



**RIGHTS** of  
**WOMEN**

*helping women through the law*

**labyrinth  
project**

# **Special measures in the criminal and family courts**

**This legal guide will give you information about the practical steps the court can take to help you attend court and give evidence if you are a victim of domestic abuse or sexual violence.**

This legal guide will give you information about the practical steps the court can take to help you attend court and give evidence if you are a victim of domestic abuse or sexual violence. These practical steps are called “special measures”.

This guide to special measures is divided into two sections depending on the court you are going to. Special measures are available for victims attending the criminal courts to give evidence during the trial. In the Family Court or Civil Court, a victim might attend court as a witness or because they are a party to the case. Special measures are available to help you take part in the hearing, whatever your role in the case.

Rights of Women publishes a number of other legal guides on different parts of the legal system that may be useful. For further information, you can contact us or visit our website at [www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk)

## Special measures in the Criminal Courts

### Who is entitled to special measures?

You are entitled to special measures in the criminal courts if you are a vulnerable or intimidated witness.

#### Vulnerable witnesses

A vulnerable witness is a witness:

- who is under 18
- who is experiencing a mental or physical illness or disability that makes it harder for them to give evidence in court

#### Intimidated witnesses

An intimidated witness is a witness:

- who is a victim of a sexual offence, an offence that amounts to domestic abuse or modern slavery and is giving evidence against the abuser
- who is experiencing fear and distress about giving evidence

There is a list of other offences where any witness to the offence may also be considered an intimidated witness. This includes murder, hate crime, terrorism, human trafficking, attempted murder, kidnap and false imprisonment, arson with intent to endanger life and serious assaults.

### What special measures are available?

Special measures that may be available in the criminal courts include:

- Placing a screen in the court room so you and the defendant cannot see each other.
- Giving evidence live by video from outside the court room. You will appear on a screen in the court room and the lawyers in court will ask you questions over video. You may be in a different room in the court building, in a different court or another location where the technology is available.
- If you give evidence live by video, you will only see the judge and the lawyers, and not the defendant. It is likely that the defendant will be able to see you on the screens in the court room. You can ask that he is screened to prevent this.

- You can have someone supporting you in the room with you. They should be someone who is completely independent of you and your family, has no previous involvement in the case and should be suitably trained. If you are getting support from Witness Support or a domestic abuse or sexual violence support service, you can ask that your support worker joins you in the room where you give evidence. The court will have to approve this.
- Giving evidence in private which means without members of the public watching. Criminal hearings take place in public which means anyone can come and watch from the public gallery including the defendant's friends and family. In cases involving sexual offences, domestic abuse or modern slavery, you can ask that people are not allowed to watch. One named person to represent the press is allowed to stay in court.
- Judges and lawyers removing their wigs and gowns in the Crown Court.
- Giving pre-recorded evidence is when a visual recording is made of you giving evidence before the trial and is played to the jury during the trial instead of you having to give evidence on the day of the trial. This special measure is available if you are a victim of a sexual offence or modern slavery and your case is in the Crown Court.
- Giving evidence through an intermediary. An intermediary is trained to help someone who might find it hard to explain themselves to the court or to understand the questions asked. This is available for vulnerable witnesses.
- Giving evidence using communication aids, for example a symbol book or alphabet board. This is only available for vulnerable witnesses

## How do I get special measures?

The decision about what special measures you receive is made by the magistrates or judge depending on what court your case is in. The Crown Prosecution Service are responsible for asking the court to provide special measures.

If you have not been contacted to discuss special measures then you, or a professional supporting you, should contact the police officer dealing with the case.

Your views on the special measures that would help you should be passed by the police to the Crown Prosecution Service. You should be told what special measures the court has ordered before the trial. If you are a victim who has experienced sexual violence, domestic abuse or modern slavery then you are automatically entitled to receive special measures (although you can decide not to receive them if you wish).

Otherwise, the court has to satisfy itself that the special measure or combination of special measures is likely to maximise the quality of your evidence before granting an application.

When deciding if your evidence is weakened because of fear and distress, the court will consider factors including:

- Your age, social, cultural, religious and ethnic origins
- The nature of the offence
- The defendant's behaviour towards you

## Practical measures

Once the decision about special measures has been made, it is a good idea to contact the court a few days before each hearing to make sure your special measures have been arranged. If you have a support worker such as someone from Witness Support helping you, they may be able to do this for you.

There should also be a separate waiting room you can use at court, so you are not waiting with the defendant or his supporters. If there is not a separate waiting room, you can ask the court staff to make other arrangements, which might include waiting in a separate location.

