



Ministry
of Justice

HMCTS Reform

Evaluation Framework

Ministry of Justice Analytical Series
2021



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1. Executive Summary

- Her Majesty's Courts and Tribunals Service (HMCTS) is an executive agency of the Ministry of Justice (MoJ), responsible for the courts and tribunal system in England and Wales and non-devolved tribunals in Scotland and Northern Ireland. HMCTS reform is an ambitious programme of change. It will bring modern technology and new ways of working to the courts and tribunals system with the aim of delivering a system that is just, proportionate and accessible.
- The MoJ is conducting an evaluation of the HMCTS reform programme to ensure that the effects of reform can be identified and assessed. Evaluation is an integral part of any new policy or programme. This evaluation will help identify if the reform programme has met its aims and what effects it had, for whom and why. Emerging findings from the evaluation will also be fed in to the development of the reform programme to maximise learning.
- This publication provides a framework for the approach to this evaluation, including details on the theory of change and research methodology.
- HMCTS reform is a large and complex programme, made up of over 50 separate projects. To manage the complexity of the reform programme, the evaluation is taking a theory-driven approach. This means that the specific, theoretical links between the reform programme's activities and the expected results are investigated.
- The evaluation has developed a theory of change model. Using HMCTS's design principles, this model describes the main components of the reform programme and their intended effects. Through this process, the evaluation has identified causal pathways and mechanisms of change.
- To investigate the potential impacts of this complex programme, the evaluation will take a mixed-methods approach, that integrates data from a range of quantitative and qualitative methods in its primary research, along with analysis of management information, evaluations of specific reform projects, and synthesis of existing research.

- An interim evaluation report is planned for publication in 2022. A final evaluation report will be published following the end of the reform programme. COVID-19 has introduced additional uncertainty into the reform programme and evaluation. It is possible therefore that planned timelines may change depending on the impact and duration of the ongoing public health emergency.

2. Introduction

2.1 HMCTS reform as policy

The reform programme is a varied and complex set of projects, centred on delivering the shared vision between the executive and the judiciary for a courts and tribunals system that is just, proportionate, and accessible (Lord Chancellor *et al.*, 2016).

Launched in 2016, the programme aims to deliver a modern justice system using new technologies and ways of working to create a more effective system for all users of the justice system. The introduction of digital services aims to create new and more efficient routes to justice. Redesigning forms and procedures should ensure the system becomes more accessible. Cross-cutting services, such as the introduction of audio and video hearing technologies and new tools for scheduling and listings, will be introduced in courts and tribunals across jurisdictions. Where new online processes have been introduced, paper-based options will remain available. Reformed services should continue to reflect the overriding objective in each of the jurisdictions, that cases be dealt with justly¹. A Digital Support service is being piloted in 23 locations in England and Wales, making face-to-face and telephone support available to users where support is required.

The reform programme is a substantial, wide-reaching change to the operation of the courts and tribunals system, which is likely to affect the working lives of legal professionals and the experiences of public users during and after their engagement with the legal system. As covered above, the reform programme is a shared project of the executive and the judiciary, who are central actors in reform. Beyond the judiciary, there are a wide range of stakeholders, with whom the evaluation will work to ensure that it successfully assesses the consequences of reform for all the groups it affects. Where appropriate the evaluation will utilise existing user engagement forums, such as the Litigants in Person engagement group, in order to do this.

¹ These objectives are set out in the procedure rules for each jurisdiction (Ministry of Justice, 2019)

2.2 The overarching evaluation

The overarching evaluation of HMCTS reform was commissioned by HMCTS and MoJ to ensure that the effects of reform could be assessed and any effects on outcomes and access to justice could be identified. The evaluation sits independently of the reform programme within MoJ Data and Analytical Services Directorate.

The reform programme is a large, complex programme made up of over 50 separate projects. To accommodate the complexity of the reform programme, the evaluation is taking a theory-driven approach. This involves developing a theory of change that lists the programme's activities and the expected results of these changes, along with theorised mechanisms of changes and the wider external factors that can also cause observed changes.

The reform theory of change has been developed in collaboration with colleagues across MoJ and HMCTS and aligned with the HMCTS design principles (HMCTS, 2019). The theory of change has been reviewed by the evaluation's Judicial and Academic advisory panels (see section 3.7). This theory of change guides the scope and methodological plan of the evaluation. As well as developing an overall approach to evaluating reform, the evaluation team will work closely with analysts and researchers within HMCTS to examine the effects of specific reform projects. The evaluation will commission bespoke primary research and will also draw on HMCTS evidence and administrative data, where appropriate, to assess the extent to which specific outcomes are being achieved.

3. Methodological Approach

3.1 Theory of change

The reform programme aims to bring new technology and modern ways of working to the way justice is administered, to improve the efficiency and effectiveness of the system. These high-level aims require operationalisation² into measurable concepts before an assessment of whether these aims have been met can be done.

A theory of change does this by first explaining how activities are understood to contribute to a series of changes that produce the final intended impacts. Producing a theory of change for HMCTS reform involved articulating the end-goals for the courts and tribunals system, as well as how changes resulting from different reform projects are expected to achieve these end-goals.

The HMCTS reform theory of change was developed through a review of existing evidence and intelligence, engagement with senior and working-level officials and discussions with the judiciary. Through this, causal pathways connecting outputs³ and outcomes⁴ were identified. A causal pathway expresses the assumed mechanism through which outputs are expected to achieve outcomes. Mapping out these causal chains assisted in defining success measures, identifying relevant external factors, and reviewing the evidence base.

The reform theory of change was central to the development of the evaluation's methodological plan. It identified the causal pathways that theoretically link the inputs and activities of the reform projects to the desired outcomes. Once causal pathways were identified, the evaluation could develop appropriate research methods and approaches to test them. Therefore, the theory of change has been central to the evaluation design and methodological plan. This approach incorporates best practice for central-government

² Operationalisation is the process used in social research to define how a theoretical concept can be explored in the real world. Depending on the concept, this can involve identifying existing metrics that can indicate changes in processes or experiences, or developing bespoke research such as surveys or interviews to explore changes directly

³ Outputs are the tangible and intangible products delivered or produced as a result of inputs

⁴ Outcomes are the early- or medium-term results of an intervention

evaluation (HM Treasury, 2020). Figure 1 illustrates a generic theory of change model, including definitions of each stage. The full theory of change model developed for HMCTS reform is set out in appendix A.

Four thematic and exhaustive categories of HMCTS reform activity have been identified in the theory of change:

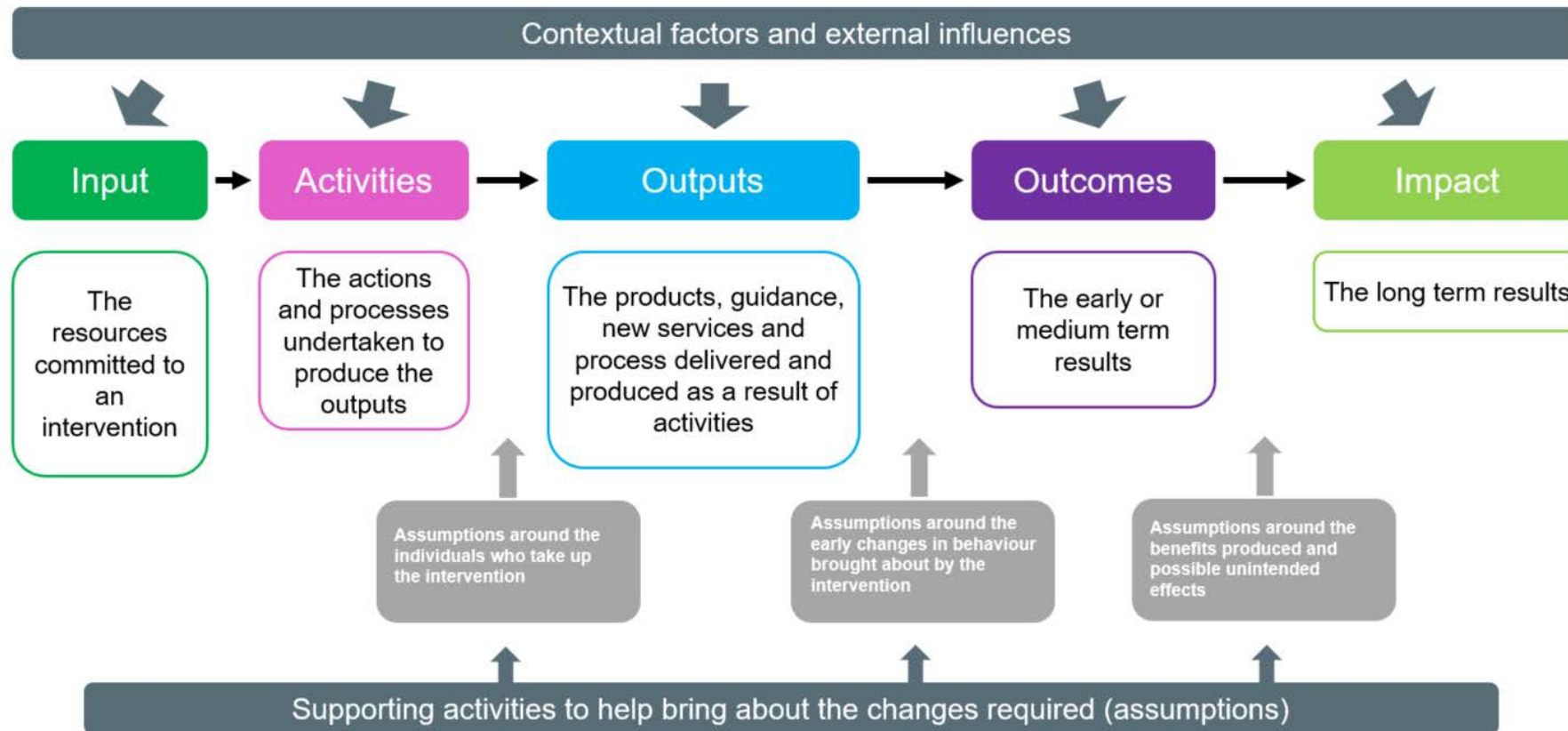
- Redesigning channels (routes to services) around user needs and a shift towards online services
- Enhancing the use of audio and video hearings
- Changing the physical court estate and the way it is utilised
- Centralising processes and providing additional support where required

These thematic descriptions of reform activity summarise the changes that cut across the complex system of HMCTS jurisdictions.

The methodological plan outlined below is broken down into these four areas and is based on the need to carry out research to test the causal pathways identified, i.e. to what extent did HMCTS reform achieve its intended outcomes, based on the underlying logic?

The evaluation theory of change was developed during summer 2020 and reflects HMCTS reform during this period. As HMCTS reform is a large, multi-year change programme, some parts of it may change over time. The theory of change is therefore intended to be a living document and will be updated to reflect any changes to the reform programme. Future updates to the theory of change will be published in the interim and final reports of the evaluation.

Figure 1. Generic linear theory of change model ⁵



⁵ Adapted from *Magenta Book: Central Government guidance on evaluation* (HM Treasury, 2020: 25)

3.2 Methodology plan

The evaluation will consider all outcomes covered in the theory of change using work programmes across the four thematic areas. The evaluation is multi-method and will draw on different types of evidence, including management information, existing evidence and evaluations of individual reform projects. Analysts within HMCTS will lead on research into some specific reform projects. The MoJ evaluation team will work closely with them to ensure additional evaluative work is incorporated into the overarching assessment of the effects of reform.

The planned work programmes for each thematic area are summarised below. Several work packages will provide evidence for more than one thematic area and where this is the case the work package is listed for each relevant theme. The findings from each research project will be synthesised in the final report to assess overall change in each thematic area.

Thematic Area 1: Redesigning channels around user needs and shift towards online services

The first thematic area is focused on the HMCTS reform projects that have seen specific services be redesigned around the needs of the user, in many instances moving cases online. The population of interest is therefore people engaging with those court services, as well as the general public who may engage with such services in the future.

The following work is planned:

- Analysis of HMCTS management information data within relevant services, on case progression and case outcomes by channel type and user group.
- Surveys of users that have engaged with the redesigned services, using validated measurement tools to collect data on experiences, perceptions and access to justice.
- Research with legal professionals on experiences across channels, costs and access to justice.
- Relevant evaluations of individual reform projects.

- Re-running the Legal Problem and Resolution Survey (LRPS), exploring the willingness of the general public to use courts to resolve justiciable problems⁶ in the context of new channels.
- Qualitative research with users

Thematic Area 2: Enhancing the use of audio and video hearings

The second thematic area concerns the enhanced use of audio and video hearings, replacing the need for physical hearings where appropriate. Understanding the impact of this technology in legal proceedings is particularly important given the role that audio-video technology has played during the COVID-19 pandemic. A new video-hearing platform will be introduced as part of the reform programme. The population of interest for this theme includes people engaged in such hearings, the general public, legal professionals, and the judiciary.

The following work is planned:

- Evidence syntheses of multiple individual evaluations across different jurisdictions (including evaluations of video hearing pilots).
- Descriptive analysis of HMCTS Management Information on video hearings and case outcomes.
- Re-running the Legal Problem and Resolution Survey (LPRS), gathering views from the general population on video hearings.
- Research with legal professionals on experiences of audio and video hearings.
- Follow-up qualitative research to explore findings from the preceding evaluations and other research.

Thematic Area 3: Changing the physical court estate and the way it is utilised

The third thematic area focuses on the changes to the physical court estate, in terms of consolidation and improvement, as well as changes to the workforce. The population of

⁶ Justiciable problems are those that raise legal issues, whether or not they are recognised as such by those facing them, and regardless of whether legal action is taken to resolve them

interest is therefore those presiding over hearings, those attending hearings (physical and virtual) and court staff, including those in backroom roles.

The following work is planned:

- Relevant evaluation of individual reform projects.
- Analysis of HMCTS Management Information data on channel shift/hearing type and court attendance.
- Review of internal data on court improvements across England and Wales.
- Surveys of users that have had a hearing to collect data on experiences, perceptions and access to justice in the context of the changes to the court estate and how it is being utilised.
- Follow up qualitative research to explore findings from survey research

Thematic Area 4: Centralised processes and additional support provided where required

The fourth thematic area focuses on changes to internal processes (namely centralisation and improved data management) and additional support introduced. From an external perspective, this is most concerned with the introduction of Court and Tribunals Service Centres (CTSCs), tribunal caseworkers, and Digital Support services. Therefore, populations of interest are people accessing such services, members of the general public with a legal need, as well as judges and magistrates.

The following work is planned:

- Relevant evaluations of specific reform projects
- Surveys of users that have engaged with HMCTS services, to collect data on experiences, perceptions and access to justice in relation to Courts and Tribunals Service Centres (CTSCs) and other sources of additional support.
- Re-running the Legal Problem and Resolution Survey (LPRS), exploring the level of support required in the general population, and willingness to pursue a legal resolution in the context of reform changes.

- Analysis of HMCTS Management Information data on take-up of support provided, broken down by user groups/characteristics.

3.3 Vulnerability and users

The evaluation will look at all groups of the population who interact with the courts. Ensuring everyone has access to justice is central to the reform programme and the evaluation will assess the effects of reform for all users of the courts and tribunals system. We have designed the evaluation to particularly enable the identification of how outcomes are experienced by those with vulnerable and protected characteristics as well as other user groups. We will draw out evidence to understand the scale and nature of any potential issues and enable mitigations to be considered.

3.4 Measuring Access to Justice

Exploring the effect of the reform programme on access to justice is an important part of the evaluation, which runs across the four themes described in section 3.2. Access to justice is a complex and multi-faceted concept and measuring this will require input from both citizen users and professionals across the justice system. To operationalise this concept, the evaluation will draw upon the work of Byrom (2019), who has developed an approach for measuring access to justice. This approach identified four irreducible components of access to justice, which are:

1. Access to the formal legal system;
2. Access to an effective hearing;
3. Access to a decision in accordance with substantive law; and
4. Access to remedy.

HMCTS will also be drawing on this definition and incorporating it into their analytical work.

3.5 Challenges of evaluating reform

There are several methodological and technical challenges that may affect our ability to fully assess whether reform has affected outcomes for users.

