Ministry of Justice

Call for Evidence: Open Justice, the way forward

Summary of Responses

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Executive summary

The call for evidence 'Open Justice: the way forward', published on 11 May 2023, sought comments on ten areas relating to open justice and transparency. This included questions on the principles around open justice and transparency, as well as specific areas of the justice system, particularly those that have undergone a period of rapid change over the last decade as we have worked to modernise our justice system.

In the Call for Evidence, we covered many of the issues raised in the Justice Select Committee report on 'Court Reporting in the Digital Age' (November 2022), including: published listings, broadcasting, remote observation, access to court documents and the publication of judgments. However, we also expanded our focus beyond court reporting to include open justice matters more widely and across jurisdictions, including: HMCTS services, public legal education, and access to justice data and information.

We received 131 responses from organisations and individuals. The majority of respondents were: individuals, court and tribunal users and litigants in person (22%), NGOs, charities and civil society groups (20%), legal professionals, legal associations and law firms (20%), academics (12%) and media representatives (12%). A wide range of views were received reflecting the complexity and importance of the subject.

Key points raised by respondents were:

- **Open Justice principle:** Respondents emphasised the value of the principle that justice must be seen to be done to ensure transparency and hold the judiciary and courts accountable. Respondents noted the importance of the judiciary's independence but felt there was a lack of public understanding about the role of judges and their independence, with calls for action to increase public awareness. Public understanding of the courts system and how decisions are reached was seen as a key element of the rule of law, to keep the law accessible and maintain confidence in the system. Several respondents felt that consideration needed to be given to the delivery of open justice in a digital age, given the context of more online hearings, digital documents, and (in the civil and family jurisdictions) more settlements outside of courts and before formal court proceedings have begun.
- **Listings:** Respondents noted the importance of access to accurate and timely listings, which display information on upcoming court cases, in facilitating open justice. Some respondents reported that, in their experience, listings were not always published in a timely and consistent manner. Opinion on the level of detail that should be included in listings varied. Several secondary uses for listings were suggested including statistical analysis to better understand the types of cases being heard in courts and tools to aid media, NGOs and court watchers in tracking cases from start to finish.

- **Access to courts and tribunals:** Respondents felt more could be done to ensure 'in-person' public access to courts and tribunals, such as ensuring courts and tribunals were fit for visitors and observers, and the importance of clear signage and staff support. Wider barriers to access mentioned included inconsistent access to court documents and the lack of contact details for specific courts. Some respondents highlighted the importance of the judiciary's role in this, for example, by ensuring reporting restrictions were clear, granting access to remote observers where appropriate, and aiming to minimise complex legal language throughout proceedings.
- **Remote Observation and Livestreaming:** Respondents highlighted various benefits of remote observation and livestreaming, including: increasing access to hearings, enabling broader media coverage, and improving public understanding of the justice system. Respondents noted several risks including the risks to privacy and an increased risk of contempt of court, for example, through unauthorised recording of the proceedings. Respondents were also concerned that parties may feel intimidated, and this may impact victims' and witnesses' ability to provide evidence or take part in proceedings. It was suggested that these risks could potentially be mitigated through judicial discretion and appropriate safeguards.
- **Broadcasting Court Proceedings:** Respondents felt that broadcasting had the potential to increase public understanding and trust, but identified a number of risks and therefore suggested that any plans to expand broadcasting should be developed with a cautious, iterative approach. Respondents raised concerns around potential privacy breaches and the potential for broadcasting trials to act as a deterrent for witnesses or victims to come forward. The potential for sensationalism and inaccurate reporting from social media users and bloggers who were less familiar with reporting rules was also raised.
- **Single Justice Procedure:** Respondents raised concerns about the transparency of the Single Justice Procedure, especially for defendants who did not respond to notices of prosecution. Suggestions for improvements included increased guidance and support for defendants. Respondents also felt the Single Justice Procedure needed greater scrutiny, with better data publication around the process and outcomes.
- **Publication of judgments and sentencing remarks**: Respondents were generally positive about centralising the publication of court judgments and tribunal decisions into a single online platform. The importance of making judgments available in machine-readable formats was emphasised. Concerns were expressed with the current limited availability of judgments online which was seen to restrict the public's ability to understand the reasoning behind specific decisions, potentially impacting public trust and confidence in judicial decision-making overall.
- **Access to Court Documents:** Respondents reported that the cost of obtaining court documents can act as a deterrent to individuals or organisations seeking access. Respondents offered suggestions for improving the accessibility of documents including: setting up a central database, standardising rules and procedures across jurisdictions, and reducing the costs for accessing documents.

- **Data Access and Reuse:** Respondents felt that justice data should be made more accessible for research and innovation, with appropriate safeguards for personal data. This would allow for better scrutiny of the justice system, support academic legal research, and enable development of tools that could transform the UK legal services and LawTech sectors. Current barriers provided by respondents included unclear processes and routes for request, inconsistencies around the format and structure of data sets, and the time taken to access data.
- **Public Legal Education:** Respondents reported a lack of public understanding of the justice system, with various factors contributing to this, including: complexities across jurisdictions, the complex language used in legal proceedings, difficulties in accessing affordable legal advice, lack of access to court documents, and the lack of easily accessible public information about the justice system. Respondents suggested various methods to increase knowledge, including government information campaigns, inclusion of justice education in the school curriculum, community outreach and using the media (particularly social media) as a vehicle of communication.

Although the Call for Evidence was wide-ranging, there were various overarching themes that came out across the chapters:

- The importance of the department consistently delivering against its legal responsibilities, ensuring there is appropriate consistency in the way open justice and transparency of the justice system is delivered across courts and jurisdictions.
- Ensuring open justice and transparency principles are embedded as the justice system continues to be digitised, and there is a move to resolving more cases out of court and potentially before formal proceedings have begun.
- The importance of reliable and accessible data to scrutinise the justice system, both on individual cases and across the whole system.
- The need to ensure appropriate safeguards when implementing open justice and transparency policies, ensuring balance with other principles such as the right to privacy and judicial independence.

The Government is committed to defending the rule of law, at home and abroad. Accessibility of the law and public understanding of the justice system are essential underlying principles of the rule of law, facilitated by an open justice system. The valuable insights shared by respondents will be further considered as we continue to develop policies to modernise and improve the transparency of the justice system, ensuring it remains robust, fair, and accessible to all.

Introduction

The ‘Open Justice: the way forward’ Call for Evidence was published on 11 May 2023 and ran until 7 September 2023. This document is the summary of the written responses we received to that paper. It covers;

- The background to the Call for Evidence;
- A summary of the Call for Evidence responses;
- That the Call for Evidence exercise will influence further development of policy in this area; and
- A breakdown of stakeholder groups which responded to the Call for Evidence.

