Youth Justice

Your Guide to Cops and Court in NSW

4th Edition

Macquarie Legal Centre

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Appearing in court as a witness

Who is a witness?

A witness is someone who can provide helpful information and facts in a hearing or court case. As a witness you have a very important role in helping the court decide whether the accused person is guilty or not guilty.

You don't have to be an eyewitness (someone who saw the alleged offence take place) to be a helpful witness. For example you may be called on to give evidence as a witness if:

- you were the victim of a crime
- your friend admits to committing a crime to you
- you see or hear something that might be related to the alleged offence occurring (eg you might have seen someone running away from the crime scene with a bloodied weapon)
- you might have been spending time with the accused before he or she allegedly committed the offence (eg shared a few drinks at the pub before your mate got caught drink driving), or
- you may be able to prove that a friend accused of a crime was actually with you at the time of the alleged offence and not anywhere near the crime scene (providing an alibi).

Other people who may be called as a witness include:

- the police who investigated the crime
- any expert witness who may be asked to give evidence about their area of expertise (doctors, psychologists, scientists and forensic specialists), or
- someone who knows the accused person (eg a relative, teacher, youth worker or employer) who may be able to provide evidence about the person's good/bad character, mental health, etc.

Who am I a witness for?

You could be called as a witness by either the prosecution or the defence. If you were an eyewitness to the offence and spoke to police at the scene, or if your evidence tends to support the police in their case against the accused, you will probably be called as a *witness for the prosecution*.

If your evidence tends to support the accused in his or her defence (prove that he or she did not commit the offence) then you might be asked to be a *witness for the defence*.

In most circumstances, it will be the police and prosecutors who will be seeking you as a witness to provide evidence against the accused. This chapter will mainly focus on the experiences of a witness for the prosecution, although most of the information will also be relevant for those who are defence witnesses.

What does being a witness involve?

If you are a witness for the prosecution, you may be called upon to:

- provide a statement, either in writing or electronically recorded, to the police
- give evidence at a *hearing* in the Local or Children's Court
- for more serious offences, and only in some cases, give evidence at a *committal hearing* where the magistrate will decide whether the prosecution evidence is strong enough to go to trial in the District or Supreme Court
- for serious offences, giving evidence in a *trial* at the District or Supreme Court.

If you are a witness for the defence, you will not usually be asked to provide a statement to the police, or to give evidence at a *committal hearing*. You might be called upon to:

- give evidence at a *hearing* (Local or Children's Court) or *trial* (District or Supreme Court), or
- give evidence at *sentencing*, after the accused person has pleaded or been found guilty, to provide evidence of any mitigating circumstances (eg information about the accused's grounds, disability or mental health issues, evidence of remorse, rehabilitation).

See *Going to court* chapter for an explanation of the different courts and types of proceedings.

Making a statement to the police

If the police think you have information that may help prove their case, they will want to interview you for a statement. Your statement will form an important part of the police brief of evidence.

Your statement can either be a written statement, or in some cases (eg if you are under 16) the police will electronically record your statement. The electronic statement can then be played as your *evidence-in-chief* in court.

In some cases the written statement or a transcript of the electronic statement will be handed up in court. In other cases you will be asked to give oral (spoken) evidence without your statement being used.

There are some things you should know about before deciding to make a statement. Becoming a witness and providing a statement can be a big deal and you should try to get some legal advice before you commit to being a witness.

Giving a statement – do I have to?

In most cases, the answer is no. There is usually no legal obligation to provide a witness statement and you will not be breaking any laws by not providing a statement. However, you need to keep the following in mind.

Suspects in a criminal investigation

If you are a suspect in an investigation (eg police think you have committed an offence) you do *not* have to provide any information or statement that might have the effect of implicating yourself in a crime.

Before they question you, the police must caution you and let you know that you have the right to silence and that anything you do or say may be used in evidence against you.

See *Police questioning* on page 151. See also *Self-incrimination* on page 305.

Concealing a serious offence

You have a duty to provide information to the police if:

- a serious offence has been committed (basically this means any offence punishable by imprisonment for 5 years or more, which would include stealing, drug dealing, assault, most sex offences, robbery, break and enter, and any offence where someone has been killed or seriously harmed), and
- you have information about the offence that would help the police.

If you don't, you could be committing the offence of *concealing a serious offence* (section 316 of the *Crimes Act*). If you conceal an offence for some personal benefit

(eg someone offers you money to keep quiet) you could be guilty of an even more serious offence.