To estimate the cumulative effect reform has had on outcomes, first we must measure how outcomes have changed. However, we must also understand why outcomes have changed. It is possible that any observed changes are caused by a number of different factors, including wider social and political changes. To disentangle the effects of reform from the effects of other changes requires an estimate of what would have happened in the absence of reform, otherwise known as the counterfactual.

There are several aspects of the HMCTS reform programme that make it challenging to measure change, establish a counterfactual and demonstrate impact:

- **Complexity in service delivery.** The reform programme affects multiple court and tribunal jurisdictions, within which are many smaller constituent processes (e.g. multiple types of tribunals). Findings from one jurisdiction may not apply to another.
- **Large number of projects with differing goals.** The reform programme is comprised of over 50 separate and varied projects. Some are relatively straightforward improvements to infrastructure (such as Wi-Fi upgrades), while others are complex changes to how cases are heard (such as the expansion of video hearings). Each project has specific and individual aims and there may also be complex interactions between different programmes.
- **Mixed timeline for implementation of policies.** At the time of writing, some reform projects are already nearing completion, whereas others are only starting. To ensure services meet user needs, they are being developed and rolled out in an agile and iterative way that avoids a single, sudden introduction. While this approach brings benefits to service design, it presents challenges to evaluation as it makes it much harder to generate robust counterfactuals.
- **Data challenges.** Improvements to data collection are being implemented alongside reform services. For example, HMCTS is planning to collect data on the

protected characteristics of users, which has historically not always been collected in all services. However, new data collections require careful consideration of the burden they may place on users and must be done in a manner that complies with data protection principles. Furthermore, many users do not contact HMCTS directly, instead they engage indirectly through legal representatives, which presents further challenges to data collection. While new and improved data collections will be very beneficial, they will not resolve all the data issues, and it will be challenging to analyse any impacts on outcomes without comparable historic data from unreformed services. Similarly, the scoping of the overarching evaluation began after the implementation of some aspects of reform. While this is often difficult to avoid in policy evaluation, a consequence is that baseline data was not collected prior to the start of the reform programme. To mitigate this challenge, the evaluation is using a theory-based evaluation approach alongside mixed methods research. This will help to assess the extent to which theorised links between activities and outcomes have materialised.

- **Impact of COVID-19.** The COVID-19 public health emergency has led to substantial and rapid changes to court and tribunal operations, and some elements of reform have been delayed. Resources within MoJ and HMCTS have also been reprioritised to support the COVID-19 response. As well as the effect on HMCTS reform, COVID-19 also affects how research can be conducted. For example, there are currently restrictions on face-to-face research, and the longer-term impact on the research marketplace is unclear (see for example, MRS, 2020).

3.6 Use of findings in reform

HMCTS is using a ‘test-and-learn’ approach to implementing reforms, in which projects are tested extensively before reforms are fully rolled out. This approach creates opportunities for early findings to be incorporated into how reforms are implemented.

In relation to the overarching evaluation, HMCTS and MoJ have established a joint evaluation board. Early findings from the evaluation will be shared with this board as they emerge. Findings will also be shared within HMCTS, to ensure that emerging findings are

fed into discussions and are fully considered in the ongoing development of the reform programme.

Within HMCTS, analysts are planning several evaluations of individual reform projects, that are aligned with the overarching theory of change. The evidence and insight generated from these evaluations will also feed into court and tribunal operations.

Once reformed services are rolled out, HMCTS will continue to seek opportunities to improve services. HMCTS's capacity to continue developing services is dependent on resources being made available in future government spending rounds.

3.7 Advisory panels

Academic Advisory Panel

An advisory panel was established in May 2019, to help the MoJ design and undertake the best possible evaluation. The panel is composed of senior academics and other evaluation experts. The group includes experts in the criminal, civil, family and tribunal jurisdictions, as well as members who are primarily experienced in policy evaluation.

The current membership list and the full terms of reference for the advisory panel are set out in Appendices B and C.

The role of the panel is to advise on evaluation methodology and practicalities, whilst acting as 'critical friends', providing support and constructive challenge as appropriate. The panel's purpose is purely advisory, and it does not endorse any particular approach to evaluating HMCTS reform.

Judicial Advisory Panel

The judiciary are joint partners in the delivery of the HMCTS reform programme, and it is essential that they are involved in the evaluation. A Judicial Advisory Panel has been established, which is co-chaired by a senior judge and a senior MoJ official and made up of judges with expertise across the jurisdictions. The panel will provide the overarching evaluation with expert insight and advice. The full membership list and terms of reference for the panel are set out in Appendices D and E.

4. Next Steps

4.1 Planned publications

An interim evaluation report is planned for publication in 2022, and a final evaluation report will be published following the end of the reform programme. These reports will summarise findings from all the individual research components across the four thematic areas, summarising the overall effect of HMCTS reform and providing recommendations based on these findings. Alongside the evaluation reports, HMCTS will be providing regular updates to the Public Accounts Committee and the Justice Select Committee regarding the overall progress on reform, including progress on the overarching evaluation.

COVID-19 has introduced additional uncertainty into the reform programme and evaluation. It is possible therefore that planned timelines and the nature of the evaluation may change depending on the impact and duration of the ongoing public health emergency.

As outlined in this document, the evaluation is made up of several distinct and individual research projects. The results of these individual research projects will be published as they become available.

4.2 Further avenues for research

The MoJ is keen to encourage partners in academia and external research organisations to support the department in expanding and deepening the evidence base on courts and tribunals. For more information, please see the MoJ's most recent Areas of Research Interest (ARI), which draws attention to the areas where research can have most impact for future policy and operational decision-making (MoJ, 2020).

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Appendix A: Detailed Theory of change models