Background

The justice system has undergone a period of modernisation, with the HMCTS Reform Programme central to this transformation. Digitisation of the justice system presents both opportunities and risks for open justice and raises important questions on the balance between openness and privacy. As the justice system modernises, we must examine how open justice continues to be upheld, and furthermore, ensure we are advancing open justice in a way that meets the rising expectation to access justice in a more modern and digitised way – maintaining public understanding of justice, the accessibility of the law and justice system are crucial elements of the rule of law, which is a priority of this Government.

In 2022, the Justice Select Committee began an inquiry examining the effects of digitisation on the courts, the media and open justice. This concluded with the publication of its report in November 2022 – Court Reporting in the Digital Age.

In undertaking the ‘Open Justice: the way forward’ Call for Evidence, we covered many of the issues raised in the Justice Select Committee report but also expanded our focus and invited views on ten topics:

1. Definition and delivery of open justice and transparency principles;
2. Listings;
3. Accessing courts and tribunals;
4. Remote observation and livestreaming;
5. Broadcasting;
6. Single Justice Procedure;
7. Publication of judgments and sentencing remarks;

8. Access to court documents and information;
9. Data access and reuse; and
10. Public legal education.

The Call for Evidence aimed to gather a wide range of responses from individuals and organisations interested in this area. Contributions were welcomed from all interested parties, including the judiciary, legal professionals, the media, businesses, academics, law and technology experts, court and tribunal users, and the general public.

In addition to written submissions, to enable more detailed conversations about specific topics, the Ministry of Justice also held a series of six online roundtable events with representatives from the media, academia, Lawtech, and NGOs.

Overview of respondents

We received a total of 131 written responses to the Call for Evidence. The majority of respondents were: individuals, court and tribunal users and litigants in person (22%); NGOs, charities and civil society groups (20%); legal professionals, legal associations and law firms (20%); academics (12%); and media representatives (12%).

A breakdown of stakeholders can be found at Annex A.

Contact details

Further copies of this report and the Call for Evidence can be obtained by contacting the Open Justice and Transparency policy team at the address below:

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Alternative format versions of this publication can be requested via the above contact details.

Complaints or comments

If you have any complaints or comments about the process you should contact the Ministry of Justice at the above address.

1. Open Justice

Questions asked in the Call for Evidence	Number of respondents
Question 1: Please explain what you think the principle of open justice means.	**51 (39%)**
Question 2: Please explain whether you feel independent judicial powers are made clear to the public and any other views you have on these powers.	**48 (37%)**
Question 3: What is your view on how open and transparent the justice system currently is?	**78 (59%)**
Question 4: How can we best continue to engage with the public and experts on the development and operation of open justice policy following the conclusion of this call for evidence?	**62 (47%)**
Question 5: Are there specific policy matters within open justice that we should prioritise engaging the public on?	**10 (8%)**

1.1 The open justice principle

When asked how they would define the open justice principle, respondents often cited the well-known quote, 'justice must not only be done but must be seen to be done.'[1] Many emphasised that the principle of open justice was key to the rule of law and the functioning of a democracy.

Many respondents, in particular academics, also focused on the importance of open justice to ensure judicial accountability and protect people from abuses of power. They noted that people need assurance that the law is being applied correctly by the courts, seeing this as a foundation of the rule of law. The importance of Article 6 of the European Convention on Human Rights (the right to a fair trial) was also mentioned as underpinning open justice. Some respondents, in particular media organisations, stated that open justice is broader than just observation, and where possible, there should be access to the legal journey and the process, not only particular points along the way or the outcome of a case. Information about cases, relevant documents, transcripts and judgments were all noted as an important part of open justice. Respondents noted that open justice should mean the

[1] R v Sussex Justices, ex parte McCarthy ([1924] 1 KB 256, [1923] All ER Rep 233

public is aware of how to obtain information about legal processes and understand their rights. Court users and organisations representing court users responded that, for those going through the court system, the process can feel impenetrable and secretive.

Many respondents talked about the practical barriers around open justice, including the lack of clarity around cases being heard, the cost to obtain documents, and limited support to navigate the system. As the practical barriers raised in this section related to specific topics covered by the Call for Evidence, these points have been captured under the relevant headings (e.g. listings, access to documents and information etc.).

Many respondents considered that where possible, the justice system should be made as open and transparent as possible. However, many recognised that often open justice must be balanced against important factors such as the right to privacy, data protection and security, rehabilitation of offenders (particularly with regards to the online publication of crimes) and contempt of court.

Some respondents, in particular academics and civil society groups, noted the importance of the availability of accurate and accessible data to be able to scrutinise the courts. These respondents reported that scrutiny at the system-level, as well as of individual cases, was important for accountability.

Lastly, in a context of more online hearings, and settlements outside of court and before formal proceedings are commenced, some respondents, primarily academics, noted that ‘open justice’ cannot carry the same definition it has previously. They considered that the principle requires a more modern interpretation with a more expansive definition.

1.2 The role of the judiciary

Respondents emphasised the importance of judicial independence and public understanding of the role and powers of the judiciary.

Although some considered that the public were aware of judicial independence as a fundamental constitutional principle, most respondents felt that public understanding about the role, powers and independence of the judiciary was limited. Academics and legal professionals in particular expressed concerns over public misconceptions around the role and independence of judges. Some respondents felt high-profile cases and television dramas informed public opinion, but the workings of day-to-day courts was not understood. One academic referenced research indicating that sentencing remarks were generally clear and accessible, but other elements of the judicial role remained opaque. Another academic noted the lack of clarity around the various complaints processes for different parts of the justice system. Some respondents, in particular court users, echoed this, arguing there was a lack of information around how to complain about the behaviour of a judge.

There was general agreement across respondents that more work was needed to increase public awareness and understanding of judicial powers, responsibilities, and independence. Some respondents stated that this information was not consistently provided to court users, adding that any communications on the judiciary should be user-friendly and better publicised. Some respondents highlighted the political and media attacks on the role of the judiciary which they argued were detrimental to increasing public understanding. Some academics called for greater visibility of the differences in a judge's role across different jurisdictions.

Some responses from legal professionals and associations focused specifically on Employment Tribunals stating that information on processes and powers of Employment Tribunals, as well as judges' independence, could be better clarified to the public so that they are better understood. One respondent highlighted the efforts of the President of the Employment Tribunal to increase public understanding around court processes and judicial powers.

Overall, respondents agreed that better public understanding of the judiciary was crucial to building more confidence in the justice system more broadly.

1.3 Openness and transparency of the justice system

Most respondents felt that the general principles of open justice were sufficient but that in practical terms, more work was needed to ensure an open and transparent justice system.

Some respondents, namely academics, noted that the public's ability to understand the justice system was restricted by inability to access data and judgments in the same way as academics or those with access to paid-for online services (such as Westlaw UK) have.

Similarly, respondents including media representatives, civil society groups and court users, highlighted a number of practical barriers to having a fully open and transparent justice system, primarily around the varied approach taken by different courts and the lack of clarity about who can access what information and how. A number of respondents mentioned the family courts were highlighted in this regard.

