



Ministry  
of Justice

# HMCTS Reform Evaluation – Vulnerability Study

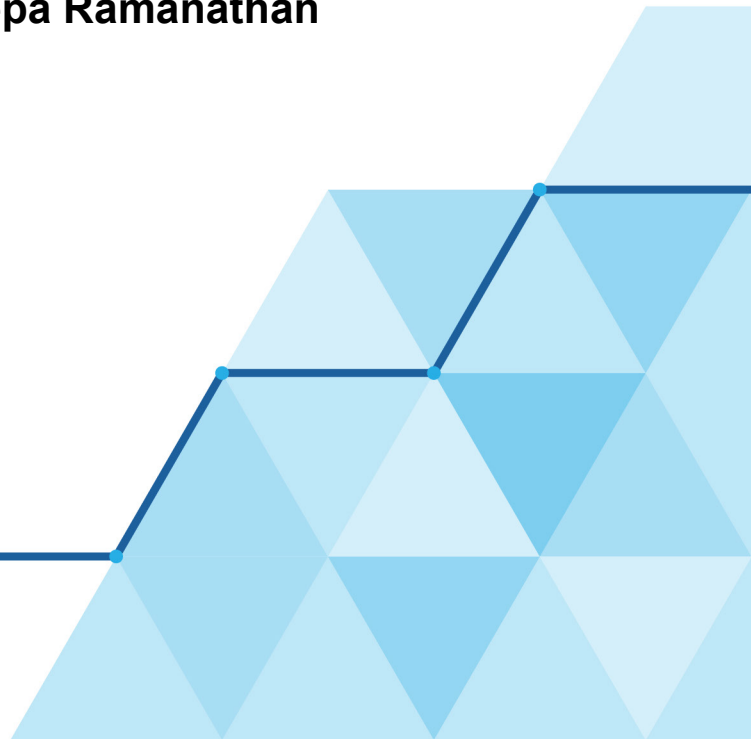
**A qualitative study of vulnerable  
individuals accessing justice and the  
impact of HMCTS Reform on their  
experiences**

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Basis Social

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# 1. Summary

## 1.1 Overview

HM Courts and Tribunals Service (HMCTS) is responsible for the administration of criminal, civil and family courts, and tribunals in England and Wales. Since 2016 HMCTS has been working to bring modern technology and new ways of working to the courts and tribunals systems with the aim of delivering a system that is just, proportionate, and accessible. A key objective is to simplify the process for end users. Changes include adding and redesigning channels, introducing new support services, and increasing the use of technology for remote hearings.<sup>1</sup> The outcomes of the reform programme are being monitored by the Ministry of Justice (MoJ), with a specific commitment to assessing how reforms may impact ‘vulnerable’ service users who may struggle to access reformed services. This research was commissioned with the specific aims of investigating:

- How people with certain vulnerabilities engage with the justice system.
- What barriers and enablers exist for vulnerable users of the system.
- How the reforms have affected experiences of access to justice.

Basis Social were commissioned to undertake qualitative research with individuals who experienced a legal issue during the preceding 12 months.<sup>2</sup> In total, 120 in-depth interviews were conducted with individuals who were identified as potentially vulnerable. This was determined by a combination of characteristics (including, for example: protected characteristics, digital exclusion, English as an additional language,<sup>3</sup> struggles with finances, experiencing homelessness) and their self-reported difficulties in managing their legal issue. This second factor was incorporated into the recruitment approach because

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<sup>1</sup> The reform programme also includes a number of elements that are not customer facing (e.g., changes to the case management system). While these will have affected the experiences of users, they would not experience them directly (or be in a position to compare and contrast experiences pre- and post-implementation) and have therefore not been incorporated into this study.

<sup>2</sup> Some legal issues may have started more than two years prior but were still present at the time of interview.

<sup>3</sup> The opportunity to have an interpreter for interviews was provided to participants, but all interviews were conducted in English.

managing a legal issue can introduce vulnerabilities due to people experiencing stress and overwhelm in dealing with an unfamiliar system.<sup>4</sup>

Vulnerable participants were recruited across Administrative (tribunals), Civil, Family and Criminal jurisdictions, covering a wide range of legal issues and including both those who were represented and unrepresented. One-quarter of the sample managed their legal issue outside of the formal courts and tribunals system.

## 1.2 Main Findings

### How do people with certain vulnerabilities engage with the justice system?

**Among participants who addressed their issue through the formal legal system, their reasons for doing so were strongly related to their vulnerability.** Participants across jurisdictions and with different vulnerabilities reported a lack of knowledge and understanding from the first step, with many not knowing if the issue they were experiencing translated into a legal issue, and therefore how to go about resolving it. Participants consistently reported little understanding of legal processes, possible outcomes, or timeline to resolution. This contributed to an ongoing sense of anxiety, inducing stress, and leaving people feeling overwhelmed at almost all stages of the process. The stress of trying to operate in an unfamiliar legal system was compounded by other factors such as emotional and/or psychological vulnerability, physical health challenges and difficult financial circumstances.

In some cases, there were additional factors contributing to **psychological and emotional vulnerability**. These were often entwined with the nature of their legal issue, particularly where an **imbalance of power** was involved. This was common for those involved in cases where they were challenging their current or former workplace on issues such as workplace bullying, harassment, or disputed dismissal. Another recurring theme was **financial vulnerability** which manifested itself in multiple ways. For many who struggled financially but were not able to access legal aid, this severely limited access to legal advice or representation. In instances where the opposing party did have access to legal representation, participants reported feeling at an unfair disadvantage, once again leading to a power imbalance. This contributed to participants' lack of confidence, feelings of

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<sup>4</sup> Note that participants had not necessarily interacted with reforms which are still being rolled out.

isolation, powerlessness, and an inability to engage with the system to an appropriate extent.

### **What barriers and enablers exist for vulnerable users of the system?**

**The primary barriers to accessing the courts and tribunals system related to a lack of knowledge of the legal system and the challenges people faced representing themselves.** These challenges arose within a system which (i) employed unfamiliar technical terminology, and (ii) could involve another party with access to greater resources (often including legal representation). Facilitators to accessing justice consequently tended to tackle this knowledge gap by, for example: including clear information and guidance on routes to address a legal issue (including outside of the courts and tribunals system), legal representation, and access to emotional and/or practical support services.

**This research showed that people had more positive experiences when their expectations were managed through the support and communications they received from their legal representatives, from HMCTS, or through wider support services.**

Clarity in terms of the process (e.g., likely timescales, how stages of a case progressed, what happens in a courtroom etc.) helped participants set and manage their expectations. When, for example, a process took much longer than anticipated, this could lead to anxiety on the part of service users, exacerbating vulnerabilities. Managing expectations through clear and ongoing communications, even at points of inaction, could help to mitigate user concerns.

**For some, avoiding the formal judicial system was often a preferred route for dealing with a legal issue.** This was particularly common for respondents to a case brought by a third party, or claimants in Civil or Administrative jurisdictions who wished to settle their claim outside of court. People tended to have a positive experience when they were able to settle out of court in a timely manner, either through formal mediation services<sup>5</sup> or through direct discussions held with the third party or their legal representatives.

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<sup>5</sup> Mediation is a form of dispute resolution where an impartial third party (the mediator), assists parties in reaching a mutually acceptable resolution to their legal issue. It involves a structured negotiation process where the mediator facilitates communication, helps identify interests, and guides the parties toward a voluntary agreement, aiming to avoid a case going to court.



**Access to legal advice or legal representation was directly associated with more positive experiences of managing a legal issue**, both among more and less vulnerable participants. For those with fewer financial resources, financial support through legal aid was integral to their access to legal representation, often meaning they were able to address a legal issue on more equitable terms. This research found this to be particularly important in issues of Family law, where one party (often the male partner or ex-partner) typically had recourse to greater financial resources and legal expertise. However, legal aid, or broader legal advice, was often not available, leading some participants not to progress a legal issue; people can be afraid to take up a case against someone who has legal representation if they cannot access it themselves.

**Practical and emotional support, as well as legal advice, helped to mitigate the impact of vulnerabilities on people’s experiences** of managing their legal issue.

Support often involved talking through what to expect, acknowledging people’s thoughts and feelings, and being responsive to needs as they arose. This support could be provided by a formal legal representative or, in a small number of cases, informally by HMCTS staff or members of the judiciary (although this is not part of their formal role). However, no participants were aware that they could contact, for example, the Courts and Tribunals Service Centres (CTSCs) with enquiries. Instead, most people looked to voluntary organisations or friends with greater experience of the legal system. Support was therefore often only accessed by chance, resulting in a high degree of variation in the form of support accessed by vulnerable court users.

### **How have reforms affected experiences of access to justice?**

Remote hearings were in use prior to the reforms but a new video hearings platform will be rolled out more widely as part of the programme. **Participants had largely positive experiences of fully remote hearings, finding them to be convenient and expedient.**

This was particularly for cases which were less serious in terms of the potential repercussions. Hybrid hearings (i.e., where some hearings were remote and some in-person), which were common with earlier reforms immediately post-COVID-19, were viewed less positively: some felt that the differences in mode led to a disconnected and disjointed experience.

There are a number of other digital HMCTS services which have been rolled out more widely as part of the reform process. These include the ability to complete and/or submit forms online, upload digital copies of documents, and receive responses to submissions online. Participant experiences and views of interacting with these services differed more substantially than those of online hearings. This could depend on the legal issue, the extent to which the service was optimised for current operating systems, and how participants preferred to manage their submission (i.e., their preferred channel choice). In many cases participants expressed a preference for paper-based communication due to the security of having a recorded paper trail. While people may be comfortable using digital services in many areas of their lives, this does not always translate into comfort in the context of managing a legal issue.

**Overall, however, participants were very positive towards the digitisation of HMCTS services, as long as options were available for participants who either may struggle to or who preferred not to engage digitally.** Where the service encountered was different to that expected (e.g., a face-to-face court case was moved online, or vice versa), this could exacerbate anxieties unless accompanied by clear communications about the change in advance.

### Conclusions and implications

In summary, a better experience for some vulnerable individuals experiencing a legal issue would be one where expectations were effectively set and managed throughout the process of dealing with a legal issue. This involves both access to sufficient support (legal, practical and emotional; both via HMCTS, formal legal representation and other sources) and ongoing communications from HMCTS to inform people of the legal process.

The interviews highlighted digital reforms being delivered within HMCTS are not, in and of themselves, exacerbating vulnerabilities. Indeed, in many cases they are helping service users to feel more confident and comfortable in managing their legal issue (e.g., through remote hearings and online case management services). This is particularly common for more straightforward cases where external sources of support are less often required. However, reforms have the potential to exacerbate vulnerabilities where people's expectations are not managed, and where their personal preferences (notably for reassurance) are not accounted for.

In most non-criminal cases where a non-legal route to resolution is possible, better signposting of options for people to resolve a legal dispute outside of the courts would be beneficial. Participant experiences of alternative channels, such as mediation, were routinely positive, as long as these were being used in good faith by all parties. In many cases participants were unaware of alternative routes to resolution that could have been available to them.

The findings of this research have implications for MoJ and HMCTS to account for going forward in the design, implementation and improvement of reform activities. These include efforts to:

- proactively understand the needs and preferences of service users.
- direct users toward appropriate forms of support and services; and
- manage user expectations.

These points are explored in more detail in this report. The section ‘Unmet Needs’ (see 4.3) outlines the areas in which further work is needed to support vulnerable users. Finally, we have made suggestions for further research to delve into the experiences of specific reforms in a timely, standardised manner.

## 2. Research context

### 2.1 Evaluating the Reform Programme

HM Courts and Tribunals Service (HMCTS) is in the final phase of a reform programme costing more than £1.3 billion. The aim of this programme is to create a justice system which is more modern, efficient, and accessible to all. This comprises a wide range of initiatives across all jurisdictions, focused on:

- Adding new channels (i.e., new routes to services) and redesigning existing channels around user needs.
- Using remote hearing technology in more hearings.
- Consolidating the court estate and investing in court infrastructure.
- Introducing new support services.

The reform programme is being evaluated by the Ministry of Justice (MoJ), with a specific commitment to assessing how the reforms may impact those who are vulnerable.<sup>6</sup> This research was commissioned with the aim of investigating how people with certain vulnerabilities engage with the justice system, and how the enacted and planned reforms can affect their experiences.

### 2.2 Aims and Objectives

This research was designed to investigate the experiences of people who may be considered vulnerable. This included both those who addressed a legal issue through the formal justice system (known as ‘users’) and those with a legal problem who sought to resolve it by other means (‘non-users’). Among both groups, the research explored different routes to addressing their legal issue, the motivations behind decision making, use of available support mechanisms and services, and barriers and enablers for vulnerable people seeking to access justice. The research was intended to inform

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<sup>6</sup> See [HMCTS Reform Overarching Evaluation: Research - GOV.UK](#) for all publicly available evaluation material to date.

institutional understandings of best practice in providing services for vulnerable individuals, to support future service development.

The specific research questions for this project were:

1. What are the experiences of the justice system of individuals with different vulnerabilities? Particularly in relation to reformed elements of the system.
2. What are the experiences of individuals with different vulnerabilities of the different elements of the available support? What further support would have been helpful in accessing justice?
3. What barriers and enablers exist for users of the system experiencing vulnerability, and are there ways in which the system itself introduces or exacerbates vulnerabilities?
4. How do different factors of vulnerability and protected characteristics interact to influence access to justice?
5. What are the barriers or drivers for people experiencing or at risk of vulnerability who could/should access the justice system but do not? What support would have been helpful?
6. Are there particular features of vulnerability in relation to the justice system following the COVID-19 pandemic?
7. What would a 'good' experience be for these groups and how might it be improved?

### **2.3 Understanding vulnerability in the context of a legal issue**

Despite widespread interest in the concept of vulnerability, there is a lack of consensus regarding a stable definition, both in terms of what 'vulnerability' is and who would fall into this category. While the term vulnerability is used widely in a number of contexts i.e., social sciences, policy making, social care etc, it has rarely been theoretically defined or analysed (Virokannas, Liuski and Kuronen, 2020). The conceptualisation of vulnerability has been described as too loose in policy contexts (Kirby, 2006), while in courtroom contexts, definitions of vulnerability used to determine entitlement to special measures have been criticised for being too narrow (Cooper and Hunting, 2018). Defining and understanding vulnerability in the context of dealing with a legal issue was therefore central to this research and the working definition evolved as the project progressed. At

the project's inception, MoJ proposed a working definition of vulnerability that recognised its dynamic nature and took into account the ways in which the justice system itself can induce and exacerbate vulnerability. According to this definition, vulnerability is understood as a situation where the interaction between the individual and the system within which they are trying to address a legal issue results in a heightened risk of harm to the individual. The agreed framework for assessing vulnerability divided contributing factors into two broad categories:

1. An **individual and social dimension**, where barriers, risks, or constraints arise from the individual's circumstances, attributes, and location within wider socio-economic structures, including:
  - Situational barriers, risks or constraints which are broadly transitory or external to a person, such as homelessness.
  - Conditional barriers, risks or constraints which may be more long term or intrinsic to a person, such as levels of digital capability or long-term health needs.
  - Barriers, risks or constraints relating to a person's protected characteristics.
  - Barriers risks or constraints relating to previous interactions with the justice system or authorities.
2. A **systemic dimension**, where barriers, risks or constraints arise from the system itself, and reflect the **intrinsic nature and function** of the justice process. Examples of this would be when a defendant is charged with a crime and they are not able to choose whether or not to participate in the legal process. Systemic barriers, risks or constraints arise also from the **way in which the process is carried out** – for example, where its complexity and formality limits the users' capacity to express themselves; or where the questioning of witnesses causes distress or trauma.

These categories are known to overlap and intersect, and many participants in this research project were subject to multiple vulnerabilities. As outlined further in section 3.2, participants for this study were recruited according to a range of situational and demographic factors relating to the dimensions mentioned above. In recognition of how the stress of managing a legal issue can manifest as an additional form of vulnerability,

participants were also recruited on the basis of how challenging they had found the experience.

This research highlighted that **in the legal context specifically, a broader understanding of digital exclusion is necessary**. The increasing use of digital channels and technologies within aspects of the reform programme meant that, among situational and conditional vulnerabilities, digital exclusion was of particular relevance to the project. This was originally assessed with standard screening questions around access to internet-enabled devices and confidence in carrying out certain actions online. However, as the research progressed, it was found that even participants who had internet access and were confident using digital services in other areas of their lives would often ‘self-exclude’ from digital channels. Participants suggested that the gravity and complexity of legal matters often undermined their digital confidence to the point where they would decide not to use an online route or channel. Many were afraid of, for example, filling in a digital form incorrectly, failing or forgetting to submit required information, or encountering undefined ‘technical issues’. Many people found the experience of dealing with legal issues stressful and were anxious about the possible consequences of making errors. This often caused them to prefer familiar paper-based applications and face-to-face engagement where they felt errors were less likely to occur.

Vulnerability is often understood in relation to certain characteristics due to the frequency with which they have historically been a basis for discrimination. Now protected by the Equality Act of 2010 these characteristics (commonly referred to a ‘**protected characteristics**’) are age, disability, gender reassignment, marriage/civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. It is known that some characteristics are disproportionately represented among individuals in certain areas of the justice system (e.g., people with mental health conditions are overrepresented in the criminal justice system, JUSTICE [2017]) and MoJ is correspondingly committed to ensuring that reforms to the system do not exacerbate such disproportionalities.

Previous research has also highlighted that perceptions and experiences of the justice system can vary significantly across groups differentiated by protected characteristics. For example, people from ethnic minority backgrounds are less likely than those from white backgrounds to believe that the justice system is fair (Centre for Justice Innovation, 2017),

or that they are treated fairly by the police (Victims Commissioner, 2021). People with disabilities are also less likely to believe that the criminal justice system is fair, and it has been suggested that the proposed reforms risk further excluding disabled people from participating in the justice system by not taking their needs and abilities into account (EHRC, 2020). Vulnerabilities related to protected characteristics were therefore of great importance to this research, but the overall definition of vulnerability used in this project recognised other contributing factors.