So, while you can refuse to make a statement, if the police think you know something about a serious crime, you might get into trouble if you don't provide information.

You are not guilty of concealing a serious offence if you have a reasonable excuse for not giving the information, for example:

- if you are a suspect (in this situation you have a right to silence, which means you don't have to say anything)
- if you are a professional person (eg social worker, doctor, nurse, lawyer) who has received the information confidentially.

Subpoenas

Even if you refuse to provide a statement to the police, the police may subpoena you to make you go to court and give evidence. You can get arrested for failing to comply with a subpoena (see *What is a subpoena?* on page 297).

Victims of crime

If you are a victim of crime, there are other considerations too. As a victim of crime you may be eligible to seek financial compensation from the Victims Compensation Tribunal (see *Victims and compensation* on page 65).

Failure to report the crime within a reasonable time, or failure to cooperate with the police (eg by providing a statement) might affect your ability to get compensation.

What happens if I do not tell the truth in my statement?

If you do decide to provide a statement, you have to be very careful about what you say. Providing false or misleading information can get you into some very serious trouble. Even if you don't mean to lie, not telling the whole truth might get you into some trouble as well, so be very careful with what you say!

Lying can be an offence

In most cases it is not illegal to lie to the police, but sometimes it is an offence, for example:

- In some situations, especially where you are legally required to give information to the police (eg your name and address, see *Police ask your name and address* on page 87, or information about a traffic accident, see *Giving your name, address and other information* on page 219) it is an offence to give false information. The police must first warn you that giving false information is an offence.
- It is an offence to lie in a sworn statement such as an affidavit or a statutory declaration. Most police statements are not sworn statements.

- If you make a false report to the police (eg a bomb hoax) you could be charged with the offence of *public mischief* or *make false statement resulting in police investigation*.
- If you have information about a serious offence, and fail to provide it, you may be charged with *concealing a serious offence* (see above).
- If you lie to police to send their investigation off the track, you may be charged with the offence of *hindering or wilfully obstructing police*. Simply failing or refusing to provide information is not hindering.

Lying to the court can be a serious offence. Lying while giving evidence, after promising to tell the truth, is called *perjury*.

Not telling the whole truth could come back to bite you in court

Not telling the whole truth in your statement might land you in hot water when you get up in the witness box to provide your evidence in court.

If you decide to stick to your original statement in the witness box, and continue to not tell the truth under oath or affirmation, you will be committing the crime of *perjury* (see *Lying and perjury* on page 306).

If, on the other hand, you decide to depart from your statement and change your evidence in the witness box in order to tell the truth, it is likely that you will be seen as an *unfavourable witness*. You have not done anything wrong by being deemed an unfavourable witness, but you may be subjected to some rigorous and unpleasant *cross-examination* by both the prosecution and defence, for providing an inconsistent statement.

How is my statement used?

Brief of evidence

Your statement will form part of the police brief of evidence. If the accused pleads not guilty, or if it is a serious offence which is likely to end up in the District or Supreme Court, the accused will be given a copy of the brief.

Personal details like the witness's address are usually blanked out so the accused does not have access to this information. In some cases (eg sexual assault) access to sensitive evidence like photographs and medical reports may be restricted so that the accused is allowed to look at it under the supervision of the prosecuting authority (police or DPP) but may not have a copy.

Committal proceedings

Serious offences may go through a process called *committal* in the Local Court, to decide whether there is enough evidence for the case to go to *trial* in the District or Supreme Court. Your statement may be handed up as part of the *committal* proceedings.

In some cases, you may be called to give evidence at a *committal hearing*. This is less likely if you are a victim of an offence involving violence.

You cannot be required to give evidence at a committal hearing at all if you are a victim of sexual assault and:

- the assault happened when you were under 16 and you are currently under 18, or
- you have a cognitive impairment.

Trial or hearing

If the accused is *committed for trial* to the District or Supreme Court, your statement would not normally be used at the trial, but instead you would have to come to court and give oral evidence.

If the matter is being finalised in the Local or Children's Court (which most cases are) and the accused pleads not guilty, you will usually have to attend court to give evidence at the *hearing*.

In most cases your statement will not be handed up and you will have to give evidence from your own memory.

If your statement concerns something that is not in dispute (eg you are the owner of a car that was stolen, and the accused does not deny it was stolen), it is possible that your statement may be handed up in court without you having to attend.