Other respondents, namely legal professionals acknowledged that much has been done to secure and further the transparency of the justice system, more work was needed to bring the justice system into the digital age. It was felt that there were great opportunities for more remote hearings, live streaming, and digitising documents in an accessible way.

However, some respondents raised concerns around the digitisation of the justice system and the move to resolve issues out of court where possible. They highlighted the importance of good data to be able to scrutinise the justice system outside of a traditional court setting.

Various issues raised in this section related to specific topics covered elsewhere in the Call for Evidence and have therefore been captured under the relevant headings (e.g. reporting restrictions, access to documents and information etc.).

1.4 Continued engagement

Respondents put forward a range of ideas for how the government can best continue to engage with the public and experts on the development and operation of open justice policy.

In terms of the government and courts collecting evidence to understand the issues around open justice and transparency, respondents suggested a range of measures, including:

- More public consultations and opportunities to provide evidence in future;
- Better use of technology, including surveys and social media to engage with the public;
- Setting up multi-disciplinary groups such as roundtables, forums, panels, and committees;
- Better use of user engagement groups, particularly including vulnerable court users;
- The development of metrics to track progress against open justice and transparency objectives;
- Progress reports from government on open justice and transparency with opportunities for feedback from external stakeholders;
- Research into international comparators to draw on best practice globally; and
- Drawing on other fields that can be transferred into a justice landscape, for example, the Understanding Patient Data initiative in healthcare.

In terms of improving the public's understanding of the justice system and ensuring open justice and transparency in practice, respondents suggested a range of measures, including:

- Better quality court data to fuel research and improve accountability;
- Publishing educational resources and launching public awareness campaigns that speak to a diverse population;
- Publishing plain language materials for the public on open justice law and practice; and
- Ensure open justice and transparency principles are built into changes to the justice system as these are planned and designed.

1.5 Future priorities for public engagement

Most respondents noted there was more to be done in upholding the principle of open justice and that this needed to be for the entire justice system, not just what happens in court.

Many priority areas raised by respondents covered the topics included in this Call for Evidence, including access to accurate and robust data, the publication of judgments and decisions, access to court and tribunal staff (to deal with requests and queries), increasing access via broadcasting and recordings, court reporting and reporting restrictions. They have therefore been covered in the relevant sections within this document.

On matters not specifically consulted on by this Call for Evidence, some respondents raised the perceived secrecy within the family court, raising this as a key jurisdiction where the government should look to enhance and uphold transparency. Various academics and civil society groups raised concerns that the lack of scrutiny in the family courts, and the use of self-declared experts, meant issues around domestic abuse were not properly understood with consequences for child-residency cases. These respondents felt the perceived secrecy of the family jurisdiction enabled the courts to be systemically biased against women.

Many respondents argued for the need to rethink what open justice and transparency means in an online world. For example, some respondents highlighted the risks around social media where the public may comment on active cases online and unknowingly break reporting restrictions. Some media organisations commented on the over-use of reporting restrictions and anonymity orders without sufficient opportunity to challenge these. Some civil society groups argued that in a world of live-bloggers and live-tweeters, other commentators should have the same access as traditional media.

Some respondents, namely academics, legal professionals, and the media, felt there was a greater need for clarity and public awareness of sentencing guidelines and how judges and magistrates use the guidelines to reach their decisions. They considered that this would result in greater public trust and confidence in the justice system.

2. Listings

Questions asked in the Call for Evidence	Number of respondents
Question 6: Do you find it helpful for court and tribunal lists to be published online and what do you use this information for?	**68 (52%)**
Question 7: Do you think that there should be any restrictions on what information should be included in these published lists (for example, identifying all parties)?	**62 (47%)**
Question 8: Please explain whether you feel the way reporting restrictions are currently listed could be improved.	**46 (35%)**
Question 9: Are you planning to or are you actively developing new services or features based on access to the public court lists? If so, who are you providing it to and why are they interested in this data?	**21 (16%)**
Question 10: What services or features would you develop if media lists were made available (subject to appropriate licensing and any other agreements or arrangements deemed necessary by the Ministry of Justice) on the proviso that said services or features were for the sole use of accredited members of the media?	**20 (15%)**
Question 11: If media lists were available (subject to appropriate licensing and any other agreements or arrangements deemed necessary by the Ministry of Justice) for the use of third-party organisations to use and develop services or features as they see fit, how would you use this data, who would you provide it to, and why are they interested in this data?	**16 (12%)**

2.1 Online listings

Respondents generally supported the online publication of listings and acknowledged the benefit to open justice and transparency when lists are visible to the public.

Respondents, particularly from the media and civil society groups, found that online lists were useful to keep track of specific cases and to determine the potential public interest of cases based on the details. These respondents felt that effective listings should help in contacting court staff to request information and access hearings remotely.

It was noted that certain groups, primarily the media and legal professionals, receive access to crown court listings in advance, whilst others only get access to listings on the day of the hearing which can limit their ability to attend.

Online employment tribunal lists in particular were deemed helpful by law firms to identify unrepresented parties and offer legal services. It was also noted that claimants could use online lists to identify similar cases to theirs and make applications to join cases together.

Some respondents, namely academics, media representatives, and legal professionals, noted that they used listings to undertake statistical analysis and draw insights on courts' timings and performance, as well as trends over time, while others, such as litigants in person, used them to identify similar cases to their own and observe the proceedings.

2.2 Information included in listings

Respondents were generally content with the amount of information currently included in listings and did not support further restrictions. However, they acknowledged that there were cases in which disclosing personal data publicly may pose risks, such as the targeting of parties and 'trial by social media' in relation to cases which attract significant public interest, and anonymisation should therefore be considered. One respondent highlighted that information included in online listings, especially personal data, carries risks to the parties involved and advised against providing details which could enable reprisals or parties to be identified and potentially harmed.

Some media representatives valued the distinction made between public lists and a subset of lists available to verified users such as legal professionals and the accredited media. Most media representatives felt that, unless there were specific reporting restrictions put in place by the judge, the defendants' names in cases across different jurisdictions should be included in media lists. One respondent gave an example where anonymisation of the defendant's name led to an inability to track a case.

Other respondents had mixed views on the level of information that should be included in listings, particularly on the publication of parties' (defendants, victims and witnesses) names and addresses. Some respondents, mainly civil society groups and academics, supported protecting the identity of defendants, especially information such as their addresses, to prevent excessive media coverage of the family or community where they live, and to maintain the integrity of the legal proceedings. A few respondents also expressed concerns around potential discrimination of innocent parties and vigilante justice. Civil society groups, academics and legal professionals, in particular, also felt that witness names should not be included in lists in order to prevent witness tampering and for general protection. Legal associations and legal professionals felt that the names of public bodies involved in hearings should always be listed.

