

# Introducing Special Measures

.....  
January 2024



Reporting, or thinking about reporting a rape or sexual assault to the police can feel extremely daunting. We also understand that the idea of a case going to court and having to talk about what has happened to you at a trial can seem intimidating and traumatic. This can also be known as giving evidence.

There is additional support that can be applied for to help you feel more comfortable and to try and reduce fear or distress during this process. These are called 'Special Measures' – measures to assist you with giving evidence. You don't have to use special measures if you don't want to, but this guide will help you to explore the options available to you and the process of how special measures can be applied for.

### **Who is entitled to special measures?**

Vulnerable and intimidated witnesses can ask for special measures:

- A **vulnerable** witness includes – people under the age of 18; people with a physical or mental disability or condition that would effect their ability to give their best evidence in court
- An **intimidated** witness includes – people who have experienced certain types of crimes including: rape and sexual assault, modern slavery and offences involving weapons. Intimidated witnesses also include people who are frightened or distressed about giving evidence

Therefore, if you have experienced sexual violence you would be able to ask for special measures.



## What special measures could I ask for?

### Screens

Screens or panels can be placed around the entrance to the court and the witness box. The screens would separate you from seeing the defendant and anyone in the public gallery, so they cannot see you and you cannot see them. Other people in the courtroom will still be able to see you such as the judge, jury, lawyers, barristers and court staff.

### Giving evidence in private

You can ask for the courtroom to be cleared of everyone who doesn't need to be there. This means that members of the public will not be allowed into the court. This is usually only granted in exceptional, highly sensitive cases.

### Removal of wigs and gowns

Judges and barristers remove their wigs and gowns whilst you are giving your evidence. This is generally only used with people classed as a vulnerable witness.

### Intermediaries

If you are classed as a vulnerable witness, an intermediary can support you if you need help to fully understand and answer the questions you are being asked.

### Communication aids

If you are classed as a vulnerable witness, communication aids can support you to understand and answer the questions you are being asked by using aids such as symbol boards or drawings.

## What special measures could I ask for?

### Live Link

This measure means you can give evidence via a live visual link from a private room. This can be from a room within the court building or from another location (remote evidence suite). You will be able to see whoever is asking you the questions such as the barrister or judge. You won't be able to see the defendant but everyone in the court can see you on the television link. A small number of courts have technology for dual special measures, which means that the defendant would be prevented from seeing you on the television link. If you do not want the defendant to see you, you could ask to give evidence in court and apply for a screen (see above). Please ask the police officer dealing with your case whether dual special measures would be an option that can be applied for in your local area.

### Pre-recorded cross examination (also known as a Section 28 hearing)

This measure is only available for under 18s, people with a disability (mental or physical), victim-survivors of sexual offence cases or in modern slavery cases in the Crown Court. The option is not available in the Magistrates' Court. You can apply for this measure to have your cross examination recorded at a separate hearing ahead of the trial. This would then be played back to the jury at the trial, which is scheduled for a later date, at which time the result of the case would be decided. The judge, prosecution and defence barristers and the defendant would be present in the courtroom at a Section 28 hearing. You would give your evidence via live television link from a different room.

Section 28 is used to assist witnesses to give evidence earlier than they would otherwise do. The court will generally always use it for under 18s and people with a disability. If you are a victim-survivor of sexual or modern slavery offences and think you need to give evidence as soon as possible, for example because of the impact of the case on your mental health, it is an option you can request.

**For more information on what special measures might be available, please visit:**



<https://www.cps.gov.uk/rasso-guide/support-give-your-evidence-special-measures-0>

## What happens once I have decided which of the special measures I think would help me?

- 1) You can speak to the Officer in Charge of your case (OIC) at any stage of the investigation and let them know which of the special measures you think would help you to give evidence at court
- 2) The police officer will complete a form to advise the Crown Prosecution Service (CPS) about which special measure you would like and why
- 3) The CPS are the people who will then apply to the court for permission to use the special measure you have asked for and how this would help you
- 4) A judge will decide whether or not to grant the special measure. The police will let you know what the judge has decided. This should all take place in advance of the trial

Special measures are not granted automatically – a judge will decide which special measures they approve ahead of the trial.