Practitioners and academics in the field have long argued that working to improve conditions for vulnerable people in the legal system is important for two reasons. Firstly, they argue that society has a moral duty to protect those who are vulnerable and needs to be confident that the legal system minimises risks to this group. Secondly, they argue that, in order to function well, a legal system needs to enable everyone participating in it to do so to the best of their ability (Green, 2016). Systemic causes of vulnerability – i.e., situations where vulnerability is caused or induced by the functioning of the justice system itself – have been examined across jurisdictions, including in civil (Civil Justice Council, 2020) and family (Radcliffe et al., 2020) proceedings, but they are of particular focus in criminal cases. Recent work has emphasised how this **vulnerability, when it is not supported or addressed, impacts not only the individual themselves, but also their ability to participate in the legal process** (whether as defendant, witness, or other). This then impacts the ability of the justice system to function effectively (Creutzfeldt et al 2024, Dehaghani et al 2023; Townend and Welsh, 2023). A justice system that better meets the needs of its vulnerable users is a system that is more effective in delivering justice and this benefits not only the individual users, but the whole of society.

This study aims to develop the evidence on how the reforms to the courts and tribunals system do or do not help to meet these needs. MoJ and HMCTS want this evidence to allow them to continue to improve services and ensure people who are more vulnerable are able to access the justice system safely and with confidence.



## 3. Research Methodology

### 3.1 Research approach and design

This is a qualitative study based on 120 in-depth interviews. This method allows sufficient time and confidentiality to explore the nuances and detail of each participant's experience of a legal issue, to ensure the barriers, enablers, and other factors they describe are understood in context. Qualitative research allows for in-depth, contextualised exploration of individual experiences, and the drawing out of commonalities as well as differences in experiences across diverse circumstances and settings.

The purposive sampling approach taken (i.e., participants were recruited on the basis of their vulnerability, rather than randomly selected) is not intended to be statistically representative. Instead, the findings broadly reflect the range of experiences in the wider population. The sub-division of the sample across four jurisdictions (with quotas set for specific types of legal issue), between users and non-users, and capturing a range of different vulnerability types also means that some sub-groups contain very small numbers of participants.

Participants were recruited on the basis of having experienced a given legal issue within the past 12 months. However, participants were not recruited on the basis of whether or not they had experienced any of the reforms. It therefore could not be guaranteed that all aspects of the reform programme would be represented in the final sample. For more on the limitations of this study, see section 3.4.

Semi-structured discussion guides were developed for use with participants, in conjunction with MoJ and HMCTS. These were then reviewed by a lived experience panel from Revolving Doors and by Alison Crowther, a specialist in trauma-informed research (see Appendix B). Questions were modified as appropriate for users (compared to non-users), and for the nature of the legal issue/s experienced. Two example guides are included in Appendix D of this report. The themes covered included:

- nature of legal issues experienced,
- services accessed,

- expectations, motivations and experiences of support received,
- met/unmet needs,
- outcomes,
- implications for service improvements.

A pilot phase of 19 interviews was first conducted between 17 April 2023 and 28 April 2023. This was used to inform revisions to the discussion guides and research approach. The remaining 101 interviews were completed between 12 June 2023 and 16 October 2023.

The research design complied with ethical principles for social research in government and was approved by the Ethics Committee of the School of Law at Birkbeck, University of London. More detail on ethical considerations can be found in Appendix B.

## **3.2 Sample and recruitment**

The sample for this project was made up of individuals who had recently experienced a legal issue, and who could be perceived as vulnerable within the context of dealing with that issue. Interviews were conducted by telephone or over Zoom according to the preference of the participant and lasted 60–90 minutes.

The sample was evenly split across four jurisdictions (criminal, civil, administrative, and family) with quotas set for specific legal issues within each (see full breakdown in Appendix A). Quotas were also set for those who accessed the formal justice system (i.e., the courts and tribunals service) and those who did not (referred to as ‘users’ and ‘non-users’ respectively).

Additional quotas were set to ensure the sample captured a range of situational and conditional vulnerabilities amongst participants, ranging from digital exclusion, disability, and financial vulnerabilities to language/communication needs, homelessness, and drug/alcohol problems. Efforts were also made to recruit participants who were cognitively diverse, including those with learning disabilities, dyslexia, ADHD, and autistic spectrum disorders. Demographics were monitored to ensure a diverse sample in terms of age, gender, and ethnicity; and respondents included those who had variously accessed the courts in person or remotely.

A field recruitment partner (Criteria Fieldwork) recruited participants for this study, using their extensive national database and network of recruiters, as well as a range of free-found recruitment methods. Additionally, Basis Social approached partner organisation Revolving Doors as well as specialist Civil Society Organisations (CSOs, e.g., homelessness charities) to recruit for some of the harder-to-reach groups. All participants were incentivised to participate in this research with a £30 Amazon/Love2Shop voucher in recognition of the time commitment involved. Within England and Wales, there were no specific geographical limitations to the achieved sample, although rural populations were harder to recruit. Other harder-to-reach populations, and where this study experienced a shortfall against intended quotas, included individuals that were digitally excluded and vulnerable migrants seeking asylum.<sup>7</sup>

An early challenge for this study was to design a recruitment strategy that would ensure the inclusion of individuals with diverse vulnerabilities in a legal context, without either relying on participants self-identifying as vulnerable, or presuming vulnerability on behalf of any individual. Self-identification would require participants to see themselves as having been vulnerable during the period of managing a legal issue, something which may be disempowering and uncomfortable for people to do. Similarly, it was not felt to be appropriate to use certain characteristics (e.g., disability or low digital skills) as a proxy for vulnerability as this presupposes that anyone with these characteristics is inherently more vulnerable in the context of experiencing a legal issue.

For the first 19 pilot interviews, a recruitment screener was used that included questions on protected characteristics (as outlined in 2.3) and situational factors. These situational factors included household income, digital exclusion, language/communication needs, problems with drugs or alcohol, debt, homelessness, and insecure immigration status. When reviewing the findings of the pilot phase, it was agreed that this approach was not sufficient to ensure that recruited participants were vulnerable in the specific context of managing their legal issue. For the rest of fieldwork, an additional question was added to the recruitment screeners across all jurisdictions, asking how difficult or challenging individuals had found dealing with their legal issue, on a five-point scale. Only individuals

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<sup>7</sup> Achieved samples sizes are included in Appendix A, Table 1. Unfortunately, we were unable to recruit any migrants seeking asylum.

who answered 4 or 5 on this scale were recruited to interview, significantly increasing the proportion of vulnerable individuals recruited.<sup>8</sup>

### 3.3 Analysis

Almost all interviews were recorded and auto-transcribed, and the resulting transcripts anonymised. In three cases, at the request of the participant, interviews were not recorded, and moderators took notes. The research team used framework analysis<sup>9</sup> as a method for organising and managing data through a process of summation and synthesis, resulting in a series of themed matrices linked to the discussion guide and research objectives.

Themes linked to the objectives included:

- expectations and experiences of HMCTS and non-HMCTS services
- managing a legal issue
- access to support services
- barriers and facilitators to accessing services
- opportunities to improve services
- how vulnerabilities interact with the people's experiences of accessing justice.

In reviewing transcripts, additional themes emerged relating to protective and risk factors such as capacity, capability, emotional and psychological resilience, understanding of the legal system, and access to formal and informal support networks. These themes helped the research team to structure and make sense of the data captured from interviews.

Narrative development workshops<sup>10</sup> were then held with representatives from Revolving Doors, the Institute for Crime and Justice Policy Research, MoJ, and HMCTS to review

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<sup>8</sup> The research team undertook detailed depth interviews, lasting an hour or more with participants. In doing so they developed a more comprehensive picture of how participants experienced managing a legal issue and their vulnerability in that context. In total it is our assessment that around two-thirds of the overall sample could be considered to be vulnerable within this framework. This highlights the wider challenge for reaching a definition of vulnerability that can be readily applied. Note that this is the assessment of the research team based on a combination of the life circumstances of the participant, the nature of the legal issue and the challenges experienced or ease in which managing a legal issue was discussed.

<sup>9</sup> For example, see (Ritchie, Spencer, & O'Connor, 2003)

<sup>10</sup> Narrative analysis is a type of qualitative data analysis that focuses on interpreting the core narratives from a study group's personal stories.

key findings, identify the core narrative for the report, and ‘stress test’ the evidence underpinning the insights.

### 3.4 Limitations of the study

This research study aimed to provide MoJ with an understanding of the experiences of people who may be considered vulnerable in managing a legal issue, particularly in the context of reforms that have been rolled out in different jurisdictions. The focus of this research was therefore necessarily broad, covering:

- all jurisdictions (and a breadth of legal issues)
- users and non-users (with legal issues) of courts and tribunal services
- experiences of applicants/claimants, victims/complainants, defendants/respondents, witnesses, and
- a variety of additional characteristics (including lower levels of household income, digital access needs).

One key limitation of this study, while qualitative in nature, was therefore the very small numbers of participants in relevant sub-groups. This makes it particularly challenging to identify patterns relating to the ways in which the legal system can introduce, exacerbate, and alleviate vulnerabilities at the level of a jurisdiction or legal issue.

It is important to note that the sample was skewed towards women (85 women were interviewed compared with 35 men). This potentially limits the insights provided on male participants. Similarly with other demographic sub-groups, such as age; the sample included significantly more participants in the 31–60 range, than in the 18–30 and 61+ age bands.

As discussed above, participants were recruited free-found on the basis of having experienced a given legal issue within the past 12 months, not on the basis of having experienced any of the reforms. Many of the participants could not recall in detail the process by which they engaged with the courts and tribunals services, often due to the vulnerabilities they experienced during the process (e.g., anxiety). This may mean that we are unable to always identify if a user’s experience was of a reformed service or not. Furthermore, many elements of the reforms, such as the new video hearings service, were

only gradually being phased in during the fieldwork period. As a result, it was not possible to guarantee that all aspects of the reform programme were represented in the final sample.

Finally, this study aimed to not presume vulnerability by using pre-identified characteristics as proxies for vulnerability (e.g., disability, or digital exclusion). Instead, we asked people to self-identify the level of challenge they faced in managing a legal issue and used this to gauge vulnerability. While this is arguably a more inclusive approach, it did mean that some interviews involved participants that appeared to be comparatively less vulnerable based on the judgement of moderators. Conversely there may be others who presented as more resilient in the screening process and were therefore not recruited for interview, but who may have been instructive for inclusion in the research, for example providing an understanding of what is working well for vulnerable users. On balance the sample included participants with a wide range of vulnerabilities.

## 4. Research findings

### 4.1 Common trends in vulnerability

There are some common trends in how vulnerability manifested itself across the different sub-groups within the sample. The most widely held experiences related to psychological and emotional vulnerabilities, the most common of which was a feeling of **stress and overwhelm** in dealing with a legal issue. This was often related to a lack of knowledge of the legal system, an issue that was raised by a large majority of participants in this research.

Participants across jurisdictions and with different vulnerabilities reported **a lack of knowledge from the first step**, with many not knowing how the issue they were experiencing translated into a legal issue, and therefore how to go about resolving it. Among non-users, this was a common reason for not pursuing a legal route to resolve their issue: many simply did not know it was an option.

“Obviously we have no idea what support [there is] or what anyone else can do...We wouldn't have a clue how [the justice system] could help or what they would provide [...] I hadn't even really thought if this was something that could go through the courts” Civil, Non-user (money claim)

Among users, this knowledge deficit often persisted throughout the case journey. Participants reported little understanding of the stages of the process, the possible outcomes, or timeline to resolution. This resulted in an ongoing sense of anxiety and of ‘dealing with the unknown’. Even among participants who met no other criteria for vulnerability,<sup>11</sup> the stress this induced could leave some feeling incapable of completing the journey to resolution. This could be further exacerbated when combined with the ‘high stakes’ nature of having to deal with an issue which could have substantive implications (e.g., residency arrangements, finances, ownership of a property). Participants reported feeling overwhelmed at almost all stages of the process, from first putting their case into

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<sup>11</sup> Such that barriers, risks, or constraints arise from the individual's other circumstances, attributes, and location within wider socio-economic structures.

words (either in person or through online searches), to struggling to express themselves in court/formal legal environments and failing to ‘move on’ once cases were concluded. This was often associated in their recollections with a lack of information and communication, meaning many felt they never had a clear understanding of what to expect from the legal process. It was common for participants to continue to worry about possible future implications which they were unsure were fully resolved.

In some cases, there were additional factors contributing to **psychological and emotional vulnerability**. These were often tied up with the nature of their legal issue, particularly where an **imbalance of power** was involved. This was common for those involved in cases where they were challenging their current or former workplace on issues such as workplace bullying, harassment, or disputed dismissal. These participants often lacked confidence in their own abilities to face more powerful opposition in a formal environment, feeling isolated and powerless. Similarly, victims of acts of violence and abuse (generally in the context of Criminal or Family proceedings) were often afraid to appear against those they were accusing in a formal setting. This was potentially re-traumatising for victims, leading some to reduce the severity of their accusations, or retract them and avoid the justice system altogether.

“The whole thought of court to me is a scary option. I felt very threatened by [them]. I should see it [court] in the complete opposite way. It should be there to support and protect innocent, vulnerable people. And in this situation, I have been innocent and vulnerable, but the stress of having to go before people that could judge me and say, I don’t know... My fear of [them] was probably stronger than my faith in the system protecting and supporting me.” Administrative, Non-User (Benefits appeal)

Another recurring theme was **financial vulnerability** which manifested itself in multiple ways. For many who struggled financially but were not able to access legal aid, this severely limited access to legal advice or representation. Some people in this situation decided to represent themselves, and others took on greater financial risks or debts to pay for representation. This was often an issue for women who were involved in cases related to divorce, child custody and domestic abuse, and faced with a spouse who had greater financial means. Some non-users specifically cited fears of costs as the reason they



avoided the formal legal route to resolving their issue (see section 4.2, Barriers and facilitators to accessing the courts and tribunals system).

“You just hear the horror stories all the time, ‘I wish I could see my child, but I can’t afford the lawyer’ or whatnot. So already it puts that barrier in your mind and ruins your confidence then to try and go for it.” Administrative, Non-user (Appealing benefits award decision)

Participants were recruited into the study with a wide range of other vulnerabilities including experiencing homelessness and problems with drugs and/or alcohol, financial debt, health conditions, language barriers and digital exclusion. In some cases, professionals interacting with vulnerable people (including police, in criminal cases) failed to recognise the risk of these vulnerabilities early in the legal process. This resulted in the process itself creating or exacerbating these vulnerabilities. For example, in one instance (case study 4, included in Appendix C), a participant with a history of substance abuse problems was told they could not return to their house as condition of their bail for the protection of the other party. This participant was sober at the time, but their only available shelter was with a regular drug user and they relapsed. Despite this participant telling the police they had nowhere safe to go, no support was offered, and the participant’s circumstances were not taken into account. Participants who felt trapped between the competing demands of complying with instructions and other circumstances relating to their vulnerabilities felt that **there should have been opportunities within the process for them to flag issues, or for them to be directed to appropriate sources of support or information.**

“I was told not to go back to my property while this [bail] was going on...I wasn’t allowed to go back to where I lived [...] There’s got to be something where they can go, ‘You’re innocent until proven guilty, there’s a charity here,’ or even a number they can give you, a helpline or something. But there was nothing at all.”  
Crime, User, Defendant (domestic violence)

These more situational or conditional barriers had their own impact on participants but also frequently exacerbated some of the other factors outlined above. This often included reducing their emotional and psychological capacity to engage with a legal issue, either

inside or outside of the formal legal system. For a smaller subset of participants, situational or conditional factors acted as a barrier to accessing information or support that would help them to understand and then progress a legal issue. For example:

- Language and literacy barriers presented challenges in understanding terminology relating to the legal issue and/or navigating support available online. This had the potential to limit their ability to understand the process or access required support.
- Drug and/or alcohol use and homelessness impact the circumstantial stability of an individual, therefore making it more difficult to access support services and keep appointments (exacerbated further if they regularly change their location).
- Limited digital access restricts knowledge and access to online services and support.

It is important to recognise that in the context of a legal issue, everyone has the potential to be vulnerable, albeit to differing degrees. What helps to mitigate the impact of vulnerabilities on access to justice are detailed in the following sections and include:

- A supportive legal ‘system’
- clear and accessible information on what constitutes a legal issue and how to progress one towards resolution
- access to legal, practical, and emotional support
- individual capacity and capability, which can be strengthened by the preceding factors.

## 4.2 Accessing justice

### Reform measures: experiences and views

One of the aims of the reform programme is to offer new channels and services which help widen access to justice and improve the experience of interacting with the justice system. These reforms are being implemented incrementally and impact different jurisdictions in different ways, not all of which are public facing. The key reforms that have a direct impact on service users include:

1. the expansion of **remote hearings** (including the introduction of a specific HMCTS video hearings platform)

2. the expansion of **digital application and submission processes** (e.g., civil money claims, probate or divorce applications, online document submission)
3. the introduction of new **support services** (including the National Digital Support Service)
4. changes made to HMCTS **physical infrastructure and estate** (e.g., the closure of some court buildings and upgrading of others, improved IT facilities, etc.).

In this section, each of these four reform areas will be examined in turn. Analysis of each will include both the experiences of vulnerable users who encountered them in the process of resolving their legal issue, and the views and expectations of those who did not.

In some cases, participants suggested a need for specific services which have already been introduced but of which they were not aware. This is drawn out in the review below but represents a common theme whereby better signposting and communications are needed to direct people to the support and services available.