In contrast, some academics put forward the case that additional details in published listings can lead to wider-ranging research and enabled students to identify the most relevant types of hearing for their studies.

2.3 Reporting restrictions

Several respondent groups, including legal associations, civil society groups and media representatives, expressed the desire for a centralised database of reporting restrictions. They felt that the main benefit would be to increase efficiency as many of them currently spend a lot of their time finding out what restrictions are in place for a particular case. They also noted that having easy access to the existence and scope of any restrictions would also help to avoid possible breaches.

The need for greater consistency in how reporting restrictions were communicated both in the courtroom and in listings was a common issue raised by respondents. Some respondents described how terminology used was not always clear, and that reference to reporting restrictions was often ambiguous. For instance, terms such as ‘usual’ or ‘automatic’ (or ‘private’ in the Court of Protection as noted by one respondent) assume pre-existing knowledge of reporting restrictions and do not instruct a court user on what restrictions are in place and what they mean.

Some respondents stated that court staff sometimes do not have the information on reporting restrictions to hand or available in a timely manner. A number of media representatives gave examples of situations in which they spent a disproportionate amount of time trying to confirm the existence of reporting restrictions on a given case, with one respondent citing a 12 day wait for confirmation of a reporting restriction.

Other respondents, namely legal associations, expressed the need to consider the audience for reporting restrictions to be wider than the traditional media as legal bloggers and users of social media also report on court cases. There were also calls from respondents for greater public awareness around reporting restrictions, including the reasons for why they may be put in place and clarity around the implications if they are breached.

2.4 Potential services or features based on access to public court lists

Some respondents, namely the Lawtech sector and academia, identified an interest in listings data and suggested possible innovations and technological solutions that could be developed based on the data, for example, to be able to identify trends in litigation and to measure judicial activity.

One Lawtech respondent was of the view that the government should not seek to deliver sophisticated product development and need only to give access to certain parts of the data (as opposed to complete data access) to allow external companies to develop products.

Another Lawtech respondent stated that they are unlikely to develop further services or features if access to information continues to be limited to specific user groups (e.g. the media). They did not believe that such a limitation aligns with the principles of open justice.

Some respondents, namely civil society groups, stated that they would welcome the development of open and free data services to enhance public understanding of and access to courts.

Media representatives felt that centralising lists would make it easier to coordinate court reporting and coverage.

2.5 Lists availability, potential services and third-party use

Respondents cited a few examples of tools being developed or that would be developed to aid various stakeholders to track cases through the system or to undertake a form of statistical analysis for performance insights. They noted interest from law firms and saw potential for product development to support law firms with their work. One Lawtech respondent cited the United States as an example of a jurisdiction where products and services are being developed using data from court records.

Many respondents felt that privileged media lists should be made available to a number of professional groups where standards of privacy exist. Some respondents, including legal professionals and civil society groups, considered that the requirement to register to third party services to access listing information acts as a barrier and that court lists should be freely and easily accessible to the public.

A respondent from a legal association stated that they would be opposed to the selling of public data for commercial use by third party companies, were that to be proposed, on the basis that the publication of listings is a public service.

In terms of accessibility, there was mention of the need to provide listings in the Welsh language.

3. Access to Courts and Tribunals

Questions asked in the Call for Evidence	Number of respondents
Question 12: Are you aware that the FaCT service helps you find the correct contact details to individual courts and tribunals?	**44 (33%)**
Question 13: Is there anything more that digital services such as FaCT could offer to help you access court and tribunals?	**33 (25%)**

3.1 Awareness of the Find a Court or Tribunal (FaCT) service

Whilst there was mixed feedback from respondents regarding the awareness of the FaCT service, most respondents felt that the service should be more widely publicised. Of those who were aware of the service, respondents reported finding it useful and one civil society group in particular stated they were pleased that the service was available in Welsh.

Some legal professionals stated that they also use Gov.uk, Google and other search engines to find information on courts and tribunals.

3.2 Digital services for accessing courts and tribunals

Some respondents raised issues with the FaCT service, noting that it contained inaccurate or insufficient information. For instance, two respondents stated that email addresses provided were often inaccurate, and one academia respondent felt there was insufficient information for observers on how to contact a court to check listing information, details of reporting restrictions or request remote hearing information.

Respondents provided a number of suggestions regarding what digital services, such as FaCT, could offer to help access courts and tribunals. These included:

- Link to listings as part of the FaCT service;
- Email addresses for particular contacts (as opposed to generic email addresses, from which it can take days to receive a reply);
- Access to case documents or evidence related to the proceedings;
- Incorporating real-time updates on court listings and case progress;
- Providing clearer and more user-friendly guidance on accessing remote hearings and submitting documents electronically, to help improve accessibility for litigants;

- Including the names of judges / panel members for first-tier tribunals;
- Information about what to expect from the types of court/tribunals concerned and whether all hearings are open;
- A live chat function;
- Adding a ‘filter by type of court’ option to the search function;
- A walk through of a court/tribunal so those attending know what to expect; and
- Information on all methods of travel to the court/tribunal, and directions for those who might require additional facilities (e.g. people with disabilities, people attending with children etc.).

4. Remote Observation and Livestreaming

Questions asked in the Call for Evidence	Number of respondents
Question 14: What are your overarching views of the benefits and risks of allowing for remote observation and livestreaming of open court proceedings and what could it be used for in future?	**79 (60%)**
Question 15: Do you think that all members of the public should be allowed to observe open court and tribunal hearings remotely?	**59 (45%)**
Question 16: Do you think that the media should be able to attend all open court proceedings remotely?	**62 (47%)**
Question 17: Do you think that all open court hearings should allow for livestreaming and remote observation? Would you exclude any types of court hearings from livestreaming and remote observations?	**51 (39%)**
Question 18: Would you impose restrictions on the reporting of court cases? If so, which cases and why?	**55 (42%)**
Question 19: Do you think that there are any types of buildings that would be particularly useful to make a designated livestreaming premises?	**40 (30%)**
Question 20: How could the process for gaining access to remotely observe a hearing be made easier for the public and media?	**61 (46%)**

4.1 Benefits and risks of remote observation and livestreaming

Several respondents highlighted the benefits of remote observation and livestreaming which contribute to enhancing open justice. They recognised that the ability to remotely observe proceedings has the capacity to increase transparency and accessibility particularly for carers, people with additional needs, as well as those who are not located near the courts and tribunals where proceedings are taking place. However, in relation to remote observation, respondents pointed out that this was subject to the estate being well-equipped with the appropriate technology that provides good audio-visual quality and the provision of sufficient court staff to deal with remote observation requests.

Respondents also highlighted that the ability to watch hearings remotely provided individuals with a more cost and time efficient option. Some respondents mentioned that remote observation also enabled greater oversight of the justice system and the ability for litigants in person to familiarise themselves with the court process. Some respondents noted that the provision of remote observation can accommodate more observers, especially in high-interest cases, and therefore may serve as a better use of court resource.

