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| **APPLICATION FOR A SPECIAL MEASURES DIRECTION***(Criminal Procedure Rules, rules 18.4 and 18.10)* |

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| **PART A: CASE DETAILS AND HOW TO USE THIS FORM**See the guidance notes (‘GN’) at the end of this form. The notes explain when a witness may be eligible for the assistance of special measures[GN3](#GN3) and include other information relevant to making an application.**Case details**Name of defendant(s): ………………………………………………………………………………………………...Court: ……………………………………………………………………………………………………………………Case reference number / URN: ………………………………………………………………………………………**Application by:** the prosecutor [ ]  the defendant [ ] **This is an application for special measures for**: a witness under 18 [ ] [[1]](#footnote-1) a witness 18 or over [ ] **If the witness is under 18 now, are they likely to reach 18 before giving evidence?** [ ]  Yes [ ]  NoIf yes, consider all potential reasons for eligibility. See the notes in Parts B and C of this form.**Do you want this application to be dealt with at a hearing?** [GN1](#GN1) [ ]  Yes [ ]  NoIf yes, explain why**:****Is this application late?**[GN2](#GN2) [ ]  Yes [ ]  NoIf yes, explain why**:****Have you applied for a special measures direction for this witness in this case before?** [ ]  Yes [ ]  NoIf yes, give details and explain what has changed since then:**Is there a confidential supplement to this application?** [ ]  Yes [ ]  NoThe form of confidential supplement at [this address](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fmedia%2F66a8bf3fa3c2a28abb50d96c%2Fmae002-eng.docx&wdOrigin=BROWSELINK) can be used to give the court:* an address from which a witness using a live link to give evidence will take part if the court gives a direction
* any other confidential information

**Do NOT send the confidential supplement to anyone except court staff and the court unless the court tells you to do so: Criminal Procedure Rule 18.12.****How to use this form** *If you use an electronic version of this form, the boxes will expand. If you use a paper version and need more space, you may attach extra sheets.*1. Give the information required above. If the witness is under 18, complete [Part B](#PartB) of this form. If the witness is an adult, complete [Part C](#PartC). If the witness is under 18 now but likely to reach 18 before giving evidence, consider completing both those Parts. In [Part D](#PartD) give the other information required for each special measure for which you apply.2. Sign and date the completed form in [Part E](#PartE).3. Send a copy of this form to the court and to each other party to the case.4. Send a copy of any confidential supplement to the court ONLY.**A party who wants to make representations about this application must do so not more than 10 business days after receiving a copy: Criminal Procedure Rule 18.13.** |

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| **PART B: WITNESS UNDER 18****1) Information about the witness****Name of witness:****Date of birth:***See* [*guidance note 3*](#GN3) *about eligibility for a special measures direction. A witness under 18 is eligible under section 16(1)(a), Youth Justice and Criminal Evidence Act 1999.***Is the witness likely to reach 18 before giving evidence?** [ ]  Yes [ ]  No*If the witness is under 18 now but likely to reach 18 before giving evidence:** *a live link or screening direction made only because the witness is under 18 will cease to have effect when they reach that age because of section 21(8) of the Youth Justice and Criminal Evidence Act 1999, BUT*
* *the witness may also be eligible for the assistance of a special measure for one of the same reasons as an adult under section 16(1)(b) or section 17, Youth Justice and Criminal Evidence Act 1999: see* [*guidance note 3*](#GN3) *about eligibility for a special measures direction and Part C of this form.*

**What views has the witness expressed about:*** **whether they want a special measures direction**
* **what particular special measure(s), if any, they want**
* **why they want, or why they do not want, a special measures direction.** This is especially important if the witness or someone helping them disagrees with the applicant.

