

Children's evidence cross-examined

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The complex question of how children should give evidence to court – particularly when it could be critical to convicting someone of child abuse – will be the subject of a University of Cambridge conference next month.

The one-day conference, hosted by the University's Law Faculty, will bring together experts from various legal systems around the world, including some where mechanisms are already in place to prevent young [children](#) from having to go through the distressing experience of giving their [evidence](#) to full [court](#) during a trial.

At the moment, English law demands that even tiny children come to court for a live cross-examination if there is to be any chance of

convicting a person who has abused them.

Perhaps the highest profile case in recent times was that of Stephen Barker - one of three individuals convicted of causing or allowing the death of a child in the case of Baby P. In 2009, Barker was jailed for life in a separate case, for raping a two-year-old girl. His conviction hinged, however, on the appearance of the child at the trial, aged just four, to describe how she had been abused. The girl in question became the youngest witness to give evidence in a criminal trial in this country.

Critics argue that demanding a child's evidence in this way has a number of disadvantages. The child is forced to relive a terrible, distressing incident in very stressful circumstances, and after lengthy delays that may have altered his or her memory. The defence may get little from the child and struggle to conduct a meaningful cross-examination. And, given the fact that the child may not remember what happened and struggle to communicate, even well-founded cases of this nature often have to be abandoned.

In 1989 an official committee - the Pigot Committee - proposed a mechanism designed to avoid these difficulties. Under its proposal, the whole of a young child's evidence, including the cross-examination, would take place out of court in advance. While this system, or something like it, has been implemented elsewhere, in England and Wales it was never accepted.

In fact, children's evidence being used in full court may soon become more, rather than less common. In March 2010, the Supreme Court ruled that an existing presumption that children should not be called to give evidence in family proceedings was no longer appropriate, because it could not be reconciled with the rights of everyone concerned according to articles in the European Convention on Human Rights.

The Cambridge conference will bring together speakers from various parts of the world where the Pigot recommendation, or similar, is in operation. It will include experts on the legal systems of New Zealand, Western Australia, Austria and Norway, as well as that of England and Wales.

The aim is to establish exactly how far a measure such as that recommended by the Committee 12 years ago really would resolve the problem of cross-examining young children, were it to be introduced in England and Wales.

The conference has been organised by J R Spencer, a Professor in the Cambridge Law Faculty who has written extensively on the subject of children's evidence, and by Professor Michael Lamb from the University's Department of Social and Developmental Psychology, who has worked extensively on issues related to the questioning of children in legal contexts.

Provided by University of Cambridge

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