Many respondents, including academia, legal professionals and PCCs, highlighted the benefits of remote observation for court reporting, enabling greater oversight and broader coverage. Media representatives noted that with fewer journalists to cover courts, remote observation allows journalists access to a broader spectrum of hearings at both local and national levels. They stated that remote observation enables journalists to cover multiple hearings across a variety of locations in one day. However, media representatives also noted that they cannot easily comment and report on the atmosphere in court when attending remotely so were of the view that the physical option of attending courts in person must remain.

In identifying benefits and risks, respondents recognised the potential impact of remote observation on victims and witnesses. On one hand, they noted that remote observation provides victims with the option of observing proceedings without the need to attend in person, which is something they may struggle with on some occasions. However, many respondents also raised risks around the unintended impacts of remote observation on parties, particularly vulnerable victims and witnesses who may feel intimidated, impacting their ability to give evidence or engage in the hearing. Respondents questioned whether remote observation may lead to increased requests for anonymity orders or special measures which could ultimately reduce the openness and transparency of the justice system.

As well as the potential impact on vulnerable victims and witnesses, respondents also raised some other risks of remote observation. These included the risk to privacy if sensitive information were to be shared online, jeopardising the right to a fair trial if parties view evidence sessions ahead of their own participation. Respondents raised the risk of excluding particular groups including those with disabilities or those without access to digital tools. For these reasons, respondents felt it was important to maintain the provision of in-person observation at courts and tribunals.

Respondents also warned of the potential for remote observers to make illegal recordings of hearings and edit them to misrepresent the proceedings. Respondents suggested mitigations for addressing this risk, for instance by using technology to track whether recordings or screenshots are being made, collecting the names of observers, and highlighting contempt of court rules and any reporting restrictions. Inappropriate behaviour from remote observers was also raised as an issue. One judicial association shared their

experiences of observers writing inappropriate comments on the Cloud Video Platform and entering with false names.

4.2 Access to remote observation of hearings

Respondents generally agreed that open court or tribunal hearings should offer remote observation to the public, and the same rules that are applied in the physical court or tribunal should be applied online with appropriate safeguards. They considered it important for remote observers to be made aware of the rules on contempt of court and any reporting restrictions in place.

One media representative suggested that, as we enter an increasingly digital world, we should offer the public remote observation access as a right. Other respondents, namely legal associations, felt that it should only be offered where it is in the interest of justice or a clear public demand, particularly considering additional cost implications for the courts. In determining remote observation access requests, respondents, including legal professionals and Lawtech sector representatives, highlighted the need for preserving judicial discretion to be applied in each case. This was on the basis that judges are best placed to make decisions around the appropriateness of remote observation. However, recognising that individual judicial decisions can lead to inconsistencies, some respondents requested greater transparency around how these judicial decisions are made and any criteria that are used to inform the decision-making.

Academics reported inconsistencies in the information that was requested from individuals making remote observation applications. They reported that they are often asked for a ‘reason for attendance’. While many respondents agreed with this approach due to the increased risks associated with remote observation, some felt this should not be asked as in-person observers are not required to give a reason to sit in the physical public gallery.

Respondents’ views on whether the media should be able to attend all open court proceedings remotely varied. Currently, on the basis that court reporters receive training regarding what they can and cannot report on, and operate under a code of practice, accredited media have additional rights to observe certain hearings (both remotely and in person) that the public are not entitled to attend. Various respondents, including some legal professionals, legal associations and PCCs, agreed with this position. Some civil society groups were also in favour of greater media remote access given the benefits of court reporting. However, others felt it creates a hierarchy of observers and is potentially inconsistent with the principle of open justice, noting that where national newspapers require paid subscriptions to access details of a report, public access to information is limited and unequal.

Respondents who identified as ‘non-accredited’ media representatives felt that media access should be more flexible, suggesting that non-accredited members such as citizen

journalists and legal commentators should be permitted to make applications for enhanced access.

Respondents commonly flagged that cases involving children, mental health issues, sexual assault or domestic violence should be excluded from remote observation. Respondents emphasised the need for judicial discretion and the need for judges to balance the benefits of remote observation with other important factors such as privacy and rehabilitation.

4.3 Reporting restrictions

Some respondents, namely media representatives and academics, felt the current system for reporting restrictions worked well and were satisfied that restrictions should be imposed where there were reasonable grounds. Among suitable reasons for imposing reporting restrictions, respondents listed:

- Protecting the right to a fair trial;
- Protecting the identity of minors;
- Protecting individuals from targeted violence or abuse; and
- Guarding sensitive information related to national security.

However, some respondents acknowledged that reporting restrictions were a developing area of law and would likely be subject to change in the future.

Respondents including civil society groups noted that reporting restrictions should only be permitted to the extent necessary and in many cases, this could be satisfied by imposing time-limited restrictions or postponing the reporting of certain information, rather than blanket anonymity orders. On this point, some media representatives felt that reporting restrictions were granted too freely, citing for instance a trend in witnesses being granted anonymity in order to ‘achieve best evidence’.

Respondents noted that, in a context where there is a rise in social media being used for reporting, restrictions are not always well presented or standardised, which poses potential risks. For instance, respondents including academics, legal professionals and PCCs mentioned that some remote observers or bloggers may not understand legal rules or the consequences of posting trial information on social media. Some argued there should be an agreed process and timescale around publication through social media.

4.4 Extension of livestreaming

Several respondents considered that livestreaming should be expanded, though they acknowledged that this was subject to having appropriate technology and sufficient staff.

Legal professionals, legal associations and media representatives suggested that livestreaming would be a suitable option for specific cases where there was greater public interest.

In considering the types of buildings that would be suitable for making 'designated' livestreaming premises, respondents suggested libraries, churches, existing court rooms, university premises (lecture halls), classrooms, town halls, community centres and cinemas as potential options.

4.5 Operational considerations

Respondents raised a range of operational considerations that could help to ensure remote observation works effectively:

- Ensure observers can gain remote links in a timely fashion, either by links being posted alongside the listing or on the individual court's website;
- Include court contact details in listings to make it easier to request remote access;
- Standardise request forms and procedures to facilitate remote observation;
- Ensure remote observers can be admitted to the hearing smoothly so judges are not distracted;
- Have a system in place so that media representatives can confirm case details with court staff (e.g. spelling of a name) after the hearing to ensure accurate reporting;
- Incorporate restriction mechanisms into remote platforms (e.g. ability for court staff to mute observers) to ensure hearings are not disrupted;
- Establish one centralised HMCTS remote platform, which would enable users to become familiar with the platform; and
- Remove the need to request access from individual courts by creating a central online platform where observers could set up a profile with their personal details and have the option of selecting links and streams automatically (a respondent recommended including a mechanism for HMCTS to limit streams to certain 'profiles' such as accredited media).

There were also suggestions, primarily from academics, to collect data on the number of remote observers across locations and jurisdictions.

