of the proceeding.
12. If a person wishes to utilise Queensland Courts facilities to give evidence via telephone or video link for the purpose of an overseas or interstate proceeding, an application must be made in advance to the Chief Justice. Fees may be payable for the use of the facilities in those circumstances.



Paul de Jersey
Chief Justice
14 March 2008