Give details of the views, concerns and requests expressed by the witness. Attach any witness statement made by them or on their behalf. If the statement is on their behalf it must include the maker’s name and relationship to the witness. |
| **2) Special measures required by the primary rule***See* [*guidance note 3*](#GN3) *about eligibility for a special measures direction. Under sections 21 and 22 of the Youth Justice and Criminal Evidence Act 1999, where a witness is under 18, or was under 18 when interviewed:** *the “primary rule” is that the court must give a special measures direction for (i) a video recorded interview of the witness to be played as the witness’s evidence in chief, and (ii) any evidence given by the witness which is not given by means of a video recording (whether in chief or otherwise) to be given by live link, unless (among other things) the witness does not want the primary rule to apply.*
* *if the primary rule is disapplied and the witness gives evidence in court then the court must give a special measures direction preventing the witness from seeing the defendant, unless (among other things) the witness does not want that either.*
* *the court may disapply the primary rule, and need not direct a live link or screening the witness from the defendant, but only if the court is satisfied that doing so (i) will not diminish the quality of the witness’s evidence, and (ii) compliance with the primary rule would not be likely to maximise the quality of the witness’s evidence so far as practicable.*
* *a live link or screening direction made only because the witness is under 18 will cease to have effect when they reach that age.*

**Do you want the court to give:** Tick as appropriate. **a direction for video recorded evidence in chief?** [ ]  Yes [ ]  No **a direction for other evidence by live link?** [ ]  Yes [ ]  No **a direction to screen the witness from the defendant if the witness gives evidence in court?** [ ]  Yes [ ]  NoThese are the directions that the court usually must give for a young witness. If you have ticked “No” against any of them, explain why:**Primary rule directions: supplementary information****(a) Video recorded evidence in chief:**Date(s) of interview(s): (date(s))Interview(s) conducted through an intermediary? [ ]  Yes [ ]  NoIf yes, complete box 8 in Part C as well.Aid(s) to communication used to conduct the interview(s)? [ ]  Yes [ ]  NoIf yes, give details:Length of full version(s) of recording(s): (hours / minutes)Edited version(s) of recording(s) prepared? [ ]  Yes [ ]  NoWill (an) edited version(s) of the recording(s) need to be prepared? [ ]  Yes [ ]  NoIf yes in either case, give details:Copy recording(s) served? [ ]  Yes [ ]  NoIf yes, when? (date(s))If yes, full or edited version(s)? [ ]  Full [ ]  EditedCan the recording(s) be played in court using the equipment there? [ ]  Yes [ ]  NoIf no, what arrangements do you propose?Do you want the court’s permission for the witness to give evidence in chief otherwise than by means of the recording(s)? [ ]  Yes [ ]  NoIf yes, explain why:**(b) Other evidence by live link**Do you want the witness to give evidence by live link (tick the box that applies): [ ]  from the court’s own live link room? [ ]  from another court building? or [ ]  from somewhere else?If you want the witness to give evidence by live link from somewhere else:* explain why:
* give the address from which you want the witness to take part:

If you wish, you may give the address in a confidential supplement to this form and send that supplement to the court **only**. Have you given the address in a confidential supplement? [ ]  Yes [ ]  NoIf no, answer the next three questions in this form:1. what is that place?
2. will that place be somewhere where the witness will not be interrupted or overheard?

 [ ]  Yes [ ]  NoThat place will be temporarily an extension of the court room while a live link is being used. If you have answered no, explain what will be done to make the place suitable.1. is there any time limit on the use of that place? [ ]  Yes [ ]  No

If yes, what is it?What equipment will the witness use for the live link? [ ]  the court’s own live link equipment, or [ ]  other equipment. Explain what type of device and what live link software.Do you want any of the following to be with the witness while they give evidence? Tick each box that applies: [ ]  an intermediary (if appointed. See also [box 8 in Part C](#C8).)[GN10](#GN10) [ ]  an independent domestic violence advisor or an independent sexual violence advisor[GN12](#GN12) [ ]  another witness companion[GN12](#GN12)If so:* who will that person be? Give their name, if possible, and relationship (if any) to the witness.
* explain why that proposed companion would be appropriate. Include the witness’s own views.