If you are a vulnerable person and you have made an electronically-recorded statement, it may be played as your *evidence-in-chief*. However, you may still have to answer questions in cross-examination.

Attending court as a witness

Once you have informed the police of your availability and a trial or hearing date has been set, you will be required to attend court to give oral evidence.

Do I have to attend court?

If you have been given a *subpoena* to give evidence, you have to attend court unless the subpoena is *set aside* or you are *excused* from attending.

What is a subpoena?

A *subpoena* is a written notice requiring you to attend court to give evidence and/or to produce documents to the court.

The subpoena will tell you which court to attend on which day, as well as the names of the parties involved. The day when you are required to attend court is called the *return date*.

Service of subpoena

If you are asked to give evidence for the prosecution, a police officer will usually *serve* the subpoena by coming to your place and giving you a copy.

Service of a subpoena can be carried out in a number of ways. Most commonly it is simply placed in your hands. If you refuse to accept it, the server can just place it on the ground next to you and tell you what it is. It can also be sent to your residential address by post, or by fax or via email. If you have a lawyer who consents to service on your behalf, the subpoena can be served on your lawyer.

Once you have been served with the subpoena, you are legally obliged to comply with it. Even if the document isn't delivered to you personally, if you know about the existence of the subpoena and its requirements, you still have to attend court.

The court will not make you comply with the subpoena unless you have been given sufficient notice. The subpoena must be served within a reasonable time; this is usually at least 5 days before you are required to attend court. The magistrate or judge can, however, waive this time frame and allow less notice to be given.

Conduct money and witness expenses

All witnesses receive some amount of money appropriate for what it costs to get to court and attend court for the day. Whether you receive the money before the court date or get reimbursed for your expenses after the court proceeding depends on whose witness you are.

If you are a witness for the defence, you will receive *conduct money* a reasonable time before the day you are required to attend court. Often it will come with the subpoena. The conduct money will cover you for transport costs to get to court and meal allowances (and accommodation costs if you will have to stay overnight). Unless the correct amount of conduct money is provided to you, you do not have to comply with the subpoena.

If you are a witness for the DPP or the police, you will not receive money up front but you will be able to claim *witness expenses* from the court office after giving evidence. You will be able to fill out a claim for actual costs of getting to court, meals (and accommodation where appropriate) and if you provide a certificate of lost income, you will be able to receive up to a certain amount in lost wages.

If you are a witness for the DPP and need financial assistance to get to court, you can telephone the solicitor who is listed on the subpoena and explain your difficulties. In some cases advance expenses can be arranged.

Failure to comply with a subpoena

If you do not show up at court when you are subpoenaed to attend, and you have no lawful excuse for your absence, it will be considered a failure to comply with the subpoena and there may be serious consequences.

A lawful excuse for not attending court may be getting served with the subpoena too late, not receiving enough conduct money, or serious illness. Forgetfulness or nervousness is not a lawful excuse.

If you have been validly subpoenaed and do not appear, the court may issue a warrant for your arrest. This is a drastic step which doesn't happen often, but it does happen, especially in cases involving serious or violent offences.

If you are arrested on a warrant, one of several things may happen to you. It is possible that you will be granted bail with an order to return to court on another date to give evidence. There is also the possibility that you may be committed to a correctional centre (locked up) until the court date.

What if I am scared of going to court to give evidence?

If you are in a matter being prosecuted by the DPP, you can contact the solicitor named on the subpoena and explain your fears to them. If the matter is being prosecuted by the police, you can try speaking to the police officer in charge of the case.

If you have a genuine fear of the accused and you are under 16, you may be able to use CCTV or other alternative ways of giving evidence. If you are over 16, then the prosecutor may be able to make an application to the court for you to be able to give evidence by an alternative means.

If you are being intimidated or threatened by anyone due to being a witness for the DPP or police, talk to a lawyer immediately.

Witness protection programs

The witness protection program is run by NSW Police to protect the safety and welfare of DPP and police witnesses, and for other people who have given information to police about criminal activities.

If you are granted entry to the witness protection program, the Commissioner of Police can make necessary arrangements to protect your safety (eg allow you to establish a new identity, relocate you, provide necessary financial assistance etc).

The Commissioner of Police has the sole responsibility of deciding whether you are eligible to be included in a witness protection program and will take into consideration a range of issues. This will include the seriousness of the offence to which your evidence relates, the nature and significance of the evidence and the nature of the perceived danger to you.