Figure 2. Reform Theory of Change

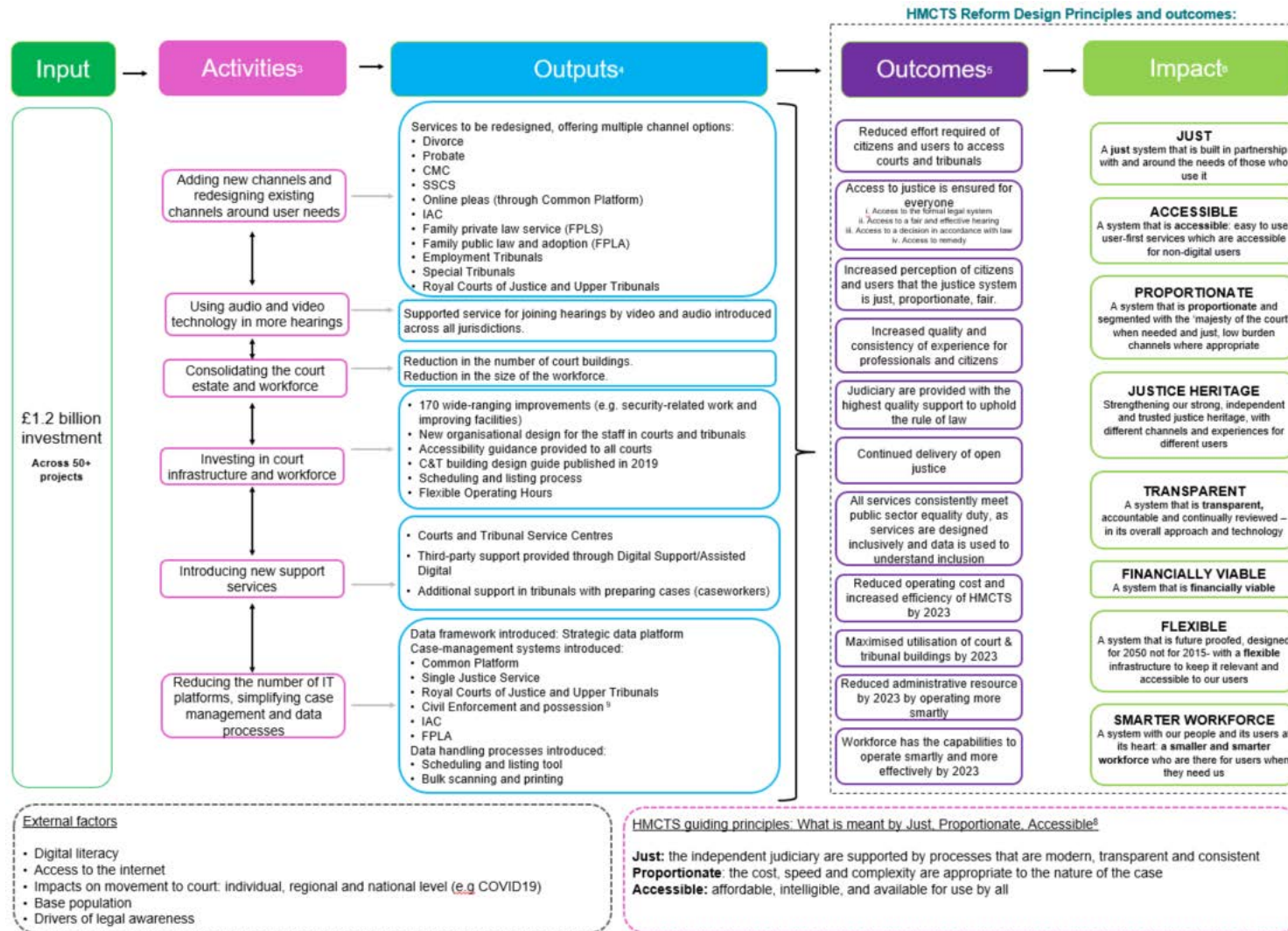


Figure 3. Causal pathways for adding new channels and redesigning existing channels around user needs