### **Perceived benefits and challenges of digital reforms**

Several of the reforms introduced as part of this programme, including remote hearings and digital application processes, rely on a level of digital access and familiarity among users which raised some common themes. Most participants were very positive about the idea of digital services for dealing with legal issues, seeing opportunities here for greater efficiencies (for users and providers) as well as other benefits. Time and cost efficiencies were widely highlighted, with online applications, communications, and hearings all seen as being more convenient and quicker ways of managing a legal issue. This was particularly appealing when cases relied on the involvement of multiple parties.

Participants who had experience of long delays and last-minute rescheduling when attending court in person were particularly likely to highlight the potential advantages of attending from home or work.

“[For a remote hearing] I could pass the time before it was the time to log on, instead of waiting. Because obviously [in person] you’re all called there at the same time, like 9am in the morning. You could be not seen until 1pm in the afternoon, whereas with being online, you was given a specific sort of timescale, and I preferred that.” Family, User, Applicant (Divorce)

Opportunities to reduce costs were also mentioned. For service users this could relate to postage, printing, travel and childcare costs, as well as potentially lost earnings through having to take time off work. Participants also took a wider view here and suggested that delivering more services online would be cost-efficient for the courts system itself, which was seen by a number of participants to be lacking in resources.

However, participants were also alert to the possible drawbacks of more services moving online. The most commonly suggested obstacle was digital access and capability. Some felt that older people were less likely to be able to confidently use online services, or that those on lower incomes or recent prison-leavers were less likely to have access to the internet, or to a suitable device (i.e., they may have access to a smartphone, but not a computer). Those with learning disabilities, communication difficulties and other additional needs were also seen as more likely to struggle online, with support aids such as interpreters more accessible in a face-to-face setting. This was extended to the more informal support provided by court staff and solicitors when meeting in person as this was seen as challenging to replicate online.

“I think there needs to be a balance between online and in person because...even in the world that we live in now, not everyone is able to function online...There are many people, especially in the realms where I work, we had market traders that couldn't read and write. They were genuinely illiterate. For those people. It's a distinct disadvantage.” Administrative, non-user (employment dispute)

Ultimately, participants emphasised the importance of choice. They could recall or imagine a wide array of reasons why either an online or offline option may be preferable in certain contexts but were fairly united in the view that a compulsory online option would be severely disadvantageous for some people. An offline alternative should therefore always be available.<sup>12</sup>

### **Remote hearings**

A specific HMCTS platform for video hearings which replicates the formal court process has been developed as part of the reform programme. It is being rolled out in stages

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<sup>12</sup> Note that this aligns with current HMCTS practice. Where members of the public request it, they have access to an offline route.

across jurisdictions and regions, and had not been fully rolled out at the time of the study. Remote hearings using other pre-existing video meeting platforms are also widely used across the justice system, particularly since the COVID-19 pandemic. These will be phased out as the HMCTS platform is rolled out in full. This results in a slightly confused picture when evaluating participants' experiences of remote hearings because a number of platforms have been used (pre- and post-reform). The term 'remote' also captures a range of experiences. These include:

- Fully remote hearings (where all parties are remote)
- Hybrid hearings (where some appear in person and some remotely)
- Video-enabled hearings (where at least one participant appears by video link, but others attend in-person).<sup>13</sup>

Participants in this research tended not to recall (or not to have known) which platform was used, making it hard to determine which experiences of online hearings were specifically related to reform measures. Experiences of all types are reported here to understand reactions and inform future remote hearings. However, the limited roll-out of the HMCTS platform at the time of research means reported experiences most likely relate to other platforms.<sup>14</sup>

There was a common feeling that **attending a hearing online rather than in person was likely to be considerably less stressful** for people, especially those with certain vulnerabilities. This view was shared by both those with direct experience of remote hearings and among those considering them for the first time. Remote attendance enables people to participate in the justice system from a place of safety, with more easily accessible support structures and facilities in place (i.e., friends, family, 'safe spaces'). Most participants in this research who had participated in a remote hearing did so within the Family law jurisdiction. This is a field in which video-enabled hearings have featured for a number of years. They are seen as offering particular benefits for victims of abuse and harassment as they do not need to be in the same room as the accused abuser.

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<sup>13</sup> Previous evaluation of the use of remote hearing during COVID-19 is available at <https://www.gov.uk/government/publications/hmcts-remote-hearing-evaluation>

<sup>14</sup> As of December 2023, the Video Hearings Service is live in First-tier Tribunal, Tax (national), Employment (Bristol), Property (national), IAC (Newport), SSCS in Scotland and Upper Tribunal Lands Chamber. It is also live in two Civil and Family jurisdictions: Birmingham Civil Justice Centre and Teesside Combined Court Centre.

Instead, they can attend virtually from a location where they feel safe. Participants whose cases related to domestic violence, child access disputes, and relationship breakdowns were most likely to recognise this particular benefit. However, **those with anxiety disorders and other mental health conditions also felt that remote attendance would be preferable** to an in-person appearance in many cases (see, for example, case study 3, Appendix C). Additional practical benefits were also highlighted, for example, for those with childcare responsibilities, or additional mobility needs.

“I preferred it [being online]. I was in the comfort of my own home. Obviously, with my fibro[myalgia] kicking off, I’d have to drag [myself] there. Whereas at home I was in my own [space] and I could take my time...With what I went through [at the court] as well, I don’t want to be going through the middle of a waiting area and there’s all my abusers,” Family, User, Applicant (Divorce and domestic violence)

“Going to court is quite daunting, especially when it would have probably been expensive to get down there, travel fares, lunch costs and things like that. So, I think I preferred it all being remote, to be honest with you.” Family, User, Applicant (Non-molestation order)

Some participants also mentioned having received a call in advance of the remote hearing, to test equipment and make sure they understood what to expect from the process. This was universally well received and helped to further alleviate anxiety.

“The call before [the online hearing] from the clerk was really good...That was a really nice conversation. She was putting your mind at ease, so that’s a really good part for her to call you first.” Administrative, User, Appellant, (Benefits Appeal)

However, there were also significant concerns raised around remote hearings. In addition to the general concerns mentioned above around digital access, participants with experience in the criminal jurisdiction (including victims, witnesses, and defendants) also raised specific concerns. A number of participants felt that **having a ‘human connection’ with judges and jurors was vital if they were to get an accurate sense of someone ‘as a person’ and believe what you were saying**. Participants suggested that the visual cues you get from seeing someone in person and observing their body language influence

how you perceive them. They suggested that appearing only by video could **disadvantage ‘honest’ people who are uncomfortable or unfamiliar with appearing virtually**. Some warned it could also possibly advantage people who are attempting to influence or mislead the court by limiting the extent to which body language can be accounted for. Defendants almost all expressed a preference for appearing in person. Sometimes this was because they believed they would come across better in person, but some had also had negative experiences of technical infrastructure when attending calls virtually from, for example, prisons.

“Personally, I’d go in the court [rather than online] because I’d want to make sure I get my bit across them, for them to know that I’m telling the truth...And I want him to get his proper justice, what he deserves. If you’re on a video call, I don’t see if they can see that much, but in person, they can see what you’re saying is true.”  
Crime, Non-user (witness to a criminal case that did not go to court)

Some of the practical advantages participants mentioned in relation to attending physical court buildings – outlined below – are also unavailable to those attending virtually. Advantages such as, for example, being able to ask questions of court staff after a hearing ends, could be integrated into the remote experience to improve equality of experience for all attendance types.

### **Digital application and submission processes**

Across jurisdictions, the reform programme has brought in and expanded a range of digital application and submission processes. This includes some fully online applications (e.g., for divorce or probate applications) and some which incorporate digital elements such as an online form submission, or the option to upload digital documents rather than paper versions.

Within the Family jurisdiction, **no participants in this study had used the online divorce application service**. One participant specifically said they were aware of the option but had chosen to use a third-party service. This was because they had concerns about navigating the process on their own and felt a private company was likely to offer them more guidance on the process. They also felt that their ex-partner was more likely to take communications seriously if they came from a private company rather than an online

process the participant had initiated themselves. This participant expected the Gov.uk application service to be more ‘do-it-yourself’ and felt more comfortable using a paid service.

A number of participants had **used the online probate service and reported generally positive experiences** of doing so. An online application was the first choice for some, while others came to it after initially approaching a solicitor and rejecting them on the basis of either costs or timelines. One participant whose case was more complex (involving disputes over a will) felt that they could not manage the case on their own and did engage a solicitor. The service was generally felt to be straightforward and, where clarity was needed, participants were able to answer their questions using a chatbot on the website. In terms of improvements to the service, the only common requests were for more guidance on how to fill in the forms (e.g., in the form of information sheets, pop-ups, or guidance videos) and better communication around timelines given that some applicants may be in urgent need of funds.

There were also two participants who had experience of making **online applications for Specified Money Claims**. An online system was previously in use for money claims, but this has been replaced with a new online system as part of the reform programme. One participant felt the online system he used (which was likely the legacy platform) looked outdated and was not optimised for use on up-to-date operating systems. While generally confident both in his digital skills and in the nature of his case, this participant mentioned specific anxieties relating to the online service, saying he was never confident that he had entered all necessary information because the screen never displayed correctly. These concerns were exacerbated by a lack of communications outside the online application. Although he approved of being able to apply online, he felt it was important that official systems are kept up-to-date and compatible with newer devices. This reassures users and minimises the opportunity for user error.

The other participant who submitted an online claim (likely using the reformed service) had a generally positive experience. However, she did struggle with some aspects of the online process, partly due to a visual impairment. When told about the National Digital Support



Service,<sup>15</sup> she said she wished she had known about this at the time of her issue. She suggested that **it should be possible to flag an issue (such as a disability) early on in the process so HMCTS can share all relevant signposting** and information on support that may be needed.

“Sometimes I felt a little bit lost because, like I said, you find different bits and different information in different places... When I found the right information, it was definitely easy to find, but it would have been good if it had it all under one just under one section...I think if I’d had more information regarding my impairment and stuff, that would have been quite helpful...If it was more in one place, or you had somebody there that would be able to help you navigate through it.” Civil, User, Claimant (Specified Money Claim)

Two participants remembered using the **Single Justice Service (SJS) platform** (introduced as part of the reform programme) to enter an online plea. Both found it to be straightforward and easy to use, although they were aware that they had the advantage of being digitally confident. In one case, the participant had already received advice from Citizens Advice and a solicitor that contextualised the information provided on the SJS. The online system was also seen to offer time efficiencies for working people who are dealing with relatively minor charges.

“It was easy to find and, as I said, it was accessible for most people...I feel like it saves a lot of time...because people like me work full time and don’t have time to be going back and forth [to court] when they can just access it from home.” Crime, User, Defendant (unpaid train fare)

“I chose to do it online...I’m relatively internet proficient, so I just found it easier... I think it did meet my expectations, only because I’m able to do that kind of stuff, and also because I work in an office, which I do think makes a big difference. Uploading documents and stuff is really not easy for people that don’t.” Crime, User, Defendant (using phone while driving)

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<sup>15</sup> The National Digital Support Service is a free service, operated by We Are Digital on behalf of HMCTS, providing support to users who cannot get online, including those who cannot access the internet or a computer. It has been operational since June 2022. See also the section on Support Services.

Views were somewhat divided when it came to **digital forms and the digital submission of documents**, and there was some correlation here with the gravity of the legal issue at hand. Online forms were generally perceived positively for ‘lower-stakes’ issues, i.e. where there is minimal risk to any individual’s freedom or wellbeing, and speed and efficiency are prioritised (such as in a financial claim). For more serious issues, such as serious criminal cases or family domestic abuse cases, concerns were more likely to be raised around the **potential for incorrect submissions, loss of documentation, and issues of data protection and fraud prevention online**. A number of participants made reference to the reassuring nature of completing paper documents which could easily be taken to a solicitor’s office for discussion or referred back to without risking loss of any data. Some also mentioned that posting paper documents using a recorded delivery service created a reassuring ‘paper trail’ to evidence their compliance with processes and deadlines.

There were differing views regarding which channel (paper or digital) was ‘safest’ in terms of minimising the risk of loss of documents. As mentioned above, some felt paper versions to be more reliable as they could be physically moved and tracked. However, when discussing the possibilities of a digital case management system, a small number of participants suggested digital documents stored in a central repository would be safer from the risk of ‘human error’ in terms of being misplaced in storage or transit. Some also felt that a digital repository would bring efficiency savings.

### **Support services**

As has been highlighted elsewhere in this report, participants in this research often mentioned feeling anxiety around navigating an unfamiliar system and expressed a desire for greater support while pursuing a legal issue. Not only did vulnerable participants tend to lack knowledge of legal processes themselves, they were often at a loss as to where to seek help in managing their issue. **Awareness of existing support services was very low**. This need was particularly acute for the earlier stages of the process, where participants were trying to initiate a legal process, but for many participants this continued as their case progressed. This was particularly challenging for those who were not working with a solicitor and therefore relied solely on official communications, which were often felt to be sporadic. These participants lacked a sense of the process that they were moving through and often felt lost within it. With long gaps between communications (for example

between hearing dates), **people became anxious about what, if anything, was ‘happening in the background’ and whether they were not doing something that they should be.** While better signposting is only one step to widening access to support and other barriers may exist to prevent vulnerable people from **using** support services, easing this first step could facilitate access to justice for some.

No participants were aware of **Courts and Tribunals Contact Centres (CTSCs)**, but some described a need for just such a service.<sup>16</sup> Participants specifically mentioned not knowing who to turn to with ‘small’ questions around the process that would have provided reassurance. Some were uncertain what steps to take **after** a hearing or judgment was received and unable to clarify at what point the process was really over. These experiences contributed to an overall feeling that the justice system is ‘cold’ and not empathetic, with little understanding of how the process feels from the perspective of an individual user (particularly one who may be interacting with the system for the first time).

There was a widespread desire for clearer communication around what to expect from a case. Participants made specific requests for: simple-language summaries of similar cases; examples of possible user journeys / timelines; and practical advice on the logistics relating to attending court. Section 4.3 includes more detailed information on unmet needs and how these could best be addressed from the perspective of participants.

“I was anxious about everything. You know when you see these programmes on TV where bailiffs turned up at their house because they had a court fine and hadn’t paid? I literally was having anxiety and sleepless nights, thinking maybe they’ve fined me already and I haven’t paid it ... It was just every scenario possible in my head I was going through and there was nobody who could actually tell me, ‘Do you know what? It’s going to be okay.’” Crime, User, Defendant (mistakenly charged due to a clerical error)

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<sup>16</sup> It should be noted that the sample included both those who did not access any HMCTS services (non-users) and some who did so prior to the introduction of CTSCs.

“It was a worry on my mind, to be honest, not hearing nothing for like, a month, four weeks or something, and what’s going on? I’ve just witnessed an offence. No one’s keeping me in the loop” Crime, User, Witness (knife crime)

Those participants who were unable to engage a solicitor to help them navigate the process sought advice from other sources. Online sources were a common starting point for those with access to the internet. Participants would often begin by entering key words relating to their issue into search engines, following through to a range of websites from official pages (e.g., gov.uk sites) to social networks and forums. **Information on legal and government websites was often found to be impenetrable.** This was often due to the use of specific legal language which people struggled to relate to their own issue or experience. In general, **participants found discussion forums with other people in similar positions more helpful and easier to understand.** The particular sites in question varied according to the nature of the legal issue, with participants navigating family issues visiting sites such as Mumsnet, and a landlord dealing with an eviction finding support from a landlords’ association.

“With the gov.uk [site], I feel like that’s always a lot of jargon, so sometimes it’s something you have to come off and then Google what certain things mean. But then there were other things like MumsNet, you know, not genuine websites and information, but I feel like they always break it down a bit simpler.” Administrative, Non-user (Wrongful dismissal, settled out of court)

“I actually spoke to somebody else who was in this Landlords Association, and they were in the West Country somewhere and they were having exactly the same problems down there.” Civil, User, Claimant (eviction of tenants for non-payment of rent)

However, these same sites could be experienced very differently by different participants (specifically those involved in Civil or Family cases) based on their confidence and understanding of what their case would involve. A number of participants mentioned that they had decided to stop reading about similar legal issues online as it increased their anxiety of what might happen if they were unsuccessful in their case.

**Citizens Advice was a common source of advice across Family, Civil, and Administrative jurisdictions.** For some issues, participants were aware of organisations that provide specialised support within a certain remit. For example, some victims of domestic abuse went to Women’s Aid, and some participants engaged in employment disputes went to their union representative. For more on these services, see the section below on barriers and facilitators to accessing justice.

“I received support through Women’s Aid. They were helpful fortunately. They referred me on to some programmes.” Family, User, Applicant (child custody dispute)

Relatively few participants across all jurisdictions mentioned accessing support services offered by HMCTS<sup>17</sup> and, in general, awareness of services was low. When participants did access support through HMCTS, this tended to fall into courtroom adjustments and emotional support from courtroom staff. Experiences with this were usually positive, with the exception of criminal defendants who often found court processes exceedingly stressful, cold, and unsupportive, even when they were found not guilty.

Some of the most vulnerable participants lacked the knowledge, confidence, and means to access any type of support services, and in some cases, this meant that they were unable to initiate or progress their case. No participants were aware of the **National Digital Support Service**, but some digitally excluded participants spontaneously mentioned the need for such a service to help people fill in online forms and applications.