**(c) Screening the witness from the defendant**Do you want the witness to be screened from the defendant (tick each box that applies): [ ]  while the witness gives evidence in person? [ ]  while the witness gives evidence by live link? [ ]  if practicable, when a video recording of the witness’s evidence is played in court? [ ]  when a video recording of the witness’s evidence is played to the defendant otherwise than in court? |
| **3) Other special measures****Do you want the court to give any other special measures direction(s) to maximise so far as practicable the quality of the witness’s evidence?**[GN4](#GN4) Tick each that you want the court to give: [ ]  evidence in private (and complete [box D3](#D3) beneath) [ ]  removal of wigs and gowns (and complete [box D4](#D4) beneath) [ ]  video recorded cross-examination (and complete [box D6](#D6) beneath) [ ]  intermediary (and complete [box D7](#D7) beneath) [ ]  aids to communication (and complete [box D8](#D8) beneath) |

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| **PART C: WITNESS 18 OR OVER****(OR LIKELY TO REACH 18 BEFORE GIVING EVIDENCE)****Name of witness:****Date of birth:***See* [*guidance note 3*](#GN3) *about eligibility for a special measures direction. A witness over 18 may be eligible under section 16(1)(b) or section 17, Youth Justice and Criminal Evidence Act 1999.***If the witness is not yet 18, are they likely to reach that age before giving evidence?** [ ]  Yes [ ]  No*If the witness is under 18 now but likely to reach 18 before giving evidence:** *complete Part B of this form as well as this Part.*
* *a live link or screening direction made only because the witness is under 18 will cease to have effect when they reach that age because of section 21(8) of the Youth Justice and Criminal Evidence Act 1999, BUT*
* *the witness may also be eligible for the assistance of a special measure for one of the same reasons as an adult.*

**(a) How is the witness eligible for assistance?**[GN3](#GN3) Tick each box that applies: [ ]  disorder or disability [ ]  fear or distress [ ]  sexual offence [ ]  slavery or human trafficking offence [ ]  domestic abuse offence [ ]  offence involving a firearm or knife**(b) If the witness is eligible because of fear or distress, explain why the quality of the witness’s evidence is likely to be diminished because of that:****(c) Why would a special measure, or a combination of special measures, be likely to improve the quality of the witness’s evidence?****(d) What has been done to help the witness express an informed opinion about special measures?**Give details of what the witness has been told about (a) what measures might be available, and (b) what those measures might mean for the witness.**(e) What views has the witness expressed about:*** **whether they want a special measures direction**
* **why they think that special measures are likely to likely to improve the quality of their evidence**
* **what particular special measure(s), if any, they want**
* **why they want, or why they do not want, a special measures direction.** This is especially important if the witness or someone helping them disagrees with the applicant.

Give details of the views, concerns and requests expressed by the witness. Attach any witness statement made by them or on their behalf. If the statement is on their behalf it must include the maker’s name and relationship to the witness.**(f) Which measure(s) would be likely to maximise so far as practicable the quality of the witness’s evidence?**[GN4](#GN4) Tick each that you want the court to give: [ ]  screening the witness from the defendant (and see [box D1](#D1) beneath) [ ]  evidence by live link (and see [box D2](#D2) beneath) [ ]  evidence in private (and see [box D3](#D3) beneath) [ ]  removal of wigs and gowns (and see [box D4](#D4) beneath) [ ]  video recorded evidence as evidence in chief (and see [box D5](#D5) beneath) [ ]  video recorded cross-examination (and see [box D6](#D6) beneath) [ ]  intermediary (and see [box D7](#D7) beneath) [ ]  aids to communication (and see [box D8](#D8) beneath)*Under section 22A of the Youth Justice and Criminal Evidence Act 1999, in a case in the Crown Court where a witness is the complainant of a sexual offence then if asked to do so the court usually must give a special measures direction for a video recorded interview of the witness to be played as the witness’s evidence in chief unless (among other things) the court is satisfied that doing so would not be likely to maximise the quality of the witness’s evidence so far as practicable.* |