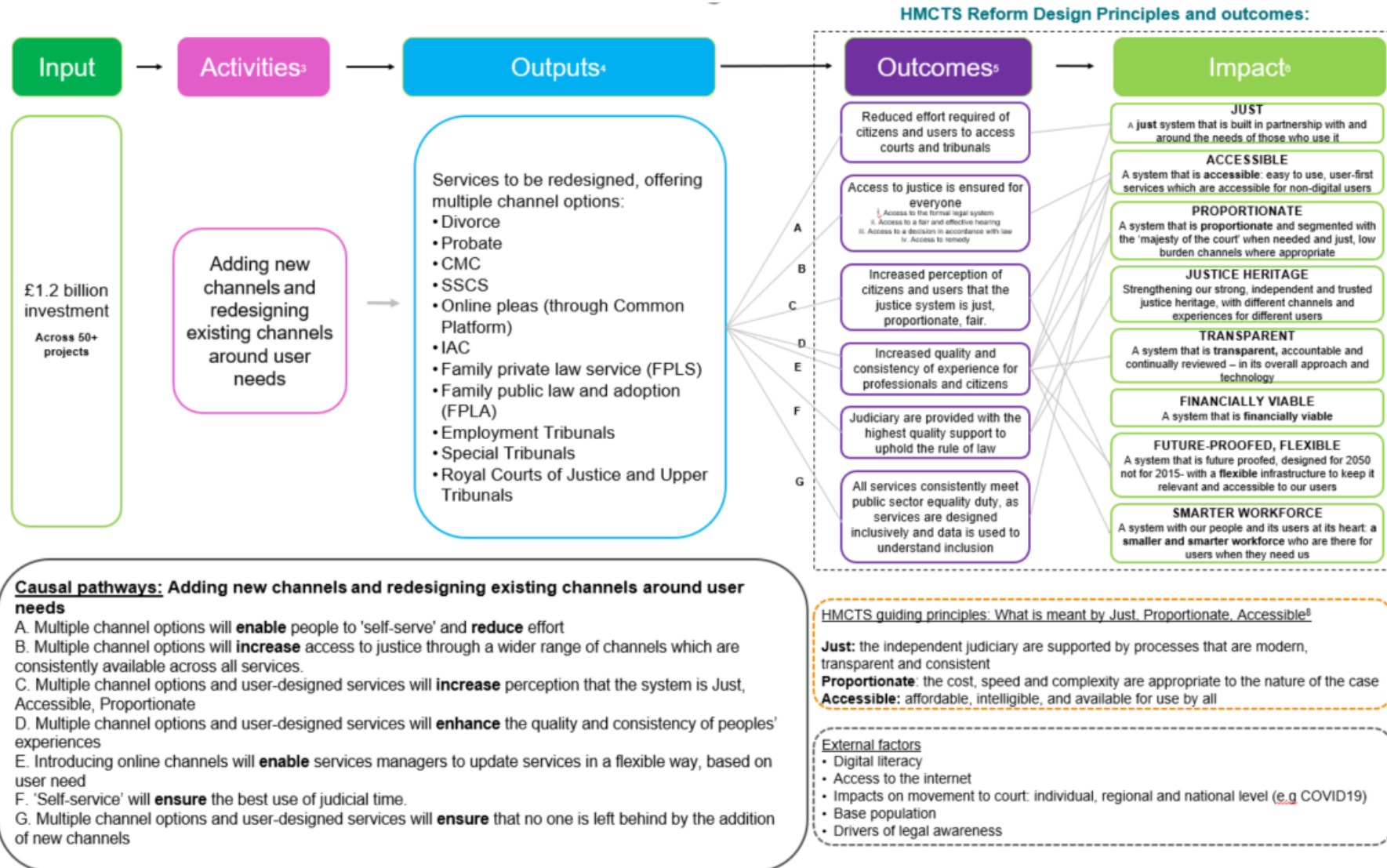


Figure 4. Causal pathways for using audio and video technology in more hearings

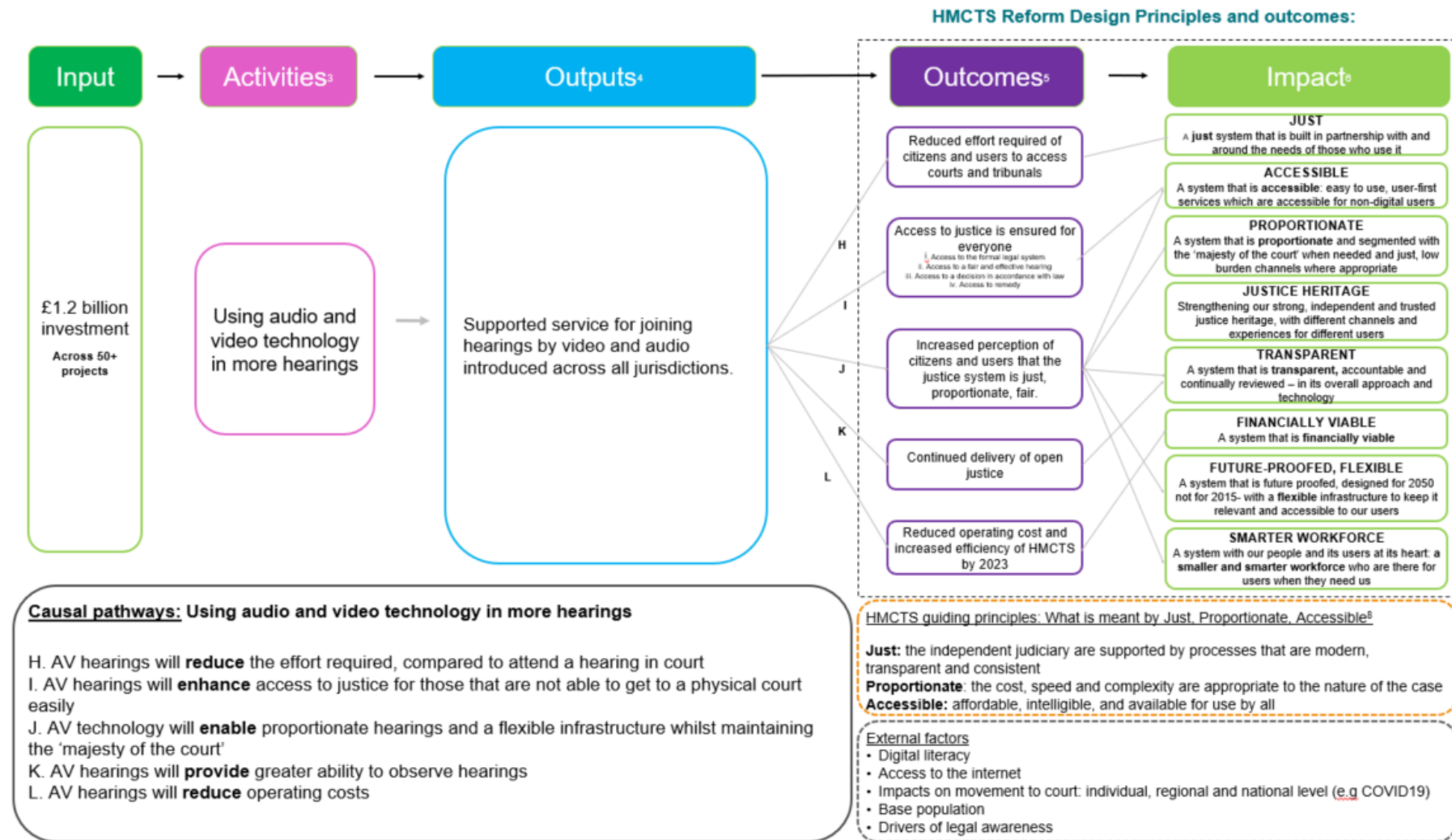


Figure 5. Causal pathways for consolidating the court estate and workforce

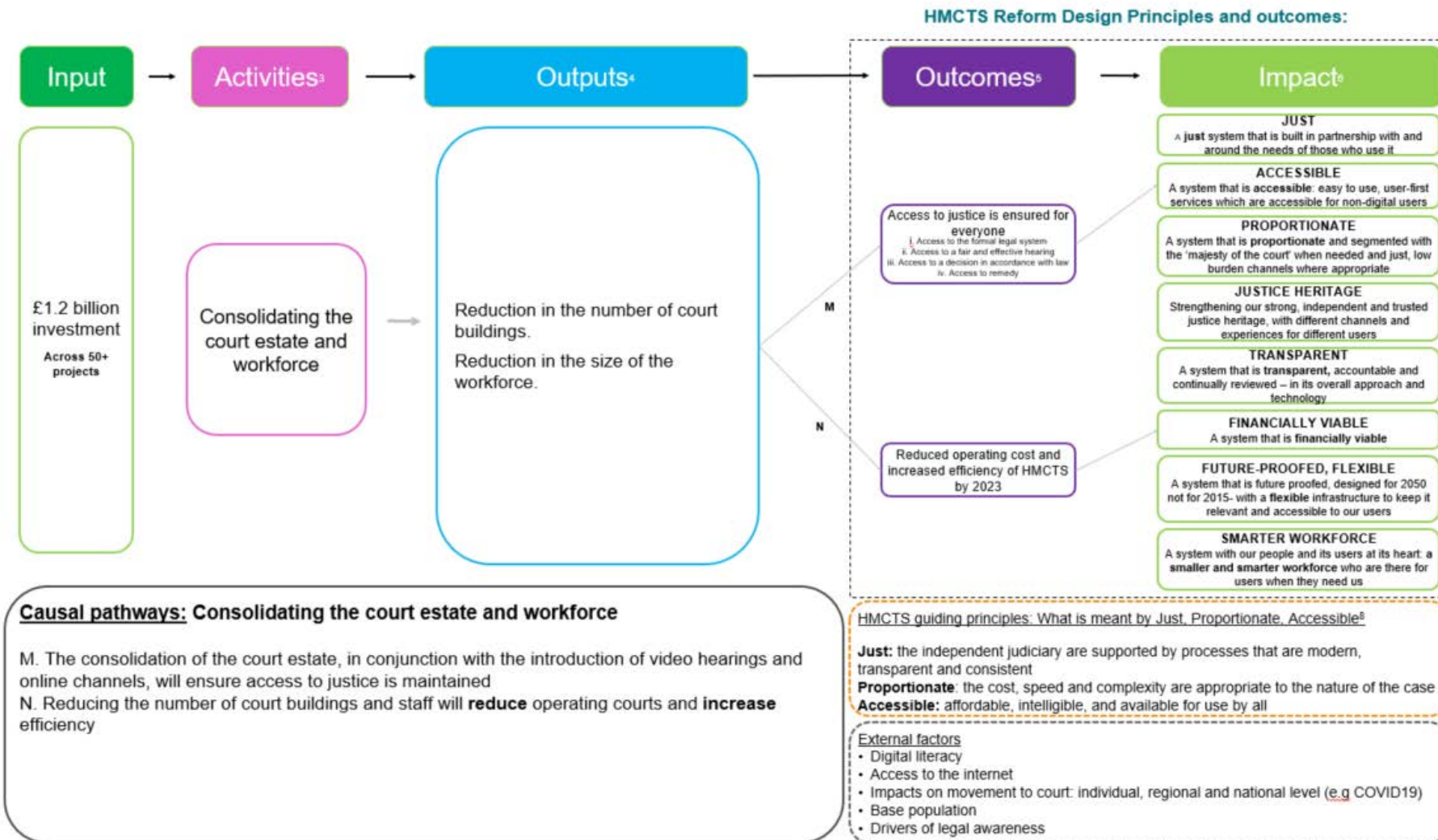