“I don’t know if there was any help available. I mean, I’ve heard of Citizens Advice, but I didn’t know if they were the right people to go to. And I don’t even know where they’re based. I don’t even know where they are, or if there are any local to me at all.” Civil, Non-user (loan repayment fine and compensation claim)

“I just think they need to find or implement a system where people that are in my circumstances can go somewhere and get all their [documents] and somebody to

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<sup>17</sup> Such as: guidance and advice on court processes, procedures, and available support services, both online and through helplines; the National Digital Support Service; interpreting and translation services; assistance for vulnerable individuals (special arrangements, support personnel, or adapted facilities); Court and Tribunal Service Centres; Court and Tribunal intermediaries; and support for victims and witnesses.

help, like a mentor or somebody like, ‘If you haven’t got this, we can help you,’ because there’s nothing in place for people like that.” Family, User, Applicant (Non-molestation order)

### **Changes to HMCTS physical infrastructure and estate**

As part of the reform programme, a number of changes have been brought in which affect the physical infrastructure and estate of HMCTS, i.e., court buildings themselves. This includes the closure of 124 court buildings, with additional courtrooms and improved facilities (including improved IT infrastructure) being made available in the remaining estate.<sup>18</sup>

As most participants who attended court buildings were doing so for the first time, reforms in this area were hard for them to identify; few had anything to compare it to, or any knowledge of improvements having been made. However, general impressions were of busy environments working with limited resources; multiple participants mentioned being kept waiting for long periods and opposing parties in a case having to share the same waiting space.

As mentioned above in relation to remote hearings, **attending court in person was anxiety-inducing for most participants**, regardless of their personal involvement in the case. This was often attributed to a lack of knowledge of what to expect on the day, and a lack of familiarity with the structures and systems in action at court. For example, high levels of ‘airport-style’ security measures were unnerving for those attending for less serious/non-criminal cases. As is highlighted elsewhere in this report, better communication around what to expect when attending court – in any capacity – was frequently suggested as a possible improvement to the system.

### **Decisions to access the formal legal system**

The sample included participants with a diverse range of cases, spanning all jurisdictions. In some instances, the only possible resolution is through the formal legal system (e.g., probate, divorce, and appealing a DWP decision). Some other types of legal problem have alternative routes to resolution, such as informal agreements, mediation or conciliation. In

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<sup>18</sup> There were also certain changes made during the pandemic, such as the introduction of ‘Nightingale courts’, but no participants had experience of this.

the latter instance, participants had to decide whether to pursue resolution through formal legal channels or not.

**Among participants who addressed their issue through the formal legal system (users), their reasons for doing so were strongly related to their vulnerability.**

For example, participants in Civil cases involving a claim for financial compensation tended to be motivated by financial difficulties. These cases included claims for (re)payment of funds, reclamation of property, or a challenge to an issued fine. Acute financial need made it difficult for participants to accept what they felt to be ‘unjust’ costs and charges, leading them to pursue a legal resolution. However, difficult financial circumstances could also cause heightened stress and anxiety around the case because the consequences of being unsuccessful could be severe.

“I was going through financial difficulties and got made redundant at the same time. And through the car accident I got quite hurt and...the third party didn’t believe that it was an actual injury and obviously it was... I was going through stress as well, because obviously I lost a job, but I was trying to look for a job while I was going through this legal battle, and it was just very hard.” Civil, User, Claimant (claim against insurance company)

Administrative cases were often also motivated by financial need. These could include, for example, appealing or challenging a benefit award, trying to enforce payment of child support, or to regain permission to work following suspension. In some instances, participants had initially pursued an informal route to resolution (such as conciliation), but the other party refused to engage with alternatives. Here, again, participants tended to have been facing financial difficulties, or to have lost out financially as a result of a decision by a department (e.g., DWP or HMRC) or employer.

In Family cases, except where a legal route was the only available option, the decision to use the formal justice system tended to be triggered by one of two factors. For some, there was a sense of having exhausted the alternatives (e.g., the other party had rejected mediation). In other cases, participants were motivated by safety concerns. This was typically in relation to a non-molestation order, child custody, or financial remedy linked to divorce proceedings. In the latter cases, participants tended to be mothers looking to

protect themselves and/or their children from partners with previous histories of violent or abusive behaviour. As is highlighted elsewhere in this report, this group tended to have multiple intersecting vulnerabilities (e.g., they often lacked the financial and legal resources of their former partners) and high levels of anxiety around the court process. The decision to progress a case through the formal legal system was driven primarily by a desire to protect the children concerned.

“When I went through the court process, my daughter was only eight months old and when she turned nine months, I was in my three months unpaid maternity leave. So financially I was struggling hugely and, yeah, just the actual trauma of the whole situation while trying to raise a baby and just keep your head above water. Yeah, it was really challenging.” Family, User, Applicant (child custody)

All jurisdictions included at least some participants whose legal case had been initiated by another party. This included all defendants in the Criminal jurisdiction who had no choice about participating in the system after the Crown Prosecution Service (CPS), the police or other relevant authorities (such as TV Licensing) decided to prosecute.

## Barriers and facilitators to accessing the courts and tribunals system

### Reasons for ‘non-use’ of the formal justice system

To better understand the barriers preventing people with legal issues from accessing the courts and tribunals system, the sample for this project included approximately 30 ‘non-users’. These were participants whose legal issues had been addressed outside the formal system. In some cases, this decision was out of the participants’ hands (e.g., if the CPS or other prosecuting authorities chose not to prosecute a case), or their issue was resolved before needing to be escalated to a formal legal stage (e.g., a benefits dispute was resolved through DWP’s own process). In many cases, however, participants who could have taken a formal legal route to resolution did not do so, and a lack of knowledge of the legal system was often evident again here. **Many non-users cited either a lack of awareness of the formal legal route to resolve their issue, or a preconception that it would be too complicated to pursue.** Even those who knew there was a formal route to pursue, and attempted to learn more, often struggled to understand material they found.



“I’ve never really had experience with the court and stuff like that, so I didn’t really think of it like that at that time. I just thought, ‘You know what, I don’t get my payment and nobody’s reaching out to me, I guess I just have to let it go.’”

Civil, Non-user (Benefits appeal)

“To be perfectly honest with you, the way they write things and the way it’s all put, when you start looking at legal stuff, you read three lines and then you just go blank... as a normal, average person, it’s impossible to actually figure out what the gist of things are... Honestly, it actually made it worse when I tried to research it myself.” Administrative, Non-user (employment dispute)

A number of participants regarded the **idea of going to court as too ‘scary’ and ‘difficult’**, and several who were struggling with mental health issues mentioned feeling that their mental health made the idea of a protracted legal case feel totally unmanageable.

“The mediation was all very good, and I feel that that was helpful...but just the fear of the unknown, of not understanding the legal process, that led us to the decision of ‘Let’s just meet up [through mediation]’. Because that felt the less scary of the two options.” Family, Non-user (family visitation rights)

Some participants found that, by the time they were in a position to cope with the idea of launching a legal claim, too much time had passed from the original incident and that route was no longer available to them. See, for example, case study 1, Appendix C.

Other non-users, especially those whose vulnerabilities included finance and debt issues, said they had **ruled out a legal route on the grounds of anticipated cost**, feeling that they would not be able to afford representation and they were unlikely to qualify for legal aid.

“[On considering a legal route] All I thought about is, I don’t actually have the money...I don’t know what it costs, and I don’t have the money for that...The thing that scares me most about the courts is the cost.” Administrative, Non-user (claiming non-payment of child maintenance)

There was also a structural element here as access to funds sometimes correlated with an existing power dynamic at play in a case, exacerbating existing vulnerabilities. This generally related to women involved in Family cases (including divorce, child custody, and non-molestation orders) which involved an element of violence or abuse. These women often found that they did not qualify for legal aid for quite technical reasons (e.g., because they had not filed police reports about the abuse or had not been in receipt of services from a support organisation for more than six months). Women in such situations tended to have significantly less financial resource to draw upon than their former partners who were able to pay for advice and representation. This sometimes resulted in women without representation being forced into a formal legal route by partners who were represented and better resourced. The women perceived this as a further example of their ex-partners exerting power over them. Many found it upsetting to see controlling and sometimes abusive former partners being, in their view, further empowered by the legal system.

“I’d never heard of legal aid before, and I didn’t know how much [it would be]. I think [cost] was the most scariest thing about getting divorced, because he clearly told me that he wasn’t paying for a divorce and I’d have to instigate a divorce...And this is where the threats started to come in: ‘I don’t want you to start saying, I’ve done this, I’ve done that,’ [...] But you see, I had to divorce him. I had to get legal aid, and I had to be truthful.” Family, User, Applicant (Divorce)

Those who managed their legal issue outside of court did so for a number of reasons and these reasons were sometimes reflected in their summary of their overall experience. For example, those who wished to pursue a legal case and were unable to do so tended to be dissatisfied with the alternative route. Conversely, those who chose to use alternatives and **whose issue was resolved through mediation reported very positive experiences of the process**, generally suggesting that it was cheaper and less stressful than attending courts. In instances where it was not successful, this was generally in cases where one party was refusing to engage or was felt to be deliberately using the mediation service to delay and protract the legal process. Where individuals had emotional or psychological vulnerabilities at the point of managing their legal issue (particularly in the Civil or Administrative jurisdictions), the opportunity to access justice outside of the formal legal system would have been welcomed in many cases.

“I’d heard of mediation, but I thought it was mainly to do with children...I didn’t really realise it could be anything, really, any sort of dispute. I just thought it was like, ‘Oh, he wants to see the kids and she won’t let him see the kids’. That’s what I thought it was about. [If I’d known earlier] I would have done it a bit sooner.”

Civil, Non-user (small money claim, resolved through mediation)

There were only a handful of participants who **consciously avoided the formal justice system for reasons related to protected characteristics**. In the case of physical and mental health issues and disabilities, this was generally due to feeling unable to take on the additional burden and stress of a legal case on top of existing symptoms and treatments. One participant suggested that autistic and neurodivergent people like them were often misunderstood in a legal context due to having different ways of communicating that are not properly accommodated in the legal system. This presented a barrier to progressing a case through the legal system.

“The other reason I didn’t want to go to court is I have a disability. I’m autistic, so I’m very aware that we can get misinterpreted a lot of the time, that we can be sat there very honestly communicating and then be accused of being disingenuous and lying or something like that, because of eye contact or whatever...I work in neurodiversity and autism and all that, and we have a huge problem with autistic people going even as far as jail, all on a misinterpretation,” Civil, Non-user (division of property resolved through mediation)

It was rare that a vulnerability associated with a protected characteristic was felt to influence a participant’s overall experience of managing their legal issue. Except for instances where mental health issues were impacting participants at the point of managing a legal issue (notably anxiety and depression) **this study found that participants’ protected characteristics in and of themselves did not constitute or exacerbate vulnerabilities by default**. As is mentioned above, there were a small number of cases where they influenced peoples’ decisions **not** to engage with the formal legal system due to perceived or anticipated biases against characteristics such as a particular sexual orientation or neurodivergence. Among participants from ethnic minority backgrounds, and participants with physical disabilities, there were reports of individual interactions (e.g., with police, mediators, etc.) which they felt were influenced by their ethnicity or disability,

but these did not strongly influence their overall experience of managing their legal issue. While it did not come through strongly in individuals' accounts of their experience, as discussed previously in Section 2, there is a wider evidence base that suggests that these characteristics can affect experiences of the justice system.

### **Facilitators to accessing the courts and tribunals systems**

As mentioned earlier in relation to support services, participants mentioned a number of **personal and organisational sources of support and advice** which enabled them to pursue their cases. In addition to family and friends, social workers, and case workers, the most commonly mentioned organisation was Citizens Advice. Participants mentioned using Citizens Advice as a source of information and advice both online and in person. Some also had advocates from the organisation represent them in court.

“Both times I’ve used [Citizens Advice], they’ve been absolutely brilliant. Especially the time when I used them for my PIP,<sup>19</sup> because that was all on me that, I organised all that, and they were just brilliant...I couldn’t have asked for better than what happened.” Civil, User, Claimant (claim against local housing association)

While experiences were generally very favourable, a number of participants who tried to consult Citizens Advice mentioned staffing issues such as being unable to get through on the phone, or unable to book an appointment. One participant also highlighted that the highly localised nature of how the organisation works can be an obstacle. As someone with insecure housing who was having to move frequently to avoid an abusive ex-partner, she found she would have to ‘go back to square one’ with each office when she arrived in a new area. This was because there was no communication between offices and no way to maintain a relationship with a previous office after moving (see case study 2, Appendix C). A number of other charities were also mentioned as valuable sources of support to participants, including Women’s Aid and Support Through Court.

“I’d love to have some advice from Citizens Advice about benefits, etc. But they advertise all these people, but no one answers the phone. No one answers. So I

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<sup>19</sup> Personal Independence Payment (PIP) is a welfare benefit available to people with a long-term illness or disability who may have additional daily living and mobility needs.

don't understand how you're supposed to get any advice if no one responds to anything." Administrative, Non-user (Discrimination at work)

However, the greatest single facilitator to accessing and navigating the formal courts and tribunals system was **specialist legal advice and representation**, usually via a solicitor. In some cases, this took the form of advice provided informally by a friend or family member with legal expertise, or advice from a solicitor that did not include legal representation from a solicitor. More often, though, participants were legally represented through the process, and this was described in almost universally positive terms as removing a great deal of the stress and anxiety. Feeling like the matter was in the hands of an 'expert' relieved participants' concerns about their own lack of knowledge. However, in some cases it also reduced their involvement and made it harder for them to describe how their case had progressed.

"I did what my solicitor said...She was really good and spoke to me regularly, so the legal jargon and the process and the steps and things like that were fairly clear with me. She looked after me, saw me through it. I think if I didn't have her, or a good solicitor, to explain everything, it is overwhelming and daunting." Family, User, Applicant (Divorce and related financial claim)

The financial element of engaging a solicitor was also a key determinant of satisfaction here. Access to Legal Aid (or solicitors working pro bono) was cited by a number of participants as vital. If they had not had recourse to this, many said they would not have been able to hire a solicitor and would not therefore have pursued their case at all. In instances where participants had to self-fund solicitors' fees, concerns around costs were a cause for anxiety, sometimes resulting in them restricting their own engagement (e.g., asking fewer questions) to minimise time spent in appointments.

"I did everything the solicitor asked of me, but I realised really early on not to ask too many questions because the fee was extremely high. So, although [the solicitor] was there to be a confidant and to help me and explain, it was so expensive and I couldn't afford it...So if I needed any questions [answered], I just kept going to the internet." Administrative, User, Claimant, (Employment Tribunal)

There were also examples given of how a straightforward online process facilitated people starting to resolve their issue, or how the option of appearing virtually at a hearing made attendance possible where it otherwise would not have been. These are examples of how the system itself facilitated access for people with vulnerabilities, and these are discussed in more detail below in the following section.

**Experiences of the courts system itself were very mixed and influenced by various factors which themselves intersected**, including:

- the nature of the legal issue
- the individual's involvement in it (i.e., whether they were a claimant, defendant, etc.)
- the support accessed/offered (helping manage expectations)
- whether or not the case progressed as expected.

It was not necessarily the case that those who had a legal judgment go against them were dissatisfied with the process, as it was possible for people to feel that an end result that was not in their favour was still fairly reached. The highest levels of dissatisfaction were among those whose issue was never fully resolved, or who were unable to escalate it to a higher level.

The factors contributing to a particular individual's vulnerability also influenced their overall experience, especially where they were exacerbated or aggravated by the case itself. Examples of this included: financial insecurity worsened by a prolonged claims process, family cases involving confrontation with previously abusive partners, and those suffering from mental health conditions such as anxiety or depression feeling lost within a process they did not understand.

### **Accessing justice during the COVID-19 pandemic**

A relatively small number of participants specifically mentioned how their **experience of the legal system had been impacted by the COVID-19 pandemic**, and they tended to fall into one of two categories. The first was those whose own vulnerability was increased due to the health risks, or by government restrictions (e.g., those who were shielding, unable to work, and/or became increasingly isolated during lockdowns). The second category was those whose case was affected by the wider impact of COVID-19 (either by

delays, or by the use of telephone in place of in-person hearings). Some mentioned that existing HMCTS guidance documents no longer seemed relevant in the pandemic context. These participants often wished the process had been more responsive to people's circumstances during the pandemic.

“Unfortunately, we had COVID so when the courts opened again they were only putting through really important cases. And then I went onto what was called a warming list, a reserve list, but went on for months – years actually...it ended up being over three years since the incident when I finally got into court,” Crime, User, Complainant (sexual assault)

“[The telephone hearing] was a bit impersonal...because you couldn't see anyone, you didn't really know who you were talking to...people kept interrupting each other...A video hearing would have been better...I would have liked to have seen the judge.” Family, User, Respondent (Child custody dispute)

### 4.3 Improving access to justice

#### Unmet needs

A common set of general needs have emerged from this research that apply, almost without exception, for individuals that are managing a legal issue, irrespective of perceived levels of vulnerability. These **unmet needs relate to a lack of awareness, knowledge, and confidence in managing a legal issue**. In cases where there is relatively more to lose or to gain, this lack can have more of a profound impact on people's experience of accessing justice.

For nearly all the participants (users and non-users), this was the first legal issue they had ever encountered and therefore their first time interacting with the legal system.

Participants, especially those who were involved in non-criminal cases, typically reported a very vague understanding of how legal issues were progressed, or indeed whether the issue they were experiencing was a legal issue at all. The general lack of understanding around the way the legal system operates manifests in an inability to orient oneself within the process, to identify reference points, and know what to expect. In turn this could result in participants lacking confidence in how to progress or respond to a legal issue, which can both create and exacerbate vulnerabilities.

“I don’t know what my expectations [of the process] were because basically, you get the court papers, and it just says your hearing’s on this day, if you’re not there, they’ll rule without you. But you don’t really get told what’s going to happen [...] I’ve never been in this situation so far, I don’t know what to expect. But nobody seemed bothered in saying what we were to expect, they were just bothered about us being there [...] I pretty much resigned myself to the fact of, well, what can I do? I’ll find out when I get there what happens.” Civil, User, Defendant (Receipt of over-payment of housing benefit)

While there is still a degree of emotional and physical resilience required to seek out and access support, this can be facilitated to a certain extent through widening access to information and guidance. Typically, the participants who suffered least from this knowledge gap and the lack of confidence this induced were those with access to legal advice and/or legal representation. Where participants had contact with someone with professional legal knowledge who could explain things in plain terms, this often improved experiences. These professionals helped set expectations, guide people through managing their legal issue and take on some of the responsibilities for progressing a legal issue where it is managed through the courts system (e.g., help completing and submitting the correct form). For many participants, it was not clear where or how to access legal advice or legal representation. Many started with online searches or relied on signposting from other support services such as Citizens Advice. There was an additional knowledge gap relating to how or where to access lawyers which undertake legal aid work.