5. Broadcasting

Questions asked in the Call for Evidence	Number of respondents
Question 21: What do you think are the benefits to the public of broadcasting court proceedings?	**55 (42%)**
Question 22: Please detail the types of court proceedings you think should be broadcast and why this would be beneficial for the public? Are there any types of proceedings which should not be broadcast?	**57 (43%)**
Question 23: Do you think that there are any risks to broadcasting court proceedings?	**54 (41%)**
Question 24: What is your view on the 1925 prohibition on photography and the 1981 prohibition on sound recording in court and whether they are still fit for purpose in the modern age? Are there other emerging technologies where we should consider our policy in relation to usage in court?	**45 (34%)**

5.1 Benefits of broadcasting

Most respondents recognised that there were benefits of broadcasting court proceedings. As with remote observation, many respondents recognised that broadcasting allows for greater access to the justice system, which in turn, promotes public scrutiny and can enhance public trust in the system. Some respondents pointed out that broadcasting can increase understanding of the justice system, and that it may serve to promote public involvement in the justice system by fostering debates and feedback.

Respondents noted that having the option to view proceedings after they have taken place could be useful for those who cannot observe them during court hours.

Additional benefits of broadcasting mentioned by respondents included: highlighting to the public how cases of national importance are decided, reducing misrepresentation of a hearing as observers can witness what takes place, and alleviating potential inaccuracy or incomplete reporting. These benefits may serve to dispel myths of dramatised proceedings or secrecy in the courts and tribunals.

Respondents also recognised that public broadcasting of proceedings would be of particular benefit to unrepresented litigants in familiarising themselves with the justice

system and the process of a hearing. It could also aid those training in the legal profession, aspiring journalists, or students, as well as increasing the quality of academic research.

5.2 Risks of broadcasting

Respondents raised a variety of risks that may arise in broadcasting court proceedings, such as the risk of creating a distorted version of events if trials are not shown in their entirety, sensationalised trials, and trivialisation of trials if they are viewed merely as entertainment.

Some respondents pointed out that there could be an increase in contempt of court cases, with illegal recordings being made by observers, and trials being edited and redistributed to misrepresent a proceeding.

Respondents also raised several safeguarding concerns including the risks to privacy if sensitive information or personal details are disclosed to the public, and the potential negative impacts on those involved in the case (e.g. witnesses and the jury) feeling intimidated or unable to participate due to fear of exposure. They considered that this could result in a 'chilling effect' with fewer people bringing cases forward and seeking justice due to fear of exposure. Some respondents also felt that this could increase requests for anonymity orders or special measures, which may have a negative impact on transparency. Others suggested that professionals may refuse to take part in trials involving broadcasting, pointing to potential risks to safety (e.g. targeting of legal professionals or parties).

In terms of the potential impacts of court broadcasting on reporting, some respondents raised concerns that some members of the public are likely to comment or blog on social media. This may create risks such as generating a 're-trial' via social media and potentially commenting on cases or the validity of a judge's decisions.

5.3 Expansion of broadcasting

Respondents considered that a wide range of cases across different jurisdictions could be appropriate for broadcasting. Their suggestions for broadcasting included:

- Hearings in the Magistrates' Court
- Victim impact statements in the Crown Court
- High-profile criminal trials or sentencing hearings
- Hearings in the Coroners' courts
- High-profile inquests
- Proceedings involving matters of public concern (e.g. constitutional issues)

- Judicial review hearings
- Extradition hearings
- Appellate proceedings and upper tribunal hearings in different jurisdictions
- Opening and closing remarks as well as summaries or judgments in civil cases (commercial and administrative courts).

The types of courts and cases that respondents felt were inappropriate for broadcasting included:

- Youth courts or any cases involving children
- Family court hearings
- Employment tribunals
- Cases with vulnerable victims
- Court of protection hearings
- Sexual offence or abuse cases
- Cases involving national security issues
- Any tribunal hearing as they usually involve litigants in person.

In considering the expansion of broadcasting and what types of cases or proceedings should or should not be broadcast, respondents, namely media representatives and civil society groups, suggested that the government should assess the impacts of current broadcasting, learn from such experiences and then expand broadcasting in stages depending on which proceedings are of most relevance to the public. They also noted that the benefits of broadcasting should be considered alongside other important factors such as the administration of justice and the potential impacts on the parties involved (for example, whether impacts of court exposure on the defendant will be disproportionate to the original offence and effect rehabilitation).

Some respondents, primarily civil society groups, academia and the media, cited examples of best practice including the Supreme Court, highlighting how they post a link to the judgments on their website and use a good camera position. Respondents also referenced other countries, such as Scotland and the United States, as examples of good broadcasting procedures. They highlighted that, in Scotland, any broadcasting was subject to having the consent of the parties.

An academic respondent reflected that expanding broadcasting could focus on how we enhance the current broadcasting offer, for example, utilising technology to display the court documents alongside the hearing, making it easier for observers to follow proceedings and ultimately enhancing their understanding.

5.4 Broadcasting legislation

As the measures prohibiting sound recording and photography have already been loosened to allow for the current broadcasting regime, some respondents considered that the prohibitions should be amended to allow for exceptions to the blanket bans.

They felt the current prohibitions enhanced secrecy in the courts and were outdated and counterproductive to enhancing open justice.

Media representatives noted that in certain exceptional circumstances, to aid their note taking and the accuracy of court reporting, they are granted permission by the judge to audio record the hearing. They mentioned this happens very rarely but suggested that this should be more commonplace or even the default position for accredited media to reduce the chance of errors.

Some respondents also felt that removing the prohibitions on sound recording would allow for an easier process of producing transcripts, enabling transcripts to be made by the parties in attendance or the media for court reporting, rather than the court.

Respondents suggested that more focus should be placed on regulating social media and ensuring court images or sound recordings are not illegally distributed.

However, some respondents felt that parties may be distracted or deterred by photography and sound recording, or even be subject to unnecessary stress. Several respondents, including legal associations, civil society groups, PCCs, members of the public and court users, raised concerns that broadcasting may be seen as a form of entertainment, allowing for rapid and uncontrolled dissemination of information. They felt that such risks need to be considered in potential regulations or legislation.

6. Single Justice Procedure (SJP)

Questions asked in the Call for Evidence	Number of respondents
Question 25: What do you think the government could do to enhance transparency of the SJP?	**32 (24%)**
Question 26: How could the current publication of SJP cases (on CaTH) be enhanced?	**11 (8%)**

6.1 Enhancing transparency of the Single Justice Procedure

Respondents commented that while the SJP aims to deal with offences in a proportionate way, convictions have great significance for the individuals and could involve financial consequences, loss of their driving license and consequences for future employment. They also highlighted that some SJP cases were of genuine public interest, such as those enforcing of Covid-19 rules.

