

CITATION: *Taking of Evidence by Telephone or Video Link*  
(PN1 of 2014) - Practice Note  
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## **QUEENSLAND INDUSTRIAL RELATIONS COMMISSION**

### **TAKING EVIDENCE BY TELEPHONE OR VIDEO LINK (No. PN1 of 2014)**

#### **PRACTICE NOTE**

This Practice Note replaces Practice Note PN 1 of 2000.

This Practice Note operates subject to the unfettered and overriding discretion of the Member of the Queensland Industrial Relations Commission (Commission) into whose hands a particular matter falls.

The purpose of this Practice Note is:

- to ensure that all parties are aware of the approach to the taking of evidence by telephone and video link in the ordinary case;
- to streamline the taking of evidence by these means;
- to avoid delay and disruption; and
- to maintain the decorum of the proceeding.

The Practice Note has no application to conferences, including dismissal conferences and conferences conducted pursuant to s. 552A of the *Workers' Compensation and Rehabilitation Act 2003*. It is applicable where submissions are to be made in a hearing.

#### **General**

1. Evidence by telephone or video link will be taken from expert witnesses and on formal and uncontroversial matters. Telephone evidence will not be taken where credibility is in issue.
2. The Commission will bear the costs of taking evidence by telephone and video link from witnesses located within Queensland. The party calling a witness will be expected to bear the cost of taking evidence by telephone or video link from a witness who is not located within Queensland. In such cases the Industrial Registry (Registry) will forward the call cost to the party who called the witness for payment.

#### **Proposal for a witness to give evidence by telephone or video link**

1. The party wishing to have evidence taken by telephone or video link should inform the other party(s) and/or those given the right to be heard at the earliest opportunity to determine whether there is any objection. The Registry is to be notified where there is an objection so

that a directions hearing can be arranged. In the notification the party seeking the taking of evidence by telephone or video link must state why the proposal is necessary or convenient, including the reasons it is not possible or practical for the witness to give evidence in person.

2. Where the parties consent to the taking of evidence by telephone or video link (e-mail communication will suffice), the Registry is to be notified of that at the earliest opportunity but no less than 72 hours prior to a hearing to be held in Brisbane and no less than 7 days where the hearing is to be held outside of Brisbane. It is consistent with this Practice Note for a directions hearing to be held to determine the question of whether evidence should be taken by telephone or video link.

### **What the party must do where the use of telephone or video link is allowed**

1. Once the Vice President or other Member approves the taking of evidence by video link, the party calling the witness is to complete the form "Application for Video Link", available on the Commission's website and return it to the Registry. Please note that the use of video facilities in Queensland courthouses located outside of Brisbane is preferred.
2. If the video link equipment at the remote site is not compatible with the Commission's equipment, a gateway booking with an external service provider must be organised by and at the cost of the party requesting the link.
3. A test call will be undertaken by the Registry the day before the witness is due to be called to ensure that the video link is operational and of reasonable quality.
4. In anticipation of the taking of evidence by telephone or video link, the representative of the party calling the witness **must**:
  - (a) arrange for the witness to have immediate access to a landline telephone or a venue with a video link 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 it is appropriate to affirm;
  - (c) explain to the witness that:
    - the evidence is being given in formal and recorded court proceedings;
    - the witness may be cross-examined by the representative of the other party and questioned by the Member;
    - they must be careful to respond to questions put and answer only the questions which are put; and
    - until directed by the Member, to not respond to a question while an objection is being taken.
  - (d) arrange for the witness to give evidence from a place where the witness will not be interrupted by work or other requirements/commitments; and

- (e) ensure that the witness has with them a copy of their statement (if relevant) and any other relevant documents.

### **What a witness must do if giving evidence by telephone or video link**

1. A witness giving evidence by video link must be present at the video link facility at least 15 minutes prior to the commencement of the video link, so the link may be set up.
2. The witness giving evidence by telephone or video link must have the appropriate materials to comply with the formalities of any oath to be taken.
3. The witness must also have with them a copy of any statement they have given in the proceedings and any other relevant documents.

### **Procedure in a hearing**

1. This paragraph applies where witnesses are located either within or outside Queensland:
  - (a) Where the evidence is to be given by telephone:
    - Prior to the time the evidence is to be given, the party calling the witness to give evidence by telephone is to inform the Associate to the Member hearing the matter of the telephone number of the witness.
  - (b) Where the evidence is to be given or submissions made by video link:
    - A couple of minutes prior to the pre-arranged time the Associate will call the appropriate video-conferencing number. When the video link is established, and it is clear the witness or representative is waiting, the Associate will announce to the Commission that the person is available via video link.

Dated this Ninth day of January 2014

**D.M. LINNANE**  
**Vice President**

**Operative Date: 9 January 2014**  
**Practice Note – Taking Evidence by Telephone or Video Link**