

Online Focus Group 3

July 24, 2024, 10:05AM

54m 29s

● **Researcher** started transcription

Researcher 0:11

Now I'm going to share my screen.

If you can all see that, I'm going to start playing the video.

So let me know if there's any problems with seeing or hearing this.

[plays video]

It would be really good if you wanted to provide some general feedback now and then we could maybe just watch it in sections?

P12 8:38

I think it might be good to give some feedback and then maybe watch it again, but overall I thought it was it was pretty good. It covered all the bases.

There was only a couple of things that stood out that I thought... I queried a little bit. The animation was really good, right the way through to visualize what to expect, but when it showed you the court being cleared, it showed nobody in there.

And I think it would be useful to keep the people in there who would remain in there

And also it talked about the ISVA being in court. It said it's easier for them to sit in the witness suite with you and it kind of gave the impression it might be difficult -

I mean, we never sit in the witness box, well, we don't/I don't generally, we normally sit close by on the other side of the screen - but I think maybe that could be made a bit clearer. They were just the things I picked up.

P12 10:08

I think it's just because it referred to the witness suite, which I would associate with witness services, where they are sat before they go into court, whereas if it said it's easier for them to sit in the courtroom, you know what I mean, I think that was just where it was a bit unclear, but other than that, I thought it was really good.

Researcher 10:24

Thanks, P13?

P13 10:29

Yeah.

Also agree, I thought it was really good and really clear, really enjoyed the kind of different colours, especially with like the police bit being in blue and then the court bit being in Orange. I feel like it was really good to be able to see those differences. I think there was a few things that stood out to me initially, especially around the defendant will most likely always be there. I mean, from our experience, we know that they're always at Section 28, even though the police tell a lot of our victims that they're not, they're always at Section 28. So I think maybe just making that clear that the defendant's always gonna be there and be seeing evidence in some form. Then there was another thing that oh yeah, P14 and I have never had this approved in [place name], but we have never, ever had screening the screen approved like, we've been into most of the courts in [place name], and they just do not do it. So I know that you've said in the video like this has to be approved and it's not always approved, but I wonder if there's a way to just maybe make that clearer that it's not something that's normally done kind of thing. Other than that, yeah, really good.

Researcher 11:47

To respond to that point about screening the screen. On balance it, it seems like the right thing to do to put it in there, to say that it is possible. I don't know whether in the future things are going to change around that. The Law Commission are proposing making Section 28 automatic, and have also consulted on the use of screening the screen at trial as well as Section 28 hearings, so it's possible that its usage may increase, but thanks very much for that.

P13 13:06

Sorry, just I do think that's important then to keep it in. It's just that we have never had that experience in [place name], but obviously that like you said, like that could absolutely change. So definitely better to keep it in if we can ask for it. It might not happen. We can ask for it kind of thing.

Researcher 13:26

I'm gonna let somebody else come in now, P14?

P14 13:44

And yeah, I echo as well. I think the video is brilliant. I really like the tone of the voice and the pace and everything. I thought, yeah. Can't wait to for that to be rolled out. I think it's really, really clear. I guess off what P12 and P13 have said as well, I wondered whether it was perhaps with some of the measures saying that some of these are at the discretion of the judge and some of these are based on the capability of the Court, that it's just because, I don't know, we found as well recently that a lot of Section 28 aren't granted and I don't know if that's down here, but I've we've kind of had that it's something that's been offered to the survivor. And then last minute, they're actually no like it's not possible and we're not really at the bottom of whether it's because there's not time, space, but it's almost like it might be better for some people if it wasn't included as a measure. So if the video was going forward, it might be that it was like, you can apply for this, but it might not be granted kind of thing. And I also just wanted to add as well with the bit about written statements or the video interview, I kind of took from the video this this would be good in an ideal world - if it was the survivors choice - whereas I feel like we more see that if it's a non-penetrative offence then it's written statement, and if it's a rather serious sexual assault then it's always a VRI and there's not a choice put in and I don't know whether your video wanted to reflect that. It's quite often what's dictated to them rather than a choice, or whether, yeah.

Researcher 15:25

There's a presumption in the legislation that they should prerecord their police video interview but some complainants have resisted doing that because they didn't want any part of their evidence being shown to the defendant. In one case, the complainant did do a witness statement, but I think that they had done their research and asked lots of questions. One ISVA has previously said that sometimes the CPS are telling people to go back and do a recorded interview.