Figure 6. Causal pathways for investing in court infrastructure and workforce

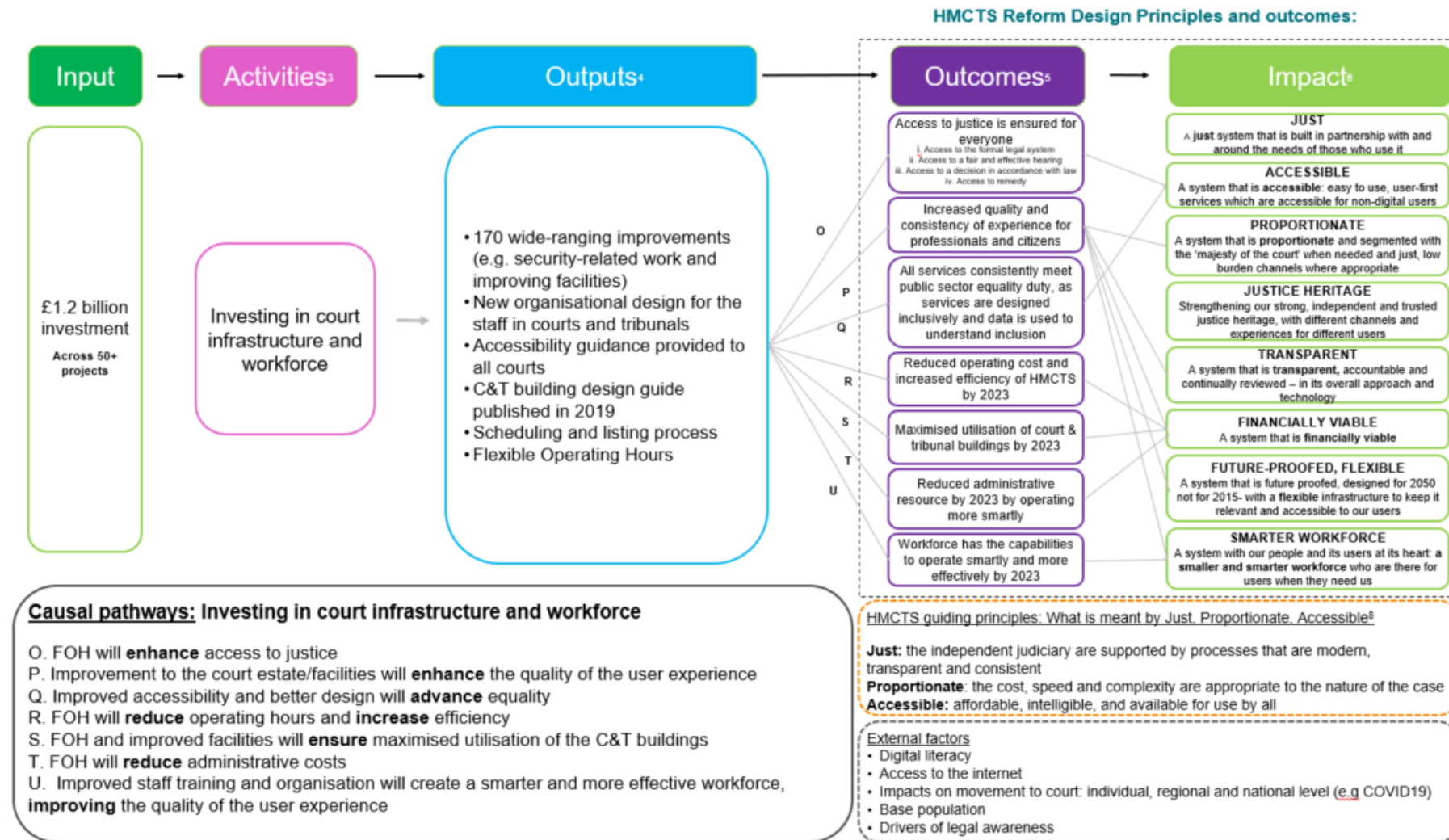


Figure 7. Causal pathways for introducing new support services

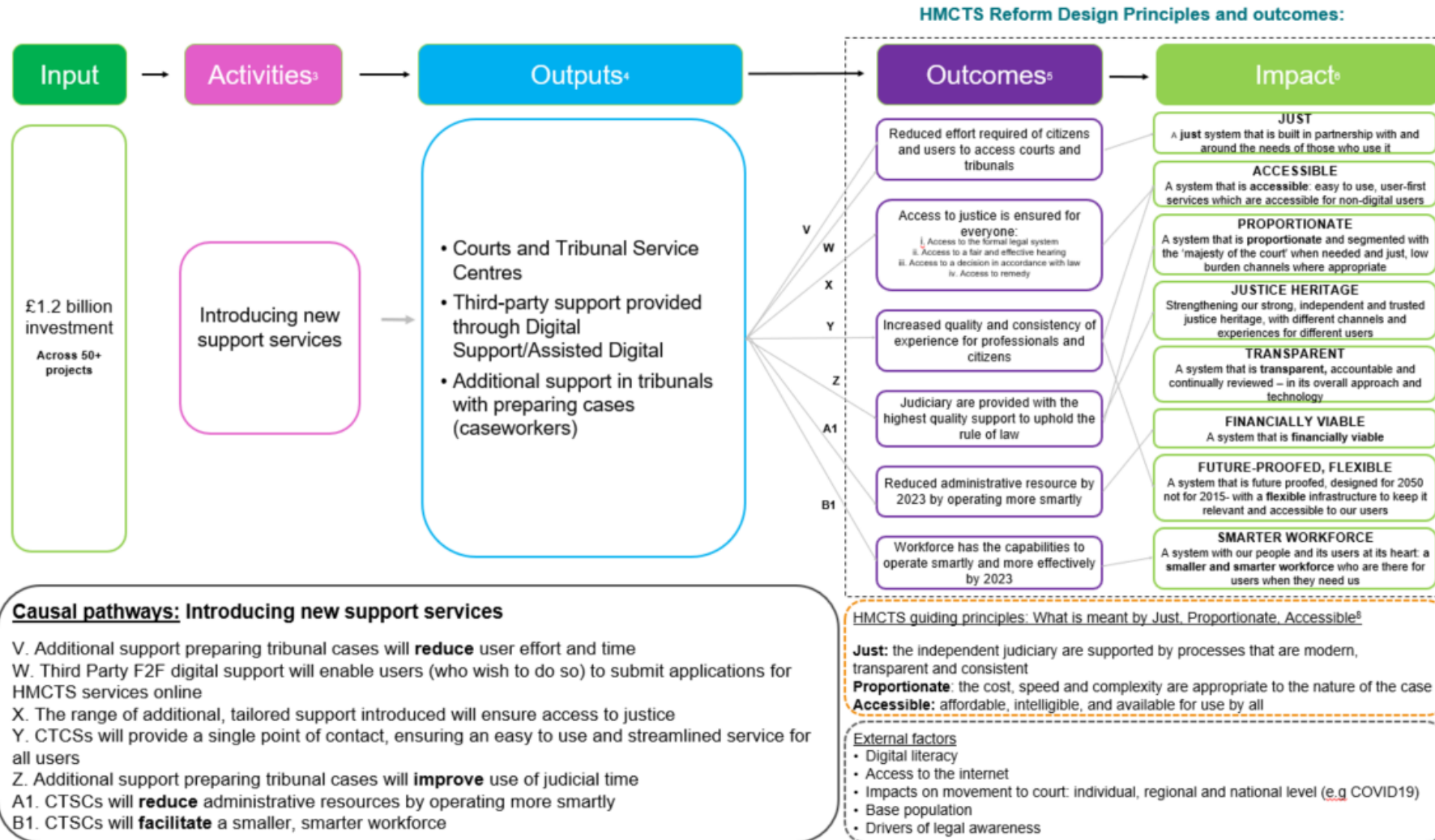
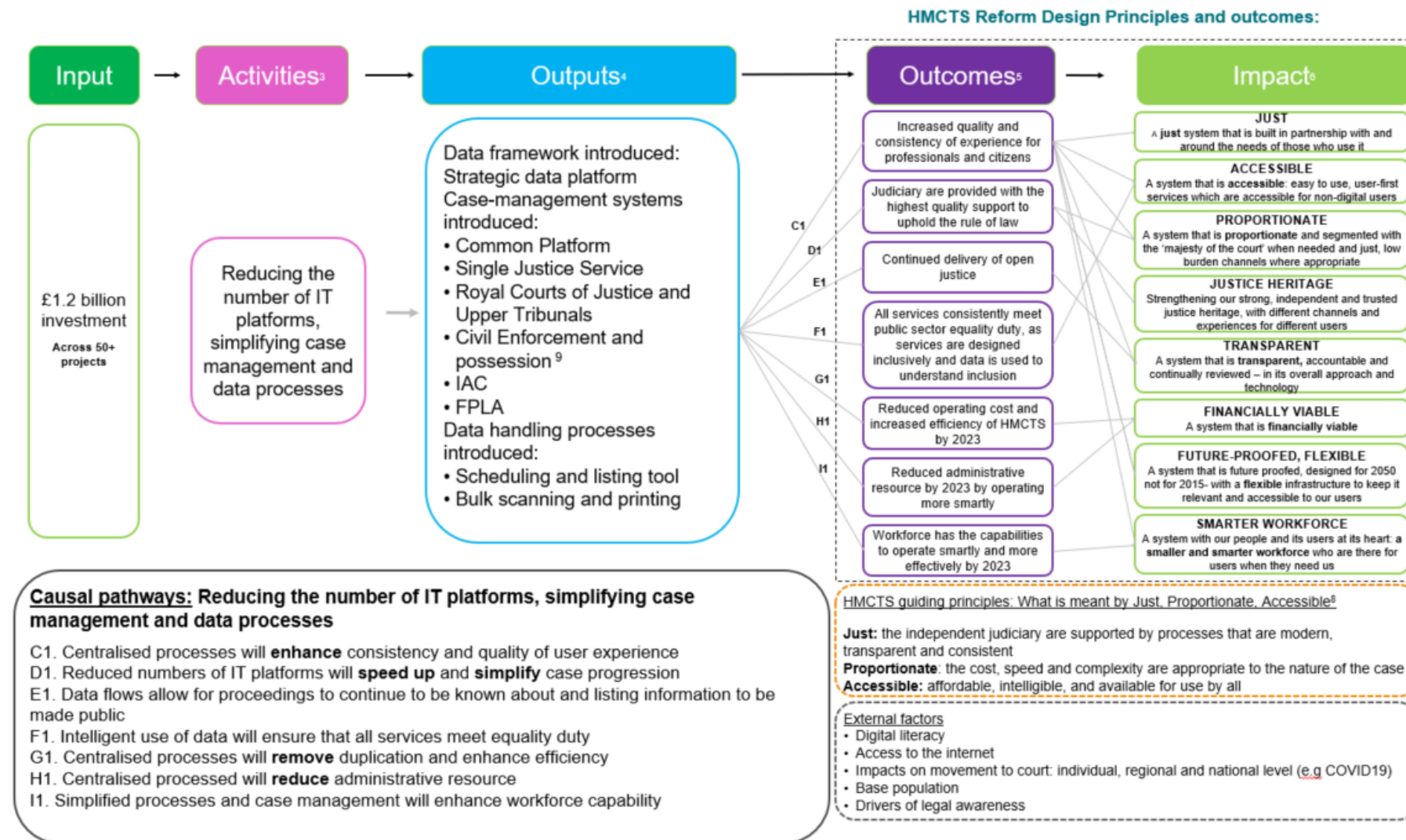


