



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Vulnerable Witnesses Policy

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The Bar Tribunals & Adjudication Service

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1. Introduction

- 1.1 The Bar Tribunals and Adjudication Service ('BTAS') is responsible for recruiting; appointing, administering and adjudicating Disciplinary Tribunals, including Tribunals which consider the most serious allegations of professional misconduct against barristers.
- 1.2 In addition to Disciplinary Tribunals, BTAS has similar responsibilities for Fitness to Practise hearings, Appeal hearings and Interim Suspension Panels for barristers.
- 1.3 BTAS also administers and supports the work of the Inns' Conduct Committee (ICC), which adjudicates on any misconduct issues arising from applications for admission to an Inn of Court or misconduct matters relating to student members of an Inn.

2. Scope of this Policy

- 2.1 Since November 2017 the Bar Standards Board's *Handbook* has included definitions of vulnerable witnesses and the procedures and provisions for receiving evidence from them (rE176-181 of Part 5, Section B: *The Disciplinary Tribunal Regulations* (the 'DTRs')).
- 2.2 This policy is intended to augment and support these regulatory provisions, and in addition confirm BTAS' intention to provide the same standard of arrangements in all other hearings which it has responsibility for administering.
- 2.3 BTAS is committed to ensuring that all vulnerable witnesses are as comfortable as possible when giving evidence and have a comparable experience to other witnesses.

3. Vulnerable Witnesses

- 3.1 A witness may be considered as vulnerable for many different reasons. BTAS will apply the definitions within the DTRs (rE176) for all hearings which it administers:
 - a. any witness under the age of 18 at the time of the hearing;
 - b. any witness with a mental disorder within the meaning of the Mental Health Act 1983;
 - c. any witness who is significantly impaired in relation to intelligence and social functioning;
 - d. any witness with physical disabilities who requires assistance to give evidence;

- e. any witness, where the allegation against the respondent is of a sexual or violent nature and the witness was the alleged victim; and
 - f. any witness who complains of intimidation.
- 3.2 BTAS does not consider the above list to be exhaustive and will consider all requests by persons who wish to apply for one or more of the special measures below to be put into place on the ground that the measure(s) is desirable to enable the hearing to receive their evidence.

4. Special Measures

- 4.1 There are a number of special measures BTAS can provide to ensure a vulnerable witness is comfortable and able to give evidence without causing alarm or distress.
- 4.2 Below is a non-exhaustive list of the special measures BTAS can accommodate:
- a. a pre hearing visit to the Tribunal Suite to familiarise themselves with the surroundings;
 - b. a named BTAS staff member as a single and regular point of contact;
 - c. the use of video links;
 - d. the use of interpreters (including signers and translators) or intermediaries; .
 - e. the use of screens or such other measures as considered necessary in the circumstances in order to prevent:
 - a. the identity of the witness being revealed to the press or the general public (if in attendance); or
 - b. access to the witness by others present;
 - f. communication aids e.g. induction loop, large print text etc;
 - g. regular breaks for the witness;
 - h. the hearing of evidence (either whole or in part) in private.
 - i. allowing carers or support workers to be present when giving evidence.
- 4.3 No individual charged with an allegation of a sexual or violent nature may cross-examine in person a witness who is the alleged victim, either:

- a. in connection with that allegation; or
- b. in connection with any other allegation (of whatever nature) with which the said individual is charged in the proceedings.

In these circumstances BTAS will appoint a legally qualified person to cross-examine the witness on the individual's behalf.

- 4.4 This policy should also be read in conjunction with the BTAS Reasonable Adjustments Policy.

5. Requesting a Special Measure

- 5.1 BTAS will make service users, employees and the public aware that BTAS can provide special measures to vulnerable witnesses through the publication of this policy on the BTAS website. It will also actively promote the policy to all who make referrals to BTAS, and to those who act as prosecuting or respondent counsel at hearings convened by BTAS.
- 5.2 BTAS will work with the Bar Standards Board, the Inns of Court, Medical Examiners (Fitness to Practise cases) and others to ensure that vulnerable witnesses are identified prior to the commencement of any disciplinary or conduct proceedings.
- 5.3 Once identified BTAS will take all steps to ensure the need is noted in the case file so that the individual is not repetitively required to remind BTAS of their specific special measures.
- 5.4 BTAS will ensure the appropriate facilities are already in place and available to vulnerable witnesses.

6. Training

- 6.1 BTAS is committed to providing good quality information and training to its staff and panel members. Training in the appropriate handling and questioning of vulnerable witnesses is a key part of the panel members' and clerks' training programme.

7. Complaints

7.1 Complaints about this policy or its operation will be dealt with in accordance with the BTAS Service Complaints Policy.

8. Review

8.1 This policy will be monitored and reviewed annually.