



JUDICIARY OF
ENGLAND AND WALES

THE LORD CHIEF JUSTICE OF ENGLAND AND WALES
THE RIGHT HONOURABLE THE LORD THOMAS OF CWMGIEDD

I write to correct the impression that you might have gained from the reports over the weekend of the Lord Chancellor's interview and press announcement in relation to the roll out of s. 28 of the Youth Justice and Criminal Evidence Act 1999.

As you will be aware from the Resident Judges' Conference, in Kingston, Leeds and Liverpool, there has been a pilot in relation to the use of s. 28 for the evidence of witnesses who come within in s. 16 of the Act (mainly children). Thanks to the support, engagement and hard work of the judges, that has been very successful. It is now intended to increase the number of courts where these witnesses can benefit from s. 28 but only on a carefully phased basis so that before commencement, to such extent as it has not happened already, the police, the CPS, the advocates and the court are all appropriately trained and the necessary IT is in place. This will inevitably take some time and we are not in the position yet to say which courts and when will have s.28 made available to them for this cohort.

At the same time, we have agreed with the Ministry of Justice that, from September, the present pilot centres (I repeat, Kingston, Leeds and Liverpool) will pilot pre-recorded cross examination for witnesses who fall within s. 17(4) i.e. complainants in respect of sexual offences or an offence under section 1 or 2 of the Modern Slavery Act 2015 who are witnesses in relation to that offence. This is being done with the full support and engagement of the judges at these pilot centres. All manner of issues will arise not least because we do not know how many will want to take advantage of the opportunity to give evidence in this way and, further, the logistics of arranging for cross examination of adult complainants in these cases will be very different to those appropriate for children. They will inevitably take longer. For example, s. 41 applications will have to be heard and determined in advance and there is no question of curtailing robust cross examination unless it becomes inappropriate or improper. This new pilot will have to be evaluated and no decision has yet been made as to expansion of these provisions to other court centres.

I will write again within the next week but was very keen that you understand the position and that the misleading impression provided in the press reports is corrected.