P14 16:21

Yeah, I would say on that, with a case with a trial I have in August, it was like non-

penetrative, so it was like a written statement and I thought your video was really useful for like, the person who is really savvy themselves. They had looked into it and was like I know I won't be able to do a Section 28, but for ages throughout the process they were being told, no, no, you can think about doing a Section 28, like you can prerecord and she's like, I can't. I've only done a written statement. And I don't think there's enough across the board of, you know, of the whole process of people being like, oh right, like written statement means no video. So I thought that in the video was really clear and really important.

Researcher 17:02

P15, sorry. You've been waiting a long time.

P15 17:06

It's OK. Uh, what I was gonna say was I had an experience with a client who we'd discussed special measures and she desperately wanted to do Section 28. However, she did not want to be seen by the defendant in the courtroom. So we put that in the application and I spoke to CPS about it. What came back was, was that the court directed the officer to have a look at my clients video interview. If her appearance had changed dramatically from when she's done her video interview, then they would consider it. But because her appearance haven't changed from when she'd done her video interview, they wouldn't allow the screens to be covered. So my client was forced to make a choice about whether she did the Section 28 and be seen, or whether she waited until the case went to trial.

Researcher 18:11

I think their appearance shouldn't really be the deciding factor. I mean the point of special measures is that they should be used in combination to maximize their efficiency. And I think the issue around this is sometimes that the way that the screening is done, I think, there are concerns that if the dock is screened, for example, that it will interfere with the defendant's right to a fair trial. But there are ways of setting up the court room so that you don't have to screen the dock or the defendant but I don't think there's enough information or guidance about how it's possible to do this at the moment. There's too many questions hanging in the air as to not just the logistics of doing this, but also the legality of whether this is possible because it doesn't specifically say it under the Act at the moment. The reason why it's

in the video is to show how it can possibly be done or at least create a conversation around that. Even if just each court centre had a court configured to enable that, then it might be more realistically an option. Was the issue that they were worried about her identity being revealed to the defendant if it had changed significantly since the initial recording. What was the rationale for that?

P15 20:23

The feedback we got back was that the defence had objected to it and said, you know, that already special measures were in place and this additional special measure might sort of affect the jury and the judge's take on it was because the defence had already had sight of my client on her ABE interview, that they felt that it wasn't appropriate unless she changed her appearance in a significant way.

Researcher 20:50

Does anybody else want to add anything? P16? You've had your hand up.

P16 21:08

I think I like shadow what everyone else has said, and I think it's really good that you've mentioned in the video, that the defendant will be there and I think it's good that you've mentioned that they will be seen on screen depending on the special measure that they used and good, obviously that you've mentioned that not all special measures will be granted. It was just a couple of points though on the Section 28, I think I don't know if you could add something, but just be mindful that they could be asked to come in to do a further Section 28. I have had a case recently where she did her Section 28 and then was still asked to come to trial and so I think, not to like scare them off doing a Section 28, but just keeping them aware that it doesn't mean that it's completely over. Obviously, the aim is that they don't have to go. Also I didn't, I could be wrong here, but I didn't know that you could reuse video in a retrial and obviously that's mentioned at the end. I didn't know that was possible because obviously it's potentially new evidence new cross examination, all that kind of stuff. I didn't know that that was a possibility. Never heard of that before, but yeah, it was just more around the Section 28 cause I think it's it can be misleading sometimes when they think it's done and then it's not.

Researcher 22:35

I definitely take that point. With the retrial, it depends on if new issues have come to light. But if it was, if it was a retrial on the same basis as the previous trial, then yes, essentially the videos could be reused. There's always the chance that at trial they could be called to give more evidence, and I think that needs to go in the video, but if that does happen, to say that they will be able to use special measures rather than they'll be able to prerecord those additional questions because it may be that they're not given enough warning to do that and they may actually be called to give live evidence at trial because these things can happen quite last minute. Thanks.

P17 23:46

To be honest, a lot of what I was gonna say has kind of already been said. But just echoing what everyone else has said. Really, really liked the video and I liked the, I think someone else might have said it, but the colours that it was split up with the blue and the orange. One thing that has come to my mind which you might have put in the video and I've missed but kind of following on from the conversation that everyone's having about screening the screens, for example, being different in different courts, maybe putting something in about like a pretrial visit for them to go and be able to look at the different special measures and be able to make that decision. I think at the end of the video, it said there's lots of different options, so pick the one that's best for you, but maybe just adding something in and then it kind of might prevent those problems from occurring if it states on the video you can do this, but then they go to that specific court and they're told this is how we do it there.