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| **PART D: SPECIAL MEASURES****1) Screening the witness from the defendant**[GN5](#GN5)**Do you want the witness to be screened from the defendant** (tick each box that applies): [ ]  while the witness gives evidence in person? [ ]  while the witness gives evidence by live link? [ ]  if practicable, when a video recording of the witness’s evidence is played in court? [ ]  when a video recording of the witness’s evidence is played to the defendant otherwise than in court?**Why would screening the witness from the defendant in the circumstances listed above, alone or in combination with any other special measure(s), be likely to maximise so far as practicable the quality of the witness’s evidence?** |
| **2) Evidence by live link**[GN6](#GN6), [GN13](#GN13)**Why would giving evidence by live link, alone or in combination with any other special measure(s), be likely to maximise so far as practicable the quality of the witness’s evidence?****(a) Location**Do you want the witness to give evidence by live link (tick the box that applies): [ ]  from the court’s own live link room? [ ]  from another court building? or [ ]  from somewhere else?If you want the witness to give evidence by live link from somewhere else:* explain why:
* give the address from which you want the witness to take part:

If you wish, you may give the address in a confidential supplement to this form and send that supplement to the court **only**. Have you given the address in a confidential supplement? [ ]  Yes [ ]  NoIf no, answer the next three questions in this form:1. what is that place?
2. will that place be somewhere where the witness will not be interrupted or overheard?

 [ ]  Yes [ ]  NoThat place will be temporarily an extension of the court room while a live link is being used. If you have answered no, explain what will be done to make the place suitable.1. is there any time limit on the use of that place? [ ]  Yes [ ]  No

If yes, what is it?**(b) Equipment**What equipment will the witness use for the live link? [ ]  the court’s own live link equipment, or [ ]  other equipment. Explain what type of device and what live link software.**(c) Companion**Do you want any of the following to be with the witness while they give evidence? Tick each box that applies: [ ]  an intermediary (if appointed. See also box 8 beneath.)[GN10](#GN10) [ ]  an independent domestic violence advisor or an independent sexual violence advisor[GN12](#GN12) [ ]  another witness companion[GN12](#GN12)If so:* who will that person be? Give their name, if possible, and relationship (if any) to the witness.
* explain why a proposed companion would be appropriate. Include the witness’s own views.
 |
| **3) Evidence in private**[GN7](#GN7)**Why would excluding members of the public from the court while the witness gives evidence, alone or in combination with any other special measure(s), be likely to maximise so far as practicable the quality of the witness’s evidence?****Which members of the public do you want to be excluded?** [ ]  all members of the public? [ ]  members of the public in excess of a specified number? [ ]  specified categories of members of the public?Give details. |
| **4) Removal of wigs and gowns****Why would dispensing with the wearing of wigs or gowns while the witness gives evidence, alone or in combination with any other special measure(s), be likely to maximise so far as practicable the quality of the witness’s evidence?** |
| **5) Video recorded interview as evidence in chief**[GN8](#GN8)**Why would playing a video recording of an interview of the witness as the witness’s evidence in chief, alone or in combination with any other special measure(s), be likely to maximise so far as practicable the quality of the witness’s evidence?****(a) Recording details**Date(s) of interview(s): (date(s))Interview(s) conducted through an intermediary? [ ]  Yes [ ]  NoIf yes, complete box 8 beneath as well.Aid(s) to communication used to conduct the interview(s)? [ ]  Yes [ ]  NoIf yes, give details:Length of full version(s) of recording(s): (hours / minutes)Edited version(s) of recording(s) prepared? [ ]  Yes [ ]  NoWill (an) edited version(s) of the recording(s) need to be prepared? [ ]  Yes [ ]  NoIf yes in either case, give details:Copy recording(s) served? [ ]  Yes [ ]  NoIf yes, when? (date(s))If yes, full or edited version(s)? [ ]  Full [ ]  EditedCan the recording(s) be played in court using the equipment there? [ ]  Yes [ ]  NoIf no, what arrangements do you propose?**(b) Additional evidence in chief**Do you want the court’s permission for the witness to give evidence in chief otherwise than by means of the recording(s)? [ ]  Yes [ ]  NoIf yes, explain why: |
| **6) Video recorded cross-examination**[GN9](#GN9), [GN13](#GN13)**Why would playing a video recording of the cross-examination and re-examination of the witness, as well as playing a video recording of an interview of the witness as the witness’s evidence in chief and with or without any other special measure(s), be likely to maximise so far as practicable the quality of the witness’s evidence?****(a) Location**Do you want the witness to be cross-examined while the witness is (tick the box that applies): [ ]  in the court’s own live link room? [ ]  in another court building? or [ ]  somewhere else?If you want the witness to be cross-examined while somewhere else:* explain why:
* give the address from which you want the witness to take part:

If you wish, you may give the address in a confidential supplement to this form and send that supplement to the court **only**. Have you given the address in a confidential supplement? [ ]  Yes [ ]  NoIf no, answer the next three questions in this form:1. what is that place?
2. will that place be somewhere where the witness will not be interrupted or overheard?

