



SPECIAL MEASURES FACTSHEET

WHAT ARE SPECIAL MEASURES?

Special Measures are a series of provisions that help vulnerable and intimidated witnesses give their best evidence in court and help relieve some of the stress associated with giving evidence. The Special Measures that are available, subject to the agreement of the court, are:

- Screens in the courtroom to prevent the witness from seeing the defendant
- Live links allowing a witness to give evidence away from the courtroom
- Evidence in private - this allows a witness privacy by clearing the public gallery in cases involving sexual offences and intimidation
- Removal of wigs and gowns by judges and barristers
- Visually-recorded statements – these allow a witness to use a pre-recorded video statement as their main prosecution evidence
- Intermediaries – these are specialists who help witnesses with communication difficulties
- The use of communication aids e.g. alphabet boards

WHAT ARE THE AMENDMENTS TO THE SPECIAL MEASURES PROVISIONS?

The amendments to the Special Measures provisions will improve assistance to young witnesses, complainants of sexual offences and witnesses to gun and knife crimes. In summary, the changes will:

- Give young witnesses more choice and greater flexibility about the way they give their evidence, subject to the agreement of the court
- Extend automatic eligibility for Special Measures to young witnesses who are under 18 years of age and to witnesses in gun and knife crime offences
- Make specific provision for the presence of a supporter to the witness in the live link room
- Relax the restrictions on a witness giving additional main prosecution evidence after a video-recorded statement has been admitted
- Make special provision for the admissibility of video-recorded main prosecution evidence by adult complainants in sexual offence cases in the Crown Court

HOW ARE VULNERABLE AND INTIMIDATED WITNESSES DEFINED?

A vulnerable witness is defined as:

- Someone who is under 17 years of age at the time of hearing
- Someone who suffers from a mental disorder within the meaning of the Mental Health Act 1983
- Someone who has a significant impairment of intelligence and social functioning
- Someone who has a physical disability or disorder

An intimidated witness is someone whose evidence is likely to be diminished due to fear or distress in connection with giving evidence.

WHAT YOU NEED TO DO

You should start planning now as the changes to the Special Measures provisions are due for commencement by summer 2011.

Please consider:

- What these changes mean for you and your organisation
- What are the practical issues you need to consider?
- What action do you need to take before these changes take effect?
- What training do you need in light of these changes?

BEFORE THE NEW PROVISIONS

- There is a strong presumption that young witnesses will give their evidence via video-recorded statement and live link
- Witnesses under 17 years are automatically eligible for Special Measures
- Witnesses to gun and knife crime offences may be eligible for Special Measures but they are not automatically eligible
- It is good practice that young witnesses are accompanied by a witness supporter when giving evidence by live link
- Currently, there is a prohibition on asking a witness questions about matters that the court considers have been covered adequately in a video-recorded statement

AFTER THE AMENDMENTS COMMENCE

- Young witnesses will be able to opt out of giving evidence by video-recorded statements and live link and give evidence in court behind a screen, subject to the agreement of the court
- Witnesses under 18 years will be automatically eligible for Special Measures
- Witnesses to gun and knife crime offences will be automatically eligible for the Special Measures assistance
- There will be a specific provision for the presence of a supporter to the witness in the live link room
- Restrictions will be relaxed on a witness giving additional evidence-in-chief after the witness's video-recorded statement has been admitted