

**MAGISTRATES COURT  
PRACTICE DIRECTION  
NO. 5 OF 2006**

**Appearance of Persons in custody on video link facilities  
at the Magistrates Court at Richlands**

The purpose of this Practice Direction is to clarify the procedure in relation to the manner of appearance of persons in custody at a correctional institution on video link facilities at the Magistrates Court at Richlands.

The Justices Act 1886 provides for the use of video link facilities for certain proceedings before a Magistrates Court. In particular section 178C (read with section 178B) is to the following effect:

**Use of video link facilities in proceedings**

- 178C** (1) This section applies to a proceeding if—
- (a) a person 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 person is charged, including a proceeding for the person’s bail or remand; and
  - (c) the person is –
    - (i) in custody at a correctional institution that has video link facilities linking it to the [Magistrates Court conducting the proceeding]; or
    - .....
- (2) If the person is in custody at a correctional institution and the proceeding is for the person’s bail or remand, the proceeding **must** be conducted using the video link facilities, unless the [Magistrates Court conducting the proceeding], in the interests of justice, otherwise orders.
- (3) In a proceeding, other than a proceeding to which subsection (2) applies, the [Magistrates Court conducting the proceeding] 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 [Magistrates Court conducting the proceeding] with the person, or the person and the person’s representative, at the [correctional institution where the person is in custody].

Accordingly, the following procedures will apply –

- (1) On all proceedings for bail or remand in relation to a person held in custody at a correctional institution, the person will appear on video link unless video link appearance is excused.

- (2) If the person's lawyer (or the person, if unrepresented) seeks a personal appearance at the proceedings to which paragraph (1) applies, the lawyer (or the person) must first apply to a magistrate and satisfy the requirements of section 178C(2) above.
- (3) If it is proposed to sentence or deal with a person in custody at a correctional institution in a proceeding and the person is required to be present in Court (i.e. all parties do not consent to the person being sentenced on video link in accordance with section 178C(3)), the person's lawyer (or the person, if unrepresented) must inform the Magistrate when seeking a remand for this purpose.
- (4) On all hearings a person in custody at a correctional institution will appear personally at Court unless the parties consent to the person appearing by video link and the Court makes an order in accordance with section 178C(3).
- (5) On all proceedings where the person in custody at a correctional institution is to appear on video link:
  - (a) The prosecution and the person's lawyer (or the person, 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 no less than three (3) business days prior to the scheduled appearance date.

This direction shall take effect on and from 9 August 2006.



Judge Marshall Irwin  
Chief Magistrate  
4 August 2006