 [ ]  Yes [ ]  NoThat place will be temporarily an extension of the court room while the cross-examination is taking place. If you have answered no, explain what will be done to make the place suitable.1. is there any time limit on the use of that place? [ ]  Yes [ ]  No

If yes, what is it?**(b) Companion**Do you want any of the following to be with the witness while they are cross-examined? Tick each box that applies: [ ]  an intermediary (if appointed. See also box 8 beneath.)[GN10](#GN10) [ ]  an independent domestic violence advisor or an independent sexual violence advisor[GN12](#GN12) [ ]  another witness companion[GN12](#GN12)If so:* who will that person be? Give their name, if possible, and relationship (if any) to the witness.
* explain why a proposed companion would be appropriate. Include the witness’s own views.
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| **7) Intermediary**[GN10](#GN10), [GN13](#GN13)**Why would examination of the witness through an intermediary, alone or in combination with any other special measure(s), be likely to maximise so far as practicable the quality of the witness’s evidence?** Attach an intermediary’s report: Criminal Procedure Rule 18.28.**Has the intermediary taken part in the investigation or pre-trial preparation before this application?** [ ]  Yes [ ]  NoIf yes, describe that participation if it is not described in the intermediary’s report.**Has the intermediary’s availability been ascertained?** [ ]  Yes [ ]  NoIf yes, list the dates on which the intermediary will not be available if not listed in the intermediary’s report. |
| **8) Aids to communication**[GN11](#GN11)**What device is proposed as a communication aid?****Might the use of that device affect the conduct of the trial?** [ ]  Yes [ ]  NoIf yes, give details.**Why would the use of that aid to communication while the witness gives evidence, alone or in combination with any other special measure(s), be likely to maximise so far as practicable the quality of the witness’s evidence?** |

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| **PART E: SIGNATURE****Supporting material****Have you included with this application any witness statement or other material?** [ ]  Yes [ ]  NoIf yes, list that material here: |
| **Signed:** …………………………………….……………………………………………………………….. (prosecutor) (defendant / defendant’s representative)Date: ……………………………………………………………………………….. |

**Guidance notes**

**1. Making an application**

Under Criminal Procedure Rule 18.9 in some cases the court can make a special measures direction without an application:

* at a preparation for trial hearing in a magistrates’ court, or
* at a plea and trial preparation hearing in the Crown Court.

A party who wants the court to make a direction must give the court the same information as is collected by this form.

**2. Time limit for application**

Under Criminal Procedure Rule 18.4 an application for a special measures direction must be made as soon as reasonably practicable and no later than:

* 20 business days after the defendant pleads not guilty, in a magistrates’ court
* 10 business days after the defendant pleads not guilty, in the Crown Court.

**3. Eligibility for a special measures direction**

Under section 16 of the Youth Justice and Criminal Evidence Act 1999, a witness is eligible for the assistance of a special measures direction given under section 19 of that Act if—

 (a) the witness is under 18; or

 (b) the witness has—

 (i) a mental disorder, or a significant impairment of intelligence and social functioning, or

 (ii) a physical disability or disorder

and the court considers that the completeness, coherence and accuracy (the ‘quality’) of evidence given by the witness is likely to be diminished by reason of those circumstances.

