



Tribunals Judiciary

PRACTICE DIRECTION FIRST TIER AND UPPER TRIBUNAL CHILD, VULNERABLE ADULT AND SENSITIVE WITNESSES

1. In this Practice Direction:
 - a. “child” means a person who has not attained the age of 18;
 - b. “vulnerable adult” has the same meaning as in the Safeguarding Vulnerable Groups Act 2006;
 - c. “sensitive witness” means an adult witness where the quality of evidence given by the witness is likely to be diminished by reason of fear or distress on the part of the witness in connection with giving evidence in the case.

CIRCUMSTANCES UNDER WHICH A CHILD, VULNERABLE ADULT OR SENSITIVE WITNESS MAY GIVE EVIDENCE

2. A child, vulnerable adult or sensitive witness will only be required to attend as a witness and give evidence at a hearing where the Tribunal determines that the evidence is necessary to enable the fair hearing of the case and their welfare would not be prejudiced by doing so.
3. In determining whether it is necessary for a child, vulnerable adult or sensitive witness to give evidence to enable the fair hearing of a case the Tribunal should have regard to all the available evidence and any representations made by the parties.
4. In determining whether the welfare of the child, vulnerable adult or sensitive witness would be prejudiced it may be appropriate for the Tribunal to invite submissions from interested persons, such as a child’s parents.
5. The Tribunal may decline to issue a witness summons under the Tribunal Procedure Rules or to permit a child, vulnerable adult or sensitive witness to give evidence where it is satisfied that the evidence is not necessary to enable the fair hearing of the case and must decline to do so where the witness’s welfare would be prejudiced by them giving evidence.

MANNER IN WHICH EVIDENCE IS GIVEN

6. The Tribunal must consider how to facilitate the giving of any evidence by a child, vulnerable adult or sensitive witness.
7. It may be appropriate for the Tribunal to direct that the evidence should be given by telephone, video link or other means directed by the Tribunal, or to direct that a person be appointed for the purpose of the hearing who has the appropriate skills or experience in facilitating the giving of evidence by a child, vulnerable adult or sensitive witness.

8. This Practice Direction is made by the Senior President of Tribunals with the agreement of the Lord Chancellor. It is made in the exercise of powers conferred by the Tribunals, Courts and Enforcement Act 2007.

LORD JUSTICE CARNWATH
SENIOR PRESIDENT OF TRIBUNALS
30 October 2008