Figure 8. Causal pathways for reducing the number of IT platforms, simplifying case management and data processes



Appendix B:

Academic Advisory Panel membership list

Member	Role	Organisation/ University
Alexy Buck/Rachel Dubourg (Jobshare)	Chief Social Researchers and Head of Evidence, Engagement and Experimentation	Ministry of Justice, Data and Analytical Services Directorate
Professor Betsy Stanko OBE	Independent Advisor	
Dr Beverley Bishop	Head of Variants Assessment	Joint Biosecurity Centre, Department of Health and Social Care
Professor Cheryl Thomas QC (Hon) (shared with Professor Dame Hazel Genn)	Professor of Judicial Studies	University College London
Professor David Ford	Professor of Health Informatics	Swansea University
Professor Dame Hazel Genn DBE QC (Hon) (shared with Professor Cheryl Thomas)	Professor of Socio-Legal studies	University College London
Professor Karen Broadhurst	Professor of Social Work	Lancaster University/ Nuffield Foundation
Professor Linda Mulcahy	Professor of Socio-Legal Studies	University of Oxford – Law Faculty
Matthew Smerdon (shared with Dr Natalie Byrom)	Chief Executive	Legal Education Foundation
Professor Maurice Sunkin QC (Hon)	Professor of Public Law and Socio Legal Studies	University of Essex
Dr Natalie Byrom (shared with Matthew Smerdon)	Director of Research and Learning	Legal Education Foundation
Dr Naomi Creutzfeldt (shared with Professor Robert Thomas)	Reader in Socio-Legal Studies	Westminster University
Professor Nigel Fielding (shared with Professor Roger Tarling)	Emeritus Professor	University of Surrey
Professor Patrick Sturgis	Professor of Quantitative Social Science	London School of Economics

Member	Role	Organisation/ University
Professor Peter John	Professor of Public Policy	King's College University
Professor Peter Lynn	Director of the Institute for Social and Economic Research	University of Essex
Robert Street	Director of Justice	Nuffield Foundation
Professor Robert Thomas (shared with Naomi Creutzfeldt)	Professor of Public Law	University of Manchester
Professor Roger Tarling (shared with Professor Nigel Fielding)	Professor	University of Surrey
Professor Rosemary Hunter FAcSS	Professor of Law and Socio-Legal Studies	University of Kent

Appendix C:

Academic Advisory Panel Terms of Reference

Terms of Reference – Expert Panel, Overarching Evaluation of HMCTS reform

Introduction

1. The evaluation will seek to understand the consequences of the reform programme.
2. The evaluation is taking a theory-driven approach to accommodate and manage the complexity of the reform programme. The overarching theory of change guides the scope and methodological plan of the overarching evaluation.
3. Within the theory of change, causal pathways connecting outputs and outcomes have been identified. Through this work, reform activity has been segmented into four thematic areas, to be reviewed by the evaluation:
 1. Redesigning channels around user needs and a shift towards online services;
 2. Enhancing the use of audio and video hearings;
 3. Changing the physical court estate and the way it is utilised;
 4. Centralising processes and providing additional support where required.
4. Research will be carried out to test the causal pathways identified in the theory of change. This will assess to what extent HMCTS reform achieves the intended outcomes, based on the underlying logic.
5. The overarching evaluation is being managed separately from analysis of individual reform projects, (e.g. process evaluations of video hearings in tribunals). The evaluation team will work closely with researchers in HMCTS to examine the effects of specific reform projects.

Role of the expert panel

6. The expert panel will help the Ministry of Justice to design the best possible evaluation, based on the resources available. This will involve:
 - i. Helping ensure that the evaluation meets the needs of wider stakeholder groups including court user groups, the judiciary, the Public Accounts Committee, the academic community, and third sector organisations.
 - ii. Advising on evaluation methodology and data analysis approaches.
 - iii. Advising on the practicalities of conducting the evaluation, including its impact on legal practitioners and court users.
 - iv. Bringing to attention research literature or past cases which will inform the development of the evaluation.
 - v. Advising on the quality, limitations and appropriate uses of research carried out by, or on behalf of, the MoJ in relation to the evaluation.
 - vi. Supporting MoJ's engagement with relevant academics and legal practitioners.
 - vii. Exposing MoJ to a broad range of opinions on evaluation of court reforms.
 - viii. Acting as 'critical friends', providing support and constructive challenge as appropriate.
7. Panel members will have an opportunity to shape the evaluation. Members will learn about current court data collection and management strategies, and gain an insight into how these are being developed over time.
8. The panel will have a purely advisory role. The MoJ will carefully consider the suggestions of the panel when providing advice on the evaluation, but reserve the right to propose alternative approaches when necessary. Any views outlined in publications about the overarching evaluation will not necessarily reflect the views of individual panel members. The panel will not be involved in influencing the direction of individual HMCTS reforms. The panel will not draft research tenders or review tender responses.
9. The evaluation will be undertaken by officials in MoJ. They will prepare an interim report during the course of the reform programme, and a final evaluation report

following completion of its implementation. These reports will be presented to the Lord Chancellor and Lord Chief Justice.

Membership Structure

10. The expert panel will be composed of academics and other evaluation experts. Panel members will be invited to join by the Ministry of Justice. The panel will include experts in the criminal, civil, family and tribunal jurisdictions. Others will be primarily experienced in policy evaluation and research methodology.
11. Panel members will be primarily engaged with individually. The panel may be asked to provide written comments on papers, exchanging information via email, or telephone discussions. Additionally, specialised sub-level groups will meet to gather views and comments on issues relating to their specific expertise.
12. The panel will submit any recommendations to the Overarching Evaluation team within the Ministry of Justice Data and Analytical Services Directorate.
13. All members will act in a personal capacity rather than representing the views of their firm/organisation. This does not affect member's rights to respond to a formal consultations or policy statements from the Government from the viewpoint of the organisation that they represent.
14. We expect that that the evaluation will last for several years. To ensure continuity of advice, we would prefer members to remain on the panel for this time. We will periodically review the balance of membership of the panel, and invite additional members where necessary.

The role of the Chair and Secretariat

15. Individual and sub-group discussions will be coordinated by members of the Overarching evaluation team.
16. MoJ will provide a secretariat, tasked with arranging meetings and interactions, circulating agendas, and drafting minutes and write-ups of expert input and insight. Records of conversations and meetings will provide accountability and transparency.

17. Any whole panel meetings will be chaired by Alexy Buck and Rachel Dubourg, joint Deputy Directors and Chief Social Researchers. The Chairs will ensure that a broad range of views from all members is brought to the fore. The chairs will help ensure that in individual, sub-group and any full panel meetings a balance of expertise and opinion is maintained as the evaluation progresses. Any minutes will be signed off by the Chairs.

Confidentiality

18. MoJ will share confidential information and ideas that are at an early stage of development. To encourage free and open discussions, information which is not already in the public domain must not be shared publicly or with other third parties.
19. Panel members should not expose drafts or sensitive materials prepared by the Ministry of Justice to third parties before publication has been authorised.
20. The names of experts on the panel and their institutional affiliation will be publicly available. A brief summary of discussions during each panel meeting will be published.
21. The panel remains independent of MoJ. Involvement in the advisory panel does not amount to an endorsement of the evaluation. This will be made clear in any publications relating to the evaluation that make reference to the panel. Panel members will not be described as having endorsed or promoted any decisions made by MoJ.

Commercial Considerations

22. It is possible that MoJ may commission research from external providers as part of the overarching evaluation. Panel members will not be involved in commissioning process, and will have no influence over commissioning decisions.
23. All information shared with panel members will be made available to potential bidders as part of the tendering process, to ensure a level playing field.
24. Panel members and the research units they represent are eligible to bid for tenders relating to the overarching evaluation.