Under section 17 of the 1999 Act, a witness is eligible for the assistance of any such special measures direction, except one for an intermediary or for an aid to communication, if—

(a) the court is satisfied that the quality of evidence given by the witness is likely to be diminished because of fear or distress in connection with giving evidence, taking account particularly of—

 (i) the circumstances of the offence,

(ii) the witness’s age, social and cultural background, ethnic origins, domestic and employment circumstances, religious beliefs or political opinions,

(iii) any behaviour towards the witness on the part of the defendant, the defendant’s family or associates, or any other potential defendant or witness, and

(iv) the witness’s own views;

(b) the witness is the complainant in respect of (i) a sexual offence listed in section 62 of the 1999 Act, (ii) a slavery or human trafficking offence under section 1 or 2 of the Modern Slavery Act 2015 offence, or (iii) an offence where it is alleged that the defendant’s behaviour amounted to domestic abuse within the meaning of the Domestic Abuse Act 2021, and the witness has not declined such assistance; or

(c) the offence alleged is one listed in Schedule 1A to the 1999 Act (offences involving firearms or knives), and the witness has not declined such assistance.

*Witness under 18*

Under sections 21 and 22 of the 1999 Act, if a witness is under 18 when the court determines an application for a special measures direction, or was under 18 when a video recording was made of an interview of the witness with a view to its admission as the witness’s evidence in chief, the “primary rule” is that the court must give a special measures direction in relation to the witness that—

(a) provides for the recording to be admitted as the witness’s evidence in chief; and

(b) provides for any evidence given by the witness which is not given by means of a video recording, in chief or otherwise, to be given by means of a live link.

The “primary rule” is subject to limitations that—

(a) if the witness informs the court of the witness's wish that the rule should not apply or should apply only in part, the rule does not apply to the extent that the court is satisfied that not complying with the rule would not diminish the quality of the witness's evidence; and

(b) the rule does not apply to the extent that the court is satisfied that compliance with it would not be likely to maximise the quality of the witness's evidence so far as practicable (whether because the application to that evidence of one or more other special measures available in relation to the witness would have that result or for any other reason).

Where as a consequence of all or part of the primary rule being disapplied a witness's evidence or any part of it would fall to be given as testimony in court, the court must give a special measures direction screening the witness from the defendant while giving evidence unless the witness informs the court of the witness's wish that that requirement should not apply, in which event—

(a) the requirement does not apply to the extent that the court is satisfied that not complying with it would not diminish the quality of the witness's evidence; and

(b) the requirement does not apply to the extent that the court is satisfied that making such a provision would not be likely to maximise the quality of the witness's evidence so far as practicable (whether because the application to that evidence of one or more other special measures available in relation to the witness would have that result or for any other reason).

Under section 21(8) of the 1999 Act, where a special measures direction is given in relation to a witness under 18 by reason only of the witness’s age, under section 16(1)(a) of the Act, then the direction ceases to have effect when the witness attains the age of 18 unless—

(a) the witness has already begun to give evidence in the proceedings; or

(b) the direction provides for a video recording to be admitted as—

 (i) the witness’s evidence in chief, or

(ii) the witness’s cross-examination and re-examination, if that recording was made when the witness was under 18.

**4. Special measure(s) applied for**

Parts B and C of this form list the statutory special measures available with notes about special requirements for young witnesses and complainants of sexual offences. For more details, see also boxes 1 to 8 in Part D and guidance notes 5 to 11 beneath.

It is important for the witness’s views to be set out fully. The 1999 Act requires the court to consider any views that the witness has expressed.

**5. Screening the witness from the defendant**

Under section 23 of the Youth Justice and Criminal Evidence Act 1999 a special measures direction may provide for the witness, while giving testimony or being sworn in court, to be prevented by means of a screen or other arrangement from seeing the defendant. The screen or other arrangement must not prevent the witness from being able to see, and to be seen by, (a) the judge or justices (or both) and the jury (if there is one); (b) legal representatives acting in the proceedings; and (c) any interpreter or other person appointed (in pursuance of the direction or otherwise) to assist the witness. This measure often is combined with a direction for the witness to give evidence by live link.

**6. Evidence by live link**

Under section 24 of the Youth Justice and Criminal Evidence Act 1999 a special measures direction may provide for the witness to give evidence by means of a live link.

“Live link” means a live television link or other arrangement by means of which, although the witness is outside the courtroom, (a) the witness can see and hear people in the courtroom, and (b) the judge or justices, the jury (if there is one), legal representatives acting in the proceedings, and any interpreter or other person appointed to assist can see and hear the witness.