The other key area where the vast majority of participants **identified an unmet need related to ongoing communication in cases where a legal issue was being progressed through the courts and tribunals system**. Participants lacked clarity on what was involved in progressing a case, what happened ‘behind the scenes’ and how long things should take. Without the involvement of a legally trained person who could provide reassurance that the issue was in-hand, it was common for participants to feel in a state of limbo. This was particularly common in the Administrative jurisdiction where cases involved a tribunal (e.g., PIP appeals) as participants often reported having to wait lengthy periods of time. The lack of communications received from the tribunal and a perceived inability to track progress meant that participants were unable to manage their



expectations.<sup>20</sup> Again, this could introduce or exacerbate existing vulnerabilities, particularly where a case had significant consequences (e.g., in terms of addressing financial insecurities, providing safety or emotional closure).

“Even every few months, just to say, just an email to say you are on our list. But they don’t tell you how long the court process is going to be. Then they expect you to be free when they do their appointments.” Administrative, User, Appellant (Disability benefit tribunal)

Among participants identified as more vulnerable due to situational or conditional constraints, there were additional unmet needs that affected access to justice, either in terms of their access or experience of the formal courts and tribunals service.

Many of the participants engaged in this research were vulnerable by virtue of having limited financial resources and/or financial resilience. The **lack of financial means was a barrier** to some claimants or defendants progressing a case through the courts, instead settling out of court. Reasons for this included the costs of legal representation (where the other party has legal representation) feeling unaffordable, or a fear of having to meet the legal costs of the other party in small claims court cases should the outcome not be in their favour. Participants who are more vulnerable because of their financial situation may have a need to access free or low-cost legal advice and/or representation (for example Citizens Advice or Law Centres), particularly in situations where the other party has legal representation. This was an unmet need for many of those people we spoke with, particularly where they did not qualify for legal aid.

An **inability to access legal representation** was seen to be most impactful in exacerbating vulnerability and affecting experiences of accessing justice in the Family jurisdiction (on issues such as non-molestation orders, child custody and child arrangement orders) where one party had access to a solicitor and the other did not.

“I feel like [the court was] completely not [listening] because I didn’t have a lawyer, especially my most recent hearing. I’ve now managed to secure a lawyer, and he

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<sup>20</sup> There is an existing ‘Track your appeal’ function for Social Security and Child Support (SSCS) appeals which participants were not aware of, suggesting there is a need for better signposting to existing services.

nigh on said to me that because my partner had a lawyer and I didn't, it was easy to just go to his side." Family, User, Respondent (child custody)

As highlighted above, managing a legal issue is typically a new experience for people, and vulnerable people in particular can lack confidence doing this. It can be frightening due to the nature of the issue itself, its potential implications, or an inaccurate understanding of what legal processes involve (potentially exacerbated by inaccurate media representations). To manage a legal issue in this context requires a degree of self-confidence, resilience, and/or support which may not be present for people in more vulnerable circumstances. In instances where legal representation is not accessible, **there can be an unmet need for both practical and/or emotional support**. This form of support can, for example, help people plan how they are going to get to a court for a set time/date, provide them with someone to help them complete a form entry, or ensure that they know there is someone they can talk to about how they are feeling. Legal issues can be highly stressful and emotive, and the most vulnerable participants found themselves in circumstances which both reduced their personal resilience and often also denied them the necessary support structures to manage this effectively. This could lead to less-than-ideal experiences within the courts, or to not progressing a legal issue because of the actual or anticipated stresses that this was felt to involve.

Finally, a small number of participants in this research were identified as being digitally excluded. These individuals either had no access to the internet or limited digital skills. This often intersected with other issues such as financial vulnerability, experience of homelessness, or mental health issues. In all cases this could impact on participants' ability to seek support and to manage a legal issue where electronic communications were involved (e.g., access to and/or provision of supporting documentation; use of online forms; joining video hearings). Some participants would have been happy to engage digitally if they had the means, but their experience of accessing justice was made more challenging through a lack of awareness of available support to get online either at home or in a secure, local setting.

"If I didn't have any data on my phone, I wouldn't be able to do anything. Because they wanted it all sent on email I'd sometimes have to go to my parents' house, send everything because I didn't have data on my phone. That meant traveling

from Park Royal to Lambeth which was a long way, and I didn't have the money.”

Family, User, Applicant (Non molestation order)

A larger proportion of the sample did not identify as being digitally excluded but expressed a preference for offline methods for aspects such as completing forms or attending court. The reasons for this differed between individuals but often revolved around what gave them confidence that their information would be communicated securely and as they intended (i.e., reducing room for error or misinterpretation). A common example here was the benefit that users derived from showing someone a paper form and seeking reassurance that they had filled it in correctly.

### A good experience for vulnerable users?

As part of reviewing the experiences of the vulnerable research participants, we asked them to describe what would help improve the experience of managing a legal issue. This final section contains a wide range of insights that have implications for the way in which HMCTS communicates and facilitates support for individuals experiencing a legal issue, both before and during their progressing a case formally through the courts and tribunals system.

A common thread running throughout this report is a lack of knowledge and understanding of the legal system and legal process. Even being able to identify when an issue is a **legal** issue and how to describe it in those terms was a challenge for many participants. This lack of understanding creates anxiety and means it is very difficult for people to feel confident in their interactions with the legal system or in accessing justice. Conversely, where people have access to legal assistance and/or practical and emotional support, this can help to manage their expectations. It can ensure they feel supported in what is usually a highly unfamiliar situation and one in which there may be significant consequences resulting from action or inaction. **Communications that helped manage expectations of the process as a whole, as well as specific elements were well received.** An example of this would be a video call in advance of a video hearing, to test equipment and talk through the process. There were a wide range of opportunities to provide this support that were suggested by participants in this research, including:

- Greater signposting to legal assistance and/or legal representation, including legal aid and pro-bono solicitors (noting the limitations of MoJ or HMCTS influence on the immediate availability of legal representation).
- Proactive communications from the courts and tribunals system to set expectations on what will happen at the next stage of a case progressing through the courts, and allow for questions to be asked/addressed.
- A centralised repository of accessible guidance using plain English, to help people understand their rights, options, and what to expect in terms of legal proceedings. This would be tailored to different legal issues so people could easily find the advice appropriate to them. It could include FAQs, video tutorials on completing forms or attending a hearing, case studies (including success stories) and straightforward step-by-step descriptions of what kinds of legal processes exist to address different kinds of legal problem.
- A dedicated HMCTS-managed phonenumber and webchat service for people to ask questions about legal processes and signposted support.
- Clear sources of free practical and/or emotional support.
- Directive information from government departments on formal steps for appealing decisions (e.g., around benefits awards<sup>21</sup>).

“The guidance needs to be clear, in plain English. [For] some of the people who are not really solicitors or do not have any previous experiences. So, it needs to help them to understand what is required and how, or what process they can go for.” Civil, User, Claimant (fraud)

Some of these suggestions are for support services that already exist, indicating a lack of awareness amongst people of the support available and the need for improvements in signposting, and/or that people even if they are aware, need to have the capacity and skills to access these services.

Defendants in criminal cases in particular described feeling isolated and unclear in terms of their expectations of how their legal case would progress. A better experience would

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<sup>21</sup> Note that there are examples of guidance which appears similar to that being requested by participants on gov.uk, for example around appealing a benefit decision (<https://www.gov.uk/appeal-benefit-decision>)

involve clearer guidance and support from HMCTS to prepare for their case and to understand any presenting needs and the possible impact of bail conditions (see case study 4, Appendix C). In the criminal context, witnesses and defendants will also be interacting with other bodies (such as the police, CPS, etc.) and are not always able to distinguish between them. Communications across organisations should be harmonised with the user experience in mind.

“[To be] quite honest because I was so stressed with the situation, I just had enough. I just said to her just do what you need to do, if I don’t appear [in court] I don’t appear.” Crime, User, Defendant (avoiding train fare)

Similarly, witnesses reported feeling relatively unclear and unprepared for attending court. Some attributed this to having received minimal communications, and only in written form when they would have preferred a phone call. While services do already exist in this space (e.g. through the Witness Service or Support through Court) participants in this research were either not being directed to them or not engaging with them.<sup>22</sup> Several specifically mentioned that a better experience would be to have an opportunity to talk to someone – if possible – in advance, and also have someone to guide you on the day itself.

“It would have been nice just to have someone just to reassure you and check in and be like, ‘Are you okay? Look, do you have any questions? Let me explain what’s going to happen’.... [In court] it’d be nice to have someone allocated to you when you got there to kind of just make sure you understand everything straight away, to reassure you, to make sure, just to put your mind a bit more at rest and answer any questions kind of thing, rather than being in a big daunting building, not knowing what’s going to happen.” Crime, User, Witness (theft)

Allied to the above is the importance of some form of **regular, ongoing communication** with anyone involved in a case progressing through the legal system. The absence of communication can lead people to fear that they have been ‘lost’ in the system or that they are not receiving important communications. Where a legal representative is involved and

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<sup>22</sup> Note that witnesses are typically offered free practical and emotional support through the Witness Service, including a pre-trial visit in the case of vulnerable or intimidated witnesses. See: [Going to court to give evidence as a victim or witness: The day of the trial - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/going-to-court-to-give-evidence-as-a-victim-or-witness-the-day-of-the-trial)

managing communications this can lead to much greater reassurance and a better experience for people. Participants expected the courts and tribunals system to keep them updated, either through an online portal where they could review progress of a case (notably in Administrative and Civil jurisdictions)<sup>23</sup> or by sending regular communications by text, email or letter. As well as an update on progress, people wanted more advanced notice of court dates. These could even be automated communications, something that is being introduced as part of the reform programme but was not experienced by any of the participants during the fieldwork phase in 2023. Repetition of the most important information is key as some people are not able to face opening communications when experiencing anxiety or depression.

“Nobody talks to you, nobody gives you a call to say, ‘Hey, I can see you’ve been in the system quite a long time, just to reassure you that you will get a [court] date’. That might have been handy if they got someone to just make those calls. So, you do feel like that you’re not forgotten. It’s okay to wait two years if you’re given information and you then feel that you are being listened to, but to just be ignored for two years...” Administrative, User, Appellant (Benefit tribunal appeal)

“I think perhaps there is a period where things go quiet [...] And perhaps that’s a time when there needs to be some interjection just to keep people confident or up to date or something.” Crime, User, Complainant (assault)

There is a balance to be struck however, as **too many** communications could also induce stress. It should also be borne in mind that some vulnerable people do not have a permanent address or reliable access to email or a phone. Future research could seek to establish an appropriate frequency and mode of communications for different contexts or jurisdictions.

**Effective communication was also important at court buildings**, i.e., on the day of a hearing, explaining the process, keeping people informed of when their hearing was expected to take place, and of any delays. Managing expectations on the day helped people to feel more comfortable and enabled them to manage other commitments (such as childcare). This clarity also extended to communicating outcomes/judgments in lay

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<sup>23</sup> Note that this is in the process of being introduced (e.g., Track My Appeal)

terms, and any further next steps involved in settling a dispute. Some participants mentioned feeling too overwhelmed to absorb this information on the day and unable to recall it later. These participants would have liked to have been given some written information they could refer to later.

While **speed was important** – often the faster a case could progress the better – **more important was setting expectations and then managing these expectations through effective communications**. In a small number of cases, participants felt unable to progress a case through the legal system (or to defend themselves) due to the actual or perceived emotional toll that progressing a case may have on them. Many participants had additional needs at the time of the legal issue that limited their ability to respond proactively, for example suffering from depression. For these participants, there was a need for both additional support and a **longer timeframe in which to respond**. This would need to be carefully managed however, as participants also gave examples of cases where they felt the other party was deliberately dragging out the length of a case to discourage the continuation of proceedings, or to delay outcomes. This was reported in cases as varied as child maintenance and small claims against a local council.

Mental health conditions such as anxiety and depression were prevalent within the sample and a positive experience for individuals impacted by these conditions tended to be one where they felt supported both through **social and professional support structures**. In many cases this included access to counselling, or a volunteer that they could talk to about their hopes and fears. Support Through Court was mentioned as an example of the type of emotional and practical support that was beneficial. **Greater signposting to support services that can help provide both emotional and more therapeutic support** would be enabling for more vulnerable individuals. Some would also benefit from **access to practical support** in managing the legal process, for example someone to help type/complete forms, or take notes of a conversation. Services like CAFCASS (Children and Family Court Advisory and Support Service) were also seen as having the potential to provide important support to children and young people in cases of family law.

“What might be nice is when you’re filling a form online and it’s difficult, to make a video call with somebody from the tribunals or whoever the department is to help

you put the right information in.” Administrative, Non-user (claiming unpaid child benefit)

“Sometimes when you’ve got somebody with you, they can sort of say, ‘Remember [this]’, they remember things that I’ve not mentioned. But I didn’t have that; people, when they’ve got anxiety as well, they clam up.” Family, User, Respondent (Child arrangement order)

Most participants were very **positive toward the digital reforms**, with both online forms and remote court attendance being seen as important ways of increasing access to justice and improving efficiency. Online routes through which to manage a legal issue can help people to progress an issue quickly and conveniently. This is often a high priority within administrative and civil jurisdictions. In some cases, for example in family law or the criminal jurisdiction, they also offer the potential for greater levels of security, safety and comfort (e.g., for victims of crime or abuse). User comfort can also be supported by, for example, a pre-hearing call to test equipment and explain the process of a remote hearing/remote attendance at a hearing.

However, for some participants, digital reforms were seen as presenting a riskier or substandard service. Here people had particular preferences based on what they were comfortable with and/or expected. Some have lower levels of digital confidence generally, and some have particular reasons not to favour virtual attendance (e.g., defendants in criminal cases often felt they could better represent themselves in person). The ideal experience would therefore be to continue to **offer people the choice of different channels** through which they could interact with the courts and tribunals service, in keeping with HMCTS’ commitment to always offer paper channels as well as digital. For enabling digital access there should be greater publicity given to the National Digital Support service.

Progressing an issue through the legal system feels like a very serious and definitive step. The decisions of a court have a significant ‘cost’ attached which could be a financial cost (for accessing justice and/or accessing support) but also an emotional cost. For the majority of people, where issues relate to a dispute between individuals or an individual and an organisation and there is a non-court route available, people would like there to be



**clear options available for settling an issue out of court.** In this research, mediation was found to be an effective means of addressing a legal issue outside of the courts system and there was a desire for increased awareness of this as an affordable option for people.

Where people have to engage through the formal courts and tribunals service, a good experience is one where people feel that they have had a **fair opportunity to access justice** (including in defending themselves). We have reported that the most positive experiences of court users tend to be in cases where people have had legal representation, or who have felt very supported by judges and/or court staff. Conversely, the most negative experiences tended to be those cases in which someone had to represent themselves due to lack of financial means, while the other party had legal representation. This power imbalance tended to exacerbate existing vulnerabilities which arose from the nature of the case itself (e.g., overturning decisions relating to benefits which had financial implications). Another factor important to a positive experience was **feeling respected and listened to.**<sup>24</sup> Participants highlighted experiences where they felt they were not listened to in court, or were patronised by court staff, judges or tribunal members. This could tarnish experiences of the court system, regardless of the outcome. Greater empathy within the system could help to improve the experience of all users.

“I felt like screaming out, going, but you’re not listening. You haven’t heard anything that I’m trying to say, any of my points that I’ve got written down here, they’re not once asked about them... I’ve now managed to secure a lawyer, and he nigh on said to me that because my partner had a lawyer and I didn’t, it was easy to just go to his side.” Family, User, Respondent (child custody)

In cases where individuals are victims of assault, domestic violence and/or sexual abuse, a positive experience is one where needs, concerns and preferences are accounted for at all stages of the case. Specifically, a good experience is one where the victim is made to feel safe through **not having to share a physical or online space, or to see the person that is accused of assaulting them**, unless this is something that they feel able to do. Different people have different preferences around online or in-person settings and this

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<sup>24</sup> This is consistent with wider concepts around Procedural Justice (e.g., Tyler, 2008)

should be accommodated where possible. Additionally, victims/complainants in criminal cases had other recommendations for improving the experience, tied to personal preferences, such as being able to choose not to hear the voices of alleged perpetrators to prevent re-traumatisation.<sup>25</sup> Victim and witness support services providing emotional support within the court setting are important in providing a positive experience.

“I’m glad I did go in there rather than doing a video link, because he can then see me and be like ‘Hey, look, this is the mother of my son’. I want him to think, hopefully, if he saw me in person, that I’m not scared of him anymore.”  
Administrative, User, Appellant (non-payment of Child maintenance)

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<sup>25</sup>Note here the expansion of pre-recorded evidence (Section 28 (s.28) of the Youth Justice and Criminal Evidence Act (YJCEA) 1999), which is now live in all Crown Courts (and being trialled in the Youth Court) for vulnerable victims and witnesses.

## 5. Conclusions and implications

Any individual has the potential to be vulnerable in the context of addressing a legal issue, whether they do so within or outside the formal courts and tribunals system.

The MoJ and HMCTS already have a reasonably sophisticated understanding of vulnerability in the context of individuals facing a legal issue. There is recognition of the individual, social and (legal) systemic dimensions which can influence vulnerability; intersecting and compounding factors that influence needs; and the supportive and protective factors that help people in addressing these needs.

This in-depth research illustrates the dynamic quality of vulnerability and the ways in which the justice system itself can induce and exacerbate vulnerability. **People’s lack of familiarity with the legal system introduces high levels of anxiety and stress for most individuals managing a legal issue.** This can also be compounded by the seriousness and personal relevance of that issue.