Researcher 24:44

Yeah, towards the end, that you can arrange a pre-court visit and to put up the organizations that you can do that through. It's important to highlight that the courts all look different and are configured differently.

Would it be OK now to go through it again and just pause it in different sections and see if there's anything you want to specifically point out? I'm just gonna start it again.

[video plays second time]

P16 28:30

Do you think it would be worth maybe mentioning cross examination happens if there's a charge, you know, because obviously this isn't always, people aren't always gonna get to this stage of the process. Maybe not like scaring them with the amount of time it can take, but you know, if you mention like, then there's investigation charges, you know, could kind of give them a little bit of a time lapse of how long it could take to get to there and that that section is only if there's a charge and it goes to trial kind of thing.

Researcher 29:03

Yes, thanks.

[plays the next part]

P17 31:10

Yeah. I was just gonna say, and I wonder, I know you said in the video or it says in the video that their memory will be better at the time of the Video Recorded Interview (VRI). I think it's worth saying that they will be given the opportunity to watch their VRI or read their written statement again before being cross examined, because I don't know if it mentions that and obviously with it being 2, 3 ,4 years, it might be something that they're worrying about.

Researcher 31:40

Yeah, that's a really good point. P12?

P12 31:46

I was just gonna say, well, you've mentioned that sometimes it's difficult to hear and it's difficult to see. I've had cases where it has been really difficult, so they scrapped the watching the video. They provided a transcript and they've had to go through it in court, even though they've done a video interview. So I suppose you're not gonna want to scare people off, but it's worth mentioning in some situations that that could happen. You know it's possible. So I think it's definitely worth mentioning, like you've mentioned, that there can be issues with it because sometimes those issues can lead to a complete change in how they give their evidence.

P17 33:04

I think as well. Instead of saying you will *not have to*, saying you might not have to and just changing that terminology and just making it clear that they 99% probably won't have to. But just in case somebody does, it's just trying not to give them that false hope, I suppose.

Researcher 33:26

Yeah, the language needs to be changed here so that it says you shouldn't have to repeat most of what you've already told the police.

P16 did you want to say anything before we move on?

P16 34:00

If for me, watching that video, if they can't see or hear, it's not really anything to do with the client. You know it will be sorted by the courts, whether that's the transcript or, you know, anything like that. So I don't know whether it feels a little irrelevant and a little bit like, not scaremongering, that's a bit dramatic, but that's irrelevant to the client if the videos is not working or jury members can't hear it, that's for the courts to sort out and they will sort it out on the day, you know, if it's happening to be transcribed and stuff, which obviously isn't ideal. But like P12 said, you're not putting it in the video to scare them, because if you go, you know, if you make a list of what could happen in court, it would be hours long. So it just, I don't know whether it's even worth having it in there because it just feels like another scary fact that this client shouldn't really have to think about, but yeah.

Researcher 34:54

I agree that they shouldn't have to think about it, but I think that we're not yet at a stage where the video evidence is consistently good enough and is presented well enough. So, I think it's better to leave it in, warts and all. To make an informed decision you need to know all the facts.

P16 35:32

Yeah, I think that could go with what P12 said, though, if you're gonna, if you have

something like that to know all the facts of what you possibly could have with the video, you know, an ABE played in court, the list could go on, couldn't it? So it's just kind of having that balance of what you include and what you don't.

P17 35:51

Yeah, I I agree with P16 or P12 that it it could end up being 2-3 hours long if we put everything in that happens. I would prefer for it to just kind of be this is what should happen and then maybe something at the end, as a disclaimer, saying things all courts are different, if anything changes someone from witness care or witness service, your ISVA the police officer, etc. will be there to advise you of what's happened and what's going to change. I don't know if this bit is necessary and it just feels a bit random I think to me that it's in there.

P14 36:36

I just wonder with this bit whether it's more like about videos being poor quality. It's more pertinent to the bit about choosing a live link because a lot of people will kind of be just ushered into doing a VRI. So like it's kind of been mentioned, but what can they do if it's been recorded badly or how it's being shown? Not that this is right either, but I've experienced quite a few police talking to clients about special measures and saying, oh, well, just so you know, like, the live link isn't very good. It isn't very well recorded and the bit about oh like you might not appear as personable to the jury, or they might not be able to see what you're feeling as much if it's recorded, I think that really is put to survivors and they kind of then have a choice about using the crap tech at courts over appearing [in person]. So perhaps I would say, maybe it's not for this bit, but for later? It's quite a hard balance.

