



SUPREME COURT OF JUDICATURE OF JAMAICA

PRACTICE DIRECTION (CRIMINAL)

PRACTICE DIRECTION FOR EVIDENCE BY LIVE LINK

This Practice Direction is issued by the Honourable Chief Justice, in consultation with Judges of the Supreme Court. It is intended to govern the practice in the Supreme Court as well as for guidance of the Parish Court Judges, where practicable.

Purpose:

1. The purpose of this Practice Direction is to provide practical and other guidance for giving evidence by means of a live link in civil and criminal proceedings in the Supreme Court.

General:

2. Where it is lawful and in the interests of justice to do so, courts should exercise their statutory and other powers to have witnesses give evidence by live link. This is consistent with the overriding objectives in the Civil Procedure Rules and the Criminal Procedure Rules.
3. Where a court on its own motion considers giving a direction for a witness to give evidence by live link it should fix a hearing at which it will decide whether to do so and the Registrar must give each party likely to be affected at least seven days' notice of the date, time and place of the hearing.
4. When evidence is given by live link, the objective should be to make the process as close as possible to the usual practice in a trial where evidence is given in open court.

Preliminary

5. Where the court orders or directs that a witness may give evidence by live link, the court may make such orders as necessary to facilitate the live link, including such orders related, but not limited, to the following:
 - a. the payment or waiver of the prescribed fee;

- b. the arrangements to be made with the Registrar and appropriate court officer;
 - c. the use, location and remuneration of an interpreter;
 - d. the taking of the oath or affirmation by the witness at the location from which the witness is giving evidence by live link (the "remote site"); and
 - e. making available to the witness at the remote site any documents to which the witness is to be or may be referred.
6. Where the remote site is located overseas the court should consider all relevant factors including but not limited to time zone differences and the convenience of the witness, the parties and their representatives.
7. The parties and the court should give consideration as to the documents to which the witness is likely to be referred during the giving of his evidence and the parties should endeavor to agree on those documents.
8. Additional documents are sometimes introduced during the course of a witness's evidence. The Applicant should ensure that documents may be transmitted to the remote site during the live link.
9. Except as otherwise ordered by the court or required by law, each party to the proceedings may have a representative present at the remote site.
10. It is recommended that the Applicant has a person present at the remote site in order to deal with any technical problems which may arise.

Considerations at the Hearing

11. At the commencement of live link proceedings all persons present at the remote site should be identified and the judge shall make a record and the judge shall be informed of any persons who enter or leave the remote site during the proceedings.
12. Steps should be taken for the witness to give his or her evidence unaided and free from interference and the judge shall give such directions as necessary to ensure this is achieved.
13. During the giving of evidence by live link, the witness should be able to see the person asking questions.

14. Where evidence is being given by live link there may be some delays between the receipt of the picture and that of the accompanying sound and allowance should be made for this to prevent 'speaking over' the witness.
15. If the giving of evidence by live link is compromised in any way because of technical or other difficulties, the court may direct that the live link be discontinued and other arrangements be made for it to be commenced or continued at another time.
16. A witness giving evidence by live link must comply with all directions of the court and all practices and procedures of the court and where the witness fails to comply with a judge's directions the judge may take such steps as necessary including directing the discontinuation of the live link and disregarding the evidence of that witness.
17. Evidence given by live link forms part of a trial to which the public is entitled to have access, subject to any directions which the court may give otherwise.

Dated the 31st day of January, 2018



Zaila McCalla, OJ
Chief Justice
January 31, 2018