

# Preparing to Attend Children's Court

With the introduction of the Permanency Support Program (PSP), PSP caseworkers have more responsibilities, including in legal work. In most cases this will be by writing an affidavit, but you may also need to give oral evidence. It is important for you to know how to prepare for Children's Court (Court). You need to understand the process of preparing documentation for the Court and if necessary, what to do when giving oral evidence.

## Your Role in Court

The role of a PSP service provider at court is to be a witness in the Department of Communities' and Justice's case (or officially DCJ's Secretary's case). In most cases, you will have prepared an affidavit that includes information about your observations, interactions and services provided to children, parents and carers. The Court will use your affidavit to help it make a decision about the child's living arrangements. You may also be called on to give evidence, based on what is written in your affidavit. Other parties to proceedings may cross-examine you as part of the legal process. The child has a Court appointed legal representative to act as their voice.

## Preparing to Attend Court

Your role in court proceedings begins when you start working with a child. Good practice in your work, including following policies and procedures and listening to the voice of the child about their concerns and wishes, is an important part of your work. This practice will help you prepare for Court, including cross-examination by the Magistrate and other legal parties. When you attend court, you will be asked to swear (a religious oath) or affirm (a non-religious oath) that the evidence you give will be the truth. You can choose either oath. Deciding beforehand will help you be prepared.

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**Reading and knowing your affidavit is the most important preparation you can do before attending Court. If you are cross-examined by the Magistrate or other parties, it will be on the content of your affidavit.**

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It can also be useful to review your casework and make notes. This helps to remind you about your casework.

It is important that you show the Court that you are confident about your intervention. You are free to think and take time when answering questions. Be prepared and know your case.

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### Being prepared will help you present as a credible witness.

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You can practice your testimony with your manager or a peer. They can walk you through some practice questions. Practicing will help you identify where you are unsure or not confident and need to work on developing an answer based on your casework. DCJ lawyers may also be able to give you a small amount of preparation on request.

If you discover a gap or flaw when reviewing the case, let DCJ know immediately. They can present this to the court which avoids exposure by the opposing party during cross-examination and adds to your credibility.

## Court Etiquette

There are judicial rules concerning the attendance of a witnesses (that is what you would be) in court proceedings. While the Children's Court is led with less formality than other Courts, you still need to follow Court practices and standards. You need to:

- be punctual
- turn off phones in the Court room
- do not eat or drink in the Court room, or take food or drink into the court room at all
- do not talk needlessly in the Court room (if you must, whisper)
- wear business attire
- do not wear any type of hat inside the Court room
- bow when you enter the court room, and when the Magistrate enters or leaves the Court room
- remain standing until the Magistrate is seated
- do not approach the Magistrate directly unless you are specifically asked to do so

Speak to a solicitor instead who will arrange all conversations at Court or if the Magistrate requests otherwise.

- if you are asked to speak to the Magistrate (besides when giving evidence in the witness box) you are to stand and move to the front of the row of seats and ensure that you always exhibit respect and courtesy
- address the Magistrate as 'Your Honour'
- ask approval of the Magistrate before handing over documents to the Court officer
- never enter or leave the Court room when a person is taking the oath/affirmation
- do not walk between the bench and the bar table unless you are directed to do so by the Court.

## Appearing as a Witness in Court

Going to court and appearing as a witness can be stressful. Feeling anxious is normal, especially if you have not attended court before. If you are summoned to give verbal evidence, then this is because your evidence can be vital in achieving the right outcomes for the child. The Magistrate looks to you to provide evidence and information based on your work with a child, their parents and carers. Your information must be direct and relevant and should be thoughtful and reflective.

Here are some techniques that help you in court:

- Direct your answers to the Magistrate
- speak slowly and take time to breathe, this helps you appear calm and professional
- speak clearly and avoid jargon and acronyms (assume the court knows nothing)
- listen to the question in full, pause, think and then answer at a steady pace
- you can answer your questions with a short 'yes' or 'no' or provide a brief explanation (follow the solicitor's instructions and ask what to say if you do not have an answer)
- do not try to anticipate the question or intention of the questioner, answer directly
- never guess or bluff the answer as you can get caught out
- always be truthful – you are under oath or affirmation and thereby made a solemn promise to the court to tell the truth
- body language is key – it can exude confidence or weakness so stand and sit tall
- present your answers in an assertive and confident way, do not be argumentative or aggressive if you disagree, simply say so

- do not be defensive if asked a difficult question - breathe in/out and answer the question to the best of your ability
- do not take things personally - you lose credibility with the magistrate
- while you are waiting to be called as a witness, be attentive, quiet, and respectful. The magistrate is observing more than just the parties at hand.

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Remember, being a witness is a craft people learn over time. Self-reflect afterwards or ask someone what you did well and what areas could use improvement.

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For more information, see: [Writing an Affidavit: Tips and an Example](#), [Affidavit Checklist](#) and [Affidavit: The Basics](#).

## References

Children's Services Practice Notes. (2007). *The art of testifying in court*. Available [http://www.practicenotes.org/vol12\\_no4/testifying.htm](http://www.practicenotes.org/vol12_no4/testifying.htm)

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