

## **USE OF TECHNOLOGY**

*Summary: This Circular sets out the Court's capabilities and practices for the use of technology for the presentation of evidence, submissions and other material. It refers to both the District Court Building in Perth and circuit locations.*

### **1. Background**

The courts in which the District Court sits are equipped with technology designed to facilitate the presentation of evidence, submissions and other material in a manner that enhances the quality of justice delivered by the Court and the efficiency with which the Court is able to do so.

The vast majority of hearings conducted by the District Court take place in the District Court Building ("DCB"). Where there are particular differences in capabilities and practice for circuit locations, these are noted.

The Circular supersedes Circular to Practitioners GEN 2009/2, Presentation of Evidence, Technical Standards.

### **2. Use of Laptops**

There are 16 courtrooms in the DCB in which practitioners can connect their laptop into the courtroom audio visual presentation system ("court AV system"). The same capability currently exists in all circuit courtrooms in which the District Court sits except Derby and Kalgoorlie.

Each of these courtrooms has an analogue 15 pin female socket (commonly called a VGA socket) in place ready for connection to a laptop. It is the responsibility of practitioners to provide a lead to connect their laptop to the 'female' VGA socket. If audio is required, the practitioner will also need to provide a lead to connect their laptop to a 'female' 3.5mm audio socket.

Where a practitioner wishes to use a laptop based presentation for evidence or submissions, the practitioner must make a formal request of the trial Judge at the commencement of the trial. The practitioner should be in a position to provide the Judge and other parties with a printed copy of the presentation. This request can be made prior to the trial by letter to the Associate to the Trial Judge, copied to the other parties.

Practitioners wishing to use a laptop to present evidence or submissions should test the connections before the commencement of the sitting.

Where a practitioner wishes to use the court AV system with a laptop, the party must send to the Court a Courtroom Technology Booking Form not less than 7 days prior to the date on which the hearing is to commence. The Courtroom Technology Booking Form is available on the Court's website. The reason for this requirement is to allow the Court to allocate a courtroom with the relevant capability.

Counsel benches in all DCB and many circuit courts are equipped with power points for laptops and other devices.

### **3. Video material on VHS or DVD and audio material on CD**

All courts in which the District Court sits have a DVD-Video (MPEG2 format) disk player and a VHS tape player. The DVD player can also play standard audio CDs (not data CDs.).

Audio or video material which was not originally recorded in DVD or CD format, should be re-recorded into one of these formats. An example may be video surveillance footage or the recording of a telephone intercept originally stored on a hard drive. The reason is to allow the relevant material to be tendered as an exhibit through the tender of the DVD or CD. In the absence of agreement between the parties, there will need to be continuity evidence given to support the tender of the actual exhibit.

The disc or tape should be made available to the Associate to the trial Judge 2 clear days prior to the commencement of the hearing so that the Associate can make sure that the relevant presentation device is turned on and available when required by the practitioner.

From time to time when practitioners in a trial have sought to play an audio recording on a CD or DVD, the sound produced has been barely audible in the courtroom. The reason for this appears to have been that the sound level on the recording was at a lower than usual audio level (for example, a recording of a telephone intercept).

Practitioners are requested to check the audio levels of any recording to be played in court. If the recording is quiet, practitioners are requested to ascertain from the source of the recording whether the recording level can be improved and then make arrangements to test whether the recording will be audible when played on the court's audio systems. These arrangements can be made by telephoning the court's Technology Officer on 9425 2278.

### **4. Document cameras**

21 of the DCB courts and all circuit courts are equipped with a document camera. This can be used by the parties to display objects (eg a weapon) or documents to all participants in the Court.

Where a practitioner wishes to use the document camera, the practitioner must send to the Court a Courtroom Technology Booking Form not less than 7 days prior to the date on which the hearing is to commence.

## **5. Photos**

The Court's preference is for photos to be presented in print format. In this way, the printed photo is tendered as the exhibit and, in a criminal trial, can be taken into the jury room.

Printed photos can be displayed in Court rooms on a document camera (see Part 4).

If a practitioner wishes to present images in electronic format, the practitioner should arrange for the photos to be displayed through a laptop on the counsel bench (or that of the instructing solicitor), connected to the court AV system. The requirements in Part 2 above apply to this use of the laptop.

Printed photos should also be made to be tendered, and so become the exhibit.

Each photograph should be marked for identification with a unique identification number. This is to ensure that the relevant exhibit can be subsequently identified from the transcript.

## **6. Other PC based evidence**

A practitioner may wish to present evidence, submissions or other material using a computer based format (in addition to images which are dealt with in Part 5). Examples include:

- Word processed documents
- Excel spreadsheets
- PowerPoint presentations
- Websites

Practitioners should be in a position to provide the Judge and the parties with a printed copy which can be tendered as the exhibit (if evidentiary material).

As noted in Part 2, the practitioner wishing to use the court AV system through a laptop must send to the Court a Courtroom Technology Booking Form not less than 7 days prior to the date on which the hearing is to commence, and is required to seek the formal approval of the Judge at or prior to the commencement of the trial.

## **7. Electronic whiteboards – “Starboards”**

Each court in the DCB is equipped with an electronic whiteboard, known as a “Starboard”. This can be used by a witness in the same manner as a conventional whiteboard, save that the diagram can be saved as an electronic image and printed. The printed copy will be the exhibit. The image can be recalled to the screen and, if necessary, annotated by other witnesses.