You can also ask whether there is a separate entrance you can use to the court, to stop you from crossing paths with the defendant and/or his supporters.

If you would like to, you can ask to visit the court for a visit before you need to go and give evidence. You can look at the courtroom, ask questions, and find out more about special measures.

If the court decides that you need a special measure which is not available at the court the case is heard, then the court may decide to have the hearing at the closest court that does have the special measure instead.

## Special measures in the Family Court

In the Family Court, a victim of domestic abuse or sexual violence may have to go to court for a number of reasons. Like in the criminal courts, you may have to attend court as a witness. In most cases, the reason someone has to attend court is because they are a party in the case. Special measures are available whether

you are a witness or a party.

If you are represented by a lawyer or are representing yourself, you can still ask for special measures. Whether you have a lawyer may impact which special measures are the best for you but it does not affect your eligibility for special measures.

## Who is entitled to special measures?

You are entitled to special measures if you are, or are at risk of being, a victim of domestic abuse from one of the following people:

- another party in the case
- the relative of another party in the case
- a witness in the case

The court has a duty to consider which special measures will help you to take part in the hearings. The court calls these participation directions.

## What special measures are available?

There are various special measures that can be put in place to help you. The measures that are right for you will depend on the circumstances of your case, the risks to your safety, and the impact that giving evidence and taking part in hearings might have on you.

Here are some examples of special measures:

- You can ask the court for a separate waiting room to wait in before you go into court. This will limit your contact with the other party when you are not in the courtroom. You should ask for the

separate room in advance, as there may be limited space in the court building.

- If you are afraid that the other party will follow you out of the court then you can ask the judge or usher to help you by asking the other party to remain in the court building for some time after you have left.
- You can ask the court to place a screen in between you and the other party during the hearing, so that you cannot see each other.

- You can ask to attend the hearing remotely, for example by appearing by video link so you do not have to be in the room with the other party. The court can decide that everyone will attend the hearing by video or that you will attend by video and everyone else will be in the court room. You will appear on a screen for the other people in the court to see.

If you are attending a hearing remotely, you can ask for special measures to be taken to ensure it is safe. For example, the court should think about who has their camera on or make sure you are never left in the video meeting with the perpetrator. The most senior judge of the Family Court has given guidance on safety and remote hearings which you can read here: [President's guidance on Safety from Domestic Abuse and Special Measures in Remote and Hybrid Hearings](#)

- For some types of hearings, such as fact finding hearings and final hearings, parties and witnesses will give evidence to the judge. Cross-examination is the term that is used to describe when one party of their

lawyer questions another party or another party's witness about their evidence.

The court can consider whether you have given evidence about the same events in another court, for example, the criminal court. If this evidence was recorded, the court can use this instead of cross-examining you again.

If you are giving evidence then the other party's lawyer will cross-examine you and your lawyer will cross-examine other parties or witnesses for you. If you or the other party do not have a lawyer and you have experienced domestic abuse from the other party then there are steps the court can take to ensure cross-examination still takes place. The judge can ask the questions instead or another lawyer if there is one. At the time this guide is being written new laws and procedures are expected which prohibit direct cross-examination between a victim of domestic abuse and the abuser and enable courts to appoint a lawyer to conduct the cross-examination. A guide on cross-examination will be available on Rights of Women's website after the law has changed.

- Giving evidence through an intermediary. An intermediary is a person who is trained to help someone who might find it hard to explain themselves to the court or to understand the questions asked. This is available for people who will find it difficult to communicate answers or understand questions without support. The court can appoint an intermediary.

## How do I get special measures?

You can ask the court for special measures that you think will help you attend hearings or give evidence. You can do this in various ways:

- If you are about to start an application then you can make the request for special measures on the same form you are using to make the application. For example, if you are starting a child arrangements case you can put the request on the C100, or if you are applying for a non-molestation order you can put the request on the FL401. These forms can be found online or you can ask for one at court.
- If your case is ongoing then you make the request on a general application notice. For example, if your case is about children then you can apply for special measures using form C2. If the case is about divorce and financial orders then you can use form D11. These forms can be found online or you can ask for one at court.

You should include the following information in your application:

- whether you are, or are at risk of being, a victim of domestic abuse, and who the abuser is in relation to your case
- which measures you would like the court to put in place to help you give evidence or take part in court proceedings
- why the measures you have requested will help you give evidence or take part in court proceedings

A judge will decide which special measures you should have.