If you have been refused entry to the program or have been taken out of the program, you can appeal the decision to the NSW Ombudsman (see *Contacts* on page 411).

Preparing to give evidence in court

Being a witness can seem like a really daunting task, but like everything else, being well prepared and knowing what to expect can help calm your nerves.

With District or Supreme Court matters the Director of Public Prosecutions (DPP) lawyer and/or the Crown Prosecutor will speak to you before the trial and make sure that you are properly prepared.

For cases being prosecuted by the DPP, the DPP Witness Assistance Service can assist you with court preparation. They can explain to you what is expected of you in court, discuss any fears with you, and if necessary refer you for counselling and help arrange court support for you while you are giving evidence.

In Local or Children's Court matters, the police officer in charge of the case might speak to you in advance, and the police prosecutor might speak to you just before you go in to court, but this does not always happen.

Here are a few things you might want to do before going to court:

- Make sure you check how you might get to the court and how long it might take you. Also, make sure that you give yourself extra time, in case there are traffic or transport delays.
- Arrange for a *support person* to come with you. They can be a friend or family member or anyone who you think might be helpful in stressful situations.
- Make sure you wear presentable clothes which are also comfortable since it is likely that you will be waiting around for some time.
- Bring something to do (eg a book, music or game), and to eat and drink, in case there is a long wait before you give evidence.
- Have a good think about the evidence you are going to be giving.
- Try and have a good idea of chronology (the order in which things happened). Be ready to answer questions like dates and times and locations.
- If you find it difficult to remember small details, you can reread any statements you have made (eg the statement you made to the police). You can always ask for a copy if you didn't get one or have lost it, though don't be surprised if the police officer or prosecutor refuses to give you a copy. They might refuse to let you remind yourself of what happened if they feel it might contaminate your memory (mix up your thoughts). If your statement was electronically recorded, the DPP solicitor will make arrangements so that you can view or listen to the statement before you give evidence. Usually, you won't be able to have your statement or notes with you in the witness box.

- If you think that anything you say in evidence might incriminate you (suggest that you are guilty of a crime), get legal advice before going to court.

When you get to court

If you haven't already arranged a place and time to meet the police, the DPP lawyer or the defence lawyer (whoever has subpoenaed or requested you to attend), you can go to the court office or inquiry counter to ask where you should wait.

Witnesses (apart from the accused) are not allowed to be in the courtroom while other witnesses are giving their evidence. You will be asked to wait outside until you are called by the court officer to give evidence.

There is a chance that things might be delayed and you might find yourself waiting around for a while so it's a good idea to bring something to keep you occupied. You might not even be called to give evidence on the day you were asked to come to court, and you might be asked to come back another day.

While you are waiting for your turn, there may be other witnesses waiting around to give evidence in the same case. Whatever you do, DO NOT discuss your evidence with other witnesses!

Once you have given your evidence, you will be allowed to stay in the courtroom and watch the hearing if you wish. Remember it is polite to bow in the direction of the judge when entering or leaving a courtroom.

In the witness box

Taking an oath or making an affirmation to tell the truth

Once you have been brought into the courtroom, you will be taken to the witness box where you will be sworn in. You can either take an oath or make an affirmation.

What's the difference?

There is no difference in effect, between taking an oath and making an affirmation. An oath is when you swear on a bible or another religious text to tell the truth, while an affirmation is making a promise to tell the truth, so it just depends on which one you might be more comfortable with.

If you choose to take an oath, you will usually hold a religious text (the Bible, Koran etc) while a court officer will ask you the following question: 'Do you swear by almighty God (Allah etc) that the evidence you shall give will be the truth, the whole truth and nothing but the truth? Will you please say "I do".'

If you choose to make an affirmation, you won't be asked to hold any religious texts but will be asked the following: 'Do you solemnly and sincerely declare and affirm that the evidence you shall give will be the truth, the whole truth and nothing but the truth? Will you please say "I do".'

Refusing to take an oath or make an affirmation

If you refuse to take an oath or make an affirmation, you are likely to be held in contempt of court (unless the court finds you are not competent to give sworn evidence, for example because you are a young child or you have an intellectual disability).

Before you decide that you are not going to take an oath or make an affirmation or answer any questions, you need to seek legal advice so you are aware of the potentially serious consequences that might follow your actions.

Who is going to be asking the questions?

After the oath or affirmation, you will be asked to confirm your name, occupation and address. If you are not comfortable providing your address in public, ask the court if you can write it down instead.

