

What is pre-recorded cross examination?

You may hear this referred to as a section 28 hearing, but the preferred term is **pre-recorded cross examination**.

The Youth Justice and Criminal Evidence Act 1999 says:

‘28 Video recorded cross-examination or re-examination.

(1) Where a special measures direction provides for a video recording to be admitted under section 27 as evidence in chief of the witness, the direction may also provide—

(a) for any cross-examination of the witness, and any re-examination, to be recorded by means of a video recording; and

(b) for such a recording to be admitted, so far as it relates to any such cross-examination or re-examination, as evidence of the witness under cross-examination or on re-examination, as the case may be’

Therefore, s28 allows for the police’s video recorded interview to be played in court in place of a witness’s ‘live’ evidence in chief, **and** for cross-examination and the re-examination of a witness to be recorded. If this is the case, a witness never has to appear ‘live’ at trial as the recordings would be shown to the jury instead. This has the benefit of avoiding delays and alleviating stress for the witness. Additionally, the quality of their evidence may be improved by being questioned nearer to the time of the alleged event(s).

The recording of cross-examination takes place in a live-link room at court, either with advocates present in that room (space allowing) or with them questioning from the courtroom over live-link.

Further guidance can be found here:

CPS Guidance on Special measures

<https://www.cps.gov.uk/legal-guidance/special-measures>

Criminal Practice rules and directions

https://www.gov.uk/crime-justice-and-law/law-practice#guidance_and_regulation

HMCTS animated videos for children attending court

https://www.youtube.com/playlist?list=PLORVvk_w75PwjWuq4bKwifLeThgzDMe_f

and for Registered Intermediaries, the ‘Section 28’ folder on RIO ?(found unnder the parent folder ‘Documents’) provides both regular updates and historic documents