## Practical arrangements

Once the court has decided you should have special measures, it is a good idea to contact the court a few days before each hearing to make sure your special measures have been arranged.

If the court decides that you need a special measure which is not available at the court the case is heard then the court may decide to have the hearing at the closest court that does have the special measure instead.

## Ground rules hearings

There may be a ground rules hearing in a case where one or more of the parties or witnesses have been identified as a victim of domestic abuse or as vulnerable.

The purpose of a ground rules hearing is for the judge to consider which special measures might need to be put in place to help the victim of domestic abuse or vulnerable party give evidence.

The court might decide to have a ground rules hearing if you or one of the other parties ask for special measures. The court might also decide to have a ground rules hearing if the judge has identified that you or one of the parties might need special measures, even if nobody has asked for them.

If there is going to be cross-examination, there should always be a ground rules hearing to consider the questions that will be asked and ensure that there are no unnecessary questions are raised that may be distressing.

## Having support at court

If you do not have representation, you can take support to court with you. That person may be able to be your **McKenzie Friend**. This is someone who provides support with paperwork and can come into the hearing with you. You can find more information in Rights of Women's guide [McKenzie Friends – support at court without a lawyer](#).

Even if you have a lawyer, you are allowed to take support to court with you. This may be a friend or family member. If you have a specialist domestic abuse or sexual violence support worker, they may be able to attend court with you. A support worker should be able to come into the hearing with you in most situations. Your lawyer can ask the judge for permission for them to come into court with you.

## Useful contacts

### *Legal advice and support*

**FLAWS** (for advice and support on applying for non-molestation or occupation orders)

[www.flaws.org.uk](http://www.flaws.org.uk)

**LawWorks Clinic Network**

[www.lawworks.org.uk](http://www.lawworks.org.uk)

**Law Centres Network**

[www.lawcentres.org.uk](http://www.lawcentres.org.uk)

**Advocate**

[www.weareadvocate.org.uk](http://www.weareadvocate.org.uk)

**Support Through Court**

[www.supportthroughcourt.org](http://www.supportthroughcourt.org)

**Domestic abuse**

**Police (emergency)**

999

**National domestic abuse helpline**

[www.nationaldahelpline.org.uk](http://www.nationaldahelpline.org.uk)

**Rape Crisis**

[www.rapecrisis.org.uk](http://www.rapecrisis.org.uk)

**National Stalking Helpline**

[www.suzylamplugh.org](http://www.suzylamplugh.org)

**Galop (for LGBT+ people)**

[www.galop.org.uk](http://www.galop.org.uk)

**FORWARD** (for advice and support on FGM)

[www.forwarduk.org.uk](http://www.forwarduk.org.uk)

**Respond** (for people with learning difficulties affected by abuse or trauma)

[www.respond.org.uk](http://www.respond.org.uk)

**DeafHope** (for deaf people affected by abuse)

[www.deaf-hope.org](http://www.deaf-hope.org)

*Other related issues*

**Shelter** (advice on housing and homelessness)

[www.shelter.org.uk](http://www.shelter.org.uk)

**Disability Law Service** (advice for people with disabled people)

[www.dls.org.uk](http://www.dls.org.uk)

**MIND** (support for people experiencing mental health problems)

[www.mind.org.uk](http://www.mind.org.uk)

**Samaritans**

[www.samaritans.org](http://www.samaritans.org)

For free, confidential, legal advice on family or criminal law, contact Rights of Women's legal advice lines.

**National family law advice**

Women who live in England and Wales in need of family law advice, call 020 7251 6577

**London family law advice**

Women who live or work in London in need of family law advice, call 020 7608 1137

**Criminal law advice**

Women who live in England and Wales in need of criminal law advice, call 020 7251 8887

You can find the opening times here: [www.rightsofwomen.org.uk/get-advice](http://www.rightsofwomen.org.uk/get-advice)





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The law is complex and may have changed since this guide was produced. This guide provides general information only for the law in England and Wales. You should seek up-to-date, independent legal advice. Rights of Women does not accept responsibility for any reliance placed on the legal information contained in this guide.

This guide has been developed as part of the Labyrinth Project, which is contributing to system change for women by building capacity and forging stronger networks of support and shared learning locally and nationally. You can learn more about the project here: [www.solacewomensaid.org/our-partnerships/labyrinth-project](http://www.solacewomensaid.org/our-partnerships/labyrinth-project) and access more resources developed through the project here: [www.womancentre.co.uk](http://www.womancentre.co.uk)

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