The reforms introduced by HMCTS are designed to create a system that is more straightforward, accessible, and efficient for users. This research found that people’s experiences of reformed components supported this ambition; **in many cases reform measures are helping service users to feel more confident and comfortable in managing their legal issue**, particularly for more straightforward cases where external sources of support are less critical. **However, court reforms have the potential to exacerbate vulnerabilities where people’s expectations are not managed, and where their personal needs and preferences (notably for reassurance) are not accounted for.**

This research did not find that protected characteristics such as sex, sexual orientation, disability or race had a strong influence on people’s experiences of managing a legal issue except in a small number of cases. However, other research provides evidence that these factors are influential. Therefore, we suggest more purposive sampling and investigation is merited in future. Understanding individual experiences was complex as participants struggled to coherently describe the process they had experienced in managing their legal

issue. Vulnerability also sometimes became clear only during the interview, as opposed to at the point of recruitment screening.

The implications of this research for MoJ and HMCTS revolve around a better understanding of the needs and experiences of vulnerable individuals within the justice system, informing best practices for service provision (including the effectiveness of ongoing reforms). While this current research indicates that the reforms, as implemented, are not creating additional vulnerabilities per se, there are opportunities in implementation to help address vulnerabilities that most people experiencing a legal issue will face: those of dealing with an important personal issue within an unknown, unpredictable, and daunting system.

The subsections that follow summarise some of the key opportunities for MoJ and HMCTS to better enable vulnerable service users to access justice within the context of a reformed service.

## 5.1 Communication and expectation setting

At an overarching level, most people lack familiarity and understanding of how the legal system operates. Many have preconceptions based on sensationalised media portrayals and anecdotal reports. This creates a barrier to access as some are not aware of the legal routes available when they encounter an issue. It can also complicate the experience of the legal process once it is underway, as people do not know what to expect. At every stage of the process the formality and terminology used feels alien to people. The first key opportunity for HMCTS and other agencies to better support vulnerable individuals, which goes beyond the reforms as planned, is to work to reduce levels of anxiety early in the process.

**Key to achieving this is improving general levels of understanding around how the courts and tribunals service works, how legal issues can progress both within and outside of the courts system, and how to access legal advice and/or representation.**

This understanding would help ensure people can make informed choices about how and when to progress a legal issue, and to form expectations that can then be managed by HMCTS through this process.

The other key point at which communication was important to vulnerable service users was in keeping them informed on the progress of their case once it was underway. This may also be good practice for all users regardless of vulnerability. The reform programme's introduction of an online case management account and notifications will support this going forward.

## 5.2 Improving support provision

While individual cases are unique and hard to generalise from, there is the opportunity to better manage expectations and put in place measures to improve access and engagement in courts and tribunals services for users. **As part of the user journey HMCTS should look to provide opportunities for service users to detail any support needs which might impact their experience** (e.g., access needs, literacy, or language barriers), as well as other barriers that customers may face (e.g., accounting for financial circumstances, or incoming levels of anxiety). This will need to consider whether people will be able to effectively express their needs and ensure they do not feel disadvantaged upon disclosure. Relatedly **HMCTS should explore opportunities to improve court and tribunal access through free emotional and practical support.**

In addition, **HMCTS could look to capture preferences for how service users want to interact with courts and tribunal services** (e.g., remote vs. in-person hearings, paper vs. digital document submission). While user preferences are less likely to be a barrier to accessing justice, they do impact on individual's experiences, and failure to accommodate them risks exacerbating vulnerabilities where present.

To improve user experience, MoJ and HMCTS may want to consider **facilitating widening access to legal assistance and/or legal representation**, and to promote to a greater extent what assistance HMCTS can provide here. This is particularly pressing in cases where the opposing party has representation, or where a person is concerned around bias within the court system due to protected characteristics (such as race or sexual orientation). For cases involving government departments such as DWP and HMRC, greater efforts could be made to address issues outside of the legal system wherever possible, and for support to be made available to vulnerable individuals to fully

participate (e.g., help to complete any forms or correspondence with DWP to start initial appeals).

### 5.3 Signposting to support

Participants generally lacked an understanding of how to progress their issue to resolution, either within or outside the formal courts and tribunals system. This lack of familiarity and knowledge often introduced or exacerbated vulnerabilities. While the reforms have led to the introduction of many support mechanisms that could help manage expectations and experiences (e.g., CTSC, step-by-step guidance on gov.uk), these are not currently well known, or easy to find. **This suggests that there is an opportunity to improve access to information, advice and guidance with better signposting.** This could include improvements to search engine optimisation and gov.uk navigation to improve access to support provided by relevant government departments and agencies, including not just HMCTS and MoJ but also departments such as HMRC and DWP. It could also include more comprehensive and standardised signposting to third party organisations which provide support in managing a legal issue.

## 6. Future research

This extensive research on vulnerability highlighted the importance of understanding the experiences of individuals who are vulnerable when facing and then managing a legal issue. It was apparent that many people with vulnerabilities struggle to access justice. This was generally due to a combination of their circumstances, their knowledge and perceptions of the legal system, and their access to support. This research intended to address this issue by informing MoJ and HMCTS' understanding of these factors, and suggesting improvements which can be incorporated into services in future.

Repeating this study in the future would help MoJ to understand if the nature of the barriers and facilitators to accessing justice have changed further as a result of the reforms or wider changes. In such research, we would make the following recommendations:

- engaging users that are either going through the process of managing their legal issue while, or shortly after, accessing a reformed service.<sup>26</sup> The nature of a legal issue and of heightened vulnerability impacts recall of experiential elements that are critical to evaluating the impact of reforms.
- targeting those individuals that are most vulnerable at the point of managing their legal issue. This should include a combination of self-identification as having found the process challenging but also key factors identified as strongly influencing vulnerability, including:
  - the nature of the legal issue, with those relating to child arrangements, domestic abuse, housing situations, unfair dismissal, and criminal charges likely to result in higher levels of vulnerability
  - challenges accessing the internet, or preferences for offline processes
  - a lack of access to support networks, and formal legal representation
  - mental health issues or long-term health conditions, and
  - financial circumstances.

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<sup>26</sup> Note that MoJ and HMCTS are conducting a range of evaluations of individual reforms. The progress report for these evaluations can be accessed here: <https://www.gov.uk/government/publications/hmcts-reform-moj-evaluation-progress-report>. These reports cover all users, as opposed to vulnerable users which was the focus of this study.

MoJ should also consider undertaking further targeted research during the roll-out of reforms (where formative feedback can influence service delivery),<sup>27</sup> or additionally waiting until all the reforms have had been embedded and conducting a more systemic evaluation 3–5 years later. Where a group is of interest – for example, those who attended court remotely, or those who engaged an interpreter – it is likely to be easier to identify possible research participants while they are engaged in the legal process.

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<sup>27</sup> HMCTS use a ‘test-and-learn’ approach to implement and iterate reform services, in which projects are tested extensively before reforms are fully rolled out.



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## Appendix A

### Recruitment Information

**Table 1: Recruitment quotas by user status and nature of legal issue**

| Nature of legal issue   | Achieved   | Users | Non-users |
|---|------------|-------|-----------|
| <b>TOTALS</b>   | <b>120</b> |       |           |
| <b>Administrative</b>   | <b>30</b>  |       |           |
| Discrepancies and/or non-payment of child maintenance or social security benefits (such as disability living allowance, universal credit, PIP, carers allowance etc.)               | 15         | 4     | 11        |
| Tax disputes against decisions made by HMRC. First tier tribunals focused on appeals dealt with through remote video hearing reforms  | 5          | 2     | 3         |
| Discrimination at work, pay disputes, issues with working conditions or dismissal.  | 10         | 4     | 6         |
| <b>Civil</b>  | <b>30</b>  |       |           |
| Specified money claims – including tax, debt and money claim problems.  | 20         | 12    | 8         |
| Housing   | 10         | 6     | 4         |
| <b>Criminal</b>   | <b>30</b>  |       |           |
| Victims of crime – including a range of types of crime (such as burglary, drugs, robbery, violence against the person).   | 13         | 8     | 5         |
| Defendants accused of crimes – including a range of types of crime (and accounting for plea types, remand and bail experience, legal aid representation vs private representation). | 17         | 16    | 1         |
| <b>Family</b>   | <b>30</b>  |       |           |
| Private law family issues – disputes around making contact and residence arrangements following family breakdown, and domestic abuse non-molestation orders                         | 18         | 14    | 4         |
| Divorce – legally ending a marriage or civil partnership, or resolving disputes around the separation of assets following family breakdown  | 6          | 1     | 5         |
| Probate (unrepresented)   | 6          | 0     | 6         |

**Table 2: Demographic breakdown of sample (monitored during fieldwork but no quotas set)**

|                                    |                                   | <b>Recruited</b> |
|------------------------------------|-----------------------------------|------------------|
| <b>Gender</b>                      | Male                              | 35               |
|                                    | Female                            | 85               |
|                                    | Other                             | 0                |
| <b>Age</b>                         | 18–30                             | 19               |
|                                    | 31–45                             | 54               |
|                                    | 46–60                             | 39               |
|                                    | 61+                               | 8                |
| <b>Sexuality</b>                   | Heterosexual or straight          | 114              |
|                                    | Gay or lesbian                    | 3                |
|                                    | Other                             | 0                |
|                                    | Prefer not to say                 | 3                |
| <b>Court Attendance</b>            | Attended court in person          | 44               |
|                                    | Attended virtually                | 15               |
| <b>Disability/Health Condition</b> | Move differently                  | 15               |
|                                    | Sense differently                 | 5                |
|                                    | Think/feel differently            | 35               |
| <b>Other Targets</b>               | Income less than £24,000 per year | 84               |
|                                    | Digitally excluded                | 30               |
|                                    | Language/communication needs      | 9                |
|                                    | Drug and alcohol dependency       | 3                |

## Appendix B

### Ethical considerations

The research design was governed by the principles detailed in the ‘Ethical Assurance for Social Research in Government’ and approved by the Ethics Committee of the School of Law at Birkbeck, University of London. A standard safeguarding code of conduct, guidance and risk assessment tool developed for work with children and vulnerable adults was adopted.

Basis Social took a trauma-informed approach to this research. Moderators underwent trauma sensitivity training (conducted by Alison Crowther) before fieldwork began to minimise the potential for re-traumatisation of participants and enable moderators to recognise any potential causes for concern during interviews. This involved training to recognise the signs of trauma, understanding how trauma can influence behaviour and responses to questions, and being aware of potential triggers. This training also involved helping interviewers to recognise their own trauma as well as that of participants. All interviewers were provided an opportunity to debrief with other members of the research team, as well independent specialist, Alison Crowther. All interviews were undertaken online to promote the safety of both participants and interviewers. We employed open-ended questions during interviews to allow participants to share at their own pace; we avoided questions that required participants to disclose sensitive information about what led to their legal issue; and were sensitive to potential triggers relating to how they ‘felt’ at different parts of their journey to access justice. We pre-empted the need for support by identifying support organisations in advance of interviews and offering to connect participants who wanted further support following their interview. Informed consent was obtained from all participants (information was provided at the time of recruitment and followed up with an additional information sheet with a link to the consent form, with verbal consent also obtained prior to interview), and they were informed of their right to take breaks, reschedule interviews, or withdraw from the research at any time. Participants were also offered a choice of modes for interview, flexibility on interview timings, and the support of an interpreter as required.

MoJ policy is to only offer incentives where justified by the specific needs of the study, and only in exceptional cases to offer incentives to participants who are criminal defendants or under the (non-custodial) supervision of the criminal justice system. In this case, the use of incentives was strongly recommended by lived experience consultants during the research design stage to ensure engagement and equity. Following review by MoJ's Ethics Advisory Group, it was therefore considered to be justified to properly support participation by those with the full range of needs on an equal basis. This included those accused or convicted of offences (other than those in custody). Recruitment of this group relied on the cooperation of partner Civil Society Organisations (CSOs) without undermining their own relationships and activities through differential treatment of potential participants.

## Appendix C

### Participant Case Studies

Below we have included a small number of case studies which are instructive in illustrating themes detailed and cross-referenced in the report. These case studies are anonymised pen portraits that allow the reader to build up a better understanding of the complexity of individual situations and how this influences their experience of managing a legal issue. They are not intended to be reflective of the sample.

#### **Case Study 1: #27 Administrative, Non-user, Constructive Dismissal**

Emma<sup>28</sup> is in her mid-40s and had been working for her employer for nearly 10 years. In 2019 Emma was diagnosed with a serious condition which turned her life upside down. In addition to the stress of having to shield during the COVID-19 pandemic, her long and gruelling treatment exacerbated other chronic health conditions she had previously managed. Her mental health also declined significantly during this period and, in total, she had to take more than a year off work.

During her time away, her workplace underwent significant restructuring. When Emma returned to work, still in poor health and lacking both energy and confidence, the new management said that her performance was dropping. She tried to explain that she was still in recovery and asked for reasonable adjustments to help her cope. These were not properly realised, and she felt increasingly under attack from senior staff. Her mental health was suffering, she was on antidepressants, and eventually she had a ‘breakdown’ and decided to leave her role.

In the months that followed she had counselling through a patient support group, and they told her these experiences sounded like workplace bullying. She spoke to someone at ACAS who advised her to take them to tribunal, and her family told her she should speak to a solicitor. In the end though, she opted not to take legal action, feeling that the process would be too much of an ordeal. She lacked understanding of the processes she would

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<sup>28</sup> In these case studies, names and certain identifiable details have been changed or removed for privacy, while preserving the participant's retelling of their overall experience.

need to follow, and believed she would need legal representation to go up against her former employer. She was also worried that her specific field was a ‘small world’, and that taking her employer to court would damage her chances of getting a new job elsewhere.

“My family sort of said about it [seeking legal advice]. I, ummed and I ahed, it was massive, it was weighing so heavy on me as to what to do, but again, I thought, well, the [employer] is going to have a good solicitor, they’re just going to tear me to shreds and I just can’t do it.”

The 3-month window in which to make employment dispute claims passed and only now – a year later – after her wellbeing is much improved, does Emma feel capable of taking on the legal challenge. She thinks that if she had more support from official quarters to initiate the process at the time, she might have been able to go through with it.

“I was too traumatised, I was too vulnerable, and I had to look after my health... It was unfair... It was cruel. So, yeah, if it had been a year you could do it in, absolutely, I would have done it...But thinking back to that vulnerable state, [there’s] absolutely no way.”

### **Case Study 2: #40 Civil, User, Claimant (Tenancy deposit dispute)**

Claire is in her mid-30s, and currently searching for employment. She has been through a great deal of trauma over the last few years having come out of a long-term abusive relationship. When moving to escape her ex-partner, a landlord refused to return her tenancy deposit. While she pursued her claim in the courts, she could not afford a deposit on another property and became homeless.

Throughout the legal process she sought support from a range of organisations and support services such as Citizen’s Advice and her local council. Unfortunately, most of them were unhelpful in solving her case. The legal language was impenetrable, and the complex processes were overwhelming and confusing. She felt that wherever she went for advice she was sent from ‘pillar to post’. It was only when she managed to access legal aid that she felt like someone was actually capable of supporting her in her claim. Her solicitor managed almost everything, but she did appear in court once before she had to move out of the area because of her abusive ex-partner once again.



She was unable to use any online reformed elements because she could not afford internet access. As a result, she was unable to attend the remainder of the hearing, leaving her solicitor to handle the process in her stead. She was uncomfortable with this as she felt that being personally present would better support her case. Even if she had been able to attend an online hearing, she felt it would be best to appear in person because you can communicate your perspective more clearly.

“I also know from my domestic violence that when you don’t come to these court things, sometimes the judges and stuff can be more lenient to the other person because sometimes they like to hear it from you and see the emotion for them to have a bit of compassion.”

In the end, the court ruled in her favour, and she received her deposit, yet she feels the entire process was a waste of public time and money as well as being incredibly stressful. She thinks cases like this should not go to traditional court and compared it to her prior experience with family courts where the building felt less formal and there were volunteers who could help explain things in simple language. This was a much more positive experience which was far less intimidating and felt more accessible. She understands why this is in place in a family law scenario but feels claimants in her situation would also benefit from a similar setup across other jurisdictions.

“I think it’s called a family court... their setup was pretty relaxed, like I say, like a tribunal... it reminds me of like a Citizen’s Advice offices... It’s pretty small and relaxed. You know, you’re in a court, you know, a court’s upstairs, but it’s not downstairs, so it feels more normal [there]. And then the people go through it. They went through it really good. They explained things really well to us. They went through all the forms with us.”

### **Case Study 3: #66 Family, User, Respondent (Child access dispute)**

Rachel is a working mother of two. Due to a long-standing chronic condition, she was off work for a prolonged period of time during the COVID-19 pandemic and struggled financially as a result. During this time, her ex-partner was not meeting his parental obligations, so Rachel denied him access to their child. He then took her to court for visitation rights.

As this was during the pandemic, everything was carried out over the phone or online. There were 3 court hearings in total. Whilst she was somewhat grateful for this as she was worried she might have been a ‘nervous wreck’ in person, she felt her voice was diminished over the phone. She couldn’t afford a solicitor and did not qualify for legal aid and therefore had to represent herself. Throughout the process she felt the courts did not listen to her and didn’t care about how her child felt about their father. She does not have legal expertise and ultimately felt that she was going into court ‘blind’. This all contributed to her feelings of not being heard.

“I felt like screaming out, going, ‘But you’re not listening. You haven’t heard anything that I’m trying to say, any of my points that I’ve got written down here’, they’ve not once asked about them, about [my child’s] anxieties and things like that.”

Initially, her ex-partner won visitation rights every weekend. However, after a few weeks he stopped appearing at the court-ordered visitation times. After this, the courts started ruling in her favour, and she was able to negotiate visitation times that were more suited to their child’s needs.