The witness may be in the court building or elsewhere. If elsewhere, the applicant may ask the court to direct that the address need not be revealed.

The court needs to be sure that the equipment used by the witness will be compatible with equipment in the court room.

This measure often is combined with a direction for the witness to be screened from the defendant.

See also notes 12 and 13 beneath (witness companion; ground rules for questioning).

**7. Evidence in private**

Under section 25 of the Youth Justice and Criminal Evidence Act 1999 a special measures direction may provide for the exclusion from the court while the witness gives evidence of persons of any description specified in the direction.

The court can direct this measure where (a) the witness is the complainant in respect of (i) a sexual offence listed in section 62 of the 1999 Act, (ii) a slavery or human trafficking offence under section 1 or 2 of the Modern Slavery Act 2015 offence, or (iii) an offence where it is alleged that the defendant’s behaviour amounted to domestic abuse within the meaning of the Domestic Abuse Act 2021; or (b) there are reasonable grounds for believing that someone other than the defendant has tried, or will try, to intimidate the witness.

The court can exclude from the courtroom anyone except (i) the defendant, (ii) the parties’ legal representatives, and (iii) any interpreter or other person appointed to assist the witness. Where the court excludes press representatives, it must allow one nominated representative to attend.

**8. Video recorded interview as evidence in chief**

Under section 27 of the Youth Justice and Criminal Evidence Act 1999 a special measures direction may provide for a video recording of an interview of the witness to be admitted as the witness’s evidence in chief.

**9. Video recorded cross-examination**

Under section 28 of the Youth Justice and Criminal Evidence Act 1999, if the court gives a special measures direction for a video recording of an interview of a witness to be admitted as evidence under section 27 of the Act the direction may also provide for any cross-examination, and any re-examination, to be video recorded and the recording admitted as the witness’s evidence.

Criminal Procedure Rule 18.8 requires the court to set a timetable. Section 6.3 of the Criminal Practice Directions contains detailed guidance.

See also notes 12 and 13 beneath (witness companion; ground rules for questioning).

**10. Intermediary**

Under section 29 of the Youth Justice and Criminal Evidence Act 1999 a special measures direction may provide for any examination of the witness (however and wherever conducted) to be conducted through an intermediary approved by the court. See also Criminal Procedure Rules 3.9 and 18.26 to 18.28.

**11. Aids to communication**

Under section 30 of the Youth Justice and Criminal Evidence Act 1999 a special measures direction may provide for a witness while giving evidence, by testimony in court or otherwise, to use such device as the court considers appropriate with a view to enabling questions or answers to be communicated to or by the witness despite any disability or disorder or other impairment which the witness has or suffers from.

**12. Witness companion**

A live link direction may provide for a specified person to accompany the witness while the witness gives evidence: see box 2 in Part D. In deciding who that should be, the court must have regard to the witness’s own views. When making the application, the applicant may not know the companion’s name. In that case, give such details as are available and inform the court when the companion’s name is known.

Under Criminal Procedure Rule 3.8(6) and (7) the court may give directions for someone to accompany a witness if the witness so wishes while the witness gives evidence and at any other hearing. Where a witness will be accompanied the court may allow or require the companion to sit with the witness, and if the companion is an independent domestic violence advisor (IDVA) or an independent sexual violence advisor (ISVA) the court must as a general rule allow that advisor to sit next to or near the witness in the courtroom or at any other place where the witness takes part, subject to any direction under rule 3.9 (Ground rules hearing).

**13. Ground rules for questioning**

Under Criminal Procedure Rule 3.8(6), (9) and 3.9 the court:

* must give directions for the appropriate treatment and questioning of a witness, especially where the court directs that such questioning is to be conducted through an intermediary, and
* must set ground rules for questioning a witness, which ground rules may include (among other things):
* directions about the manner of questioning
* directions about the duration of questioning
* directions about the questions that may or may not be asked, and
* directions about the means by which any intermediary may intervene in questioning if necessary.
1. If the witness is a young child, see <https://www.judiciary.uk/guidance-and-resources/judicial-protocol-expedition-of-cases-involving-witnesses-under-10-years/>. [↑](#footnote-ref-1)