

Pre-recording evidence of child witnesses

Information for child witnesses and their families

A witness in a criminal matter who is a child will usually have their evidence digitally recorded before any trial takes place. An audiovisual recording of their evidence is usually made. This is referred to as a 'pre-recording of evidence'.

What does 'pre-recording' mean?

This means that the child witness has their part of the trial recorded digitally in a separate hearing, which takes place before any trial.

The child gives evidence and is asked questions by the prosecutor and defence lawyer ('cross-examination') during this separate hearing.

The child still comes to a courthouse but is in a separate room with their support person that is linked to the main court room by closed-circuit television. The proceeding is all recorded and played to the court at a trial in the future.

Why is a child's evidence pre-recorded?

Pre-recording arrangements are in place to help children given their evidence at an earlier time in the court process and in less stressful circumstances. It also means the evidence is recorded and preserved for the future.

How is this different to the video statement that the child witness recorded with police?

*Information in this brochure is general in nature.
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When the police are investigating a matter, they will usually record a child witness's statement by having an interview with the child and recording it on video. This video statement will still be used and played to the court at any trial in the future. However, the prosecution and defence lawyer still have the opportunity to ask the child questions about their evidence, and this is why child witnesses are asked to come to court for a pre-recording of their evidence as well.

Who is considered a child, and does pre-recording happen in all types of cases?

For the purposes of pre-recording evidence, a 'child' is a person under 16 years of age who is a witness for certain court proceedings. These are criminal proceedings where there is:

- A sexual offence
- A violent offence, and there is a relationship between the child witness and the accused person, such as being family members or living in the same house.

In addition, if a witness is 16 or 17 years old and declared to be a 'special witness', they can also give pre-recorded evidence. Other people who meet certain criteria may also be declared 'special witnesses' and can also give pre-recorded evidence.

Will the child get to talk to the prosecutor beforehand?

Yes. A child witness will always be given the chance to watch their video statement that they made with police to refresh their memory before the pre-recording hearing. Their support person can be with them while they do this.

They will also be able to talk to the prosecutor who will appear at the pre-recording hearing. (If a child witness is giving evidence by video link from a courthouse in a different location to the prosecutor, this meeting might take place over the phone or by video conference.) An ODPP staff member will contact the child witness's family or guardian to organise this meeting before the court date.

Can a child have a support person in court with them?

Yes, a child witness is entitled to a support person in court. This could be a family member, a friend, or a person from a specialist support agency. However, the support person cannot be a possible witness in the court proceedings and must still be approved by the court. The organisation PACT (Protect All Children Today) (www.pact.org.au) provides court support to witnesses. If a child would like PACT to support them and has not already been contacted by PACT, please speak to your Victim Liaison Officer at the Office of the Director of Public Prosecutions (ODPP).

Who will the child see when they give evidence?

During the pre-recording of evidence hearing, a child will only be able to see the judge, the prosecutor, and the defence lawyer on the screen. The accused person will be present in the main court room and can see and hear the child witness, but the cameras are arranged so that the child should not see the accused.



What if the pre-recording does not go ahead?

Sometimes a pre-recording hearing cannot proceed as planned for a number of reasons. If this happens, it may be rescheduled to occur on a later date. Your Victim Liaison Officer from the ODPP will keep you updated.

Will a child have to give evidence in court again?

It is possible but very rare that a child may have to come back to court and give evidence again. It will be up to the judge to decide if this is necessary. This evidence would also be given over videolink with a support person and recorded.

What happens at the Magistrates Court?

Sometimes, a case will have a preliminary hearing in a Magistrates Court called a 'committal hearing'. A child's video statement recorded with police will usually be used at a committal hearing in place of the child appearing and giving evidence again.

However, in some cases it is necessary for the child to answer questions in the Magistrates Court. If the magistrate does give the defence lawyer the opportunity to ask questions of the child witness, they can still give evidence from a separate room by video link with a support person, and the questions will be strictly limited.

Can I get help with the cost of travelling to court for the pre-recording hearing?

Yes. If you are the parent or guardian of a child witness and you are bringing them to court to be a witness, the ODPP will repay you for some of your costs of travelling to court. Your Victim Liaison Officer can provide you with a witness expense claim form and give you more information about this.

What if a child witness needs counselling or other support?

There are a number of organisations which can provide counselling and other support to children and families, depending on their location and needs.

For more information, contact your Victim Liaison Officer at the ODPP or contact Victim Assist Queensland (VAQ) on:

Phone: 1300 546 587

Website: www.qld.gov.au/victims

Further information

If you have any questions or need help, contact the ODPP in your region.

Freecall

P: 1800 673 428

Brisbane

P: (07) 3035 1122

DPPVictimLiaisonSupervisor@justice.qld.gov.au

Beenleigh

P: (07) 3081 2300

ODPPVLOBeenleigh@justice.qld.gov.au

Cairns

P: (07) 4038 5731

ODPPVLOCairns@justice.qld.gov.au

Ipswich

P: (07) 3470 7419

ODPPVLOIpswich@justice.qld.gov.au

Maroochydore

P: (07) 5376 5200

ODPPVLOMaroochy@justice.qld.gov.au

Rockhampton

P: (07) 4921 6206

ODPPVLORockhampton@justice.qld.gov.au

Southport

P: (07) 5675 7000

ODPPVLOSouthport@justice.qld.gov.au

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P: (07) 4591 4758

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