There are three stages to the evidence-giving process.

Examination-in-chief

The first stage is called *examination-in-chief*, where the person who is calling you as a witness (or their lawyer) will ask you questions. If you are giving evidence for the prosecution, this will be the police prosecutor, Crown prosecutor or DPP solicitor. This person will ask you to tell the court your version of events in your own words. They must not ask *leading questions*, which basically means they are not allowed to put words into your mouth.

If you have made an electronic statement it will be played to the court. The prosecutor will ask you some questions about yourself before it is played.

Cross-examination

The next is *cross-examination*. Here, the other party (or their lawyer) has a chance to *cross-examine* you.

A lawyer who is cross-examining you *is* allowed to ask leading questions, and often will try to do so. They may try to trip you up deliberately, at every possible opportunity to make your evidence appear unreliable, inconsistent or untrue.

There are certain things, however, that a lawyer is not allowed to do in cross-examination. The judge or magistrate may step in and tell you that a particular question doesn't need to be answered if it is confusing, intimidating or offensive, or it is put to you in a tone that is belittling or insulting.

Re-examination

The final stage is *re-examination*. Once the cross-examination is over, the person who first questioned you (examination-in-chief) may want to ask you more questions about issues raised in the cross-examination.

Questions from the magistrate or judge

At any time, the magistrate or judge may also ask you questions. It might be intimidating but don't worry because he or she is usually asking questions to make sure everyone understands what you're trying to say. Remember that you should address the judge or magistrate as 'Your Honour', or ' Sir' or 'Madam'.

What kind of questions will I have to answer?

When you're being asked questions it's a good idea to keep in mind that, most of the time, your evidence will only form a small part of the overall case.

You should only really be asked questions about what you know – for example what you saw, heard, felt or did. You will need to explain exactly what you know in the best way you can.

Remember that it's OK to not know the answer to a question. Especially in *cross-examination*, lawyers might try to trip you up, and ask you about things you might not know anything about. If this happens, don't be afraid to say you don't know. It is better to say that you are uncertain rather than guess or make things up.

If you don't understand a question, don't hesitate to let the lawyer know, and he or she should be able to re-ask the question in a simpler way.

The truth is, most people find the courtroom a stressful place – everyone except the lawyers who are in there every day. Everyone knows this, so if you are feeling overwhelmed or sick, need a glass of water or need to use the bathroom, just ask the magistrate or judge and they will let you have a break.

What if I get upset while I am giving evidence?

Sometimes, as a witness, you will be asked to answer questions about your personal life or about events which are distressing for you. These questions might be embarrassing or distressing and you might have to answer them in front of a courtroom full of strangers. This can be quite an uncomfortable or upsetting experience but, in most cases, the lawyers are simply doing their job and the answers you provide might be crucial to the trial.

Most judges and magistrates understand the difficulty of being a witness in such circumstances and they are more than happy to let you take a break if you need it. And remember, the judge or magistrate has the power to disallow questions if they are asked in a manner which is too aggressive or insulting.

If it is too upsetting, you can ask to have a support person with you while you give evidence. Court support can be provided by a number of services, or it can be a friend or family member as long as they are not also witnesses in the case. Of course they won't be allowed to answer questions for you but you might find it comforting to have someone near you to support you throughout the giving of evidence.

Do I have to answer all the questions?

The simple answer is that you must at least try to answer all the questions that you are asked. If you refuse to give evidence without a good reason, the court may issue a warrant to send you to prison for up to 7 days. If you change your mind and decide to give evidence within the 7 days, then they must release you.

There are some situations where you may not have to answer a question that is asked of you (or any questions at all). For example:

- The magistrate or judge may decide that some questions asked in cross-examination are inappropriate, and may tell you that you are not required to answer.
- Lawyers may sometimes object on legal grounds to questions asked by the lawyer on the other side. If an objection is raised, the judge or magistrate will make a ruling and tell you whether or not you have to answer the question.
- You might not be compellable to give evidence, that is, the court rules that you don't have to give evidence because of your relationship with one of the parties to the case (usually the accused) (see *Compellability* below).
- As soon as a question is asked that raises the possibility of *self-incrimination* (providing evidence which may tend to prove that you committed an offence), you are entitled to object to answering the question (see *Self-incrimination* below).

Compellability

Compellability is about the court's power to make you give evidence in court and punish you if you refuse.

