

SPECIAL MEASURES DIRECTIONS
(CRIMINAL PROCEDURE RULES, PART 29)

<p>Form of application for a special measures direction under s.19 Youth Justice and Criminal Evidence Act 1999 <i>(Criminal Procedure Rules, r 29.1(1), (2))</i></p>	
<p>This form must be used when applying for a special measures direction in a magistrates' court or in the Crown Court.</p>	
<p>An application in a magistrates' court must be made –</p> <p>(a) where the application is made to a youth court, within 28 days of the date on which the defendant first appeared or was brought before a court in connection with an offence; or</p> <p>(b) on any other application, within 14 days of the date the defendant first indicated his intention to plead not guilty to any offence.</p>	
<p>An application in the Crown Court must be made within 28 days of –</p> <p>(a) the committal of the defendant;</p> <p>(b) the consent to the preferment of the bill of indictment;</p> <p>(c) a notice of transfer;</p> <p>(d) the service of copies of the documents containing the evidence on which the charge or charges are based under the Crime and Disorder Act 1998; or</p> <p>(e) the notice of appeal.</p>	
<p>This form may also be used where an extension of time has been granted for the making of this application.</p> <p>A copy of this form must be given at the same time to the other party or parties to the case.</p>	
<p>PART A</p>	
<p>To be completed by all applicants</p>	
<i>Details required</i>	<i>Notes</i>
Details of witness:	
Name of witness Date of birth of witness:	An application by the defence for evidence to be given through a live television link or by means of a video recording need not disclose who that witness is, except where the witness is to give evidence in support of an alibi.
If a previous application has been made to tender in evidence a video recording of testimony from the witness, give the date and (if known) result of that application.	If the applicant is the prosecutor, give the name of the witness (otherwise leave blank).
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Case details:	
Name of Crown Prosecution Service office:	
Crown Prosecution Service number:	
Defendant(s): surname: Forenames:	
Case reference numbers: (a) unique reference number assigned by police: (b) trial number:	
Court area:	The area in which the court hearing the case is situated.
Charges:	Give brief details of those charges to which this application applies.
Details of application:	
Specify the special measures being sought:	
State the grounds on which the witness relies in support of the application for a special measures direction:	The statement should make clear whether the applicant seeks automatic eligibility (see Reasons for application section below) or whether the applicant alleges that the quality of the evidence will be reduced unless a direction is given. In the latter case, the grounds on which the applicant alleges that the quality of the witness's evidence is likely to be diminished in terms of completeness, coherence and accuracy should be clearly stated.
	Give a description of evidence submitted in support of this application:
	This requirement is optional. Examples of evidence might be: birth certificate; medical report; expert evidence; police report.
Arrangements which may be made available Give a brief description of the arrangements relevant to the measures applied for which may be made available in the area in which it is likely the hearing will take place:	
Reasons for application	
A Is the application for special measures for any of the following? (i) video recorded evidence in chief only; (ii) live link only; (iii) both these measures? Yes/No	
B Is the witness a child witness in need of special protection at the time that any relevant recording was made? Yes/No	A child in need of special protection is defined by section 21 of the Youth Justice and Criminal Evidence Act 1999
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<p>C Is the witness a child under 17 but not a child in need of special protection? Yes/No</p>	
<p>If the answer to both A and B is “Yes”, information concerning the grounds of application and any views of the witness need not be provided.</p>	<p>Section 21 of the Youth Justice and Criminal Evidence Act 1999</p>
<p>If the answer to C is “Yes” and there is no application for either video recorded evidence in chief or live link, (or both) state the reasons why it is said that the special measures of video evidence in chief, live link, (or both) would NOT maximise the quality of the child’s evidence.</p>	<p>Section 21 of the Youth Justice and Criminal Evidence Act 1999 sets out a primary rule in favour of providing child witnesses with video recorded evidence in chief and live link unless, for witnesses who are not child witnesses in need of special protection, this would not be likely to maximise the quality of the witness’s evidence.</p>
<p>For all witnesses over 17 years and for applications for witnesses under 17 years for measures other than video recorded evidence in chief or live link:</p>	
<p>Give the grounds for believing the special measures being sought in this application will improve the quality of the witness’s evidence:</p>	
<p>Give the views of the witness as to why the measures sought in this application are required:</p>	
<p>Material change of circumstances</p>	
<p>Give a description of any material change of circumstances relied upon to support this application:</p>	<p>This requirement applies only where (a) a special measures direction is already in force and application is being made to discharge or vary the direction, or (b) a previous application for a special measures direction was refused and this application seeks to reverse that decision.</p>
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PART B	
To be completed if the application is for evidence to be given through a live television link	
<i>Details required</i>	<i>Notes</i>
Details of application	
Give –	
(a) the address of any venue from which the witness will give evidence if the court's own live television link is not used:	
(b) the name of the person who it is proposed will accompany the witness:	An application by the defence need not disclose the name of the person proposed to accompany the witness if disclosure could lead to the identification of the witness.
(c) the occupation of this person;	
(d) the relationship (if any) of this person to the witness:	
Grounds	
State why it is believed that this person should accompany the witness:	
PART C	
To be completed if the application is to tender in evidence a video recording under section 27 of the Youth Justice and Criminal Evidence Act 1999	
<i>Details required</i>	<i>Notes</i>
Video recording(s)	
Statement as to circumstances in which video recording made:	These details need to be completed only to the extent that the information is not contained in the video recording itself. °
Date(s) of video recording(s):	
Time(s) of video recording(s):	Give the times at which recording began and finished, including details of any interruptions.
Location and normal function of premises where video recording made:	Give address of premises where recording made and state the usual function of those premises.
Details of those present while recording made	
Give details of each person present at any point during the recording.	Include name, age and occupation of anyone present; time for which present; relationship (if any) to witness and to the defendant.

