

WITNESS ASSISTANCE SERVICE



Are you a Vulnerable Witness?

To try and reduce the possible trauma of giving evidence or to encourage the witness to feel safe enough to give their evidence an application can be made to the Court to deem them as a 'Vulnerable Witness'.

If you have any further questions or would like more information, please contact the Witness Assistance Service on Freecall 1800 659 449 or email us on AGDDPPWitness.AssistanceService@nt.gov.au

What is a vulnerable witness and what does this mean in court?

Having to give evidence in Court is a stressful experience; it is common for people to be nervous or worried about going to Court. For some people however the prospect of giving evidence in the court room, in front of the accused person can cause a high level of anxiety and intimidation. This is particularly so in cases of Family Violence, Sexual Assault, matters involving child witnesses or witnesses with special needs.

To try and reduce the possible trauma of giving evidence or to encourage the witness to feel safe enough to give their evidence an application can be made to the Court to deem them as a 'Vulnerable Witness'.

The criteria for who can be considered a Vulnerable Witness by the Court is set out in Part IIA 21A(1) of the *Evidence Act*. This specifies the following type of witnesses can be considered vulnerable:

- A child;
- A witness who suffers from an intellectual disability;
- A witness who is an alleged victim of a sexual offence to which the matter relates;
- A witness who is, in the opinion of the court, under a special disability under the circumstances of the case or the witness;

This last criteria usually relates to witnesses who are fearful of harassment or retribution, are close family members to the accused or victim, have a mental health issue that may impact on their ability to give evidence or other special circumstance.

The Court will need to hear an application for a witness to be deemed a Vulnerable Witness so it is important to talk with a Witness Assistance Service (WAS) Officer or the Prosecutor prior to the Court date, ask about being considered a Vulnerable Witness and provide them with information for the application to be made.

Ultimately the decision on this is made by the Magistrate or Judge hearing the matter. The Prosecutor can make an application but can not guarantee that the Court will agree to deem the witness as Vulnerable.

If I am considered a vulnerable witness what happens?

People who are considered to be Vulnerable Witnesses by the Court are able to have a range of options available to them in giving their evidence. These include:

Having a support person with them when giving evidence

A support person is allowed to sit with the witness in the witness box and provide them with emotional support. The support



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person is not able to assist in explaining or answering any of the questions asked and is there primarily to reassure the witness they are not on their own.

Having a screen or partition in place that obscures the witness' view of the accused

Some witnesses are fearful of the accused and not comfortable being able to see them or their reaction when giving evidence. Placing a screen between them helps the witness to concentrate on what they are asked and not be influenced by the behaviour or presence of the accused.

The court can be closed while the witness gives evidence

Some witnesses find talking about the details of the offence in front of others highly embarrassing or traumatic. They may also fear the reaction of the accused persons' family or supporters to their evidence and possible repercussions of this outside of

the Court. In such cases the Court can direct that only the accused, their lawyer and the Prosecutor may be present when their evidence is given.

The witness can give their evidence over close camera television (CCTV) from another room

Some witnesses can give their evidence from a separate room through CCTV where they do not have to see or be in the same place as the accused. However these facilities are not available in all Courts.

What if I have difficulty with speaking english?

If English is not your first language and you need an Interpreter, just let the WAS Officer or prosecutor know this when they contact you. We will arrange for an interpreter to be present at Court so that you are fully able to understand what you are being asked to talk about.