25. Panel members will be asked to declare any financial or other interests that could be seen to create a conflict of interest, as soon as they arise. This includes any interest in bidding for tenders relating to the overarching evaluation. Panel members should leave panel meetings during any segments which relate to issues where they are experiencing a conflict of interest.

Appointment of Experts – Legal Considerations

26. There are potentially three ways in which MoJ may lawfully appoint individual experts to work with organisations awarded contracts for the research:
1. run a competition to award contracts to organisations to conduct the research and allow the selected organisations free rein to appoint individual experts as sub-contractors. The appointment of individual experts would be subject only to MoJ's usual discretion as to the suitability of the sub-contractors for the task and, if necessary, approval of the sub-contract terms and conditions, although these could also be drafted and mandated by MoJ;
 2. directly select individual experts and instruct organisations who are awarded research contracts to offer them sub-contracts. Again, the terms and conditions of the sub-contracts could be mandated by MoJ. This option is available only if the total remuneration of each individual expert is less than the OJEU threshold for service contracts which is currently £118,133; or
 3. run a competition to select individual experts alongside the competition to award contracts to organisations to conduct the research. MoJ would then instruct organisations who are awarded contracts to offer sub-contracts to the successful individual experts. This option is similar to option 2 but does not have the cap on remuneration.

Appendix D: Judicial Advisory Panel membership list

Jurisdiction	Judicial Officer Holder	Involvement in Additional Reform Working Groups
Family	Mr Justice Cobb (co-chair)	<ul style="list-style-type: none"> Family Judicial Engagement Group (chair) Video Hearings Working Group Scheduling and Listing Working Group
	HHJ Mark V Horton	<ul style="list-style-type: none"> Family Judicial Engagement Group
	HHJ Andrew Berkley	<ul style="list-style-type: none"> Common Component Judicial Working Group Public Family Law Group
	DJ Louise McCabe	
Civil	Master Cook	
	DJ Wendy Owen	<ul style="list-style-type: none"> Civil Judicial Engagement Group Unspecified claims subcommittee of the Civil Judicial Engagement Group
	HHJ Nigel Godsmark QC	<ul style="list-style-type: none"> Civil Judicial Engagement Group Scheduling & Listing Working Group Flexible Operating Hour Evaluation Advisory Group Future Operations Judicial Workings Group
Crime	HHJ Martin Edmunds	
	Jo King JP	<ul style="list-style-type: none"> Magistrate Engagement Group (co-chair)
Tribunals	Judge Barry Clarke	
	Judge Meleri Tudur	<ul style="list-style-type: none"> Future Hearings Programme Board Video Hearings Working Group Tribunals Future Operations JWG Tribunals Reform Judicial Engagement Group (Chair) Judicial Reform Steering Group
	Judge Tom Church	
	Judge John Keith	

Jurisdiction	Judicial Officer Holder	Involvement in Additional Reform Working Groups
Ministry of Justice Officials	Fiona Rutherford (co-chair)	Director of Access to Justice Policy
	Kate Gregory-Smith	Deputy Director, Courts and Transparency
	Alexy Buck/Rachel Dubourg (Jobshare)	Chief Social Researchers and Head of Evidence, Engagement and Experimentation

Appendix E:

Judicial Advisory Panel Terms of Reference

Judicial Advisory Panel – Terms of Reference – Overarching evaluation of HMCTS Reform

Introduction

1. As joint partners in the programme of HMCTS Reform, the judiciary have a critical role to play in the overarching evaluation, seeking to understand the consequences of the reform programme and ensuring that the justice system continues to achieve the overriding objective in all jurisdictions.
2. The evaluation will assess the effect of the full reform programme and is structured around the four key themes of reform:
 - Redesigning services around user needs and a shift towards online services;
 - enhancing the use of audio and video hearings;
 - changing the physical court estate and how it is utilised; and
 - centralising processes and providing additional support where required.
3. The overarching evaluation is being managed separately from the analysis of individual HMCTS Reform projects, by an independent research team in the Ministry of Justice, located in the Evidence, Engagement, and Experimentation Unit within the Data and Analytical Services Directorate.
4. Separately, HMCTS will be carrying out project level evaluations of some reform projects. It is anticipated that that these studies will complement the overarching evaluation and we will therefore keep this panel informed of their progress.
5. We will provide regular updates to the Lord Chancellor, Lord Chief Justice, and Senior President of Tribunals on progress, including providing embargoed drafts of the final reports to them ahead of publication so they can correct factual errors and prepare responses ahead of final publication.

Role of the judicial panel

6. The judicial panel will provide advice to the Evaluation Team (MoJ) on how to deliver the evaluation's research objectives. This will involve:
 - i. Advising on the practicalities of conducting the evaluation in the justice system and facilitating research which will be undertaken by the Overarching Evaluation Team.
 - ii. Advising on the most appropriate use of language, specific user needs and reviewing questionnaires and surveys which will be conducted throughout each jurisdiction.
 - iii. Advising the Overarching Evaluation Team on the differing vulnerability context in each jurisdiction.
 - iv. Supporting the Ministry of Justice's engagement with expert bodies such as the Administrative Justice Council, and Civil Justice Council, Family Justice Council.
 - v. Exposing the Ministry of Justice to a broad range of expertise across all jurisdictions, levels and regions to facilitate the research.
 - vi. Communicating with the local judiciary, ensuring there is an understanding of what the aims of the overarching evaluation are and how the evaluation will be carried out.
 - vii. Acting as 'critical friends', providing support, feedback, and constructive challenge as appropriate.
7. There is a significant interest in the overarching evaluation from a wide range of groups and stakeholders which will be considered throughout the evaluation. This includes, the Public Accounts Committee, the National Audit Office, the Justice Select Committee, the Constitution Committee, the academic community, and third sector organisations.
8. The evaluation will be managed by analysts in the Ministry of Justice. They will prepare an interim report during the course of the Reform Programme, and a final evaluation report following completion of its implementation. These reports will be

presented in draft to the Lord Chancellor, Lord Chief Justice, and Senior President of Tribunals but the findings and conclusions will be independent and published in accordance with the processes of the [Government Social Research Publication Protocol](#).

Membership Structure

9. The panel will be composed of judges nominated by the Lord Chief Justice, and the Senior President of Tribunals and will have expertise across the criminal, civil, family and tribunal jurisdictions. In addition, the panel will be supported by an analyst from Judicial Office.
10. The panel will hold a minimum of two meetings a year in addition to individual jurisdiction meetings with MOJ. Panel members may also submit comments to the evaluation team in writing prior to/post meeting to ensure all views are gathered and considered.
11. It is anticipated that panel members may wish to consult with their judicial colleagues through the existing jurisdictional structures to gather views and comments on issues relating to their specific expertise. In addition, the Secretariat will liaise with Judicial office and MoJ communications team to develop a communications plan to promote the work of the panel. The meetings will take place in a central London location or remotely.
12. In addition to meetings, the panel may be asked to provide advice in other ways, such as providing written comments on papers, exchanging information via email, or telephone discussions.
13. The panel will submit any recommendations to the Overarching Evaluation Team within the MoJ Analytical Services.
14. We expect that that the evaluation will last for approx. four years. We anticipate that vacancies are likely to arise, and we will liaise with Judicial Office to fill those vacancies which arise.

The role of the Chair and Secretariat

15. The panel will be jointly chaired by the Fiona Rutherford, the Director of Access to Justice, and Mr Justice Cobb. The Chairs will ensure that a broad range of views from all members is captured, using a structured process if necessary. The Chairs, in discussion with Judicial Office and the Ministry of Justice will help ensure that a balance of expertise and opinion is maintained as the evaluation progresses, advising the Ministry of Justice to recruit additional panel members if necessary.
16. The Ministry of Justice will provide a secretariat, tasked with arranging meetings, circulating agendas, and drafting minutes. Minutes will be signed off by both Chairs.

Confidentiality

17. The Ministry of Justice will share confidential information and ideas that are at an early stage of development. To encourage free and open discussions, information which is not already in the public domain must not be shared publicly or with other third parties.
18. Members can discuss the business of the panel with other judges on a “judiciary-in-confidence” basis but that (unless specifically authorised) members should not expose drafts or sensitive materials prepared by the Ministry of Justice to third parties.