



# Legal Aid Agency

## Piloting video recorded cross-examination under Section 28 of the Youth Justice and Criminal Evidence Act 1999

### Legal Aid arrangements

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#### What is the pilot about?

Section 28 of the Youth Justice and Criminal Evidence Act (YJCEA) 1999, which allows for a vulnerable or intimidated witness to pre-record their cross-examination before the trial, is to be implemented on a pilot basis.

The YJCEA introduced a range of special measures to support victims and witnesses to give their best evidence and help reduce the anxiety associated with attending court. The measures include giving evidence by video link or being screened from the defendant in court; video-recorded evidence-in-chief; removal of wigs and gowns; clearing the public gallery in certain cases; and aids to communication and the use of a Registered Intermediary. The piloting of pre-recorded cross-examination is the last of the special measures to be implemented.

#### When and where will the pilot begin?

The pilot will run for six months, with work to identify new cases beginning by the end of 2013, and take place in three Crown Courts: Leeds, Liverpool and Kingston-upon-Thames.

#### How will cases qualify for the pilot?

Qualification for the pilot will depend on a witness's eligibility. Based on the statutory criteria, witnesses will be eligible if they:

- Are under the age of 16 at the time of the special measures hearing; or
- Suffer from a mental disorder within the meaning of the Mental Health Act 1983, or have a significant impairment of intelligence and social functioning, or have a physical disability or a physical disorder, and the quality of their evidence is likely to be diminished as a consequence

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During the pilot, litigators and advocates who are instructed in cases where pre-recorded cross-examination hearings take place should claim those hearings as **days of trial** under the Litigators' Graduated Fee Scheme (LGFS) and the Advocates' Graduated Fee Scheme (AGFS) respectively. In the event that a case does not proceed to trial following a pre-recorded cross-examination hearing the litigator and advocate should claim graduated fees for a trial. In these circumstances the duration of the trial will be the number of days of pre-recorded cross-examination.

Litigators should date the start of the trial from the first pre-recorded cross-examination hearing on the LF1 claim form. Advocates should include attendance at pre-recorded cross-examination hearings in the Daily Attendance Fee section of the AF1 claim form, including the dates attended. Both litigators and advocates **MUST** make clear on both the

front of the LF1 and AF1, and in the “Additional Information” sections that the claim relates to a Section 28 pilot case.