Every witness who is competent to give evidence is compellable, which means they are legally required to give evidence if called as a witness.

However, there are some situations where a witness is not compellable and can object to giving evidence.

Co-accuseds

If two or more people have been charged with the same offence, they are referred to as *co-accused*. A person cannot be compelled to give evidence for or against a co-accused, unless they are being tried separately.

Family members

If you are a witness for the prosecution in a criminal proceeding and the accused is your spouse, de facto partner, parent or child, you can object to giving evidence as a witness for the prosecution.

The court has to let you know about your right to object but once you know, you must object as soon as possible. If the magistrate or judge decides that there is a

real likelihood that you giving evidence will harm your relationship and that harm is outweighed by the desirability of the evidence being given, then the court cannot compel you to provide evidence. The court will take into account things like the nature and seriousness of the charge, the availability of other evidence and the nature of your relationship with the accused.

However, if you are a witness in a case where your spouse has been accused of a domestic violence offence against you, or an assault offence against your child, then you are a compellable witness and cannot validly object.

Self-incrimination

Sometimes, while you are giving evidence in court, you may be asked a question where answering it truthfully may reveal that you have committed a crime.

You need to know that you have a right to object to answering such a question.

If you don't object, you will have to answer the question, and the evidence you give may be used against you in other future proceedings.

If you do object, you might still have to answer the question, but you will be protected from having your answer used against you.

Objecting to giving evidence

If you think that answering a question might incriminate you, you can tell the judge or magistrate that you object to answering the question. If there is a jury, the judge will send the jury out while dealing with your objection.

If the judge or magistrate thinks you have reasonable grounds to object on the grounds of self-incrimination, he or she will either:

- tell you that you do not have to answer the question, or
- tell you that you must answer the question, but they can issue a certificate so that your answer can't be used against you in other proceedings, or
- give you a break or adjournment so that you can seek legal advice. It is a good idea to speak to your lawyer if you are given this opportunity.

Certificates

If you do answer a question after the above objection process, the court will grant you a certificate (often referred to as a *section 128 certificate*, as it is issued under section 128 of the *Evidence Act*).

The effect of the certificate is that neither the actual evidence that you have given, nor any information obtained as a direct or indirect consequence of this, can be used against you in other court proceedings. So, although the police could still charge you with an offence arising from what you have said, they would have difficulty proving it.

It is very important to keep in mind that if you give any false evidence, you may still face criminal proceedings for giving that false evidence.

Lying and perjury

Lying on oath or after making an affirmation is a serious offence called *perjury*. The penalty for the offence is even more severe if the false statement is provided with the intention of affecting the outcome of the trial. For example, if you lie so you can get a mate acquitted (freed of the charges) or someone else convicted, then penalties can be as serious as imprisonment for 14 years.

Giving of evidence by vulnerable persons

Being a witness and giving evidence in court can be a trying experience even for the most confident adults and young adults. For children and other vulnerable people, being a witness can be especially difficult.

There are now a few different ways in which vulnerable persons can give evidence in court, which takes into consideration their special needs.

Who is a vulnerable person?

According to the *Criminal Procedure Act 1986*, a *vulnerable person* is:

- a child under 16, or
- a person who is cognitively impaired (eg someone with an intellectual disability, developmental or neurological disorder, brain injury, dementia, or severe mental illness).

Electronically recorded evidence

It is common practice for police to video record interviews with child witnesses. In fact, the law now requires all investigative interviews with children under 16 to be recorded in this way.

This recording may form all or part of the child's evidence-in-chief, which means the video will be played in court rather than the witness having to tell everything again in the witness box. However, in most cases, the opposing party's lawyer has a right to cross-examine the child, which means the child may still have to answer some questions in court.

CCTV and other ways of giving evidence

In proceedings for a personal assault (including a sexual or indecent assault) or a breach of an apprehended violence order, a vulnerable person may be able to give evidence via closed-circuit television (CCTV) or through similar technology. This means the witness is in a separate room away from the court.

If a court does not have facilities for the witness to give evidence by CCTV, or if the witness does not wish to give evidence in this way, alternative arrangements may be made. For example, there may be screens or some form of planned seating arrangement in the courtroom, in order to minimise the level of visual contact the child has with the accused.

Support person

When giving evidence, a vulnerable person is usually entitled to have a support person present. A *support person* is an individual chosen by the vulnerable person and may be a parent, guardian, friend or other individual (eg a youth worker or disability worker).