**It is therefore really important if you can explain why you think one of the special measures available might help you when you give evidence and how it could have a positive impact on you feeling able to take part. You may also be asked why you think one of the special measures would help you over another.**

Your ISVA or IDVA and the police officer can help you with this.

## How can my ISVA or IDVA help with special measures?

- ISVAs or IDVAs can discuss special measures with you and help you to understand what might be available to you
- Your ISVA or IDVA can advocate for your needs and wishes and help you to explain why you feel you would benefit from giving evidence using a special measure
- If you want them to, your ISVA or IDVA can liaise with the police or with the Northumbria Victim and Witness Service (NVWS) Court Support team who can also apply to the courts for special measures on your behalf

## What happens if I change my mind about what special measure I think would help me?

It's ok to change your mind about which measure you think will assist you in giving evidence. If this happens, please speak to the Officer in Charge (OIC) of your case as soon as you can so that another application can be made in advance of the trial. This helps to ensure that arrangements can be made in time if there are any changes to what has been granted. Your ISVA or IDVA can support you to discuss this with the OIC.

### Examples of what a screen and live link room might look like:



### Pre-trial visits

Before a trial you are also able to attend a pre-trial visit. This is so that you can take a look around and familiarise yourself with the court building and facilities.

The witness service can arrange to show you a courtroom and some of the special measures you can apply for. For example, they can show you what the screens look like and take you to one of the live link rooms. This might help you to decide if you want to ask for a special measure, and if so which one.

The witness service will also show you the witness suite, which is the area where you would be waiting before giving evidence and can arrange for you to enter the court building through a separate, private entrance so that you don't have to worry about arriving at the same place as the defendant for the trial.

If you would like to attend a pre-trial visit, please speak with your ISVA or IDVA who can arrange this for you through the Citizens Advice Witness Service. If you would like, they can also attend with you.

## Examples:

*Beth contacted the police to report that her ex-partner had raped her.*

*He was also physically abusive and controlling when they were in a relationship. Beth was feeling really anxious about having to go to court and talk about what had happened to her and she was having doubts about whether she would be able to go through with it.*

*Beth was terrified about having to come face to face with her ex-partner and members of his family who might be coming with him as they had also been threatening towards her.*

*Beth explained to her ISVA that she would feel much more comfortable and safe if she could give her evidence in court but from behind a screen, separating her from seeing her ex-partner and the public gallery where his family might be.*

*Beth advised that although it would be hard knowing they were there, she would feel able to speak more freely and not feel as intimidated by them watching her. The ISVA helped Beth to explain this to the police officer who gave this information to the CPS. They applied to the courts, explaining why Beth would benefit from using screens and this was granted.*

*Jenny was raped by a colleague on a work night out. She reported this to the police and following an investigation, the colleague was charged meaning she would have to attend court to give evidence.*

*Jenny had experienced mental health issues throughout her life, including depression and anxiety. Jenny felt extremely anxious about going out in busy and crowded public spaces, especially places she hadn't been before.*

*After speaking with her ISVA about the different types of special measures, Jenny felt she would be most able to give evidence remotely, away from the court building. Jenny explained that waiting to give evidence in the court would have an extremely negative impact on her mental health.*

*Jenny said that when she has become anxious in the past, she has suffered from panic attacks and feels like she can't breathe. Jenny was worried that being in the same building as the man who raped her would trigger her anxiety. Jenny said she would feel more comfortable knowing she would be waiting in a separate, private building with her ISVA.*

*The Officer in Charge of Jenny's case explained this to the CPS and they asked for Jenny to give evidence via a live link from a remote evidence suite. Jenny's ISVA also helped to arrange a pre-trial visit to the remote evidence suite so that Jenny could familiarise herself with the building before the trial and to ensure she knew more about what to expect.*





# Introducing Special Measures



NORTHUMBRIA  
POLICE & CRIME  
COMMISSIONER



NORTHUMBRIA  
POLICE



CPS