Respondents raised concerns that where defendants who do not respond to the SJP notice are being convicted without their input, there may be genuine reasons for not responding, such as the notice being delivered to the wrong address. One legal association suggested a legislative amendment be made to require courts to obtain proof that the notice has been received by the defendant.

Most respondents who answered the questions on SJP felt that there was more that could be done to enhance its transparency. Respondents made suggestions for improvements under three broad areas, which are outlined in sections 6.2 to 6.4 below.

6.2 Data on the Single Justice Procedure

Respondents called for more data and statistics on SJP cases and outcomes to be published. This information was only available via Parliamentary Questions and Freedom of Information requests. Making it readily available in a consistent, regular and user-friendly format would enable greater comparisons between the courts and proactive analysis to evaluate the impact of SJP.

Respondents' suggestions for the types of information on SJP cases that could be published included:

- Case numbers
- Types of offences
- Location of offences
- Number and profile of defendants
- Categorical data breakdown of personal details e.g., age, sex, race/ethnicity, geography, etc
- How many people prosecuted replied to the notice
- Whether non-responders were convicted
- Number and types of pleas vs penalties / outcomes
- Number and outcome of appeals

They also recommended that the MoJ collect and analyse data on SJP cases in relation to its fairness for individuals with protected characteristics and review qualitative data from those subject to SJP proceedings.

Where some respondents, namely legal associations, considered that daily detailed listings would be useful, other respondents such as academics felt that including full information for a minor crime could be potentially harmful to the defendant and would not be justified.

6.3 Increased guidance and support for defendants

Respondents suggested a number of ways in which the guidance and support provided to defendants could be improved. For example, they felt it should be explained in plain language, that it could include signposting to legal advice or representation to ensure informed consent and access to justice, and that it should facilitate clear communication and feedback. Respondents highlighted that without improvements to the guidance and support, defendants may not understand the importance of responding to the SJP notice or the impact of a guilty plea. They felt that this was particularly important in ensuring the process is accessible and fair for elderly and vulnerable defendants, for example, individuals who are homeless.

6.4 Increased channels for scrutiny

Respondents called for more channels to enable public and media scrutiny and further engagement with the SJP. Their suggestions for improvements included;

- Facilitating the reporting of SJP cases or outcomes;
- Inviting public views on SJP policies/practices;
- Conducting evaluative research on the effectiveness of the SJP;
- Audio or video recording sessions and enabling the press to remotely observe; and
- A controlled sample review of SJP cases by legal professionals (solicitors, judiciary, legal advisors) to ensure consistency of outcomes.

Respondents, namely media representatives, also highlighted that journalists should be made aware that they can access the prosecution statement of case, plea, and mitigation and that court staff dealing with access requests should be aware of what can be asked for and ensure swift access to documents. They noted that this process enables journalists to understand how decisions have been reached, provide scrutiny and identify any inconsistencies. They also suggested that journalists should be able to access the case documents digitally and challenge any ruling where the information is withheld. More generally, media representatives felt that they should be able to challenge the position when a case is heard in private.

6.5 Other suggestions for improvements

Other suggestions for improvements put forward by respondents included:

- Publishing a full list of offences that can be dealt with via SJP and whether they are recordable (i.e. whether they will appear on a criminal record);
- Creating an online register or centralised database of SJP cases;
- Awareness raising campaigns e.g. clear public notice information at points where people may need to be aware of SJP (such as on ticket booths at train/tube stations, on the main page of the TV Licensing website);
- Creating a website on SJP for both the public and those receiving notices to inform and provide online support;
- Extending the remit of the Crown Prosecution Service (CPS) Inspectorate to include all ‘state sponsored’ prosecutors, including those under SJP;
- Publishing blank online and postal forms to increase understanding of the process;
- Reviewing whether the HMCTS Common Platform can accommodate requests for outcomes; and
- Introducing a single online portal and centralised Police/CPS charge issuing office for faster and efficient prosecution decisions allowing witness statements and evidence to be uploaded.

6.6 Single Justice Procedure listings

Respondents expressed the need for SJP lists to be published in a user friendly and accessible format. Some respondents suggested that there should be increased awareness of where SJP cases are published, and that they should be updated daily with easy access to supporting files and available on one webpage without the need to sign up. They also suggested that SJP lists should be made available further in advance and that lists, and the outcomes, should be publicly archived.

Many respondents flagged that SJP listings were often sent incomplete or it was unclear if information was missing. They noted that when SJP listings were not properly publicised, it led to confusion about whether the hearing would continue or not.

Several respondents suggested that SJP outcomes should be published in courts and online, including the sanctions for those convicted and costs awarded to the prosecution. However, a legal association considered that, without seeing the process through which the outcome was reached, publishing outcomes in themselves would not increase court transparency.

Respondents' views were mixed on what information should be included in an SJP listing. Whilst some supported the publication of the defendant's full name, address, the type of offence and the outcome in order to make it easier for the public to enquire about cases, others felt the long-term impacts of this being available in the public domain was disproportionate to the offence. An academic felt that there should be a system to allow for further information on request without necessarily publishing full personal details online.

6.7 Online plea and allocation

Multiple media representatives were concerned about the (then) upcoming Online Plea and Allocation and how this aligned with the open justice principle. They felt that the direction of travel seemed to be leading towards there being no media reporting on magistrate proceedings at all, which they found worrying for trust in the rule of law.

7. Publication of Judgments and Sentencing Remarks

Questions asked in the Call for Evidence	Number of respondents
Question 27: In your experience, have the court judgments or tribunal decisions you need been publicly available online? Please give examples in your response.	**51 (39%)**
Question 28: The government plans to consolidate court judgments and tribunal decisions currently published on other government sites into FCL, so that all judgments and decisions would be accessible on one service, available in machine-readable format and subject to FCL's licensing system. The other government sites would then be closed. Do you have any views regarding this?	**66 (50%)**
Question 29: The government is working towards publishing a complete record of court judgments and tribunal decisions. Which judgments or decisions would you most like to see published online that are not currently available? Which judgments or decisions should not be published online and only made available on request? Please explain why.	**52 (40%)**
Question 30: Besides court judgments and tribunal decisions, are there other court records that you think should be published online and/or available on request? If so, please explain how and why.	**58 (44%)**
Question 31: In your opinion, how can the publication of judgments and decisions be improved to make them more accessible to users of assistive technologies and users with limited digital capability? Please give examples in your response.	**38 (29%)**
Question 32: In your experience has the publication of judgments or tribunal decisions had a negative effect on either court users or wider members of the public?	**42 (32%)**
Question 33: What new services or features based on access to court judgments and tribunal decisions are you planning to develop or are you actively developing? Who is the target audience? (For example, lawyers, businesses, court users, other consumers).	**12 (9%)**

