

Magistrates Courts

Practice Direction No. 3 of 2019

Use of video-link or audio-link appearances in the Childrens Court when constituted by a Magistrate

PURPOSE

1. The purpose of this Practice Direction is to assist the Court and the profession in the appropriate use of video-link or audio-link appearances.
2. An appearance by video or audio link of a child defendant shall only occur if the child is legally represented and consents to that procedure.
3. The use of video or audio link proceedings is at the discretion of the presiding judicial officer who should take into account:
 - (a) the nature of the proceedings;
 - (b) the right of the child to be given the fullest opportunity to be heard and participate in the proceedings;
 - (c) whether the child would be significantly disadvantaged by the video or audio link taking into account the capacity of the child to participate and understand;
 - (d) the agreement or otherwise of the child to the use of such links;
 - (e) any special needs of the child including the need for support of a parent, carer or other person;
 - (f) the necessity for the legal representatives to take instructions during the proceedings;
 - (g) any other relevant issues including the interests of justice.

BEFORE A TRIAL OR HEARING

4. The child must have had adequate opportunity to meet in person privately and give instructions to the legal representatives who should ensure that the child understands the limitations of a video or audio attendance. The legal representatives should assess the capacity of the child to deal with a video or audio appearance.

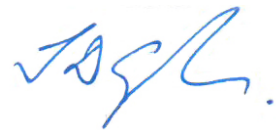
5. It is not appropriate to use the video or audio link where the child requires the services of an interpreter, lacks the capacity to participate by video or audio link or requires the support of appropriate persons, particularly family, in the courtroom.

DURING A TRIAL OR HEARING

6. There must be provision made for the possibility of private communication between the child and their legal representatives during the proceedings should the need to take instructions arise (see s.178F *Justices Act 1886*).
7. The room from which the child gives instructions should be private although appropriate officers may be present in the remote room during the court proceeding.
8. The method of communication must ensure that two way communication can occur between the child and the court (see s.178E *Justices Act 1886*).

AFTER A TRIAL OR HEARING

9. After the proceeding concludes there must be facilities for private conversation between the child and the legal representatives to ensure the child understands the outcomes.



Judge Terry Gardiner
Chief Magistrate
Date: 11 December 2019