Overall, she saw positives and negatives with online hearings. She felt they can be useful for some people to handle the emotional stress of appearing in court, but felt it was also harder to convey her perspective and contributed to her feelings of not being heard. She feels it is most important to give people the choice.

“[To have] the option, that would be good, because even though I wasn’t given the option, I do feel the telephone call worked well for me, although I didn’t feel like I was heard. I feel like for my emotional wellbeing, I feel the over-the-phone option was actually very good.”

#### **Case Study 4: #114 Crime, User, Defendant) (Domestic violence)**

Keiran has spent time in prison in his youth but has managed to turn his life around in recent years, having got sober and found steady work. He was living with his long-term partner and described their relationship as fairly tempestuous, with frequent arguments. He was arrested on domestic violence charges several times but his partner always withdrew her complaints and he was released without charge each time. One day, he

received a letter saying there was a warrant out for his arrest but without any details as to the charges involved. Due to his previous experience with the criminal justice system, Keiran panicked that he would be returned to prison, despite his innocence.

After handing himself in to police, he was informed that he had failed to return following his last domestic violence arrest (a condition he did not recall being told was required). He was released on bail until his court date but was told that returning to his home or contacting his partner would violate his bail conditions. With nowhere else to go, he became homeless and was only able to avoid sleeping rough by staying with a former friend who was still using drugs. He also had to quit his job so that he would qualify for legal aid, meaning he had lost his entire support system (partner, home, and job) all at once. The stress of the situation caused him to relapse on his sobriety.

Keiran went to court, pleading 'not guilty' but feeling the odds were stacked against him because of his previous convictions, and his sense that courts are biased against men in domestic violence cases. The prosecutor tried to present him as a violent repeat offender, and repeatedly called him a liar. He felt that the police treated him throughout as if he were guilty. Although he was cleared of all charges, he felt the panel of judges considered this to be based on a technicality and did not give him a fair hearing. Now he is unemployed again, struggling with his mental health whilst recovering from problems with drugs. He feels that, no matter how hard he tries, the 'system' will never accept that he is a reformed character.

"I felt like I've tried to go straight in my life. I've tried to change my life around. I paid tax, I tried to do the 9–5 thing and it's just backfired. It's not working. I spent all my life trying to live the wrong way, stealing, shoplifting, drug use. And when I finally, sort of, come out of that – got myself clean, got a job, started working – in fact, I had to stop, give it all up again because of a stupid charge when there was no evidence whatsoever. And for some reason, the police were adamant that whatever happens, I was going to court for it."

Keiran is grateful he was able to appear in court in person as he does not like computers and only has access to the internet through his phone. He does not trust online systems, having experience of online parole hearings while in prison which frequently encountered

technical issues. He feels he would not have been able to convince the judges of his story had he not been able to communicate with them face to face and argues that this personal connection is particularly important when pleading 'not guilty'.

“I think in court, especially if you're not guilty, I think it's relevant to actually be there in person so they can see you. They can actually see you face to face... You can generally tell if someone's guilty or not, really, by the way they act. The way you can look at someone, see them face to face, listen to their story, and you can see the way they act, the mannerisms and all that. This is from someone who's been guilty and not guilty. And I'll tell you, there is a difference.”

## Appendix D

### Example topic guide (HMCTS users – Civil, Family and Administrative claimant)

| Timings | Content  |
|---------|--|
| 10 mins | <p><b>Welcome and consent</b></p> <p><b>Objectives:</b> this section is to introduce the topic, gain informed consent and start to build some rapport with the participant</p> <p>Hello. My name is [XXX]. I work for Basis Social, we're an organisation that carries out research with people on for charities and government. Nice to meet you. I really appreciate you taking the time to talk to me today.</p> <p>Just to recap why we want to speak to you today...</p> <p>We are interested in understanding the experiences of people who have had an issue relating to [SPECIFY LEGAL ISSUE BASED ON SCREENER]. You are one of over 100 other people we are speaking to, all will have had experience of different civil, family, or criminal justice issues.</p> <p>This research is being conducted on behalf of the Ministry of Justice who are responsible for the courts and tribunals system. They have asked us to speak to people to understand more about:</p> <ul style="list-style-type: none"> <li>• their expectations and experiences of the justice system, including what helped or hindered them when interacting with the justice system.</li> <li>• the support they needed and received.</li> <li>• what could be improved to help people access justice?</li> </ul> <p>Your views – whether positive or negative – will help us to understand how people might be better supported within the courts and tribunals system in future.</p> <p>INTERVIEWER – WE NEED TO CAPTURE VERBAL CONSENT OF THE FOLLOWING VIA AUDIO RECORDING IN CASE WE DON'T HAVE SIGNED CONSENT FORMS RETURNED. NOTE THAT PARTICIPANTS SHOULD HAVE ALREADY CONSENTED TO BEING RECORDED AS A CONDITION OF TAKING PART [AUDIO RECORDED, NOT VIDEO RECORDED].</p> <p>Before we start, I just need to make sure you are happy with the following. This should have already been explained to you by the recruiter who invited you to participate in this research:</p> <ul style="list-style-type: none"> <li>• The interview will take approximately 60–90 minutes depending on how much you have to say</li> </ul> |

| Timings                  | Content   |
|--------------------------|---|
|                          | <ul style="list-style-type: none"> <li>• Taking part in this interview is voluntary.</li> <li>• We understand this is a highly personal topic. As part of our conversation, I will ask you some questions about the issue which brought you into contact with the justice system. However, my aim here is to understand more about system itself and what types of experience it creates. I'm not interested in exploring the rights or wrongs of the issue itself, or 'reliving' any aspect of that experience – especially if this is upsetting for you.</li> <li>• We ask you to be only as open as you are comfortable. There are no right or wrong answers. At the same time if there is any question you wish not to answer that is completely okay. We are equal partners in this conversation. If at any point, you would like to take a break, or withdraw from taking part that is also fine.</li> <li>• Your involvement in this research will not have any impact on any civil, family, tribunal, or criminal case (past, present or future), your dealings with the Courts and Tribunals Service, or any other interaction you might have with government now or in the future.</li> <li>• The interview will be recorded, and I may take some notes too. This will be for analysis purposes only.</li> <li>• What you say will remain anonymous – it will not be possible for the Ministry of Justice or anyone else outside of Basis Social to know that you have taken part, or what you have said. This is unless you say something that makes the team think you, or someone else you identify during the interview, might be at risk of serious harm.</li> <li>• You can change your mind and withdraw from this research at any time by contacting the Basis Social team. We will give you information on how to do this.</li> </ul> <p>Are you okay to proceed with the interview? [GAIN VERBAL AGREEMENT FROM EACH PARTICIPANT – IF ISSUES WITH RECORDING THEN PLEASE TAKE WRITTEN NOTES]</p> <p><i>Do you have any questions for me before we get started? Please ensure that you give sufficient space and opportunity for people to feel at ease before the interview commences.</i></p> |
| <p><b>15–25 mins</b></p> | <p><b>Introduction to participant and background to legal issue/s</b></p> <p><b>Objectives:</b> this section is to help develop a better understanding of the participant's background and support needs, to get an overview of the legal issue faced and the context for this</p> <ul style="list-style-type: none"> <li>• Just to get us started, it would be great to hear a little more about you. Could you tell me a bit about yourself and your life? For example, what does a typical day look like for you at the moment?</li> </ul> <p>Thank you. As mentioned before, I recognise that questions I'll ask will cover personal and sensitive topic, and we are not expecting you to share</p>   |

| Timings | Content   |
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|         | <p>any details of your experiences you don't feel comfortable with. Please say as much or as little as you like to the questions I'll ask.</p> <ul style="list-style-type: none"> <li>• We will discuss the [SPECIFY] legal issue in a moment, but can I check whether there were any other legal problems you were dealing with at the same time?</li> <li>• Aside from the [SPECIFIED] legal issue, are there any other difficulties or challenges you're facing in life right now? <ul style="list-style-type: none"> <li>○ How long have you experienced these challenges for?</li> <li>○ Are there any specific factors contributing to this?</li> <li>○ How are these challenging impacting your life?</li> </ul> </li> <li>• And do you have any health conditions, disabilities or specific support needs? <i>If so:</i> <ul style="list-style-type: none"> <li>○ How if at all does this impact you day-to-day? Does it stop you doing anything you would like to be doing?</li> <li>○ [If relevant] How easy/ hard do you find managing your health condition/ disability? Do you access any support?</li> </ul> </li> </ul> <p>Thank you. I'd now like to hear a little more about [ISSUE XXX]. Again, we are not expecting you to share any details of your experiences you don't feel comfortable with. Please say as much or as little as you like to the questions I'll ask. You don't need to tell me about the incident itself in any detail, what we are interested in is your experience of the criminal justice service that followed.</p> <ul style="list-style-type: none"> <li>• Could you talk me through when the issue relating to [XXX] first started? <i>Moderator to give the participant space to talk through the context around their legal issue. Use a journey map template and probe as needed:</i> <ul style="list-style-type: none"> <li>○ What was/is the issue you faced?</li> <li>○ When/how did it become a legal issue?</li> <li>○ How well do you remember how the issue progressed?</li> <li>○ When you recognised it as being a legal issue, what did you do? How did you try and resolve it? Please talk me through the choices you made and how the issue progressed.</li> <li>○ What else was happening in your life at the time? <ul style="list-style-type: none"> <li>▪ Did anything here impact how you responded to the issue?</li> </ul> </li> <li>○ How were you feeling?</li> <li>○ Did you face any difficulties or frustrations at the time?</li> <li>○ What happened next?</li> </ul> </li> <li>• Using the above prompts try to get an overall sense of the individual journey, from the start of the legal issue to the present day (or resolution of the issue), including any touch points with HMCTS or wider formal/informal support. Map this on to a journey map. However, it's to be expected that some respondents will struggle with this. Flexibility may therefore be needed in your approach.</li> </ul> |

| Timings    | Content  |
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|            | <ul style="list-style-type: none"> <li>• And have you had any previous experience with the Courts and Tribunals Service? If so, can you tell me a little bit about this? <i>Explore nature of past legal issues/experience.</i></li> </ul>   |
| 20–30 mins | <p><b>Exploring specific legal experiences in detail</b></p> <p><b>Objectives:</b> this section is to focus in detail on aspects of their legal issue, how they interfaced with HMCTS and wider support services, their expectations and experiences</p> <p><i>Moderator to use the user-generated journey map in combination with the Information Sheet for Moderators. Moderator to probe as needed as per the below.</i></p> <ul style="list-style-type: none"> <li>• Can you tell me a little more about your experience of dealing with [SPECIFIED ISSUE] within the courts system? <i>Use the questions that follow to develop a comprehensive picture of their user journey.</i></li> <li>• How did you find out what to do to address [SPECIFIED ISSUE]? <ul style="list-style-type: none"> <li>○ Did you go anywhere to get information?</li> <li>○ If not mentioned, probe: did you search online or have support/direction from an individual/organisation?</li> <li>○ How useful was the information received?</li> <li>○ Did you receive signposting to other services?</li> <li>○ Was any information missing or difficult to find?</li> </ul> </li> <li>• Did you try to first resolve the issue without going through the courts and tribunals service at all?</li> <li>• What were you expecting in terms of how the legal process would work? <ul style="list-style-type: none"> <li>○ Was there anything that you were particularly nervous or anxious about?</li> <li>○ What influenced these expectations? (e.g., friends/family, TV, previous experience)</li> </ul> </li> <li>• How did these expectations compare with your actual experience? Can you tell me a little more in your own words as to how you settled your dispute through the courts system? <ul style="list-style-type: none"> <li>○ <i>Moderator to probe as best able around specific interactions at each stage, exploring ease and the presence of any challenges.</i></li> </ul> </li> <li>• Did you start the case/claim/dispute online/digitally? If so, can you recall what the website/service looked like?</li> <li>• <i>If started digitally:</i> <ul style="list-style-type: none"> <li>○ Can you recall how you felt when accessing the service online?</li> <li>○ Did you have any expectation about this service before you used it?</li> <li>○ Would you say the service met your expectations?</li> <li>○ Was there anything about the process that you didn't understand or found difficult at the time?</li> <li>○ Anything which now, reflecting, you realise you didn't understand?</li> </ul> </li> </ul> |



| Timings | Content  |
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|         | <ul style="list-style-type: none"> <li>○ Were you clear about what was expected from you at different points of the process?</li> <li>○ Did you have any problems or challenges in using the service? If so, what were these and how did you respond to these challenges? <ul style="list-style-type: none"> <li>▪ When were these challenges most impactful?</li> <li>▪ Did these challenges or problems, impact your behaviour in any way at the time?</li> </ul> </li> <li>○ Was there anything that you felt went particularly well or you found easy?</li> <li>○ Did you: <ul style="list-style-type: none"> <li>▪ understand what was happening?</li> <li>▪ receive enough information?</li> <li>▪ feel able to do what you needed to do?</li> <li>▪ feel listened to?</li> <li>▪ feel confident in participating in the process?</li> <li>▪ feel like you were able to access justice and get a resolution you were satisfied with?</li> </ul> </li> <li>● <i>If they did not access a digital service repeat above questions and – where digital service exists (see Information Sheet) also ask:</i> <ul style="list-style-type: none"> <li>○ Was there any reason you did not use the digital service? (e.g., unaware, not eligible)</li> <li>○ If you could have managed your issue online, would you have wanted to? Why / why not?</li> </ul> </li> <li>● <i>If they changed between online and offline services:</i> <ul style="list-style-type: none"> <li>○ Tell me about the experience of moving between the online and offline service</li> <li>○ Was there anything that worked well or less well in this process?</li> </ul> </li> <li>● Did you access any support services in helping you during the legal process? This could be support provided by courts (e.g. translation, reasonable adjustments, special measures) or signposted by the courts and tribunals service, legal advice, mediation or other support services. <i>If so:</i> <ul style="list-style-type: none"> <li>○ How did you first come into contact with this service?</li> <li>○ What did you want their support with?</li> <li>○ Was there anything that went particularly well?</li> <li>○ Was there anything that went less well?</li> <li>○ Was there anything that you wanted to do but couldn't (i.e. unmet needs)</li> </ul> </li> </ul> <p><i>Moderators to please listen for mentions of the HMCTS Service Centres, Court and Tribunal Service Centres (or CTSCs) or more simply the call centre or 'helpline', and/or the National Digital Support Service</i></p> <ul style="list-style-type: none"> <li>● Was there any point in the process where you would have liked some additional support? <i>If so:</i> <ul style="list-style-type: none"> <li>○ What support would you have liked?</li> </ul> </li> </ul> |

| Timings    | Content  |
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|            | <ul style="list-style-type: none"> <li>○ How would you like to have received this support (e.g., from whom and at what point)?</li> <li>○ Were you aware that there is a National Digital Support Service? What support do you think they might provide? Is it something that you feel may have been beneficial to access?</li> </ul> <p><i>Moderators, please refer back to individual needs as relevant to interview (i.e. based on earlier responses and/or screening criteria)</i></p> <ul style="list-style-type: none"> <li>● <i>[If relevant]</i> What was the final outcome of the process? <ul style="list-style-type: none"> <li>○ How do you feel about the overall process (including online aspects) given this result?</li> <li>○ Now that you have come to the end of this issue, looking back is there anything you wish you had known when you were first starting the process?</li> <li>○ Do you wish you had done anything differently in retrospect?</li> <li>○ Would it have been helpful for system to work differently in any way?</li> </ul> </li> </ul>   |
| 10–15 mins | <p><b>Identifying improvements</b></p> <p><b>Objectives:</b> to identify ideas for improvement based on the user’s view of how the system should function</p> <p><i>Moderator to explain:</i> The courts and tribunals service is in the process of going through quite large-scale change, where a lot of services that would previously have provided face-to-face or by paper are moving online. This could range from online video hearings to the use of online forms.</p> <ul style="list-style-type: none"> <li>● Thinking about you personally, and your experience of the courts and tribunals system for addressing [XXX ISSUE], do you think there are any benefits of services moving online? If so, what are these and why do you see these as beneficial? <i>Probe specifically on:</i> <ul style="list-style-type: none"> <li>○ Online forms</li> <li>○ Video hearings</li> </ul> </li> <li>● And what might make it difficult for people to resolve their legal issues through services that are made available online? <i>Probe if not mentioned spontaneously:</i> <ul style="list-style-type: none"> <li>○ Individual barriers (such as digital access, disabilities, mental health, trust in the system, substance dependency, language, and literacy issues, protected characteristics, homelessness or relationship breakdown)</li> <li>○ Structural barriers (Legal process, trauma of participation, support available, imposition of conditions)</li> </ul> </li> <li>● Are any of these barriers particularly important to consider for people in a similar position to you?</li> <li>● If you were advising the courts and tribunals service on the design of their services, what if anything would you recommend changing to</li> </ul> |

| Timings | Content   |
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|         | <p>make the experience as positive as it possibly could be? <i>Moderator please ensure that we touch on the various experiential barriers and enablers discussed in the interview. Probe:</i></p> <ul style="list-style-type: none"> <li>○ Information and communications</li> <li>○ Access to technology/internet</li> <li>○ Usability</li> <li>○ Addressing language / literacy barriers</li> <li>○ Support services</li> </ul>   |
|         | <p><b>Thank and close</b></p> <p>That is all the questions I had for you, unless there is anything else you would like to add?</p> <p>Thank you very much for your time. This has been very helpful and will be used to help inform courts and tribunals services in the future.</p> <p>I appreciate that it might have been difficult to talk about certain aspects of your experience. If it would be helpful for me to signpost you to a support service, then I'm happy to ensure that you receive this information. <i>Moderator to gauge whether support needed/desired – note that information will also have been provided in the information sheet.</i></p> <p>As a reminder, you will receive a £30 voucher as a 'thank you' for taking part. <i>Confirm their preference as detailed by recruiter.</i></p> <p>Do you have any final questions for me? If not, thank you again.</p> |