Use of an intermediary	
1 Was any person used as an intermediary in the making of the video recording?	
If so, has the court's approval for the purposes of section 29 of the Youth Justice and Criminal Evidence Act 1999 been given?	The court's approval for the purposes of section 29 of the Youth Justice and Criminal Evidence Act 1999 must be given before the Special Measures Direction is given. The court's approval may be sought at the hearing of the application for the Special Measures Direction.
If it has, give details.	If the court's approval has not been obtained the information required in Part C of this Form must be given
2 Did the intermediary make the appropriate declaration before the interview began?	
Is the declaration recorded on the video recording?	The declaration is – "I solemnly, sincerely and truly declare that I will well and faithfully communicate questions and answers and make true explanation of all matters and things as shall be required of me according to the best of my skill and understanding."
Equipment used	
Give a description of	The description must include the following information –
(a) the equipment used for the recording:	number and type of cameras used (fixed or mobile); the number and location of microphones; the video format used;
(b) any devices used as an aid to communication:	and whether it offered single or multiple recording facilities and if it did which were used. In the case of communication aids, describe how the device was operated. State also whether the equipment was provided for or owned by the witness or the intermediary and whether any additional needs arose for the witness or the intermediary as a result of using the devices (Refer to the examples given in Part C, paragraph 9(b)).
Recordings of part only of an interview	
State whether the video recording contains part only of the interview with the witness:	A copy of any video recordings of other parts of the interview with the witness which it is not proposed to tender in evidence must also be provided to the court and the other parties. The details of each such recording must be given as above. Use separate sheets where necessary.
Details of copy	
State in respect of each video recording whether it is a copy, and give the following details in respect of each copy –	
Name and address of person who has the master tape:	
When, and by whom, the copy was made:	
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Attendance and supply of copies	
<p>In the opinion of the applicant –</p> <p>(a) is the witness available for cross-examination?</p> <p>(b) if the witness is not available for cross-examination, have the parties agreed that the witness need not be available?</p>	
<p>Has the agreement of the other parties to the video recording(s) being tendered as evidence been sought?</p>	
<p>Have copies of the video recording(s) to which this application relates been disclosed to the other parties?</p>	
<p>Has a copy of this notice and the video recording(s) to which it relates been served on each party to the proceedings? °</p>	<p>Where the application is by the defendant, the video recording(s) do not have to be served on the prosecution until the close of the prosecution case at the trial.</p>
<p>Signature of applicant</p> <p>or</p> <p>applicant's Solicitor:</p>	<p>Date:</p>
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PART D

To be completed if the application is for the examination of the witness to be conducted through an intermediary or if the court's approval is being sought retrospectively to the use of an intermediary in a video recording

<i>Details required</i>	<i>Notes</i>
Details of application	
1 Give a description of the communication needs of the witness:	Where an assessment has been undertaken by a relevant professional, give details of where and by whom the assessment was carried out.
2 State why you consider that the quality of the evidence given by the witness would be improved by use of an intermediary:	
3 Give the name of the person through whom it is proposed the examination of the witness be conducted:	
4 What is the occupation of this person and what is the person's area of specialism:	
5 Is this person related to the witness? If not related to the witness, does the intermediary know the witness and, if so, how and to what extent?	
6 Is this person registered with the Intermediary Registration Board?	If the person is not registered with the IRB, give the reason why this person is preferred to an IRB registered person.
7 Why do you consider this person has the necessary skills to meet the particular communication needs of the witness:	
8 Has this person been used in the pre-trial investigation?	If so, give reasons why it is proposed to use the same person throughout the proceedings.

9 Communication aids	
(a) give details of any device used or which it is intended to use as a communication aid:	Give details of any devices that may be used and how they are operated.
(b) are there any issues which arise as a result of this device being used?	Examples might be: (a) whether breaks might be needed for the witness and/or the intermediary: (b) the facilities that may be needed for the use of the devices, for example power sources.
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[Note: Formerly in the Schedule to the Magistrates' Courts (Special Measures Directions) Rules 2002 (SI 2002/1687, as amended), relating to rule 2 of those Rules and in the Schedule to the Crown Court (Special Measures Directions and Directions Prohibiting Cross-examination) (Amendments) Rules 2004 (SI 2004/185), relating to rule 2 of the Crown Court (Special Measures Directions and Directions Prohibiting Cross-examination) Rules 2002]