

Vulnerable Witnesses in the Crown Court

Her Honour Judge Anupama Thompson
May 2026

What we're going to cover

- Who is considered to be a vulnerable witness
- Special Measures available
- How they work in practice – particularly intermediaries and pre-recorded XX
- Ground Rules Hearings

Who is vulnerable?

- Child witnesses (ie under 18)
- Those suffering from mental/ physical disorder or learning/ physical disability
- Those whose evidence is likely to be diminished through fear or distress
- C in a sexual offence, a domestic abuse offence or a modern slavery offence under
- Ws and Cs in certain violent offences

Special Measures Available

- Screens
- Live Link
- Evidence in private
- Removal of wigs and gowns
- VRI as evidence in chief
- Pre-recorded cross-examination
- Intermediaries
- Aids to communication
- A combination of two or more of the above

Pre- Recorded XX

- Can only be granted if W's original account has been video recorded
- Recording normally takes place at court with W on a live link within the building and parties in the court room
- Other approved premises such as The Lighthouse in North London

Pre- Recorded XX

- Should take place early in the proceedings
- W will be xx by defence advocate and any further questions put by prosecution and/ or the judge
- Recording can be subsequently edited if necessary
- That evidence is subsequently played to the jury at trial

Pre- Recorded XX

Advantages:

- ◎ Evidence is received early in the process, enabling W to 'move on'
- ◎ Evidence is 'in the can' in the event of delay/ retrial

Challenges:

- ◎ It is frontloaded
- ◎ Continuity of judge/ advocates is difficult
- ◎ Does it really enable W to 'move on'?
- ◎ Some debate about impact on conviction rates

Intermediaries

- Intermediary is a trained expert in assisting in communication
- Can be helpful for different types of vulnerable witness
- Will assess W beforehand and give recommendations to the court for how W can be supported
- Primarily there to assist W understand what is being asked and help W to communicate their evidence effectively

Ground Rules Hearings

- ◎ This is a special hearing only in vulnerable witness hearings
- ◎ Will take place before recording of XX or at the beginning of trial
- ◎ If there is an intermediary, they will be a key part of the hearing
- ◎ Purpose is to determine the way in which the W will be supported and what all parties are required to do to assist the W

Ground Rules Hearings

Sorts of things which will be considered are:

- ◎ What are W's needs/ vulnerabilities?
- ◎ Questions/ topics in advance?
- ◎ Restrictions on XX/ number of advocates questioning?
- ◎ Meet W beforehand?
- ◎ Wigs/ gowns/ names
- ◎ Breaks
- ◎ Props

Final thoughts...

- ◎ Focus of criminal courts is to enable Ws to participate effectively and give their best evidence
- ◎ Tone and emphasis is on supporting the W, even if that prevents D 'putting his case'
- ◎ Requires a deliberate move away from aggressive adversarial hearings
- ◎ Requires judges to be much more proactive

Thanks!

ANY QUESTIONS?