## Example topic guide (non-users – Civil, Family and Administrative claimant)

| Timings | Content  |
|---------|--|
| 10 mins | <p><b>Welcome and consent</b></p> <p><b>Objectives:</b> this section is to introduce the topic, gain informed consent and start to build some rapport with the participant</p> <p>Hello. My name is [XXX]. I work for Basis Social, we're an organisation that carries out research with people on behalf of different charities and government bodies. Nice to meet you. I really appreciate you taking the time to talk to me today.</p> <p>Just to recap why we want to speak to you today...</p> <p>We are interested in understanding the experiences of people who have had an issue relating to [SPECIFY LEGAL ISSUE BASED ON SCREENER]. You are one of over 100 other people we are speaking to, all will have had experience of different civil, family or criminal justice issues.</p> <p>This research is being conducted on behalf of the Ministry of Justice who are responsible for the courts and tribunals system. They have asked us to speak to people to understand more about:</p> <ul style="list-style-type: none"> <li>• their expectations and experiences of resolving a legal issue, including what helped or hindered them in accessing justice</li> <li>• the support they needed and received</li> <li>• what could be improved to help people access justice</li> </ul> <p>Your views – whether positive or negative – will help us to understand how people might be better supported within the courts and tribunals system in future.</p> <p>INTERVIEWER – WE NEED TO CAPTURE VERBAL CONSENT OF THE FOLLOWING VIA AUDIO RECORDING IN CASE WE DON'T HAVE SIGNED CONSENT FORMS RETURNED. NOTE THAT PARTICIPANTS SHOULD HAVE ALREADY CONSENTED TO BEING RECORDED AS A CONDITION OF TAKING PART [AUDIO RECORDED, NOT VIDEO RECORDED].</p> <p>Before we start, I just need to make sure you are happy with the following. This should have already been explained to you by the recruiter who invited you to participate in this research:</p> <ul style="list-style-type: none"> <li>• The interview will take approximately 60–90 minutes depending on how much you have to say</li> <li>• Taking part in this interview is voluntary.</li> <li>• I understand that this is likely to be a very personal topic. As part of our conversation today, I will be asking you some questions in</li> </ul> |

| Timings                  | Content   |
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|                          | <p>connection to the legal issue you experienced. This is to help me understand more about how people make decisions about the best way to tackle issues. As part of this conversation we're not interested in the rights or wrongs of the situation or in 'reliving' any aspect of this together – especially if this is upsetting to you.</p> <ul style="list-style-type: none"> <li>• We ask you to be only as open as you are comfortable. There are no right or wrong answers. At the same time if there is any question you wish not to answer that is completely okay. We are equal partners in this conversation. If at any point, you would like to take a break, or withdraw from taking part that is also fine.</li> <li>• Your involvement in this research will not have any impact on any civil, family, tribunal or criminal case (past, present or future), your dealings with the Courts and Tribunals Service, or any other dealings with government now or in the future.</li> <li>• The interview will be recorded, and I may take some notes too. This will be for analysis purposes only.</li> <li>• What you say will remain anonymous – it will not be possible for the Ministry of Justice or anyone else outside of Basis Social to know that you have taken part, or what you have said. This is unless you say something that makes the team think you, or someone else you identify during the interview, might be at risk of serious harm.</li> <li>• You can change your mind and withdraw from this research at any time by contacting the Basis Social team.</li> </ul> <p>Are you okay to proceed with the interview? [GAIN VERBAL AGREEMENT FROM EACH PARTICIPANT – IF ISSUES WITH RECORDING THEN PLEASE TAKE WRITTEN NOTES]</p> <p><i>Do you have any questions for me before we get started? Please ensure that you give sufficient space and opportunity for people to feel at ease before the interview commences.</i></p> |
| <p><b>15–25 mins</b></p> | <p><b>Introduction to participant and background to legal issue/s</b></p> <p><b>Objectives:</b> this section is to help develop a better understanding of the participant's background and support needs, to get an overview of the legal issue faced and the context for this</p> <ul style="list-style-type: none"> <li>• Just to get us started, it would be great to hear a little more about you. Could you tell me a bit about yourself and your life? For example, what does a typical day look like for you at the moment?</li> </ul> <p>Thank you. As mentioned before, I recognise that questions I'll ask will cover personal and sensitive topic, and we are not expecting you to share any details of your experiences you don't feel comfortable with. Please say as much or as little as you like to the questions I'll ask.</p> <ul style="list-style-type: none"> <li>• We will discuss the [SPECIFY] legal issue in a moment, but can I check whether there were any other legal problems you were dealing with at the same time?</li> </ul>  |

| Timings                  | Content   |
|--------------------------|---|
|                          | <ul style="list-style-type: none"> <li>• And aside from the legal issue, are there any other difficulties or challenges you’re facing in life right now?               <ul style="list-style-type: none"> <li>○ How long have you experienced these challenges for?</li> <li>○ Are there any specific factors contributing to this?</li> <li>○ How are these challenging impacting your life?</li> </ul> </li> <li>• And do you have any health conditions, disabilities or specific support needs? <i>If so:</i> <ul style="list-style-type: none"> <li>○ How if at all does this impact you day-to-day? Does it stop you doing anything you would like to be doing?</li> <li>○ [If relevant] How easy/ hard do you find managing your health condition/ disability? Do you access any support?</li> </ul> </li> </ul> <p>Thank you. I’d now like to hear a little more about [ISSUE XXX]. Again, we are not expecting you to share any details of your experiences you don’t feel comfortable with. Please say as much or as little as you like to the questions I’ll ask – you don’t need to tell me about the incident itself.</p> <ul style="list-style-type: none"> <li>• Could you talk me through when the issue relating to [XXX] first started? <i>Moderator to give the participant space to talk through the context around their legal issue. Use a journey map template and probe as needed:</i> <ul style="list-style-type: none"> <li>○ What was/is the issue you faced?</li> <li>○ When/how did it become a problem (or legal issue) for you?</li> <li>○ How well do you remember how the issue progressed?</li> <li>○ How did you try and resolve it? Please talk me through the choices you made and how the issue progressed.</li> <li>○ What else was happening in your life at the time?</li> <li>○ Did anything here impact how you responded to the issue?</li> <li>○ How were you feeling?</li> <li>○ Did you face any difficulties or frustrations at the time?</li> <li>○ What happened next?</li> </ul> </li> <li>• Using the above prompts try to get an overall sense of the individual journey, from the start of the legal issue to the present day (or resolution of the issue), including any touch points with HMCTS or wider formal/informal support. Where possible map this on to a journey map. However, it’s to be expected that some respondents will struggle with this. Flexibility may therefore be needed in your approach.</li> <li>• And have you had any previous experience with the Courts and Tribunals Service? If so, can you tell me a little bit about this? <i>Explore nature of past legal issues/experience.</i></li> </ul> |
| <p><b>20–30 mins</b></p> | <p><b>Exploring specific legal experiences in detail</b></p> <p><b>Objectives:</b> this section is to focus in detail on aspects of their legal issue, how they interfaced with support services, their expectations and experiences</p>  |

| Timings | Content  |
|---------|--|
|         | <p><i>Moderator to use the user-generated journey map to ensure probe as needed as per the below.</i></p> <ul style="list-style-type: none"> <li>• If it is OK with you, I'm just going to go into some of what you've told me in a little more detail now. <i>Use the questions that follow to develop a comprehensive picture of their user journey.</i></li> <li>• Talk me through the steps you took, from the moment at which you decided to take action. <i>Probe:</i> <ul style="list-style-type: none"> <li>○ Individual steps taken at what points in time across their journey</li> <li>○ Information, support and/or advice sought</li> <li>○ Information, support and/or advice received</li> <li>○ How felt during each point of the process</li> <li>○ Questions or concerns they had at different stages of the process, and how these were addressed</li> <li>○ Issues or challenges experienced at different stages of the process, and how these were addressed</li> </ul> </li> <li>• At any stage, did you consider settling the dispute through the formal courts and tribunals service? <ul style="list-style-type: none"> <li>○ If participant began this process and stopped, explore this in detail.</li> </ul> </li> <li>• Did you recognise this an option for you? <i>Why/ why not?</i></li> <li>• Did this feel suitable for you and your situation? <i>Why/ why not?</i></li> <li>• Did you face any other barriers or challenges which blocked this as a course of action?</li> <li>• <i>Moderator to probe thoroughly and sensitively around barriers experienced or perceived. Check for concerns about the behaviour of others or other concerns about engaging with 'the law'. Assure the participant everything shared here is confidential.</i></li> </ul> <p><i>Moderator to explain:</i> The Courts and Tribunals Service provides a route for you to settle legal disputes such as [XXX ISSUE].</p> <ul style="list-style-type: none"> <li>• What do you understand of how the legal process would have worked to address [XXX ISSUE]? <i>Briefly explain journey using Information Sheet and probe:</i> <ul style="list-style-type: none"> <li>○ Is there anything about the legal process in relation to [XXX ISSUE] that you would have questions around or doesn't make sense?</li> <li>○ Thinking about this as a process, would there be anything that you would have been particularly nervous or anxious about?</li> <li>○ Are there particular barriers or challenges you would have faced in using an online service to resolve [XXX ISSUE] at that point in time?</li> <li>○ If you could have managed [XXX ISSUE] online via the court system, would you have wanted to? <i>Why / why not?</i></li> </ul> </li> <li>• <i>[Tailor as needed based on earlier responses].</i> Did you access any support services in helping you with your dispute? This could be</li> </ul> |

| Timings    | Content  |
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|            | <p>support signposted by the courts and tribunals service, legal advice, mediation or other support services. <i>If so:</i></p> <ul style="list-style-type: none"> <li>○ How did you first come into contact with this service?</li> <li>○ What did you want their support with?</li> <li>○ Was there anything that went particularly well?</li> <li>○ Was there anything that went less well?</li> <li>○ Was there anything that you wanted to do but couldn't (i.e. unmet needs)</li> </ul> <ul style="list-style-type: none"> <li>● Was there any point in addressing this issue where you would have liked some additional support? <i>If so:</i> <ul style="list-style-type: none"> <li>○ What support would you have liked?</li> <li>○ How would you like to have received this support (e.g. from whom and at what point)?</li> </ul> </li> </ul> <p><i>Moderators please refer back to individual needs as relevant to interview (i.e. based on earlier responses and/or screening criteria)</i></p> <ul style="list-style-type: none"> <li>● <i>[If relevant]</i> What was the outcome of this issue? <ul style="list-style-type: none"> <li>○ How do you feel about the overall process given the outcome?</li> <li>○ Now that you have come to the end of this issue and received an outcome, looking back is there anything you wish you had known when you were first starting the process?</li> <li>○ Do you wish you had done anything differently in retrospect?</li> </ul> </li> </ul>    |
| 10–15 mins | <p><b>Identifying improvements</b></p> <p><b>Objectives:</b> to identify ideas for improvement based on the non-user's view of how the system should function</p> <p><i>Moderator to explain:</i> The courts and tribunals service is in the process of going through quite large-scale transformation, where a lot of services that would previously have been provided face-to-face or by paper are moving online. This could range from online video hearings to the use of online forms or digital platforms for people to manage or respond to claims.</p> <ul style="list-style-type: none"> <li>● Thinking about you personally, do you think there are any benefits of services provided by the courts and tribunals service moving online? If so, what are these and why do you see these as beneficial? <i>Probe specifically on:</i> <ul style="list-style-type: none"> <li>○ Online forms</li> <li>○ Video hearings</li> </ul> </li> <li>● And what might make it difficult for people to resolve their legal issues through services that are made available online? <i>Probe:</i> <ul style="list-style-type: none"> <li>○ Individual barriers (such as digital access, disabilities, mental health, trust in the system, substance dependency, language and literacy issues, protected characteristics, homelessness or relationship breakdown)</li> <li>○ Structural barriers (legal process, trauma of participation, support available, imposition of conditions)</li> </ul> </li> </ul> |



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|         | <ul style="list-style-type: none"> <li>• Are any of these barriers particularly important to consider for people in a similar position to you?</li> </ul> <p>For each barrier mentioned, explore how might this barrier be overcome.</p> <ul style="list-style-type: none"> <li>• If you were advising the courts and tribunals service on the design of their services, what if anything would you recommend changing to make the experience as positive as it possibly could be? <i>Moderator please ensure that we touch on the various experiential barriers and enablers discussed in the interview. Probe:</i> <ul style="list-style-type: none"> <li>○ Information and communications</li> <li>○ Access to technology/internet</li> <li>○ Usability</li> <li>○ Addressing language / literacy barriers</li> <li>○ Support services</li> </ul> </li> </ul> |
|         | <p><b>Thank and close</b></p> <p>That is all the questions I had for you, unless there is anything else you would like to add?</p> <p>Thank you very much for your time. This has been very helpful and will be used to help inform courts and tribunals services in the future.</p> <p>I appreciate that it might have been difficult to talk about certain aspects of your experience. If it would be helpful for me to signpost you to a support service then I'm happy to ensure that you receive this information. <i>Moderator to gage whether support needed/desired – note that information will also have been provided in the information sheet.</i></p> <p>As a reminder, there is a £30 thank you payment which will be processed in the coming week.</p> <p>Do you have any final questions for me? If not, thank you again.</p>                    |

## Appendix E

### Glossary of terms

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| <b>Administrative (Tribunals) jurisdiction</b> | Specialist courts whose judges and members hear a wide range of cases, such as tax, employment, and immigration and asylum. The Upper Tribunal and Employment Appeal Tribunal hear appeals challenging some tribunal decisions.   |
| <b>CAFCASS</b>                                 | Children and Family Court Advisory and Support Service  |
| <b>Citizens Advice</b>                         | Service providing free advice on a range of topics.   |
| <b>Civil Jurisdiction</b>                      | Jurisdiction covers a very wide range of legal problems – from quite small or simple claims, for example damaged goods or recovery of debt, to large claims between multi-national companies.   |
| <b>Conciliation</b>                            | A process similar to mediation in which the third party takes a more active role in putting forward terms of settlement or an opinion on the case.  |
| <b>CPS</b>                                     | Crown Prosecution Service   |
| <b>Crime Jurisdiction</b>                      | Jurisdiction responsible for hearing criminal cases either through the Magistrates' court or in more serious criminal case, Crown Court.  |
| <b>CTSCs</b>                                   | Courts and Tribunals Service Centres  |
| <b>DWP</b>                                     | Department for Work and Pensions  |
| <b>Family jurisdiction</b>                     | Jurisdiction responsible for dealing with family matters such as parental disputes over children's upbringing, financial support for children after relationship breakdowns, decrees relating to divorce, adoption, and some aspects of domestic violence.  |
| <b>Free-found recruitment</b>                  | Involves identifying participants without relying on pre-established lists and databases. This approach leverages existing networks, social media, community groups, or locations where potential participants might naturally congregate or express interest in the research topic (e.g., legal advice centres). |
| <b>Fully Remote Hearing</b>                    | A hearing where all participants join by video.   |
| <b>HMCTS</b>                                   | HM Courts and Tribunals Service   |

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| <b>HMCTS Video Hearings service</b>     | The HMCTS Video Hearings service allows parties involved in a hearing to join remotely with video and audio from a phone, computer, smartphone or tablet. It is being introduced as part of the Reform Programme.         |
| <b>HMRC</b>                             | HM Revenue and Customs  |
| <b>Hybrid Hearing</b>                   | A hearing in which some of the people involved attend the court in person and some of them join the hearing remotely by video or audio  |
| <b>Law Centres</b>                      | Law Centres employ lawyers and other professionals and can give people legal advice and even represent them if they need it.  |
| <b>Legal Aid</b>                        | Government scheme that helps pay for legal advice, mediation or representation in court   |
| <b>Legal representative</b>             | Members of the legal profession, namely solicitors and barristers.  |
| <b>Mediation</b>                        | Mediation is a flexible and confidential process used to settle a dispute between two or more people, businesses, or other organisations out of court.  |
| <b>MoJ</b>                              | Ministry of Justice   |
| <b>Narrative development workshops</b>  | A type of qualitative data analysis that focuses on interpreting the core narratives from a study group's personal stories.   |
| <b>National Digital Support Service</b> | A free digital support service for eligible users across England, Wales and Scotland. The service supports users who are unable to, or struggle getting online.   |
| <b>Non-users</b>                        | Members of the public with a legal problem who sought to resolve it by means other than HMCTS administered services.  |
| <b>Protected Characteristics</b>        | The characteristics that are protected by the Equality Act 2010 are: age, disability, gender reassignment, marriage or civil partnership (in employment only, pregnancy and maternity, race, religion or belief, and sex. |
| <b>Reform programme</b>                 | A programme involving over 40 projects to improve court and tribunal services, bringing new technology and modern ways of working.  |
| <b>Remote hearing</b>                   | A hearing held where some or all parties join by phone or video link. This includes audio, video, and hybrid hearings.  |

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| <b>Represented</b>                  | Users represented by a legal professional in their case  |
| <b>Single Justice Service (SJS)</b> | Platform which allows users to enter an online plea for low level offences such as a speeding ticket.  |
| <b>Support Through Court</b>        | A charity that provides support for people representing themselves in civil and family cases.  |
| <b>The judiciary</b>                | Judges across all jurisdictions.   |
| <b>Umbrella quota</b>               | Refer to primary quotas (i.e., the main quota criteria).   |
| <b>Unrepresented</b>                | Users representing themselves in their case. Also known as Litigants in Person.  |
| <b>Users</b>                        | Members of the public who addressed a legal issue through the formal justice system (using the court and tribunal service, for example appellants, applicants, claimants, defendants, respondents).  |
| <b>Video-enabled hearing</b>        | At least one participant appears by video link, but others attend in-person.   |
| <b>Vulnerable individuals</b>       | Members of the public deemed vulnerable for the purpose of this study due to a range of factors including but not limited to: financial debt, issues with drug or alcohol misuse, unstable home address or a physical/mental health condition that reduces their ability to carry out day-to-day activities. |