



INFORMATION / FACT SHEET

VULNERABLE WITNESS PROVISIONS (VWPs)

Giving evidence in court can be a stressful experience.

Some people feel nervous or anxious about going to court. This is common and is to be expected.

Sometimes the information people are asked to talk about in court can be embarrassing or emotional.

Being in the same room as the accused person can also be stressful and make it difficult to give evidence confidently and clearly.

For others being in the court room itself is an unfamiliar and uncomfortable experience.

If you are worried about giving evidence during a criminal court hearing you may be assisted by special arrangements called "**Vulnerable Witness Provisions**" (VWPs) which can assist to make your experience easier and less stressful.

Why Are VWP's Needed?

Under the *Evidence Act, 1929 (SA)* special arrangements can be made for witnesses deemed to be "**vulnerable**" in order to protect them from:

- *Embarrassment or distress*
- *Being intimidated by the atmosphere of the courtroom, or*
- *For any other proper reason*
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Who Is a Vulnerable Witness?

A 'Vulnerable Witness' as defined by the *Statutes Amendment Evidence & Procedure Act 2008 (SA)* means:

- *A witness who is under the age of 16*
- *A witness who suffers from a mental disability*
- *A witness who is the alleged victim of an offence to which the proceedings relate*

(i) *where the offence is a serious offence against the person; or*

(ii) *in any other case—where, because of the circumstances of the witness or the circumstances of the case, the witness would, in the opinion of the court, be specially disadvantaged if not treated as a vulnerable witness;*

• *A witness who –*

(i) *has been subjected to threats of violence or retribution in connection with the proceedings; or*

(ii) *has reasonable grounds to fear violence or retribution in connection with the proceedings;*

If any of the above applies to you, then you may wish for the Prosecutor to ask for special arrangements (VWPs) to help you feel protected or more comfortable in giving evidence.

What Are VWPs?

Under the *Evidence Act 1929* VWPs include the following:

Closed Circuit Television (CCTV)

This allows you to give evidence from a separate room, instead of the court room, and have it transmitted to the court room via CCTV.

Everyone who is present in the court can see and hear you on the TV screens in the courtroom.

You will be able to see and hear the lawyer asking questions and the Judge on your screen.

You will not be able to see the accused person on your screen.

One-Way Screen

This means a *One-Way Screen* is placed between you and the accused person so it blocks your view of him or her.

It is important to note that the screen acts as a one-way barrier and the accused can see you whilst you're giving evidence.

Court Companion

This allows for you to be accompanied by a volunteer, friend, family member or social worker who is not a witness in the case

A *Court Companion* can be good for providing you with a familiar and supportive physical presence whilst you give evidence.

It is very important to note that the person is not allowed to talk or assist you in any way.

The companion must always be visible to the *Judge* and *Jury* while a witness is giving evidence.

Closed Court

An application can be made for the court to be closed to any member of the public whilst you give your evidence.

This is usually granted in circumstances where the evidence you give is considered sensitive, personal or embarrassing.

A *Closed Court* will also help prevent people you do not know entering the court room whilst you give evidence.

How Will VWPs Help Me?

Appearing in court as a witness is a daunting task for adults - and can be even more so for children. The atmosphere and regulations of the courtroom can be unfamiliar and intimidating.

Being in a court room to give evidence against an unknown person, a family member or someone else that is known to you can also be overwhelming.

For these reasons, *VWPs* can assist you to feel more comfortable and to focus on giving evidence without having the above distractions.

Are There Restrictions on the Number of VWPs I Can Have?

Depending on your individual circumstances, you may request one or more of the provisions above when asking for *VWPs*.

It is important to remember however that the court has the ultimate say on which provisions are approved and allowed.

If you have further questions about *VWPs* you can speak to the *Witness Assistance Officer (WAO)* or the *DPP Prosecutor* involved in your matter.

When Do VWPs Need to be Decided?

VWPs need to be filed with the court at the earliest stage possible before the commencement of the trial.

Requests for *VWPs* must be given to the accused within 14 days of the request being filed with the court.

In some situations you can make a late request for *VWPs*, however it is important to note that these cannot be guaranteed.

DPP staff involved in your matter will discuss how you feel about giving evidence during the trial and will address any of the concerns you may have. However, where you think you may require *VWPs* please speak to the *WAO* or the *DPP Prosecutor* involved in your matter at the earliest stage possible.

Are VWPs Automatic?

The simple answer to this question is 'No'.

A '*Vulnerable Witness*' who would like one or any of the special provisions in place for the trial needs to apply for them in advance.

Who will make the application?

You do not have to apply for the special provisions yourself.

The *Prosecutor* from the *DPP* will do this on your behalf.

They must specify the nature of your vulnerability, the special arrangements sought, and the reasons for the *VWPs* being applied for.

It is important you tell the *DPP Prosecutor* involved in your matter the *VWPs* you may need and the reasons you feel this will assist you.

Who Will Assess My Need for VWPs?

In most circumstances a *WAO* will assess your requests for *VWPs*.

Your *WAO* can provide you with a '**Court Familiarisation Tour**' before the *Trial* so you have an understanding of what you (or your child) will experience.

During this tour, *VWPs* can be discussed and assessed. The *WAO* allocated to you will discuss your circumstances, concerns, the nature of your vulnerability, the special arrangements sought and the reasons why you are requesting these.

Once this is done the *DPP Prosecutor* will be notified and informed of what you have requested.

Who Approves the VWPs Requested?

A *Judge* in the *District* or *Supreme Court* is responsible for approving the *VWPs* requested.

They have the ultimate power to grant or refuse any of the special provisions requested.

If you are unsure if your request for *VWPs* has been approved by the court please speak to the *WAO* or the *DPP Prosecutor* involved in your matter.

Can VWPs be Challenged or Refused?

Yes, *VWPs* can be challenged by the *Defence Lawyer* for the accused or refused by the *Judge*.

The *DPP Prosecutor* associated with your matter will advise you whether the *VWPs* you have requested have been approved or refused by the court

What Happens If I Change my Mind About Any of the VWPs I Have Requested?

It is important to advise the *WAO* or *DPP Prosecutor* involved in your matter as soon as possible if you wish to make any changes to the *VWPs* you have requested.

It is important to note that late requests for *VWPs* cannot be guaranteed and will be left to the *Trial Judge* to approve or refuse.

Where *VWPs* are refused or not approved, staff from the *DPP* and *Court* will do all they can to ensure you feel comfortable when giving evidence.

What Are Jury Members Told About VWPs During the Trial?

Where *VWPs* are arranged for a witness in a *Trial*, the *Judge* has an obligation to explain this to members of the *Jury*.

The *Trial Judge* will note the *VWPs* being used during the *Trial* and will tell the *Jury* to not draw any negative views towards the accused based on the *VWPs* you have been granted.

This is simply to keep the trial fair.

If I Am Not Considered a 'Vulnerable Witness' Can I Still Apply For VWPs?

In most circumstances *VWPs* are kept for persons who are 'vulnerable'. However there may be exceptions depending on your special circumstances.

If you are not sure if you are eligible for *VWPs*, speak to the *WAO* or *DPP Prosecutor* involved in your matter who can advise you further.

Who Can I Speak to if I Require More Information About VWPs?

If you require further information about *VWPs* you can speak with the *Police Officer*, *WAO* or *DPP Prosecutor* involved in your matter