Researcher 37:36

Does anybody else want to mention anything before we move on?

P13 37:43

Just kind of similarly, like, I haven't ever had an experience where the VRI has been an issue when it's been played in court. The issue has come when it's been live link or Section 28 like I think it was P16, that said, I had a client recalled because the

recording was so poor quality. So yeah, I've never had an issue with the VRI stage in the court, and it being played, but I have had an issue with it when it's been live link or Section 28.

Researcher 38:15

Thanks.

[Play's next part of video]

Is there anything anybody wants to mention before we go on to the sort of next stage?

P17 39:05

I think just to repeat, what somebody said earlier, probably a regional difference but in [place name], it's very, very rare that somebody will be able to pick whether they do a written statement or a video interview... that little bit then kind of makes it seem like they can pick. So maybe just change the wording a little bit.

Researcher 39:34

[Play's next part of video]

Is there anything else or any feedback at this stage?

P12 41:07

Just what I mentioned before about where it clears the courtroom and there's nobody sat in it and that's it really.

Researcher 41:15

Yeah, it should be the judge and the clerk in there.

P12 41:29

And the barristers as well would be in there too.

Researcher 41:40

[Play's next part of video]

Anything here?

P16 44:07

I don't know whether you could do it, but would it be worth having the, like, a bit of continuity with the witness who's being video recorded and then in court?

Because it seems to change throughout, from who's at the ABE, who's sat in the witness suite? Who's in the dock? It seems to change. I don't know whether a bit of continuity with the witness would be a little bit better visually.

Researcher 44:34

The icons stay the same throughout, but the reason for the changing is to include different genders and ethnicity, but I take your point.

[Play's next part of video]

Anything here?

P12 46:56

Maybe you could word it something like your ISVA will attend court to support you and can wait with you in the witness suite and accompany you in the courtroom with permission. However, they will usually be sat close by, but not in the witness box with you I mean something that just makes it a bit clearer or, you know.

P16 47:21

Yeah, the witness suite to me is where you wait before you go into court. So it, yeah, maybe the word just needs changing slightly on that, like live link room or you know, so that kind of thing.

P12 47:28

Definitely. Yeah, there may be allowed in the live link room or in the courtroom nearby with permission, and that we can wait in the witness suite beforehand with them. I think it's referring to the courtroom there, but it is saying witness suite so it's not very clear.

Researcher 47:57

Thanks.

[Plays rest of the video]

P13 49:18

Sorry, just that it might be useful to say yes, the videos can be used again, but that they will have to be cross examined again. I know that's kind of scary, but there might be a way to incorporate that because people might think oh they use the video again and I don't have to come for the retrial and so maybe, I don't know, a softer way to include that.

Researcher 49:42

They wouldn't have to come for the re-trial, unless different issues were raised or more evidence was needed.

P14 50:02

I don't know whether it's relevant, but the retrial there, I don't know. Perhaps if you didn't know, it sounds like it's very quick. So it's not relevant for your video, but I don't really think we're seeing retrials being put in any earlier than a year. Yeah, maybe it's not relevant, but yeah, just wondered whether the video made it look like it's like the next week or something.

Researcher 50:43

There are parts in the video where we use a dotted line to show a timeline. But yeah, it is, difficult.

Is there, is there anything else you might like to discuss about the design or the content? I'm going to produce a leaflet that goes alongside it and will use the same icons to show the links between the leaflet and the video and on the leaflet. They'll also be a QR code so you can link to the video from the leaflet as well. The contents of the leaflet may mirror what's in the video, but there might be an opportunity to put more information in that leaflet that I can't fit into the video. Both the resources

will be available on the web. And they won't be able to contain all the information, but they're not really designed to. They're more to be used as an aid to help people ask questions and talk about it, to guide special measures conversations.

So the idea is that it will be ready by the end of September and I'll have an online launch, so if you want to stay in touch I can let you know about the progress of the resources.

Thanks so much for your time and your ideas today.

P16 54:22

Thank you.

P14 54:22

Thank you.

Good luck with it.

● **Researcher** stopped transcription