When a witness is being asked to use the starboard, the practitioner calling the witness will need to familiarise the witness with the system. Annexure A sets out the type of instruction which should be given to the witness.

A practitioner can also request the Court to upload images onto the electronic whiteboard for a witness to annotate. The annotated image is then saved and printed. There are colour printers outside each court. The printed image is then tendered as the exhibit.

The court limits the number of images each party can upload to 10. This is because more images than that slows the Starboard system, with the consequent risk of delays to the efficient conduct of the trial.

A practitioner wishing to use the Starboard must send to the Court a Courtroom Technology Booking Form and Electronic Starboard Booking Request not less than 7 days prior to the date on which the hearing is to commence. Where the party wishes to have images uploaded, the images need to be submitted together with the Technology Booking Form.

## 8. CCTV, video and audio conferences

All circuit courts and 14 DCB courts are equipped with audio and video conference capabilities. There are 9 remote witness rooms in the DCB, including 3 dedicated child witness rooms.

The following requirements apply:

<b>Media</b>	<b>Requirements</b>
Closed circuit TV (eg for complainants and special witnesses)	<ul style="list-style-type: none"> <li>• Orders required pursuant to <i>Evidence Act 1906</i> (WA) (may be made by consent).</li> <li>• A Courtroom Technology Booking Request form is to be sent to Registry 7 days prior to the hearing so that a courtroom with the relevant capability can be allocated.</li> </ul>
Video conference	<ul style="list-style-type: none"> <li>• For reception of evidence, order required pursuant to <i>Evidence Act 1906</i> (WA) s121 (may be made by consent).</li> <li>• Permission for Counsel to appear at interlocutory hearings is dealt with administratively, by letter or fax to the Court.</li> <li>• A Video Link Booking Request Form is to be sent to the Court not less than 14 days before the hearing date.</li> <li>• The requesting party also needs to book the facility from which the witness will give evidence.</li> <li>• Fees apply.</li> </ul>
Audio conference	<ul style="list-style-type: none"> <li>• For reception of evidence, order required pursuant to <i>Evidence Act 1906</i> (WA) s121.</li> <li>• Permission for Counsel to appear at interlocutory hearings is dealt with administratively, by letter or fax to the Court.</li> <li>• A Courtroom Technology Booking Request form is to be sent to Registry 7 days prior to the hearing so that a courtroom with the relevant capability can be allocated.</li> </ul>

The Court's policy on witnesses giving evidence by video link is set out in Practice Direction GEN 1 of 2011– Use of Video Link Facilities. The Practice Direction imposes an obligation on a party who has obtained an order for the use of video link facilities to use reasonable endeavours to ensure that the video link facility is one set out in the Court's List of [Preferred Video Link Facilities](#). The Practice Direction also sets out some specific obligations to ensure that the dignity and solemnity of the court is maintained throughout the reception of the evidence by video link.

## **9. Other modes of presentation**

Where a practitioner would like to present evidence in a format other than those set out in above, the practitioner is responsible for making arrangements to facilitate the presentation of that evidence.

The practitioner should also contact the court's Technology Officer on 9425 2278 at least 21 day before the commencement of the hearing in order to discuss the proposed arrangements and arrange a time at which the party can attend court and test the proposed mode of presentation.

## **10. eTrials**

There are 6 courtrooms in the DCB equipped for eTrials. No circuit court is equipped for an eTrial.

An eTrial will typically involve:

- All exhibits and potential exhibits being scanned and entered into the Court's eTrial database.
- Linking of documents within the database, for example witness statements and transcripts.
- Presentation of documents in an electronic format.

The Supreme and District Courts have adopted a common approach to eTrials, set out in a document entitled "Technical Guide for Preparing and Submitting Documents for eTrials". It is available on the website of both courts.

Practitioners wishing to conduct an eTrial should seek a directions hearing at which specific orders can be made for the trial to be an eTrial. In a criminal trial, the application for a specific directions hearing should be made at the first mention in the District Court.

In a civil trial, the parties should confer as to when to seek specific trial directions. In some cases, it may make sense for the discovery to be undertaken electronically to facilitate the trial being an eTrial. At the very latest, the application for specific directions for the eTrial should be made at the first listing conference. It is likely that the Court would allocate the trial Judge shortly after the listing conference with the intent that the trial Judge will manage the pre trial processes and directions.

**MICHAEL GETHING**  
**Principal Registrar**

**Annexure A – Instructions to a witness on using the starboard**

*Ms Witness, in a moment I am going to ask you to draw on the device in front of you which is an electronic whiteboard. Before I do that, I want to make sure you are comfortable with the system.*

*Mr Usher is going to hand you a special pen to use.*

*I would like you to draw a square on the page. Now a circle. You will need to hold the pen straight (perpendicular) against the screen. You will see a car in the image. Can you draw a circle around it?*

*Now we are going to change colour. You will see a selection of coloured lines called a palette on the right hand side of the screen. In the middle there is a box with a red coloured line. Press on the box. Now draw another circle.*

*You can erase what you have drawn. In the palette in the bottom left hand corner you will see a box with an eraser in it. Press on the box. Now rub out what you have drawn.*

*If you make a mistake, let us know, and you can erase what you have drawn.*

*Once you have completed your drawing, we are going to save the image and print it for use in the trial.*

*Ms Witness, do you feel comfortable with the Starboard?*