Questions asked in the Call for Evidence	Number of respondents
Question 34: Do you use judgments from other territories in the development of your services/products? Please provide details.	**12 (9%)**
Question 35: After one year of operation, we are reviewing the Transactional Licence. In your experience, how has the Open Justice and/or the Transactional Licence supported or limited your ability to re-use court judgments or tribunal decisions. How does this compare to your experience before April 2022? Please give examples in your response.	**9 (7%)**
Question 36: When describing uses of the Transactional Licence, we use the term 'computational analysis'. We have heard from stakeholders, however, that the term is too imprecise. What term(s) would you prefer? Please explain your response.	**7 (5%)**
Question 37: Have you searched for tribunal decisions online and if you have, what was your experience, and for what was your reason for searching?	**11 (8%)**
Question 38: Do you think tribunal decisions should appear in online search engines like Google?	**45 (34%)**
Question 39: What information is necessary for inclusion in a published decisions register? What safeguards would be necessary?	**30 (23%)**
Question 40: Do you think that judicial sentencing remarks should be published online / made available on request? If that is the case, in which format do you consider they should be available? Please explain your answer.	**40 (30%)**

7.1 Online catalogue of judgments

Respondents expressed concerns with the limited availability of free public judgments online and stated that they frequently rely on (paid-for) subscription websites. They noted that this limits accessibility, research, academic work, reporting, understanding and analysis of judgments and decisions. Of those judgments and decisions that respondents noted were not freely available, they included family court judgments, judgments from lower-tier courts, ex tempore decisions (oral judgments that are not in writing), and judgments involving terrorism, domestic abuse and negligence. A more detailed breakdown of the types of judgments and decisions, as well as other court records, that respondents felt would be useful is covered in section 7.4.

Respondents' views were divided in terms of whether the government should offer the public a complete online record or whether to make available only those judgments or decisions of legal significance. Some respondents, namely journalists, academics and members of the public, favoured the option of a complete record on the basis that it will improve transparency and facilitate a better understanding of the justice system. Others including judicial associations and legal practitioners, considered that the government should offer only legally significant judgments in order to limit investing resources in publishing judgments that do not set a legal precedent.

Some respondents felt there should be an exception for cases involving private and confidential matters such as those that involve victims of abuse and decisions of first-tier tribunals, which could be available upon request to the judge. They also suggested that the government should redact confidential information, as well as offering parties affected by the publication of judgments or decisions the option to have their personal information redacted.

However, there was consensus among respondents on the benefits of increasing the scope of the Find Case Law (FCL) service – namely, to have an easily accessible and searchable database of cases – with most respondents expressing that the platform should incorporate more courts and tribunals across the family, criminal and civil jurisdictions.

In considering the impacts on court users or wider members of the public, respondents raised concerns over the online publication of judgments and decisions, particularly where they included sensitive information of the parties involved, which they felt could have negative impacts on their reputation or mental health. Similar to concerns expressed over personal information contained in listings (covered under section 2.2) respondents identified a risk to individuals' privacy which could lead to potential discrimination and victim blaming in the media. They noted that such media coverage can prevent witnesses from giving evidence at court and parties settling their cases to avoid the risk of their information being published.

In contrast, other respondents, including legal associations, legal professionals, Lawtech and members of the public, stated that they felt there were positive impacts of publishing judgments and sentencing remarks, namely in enhancing transparency and fostering trust in the justice system.

A number of respondents answered to say that they were not aware of negative impacts on court users or members of the public over the publication of judgments and decisions. However, concerns were raised by some respondents in relation to tribunal decisions, which is covered in section 7.5 below.

7.2 Centralising the official publication of judgments

Noting the difficulties in navigating different judgment portals and accessing historic judgments, many respondents recognised the benefits of centralising the official publication of judgments on a single site to facilitate public access. Respondents considered that this centralising approach was a practical solution to the current fragmentation and a progressive step in the direction of improving accessibility to legal documents. They were particularly in favour of FCL offering judgments in a machine-readable format and protecting the re-use through a licensing regime. Respondents however called for a consistent approach to ensuring that access to justice is not impeded by financial barriers. As such, many respondents suggested that any official database (such as FCL) should be accessible free of charge.

Respondents considered that improving accessibility in the online service could be achieved through having a readable search engine, ensuring simple language in judgments, training local library staff to understand legal jargon and expanding judgments in audio format.

7.3 Availability and publication of further judgments and decisions, and other court records

Respondents' views varied in terms of the judgments or decisions that are not currently available online that they would like to see published in future. Some respondents, including members of the public, media representatives and legal professionals, emphasised the importance of transparency and advocated for the official publication of as many judgments and decisions as possible (if not, all). There was a particular call from some respondents to publish a larger number of family court judgments in order to educate the public, policymakers and researchers on how the family justice system functions. There were also calls to publish inquest decisions, more judgments in criminal and administrative law cases, and more judgments and decisions from lower courts and specialised tribunals.

Other respondents, including judicial associations and some academics and legal professionals, considered that only legally significant judgments and decisions should be published. They noted that decisions from first-tier tribunals for instance should not be published as they are heavily fact-specific, do not set legal precedent and often involve highly personal and sensitive information. There was some concern that publishing first-tier tribunal decisions as a matter of course could create the mistaken impression they hold legal weight in the way that upper tribunal decisions do. There was overall a recognition that there is a balance to strike between open justice and privacy rights. Some respondents recommended that parties affected by the publication of judgments or decisions should have the option of their information being redacted.

Besides court judgments and tribunal decisions, many respondents expressed an interest in accessing other parts of the court records. The types of documents they suggested should be made available included opening statements, skeleton arguments, witness statements and court orders to help the public follow the development of a hearing and understand the full context of a case. Respondents agreed that there were benefits, such as improving public understanding, enhancing reporting and legal research, of having these documents available online for anyone to access.

Some respondents, including members of the public, media representatives and civil society groups, noted that it would be helpful to obtain transcripts of hearings. This included transcripts of family and criminal proceedings. There was a suggestion that transcripts could be preserved and made available for research purposes under appropriate conditions, with The National Archives potentially hosting archive video or audio recordings.

There were concerns expressed by some respondents, including judicial associations and legal professionals, around wider court records becoming publicly available. One respondent noted that a party in bringing their claim may not want all the court or tribunal documents becoming public, highlighting the Employment Appeal Tribunal case of F v J [2023] EAT 92. Another respondent felt that making documents such as court orders (even when appropriately anonymised) routinely available may not greatly assist the wider public's understanding of the case.

Some respondents also called for increased availability of sentencing remarks, which are captured under section 7.5 below.

7.4 Computational reuse of judgments on Find Case Law and licensing

When asked about what services or features based on access to judgments and decisions that respondents are planning to develop or are actively developing, civil society groups and Lawtech representatives confirmed that they are developing services to improve accessibility to court judgments by extracting specific information from judgments. For instance, one respondent noted that they are looking to develop a service that will assist individuals with financial barriers to represent themselves.

In answering whether respondents use judgments from other territories in the development of their services or products, legal professionals stated that they use judgments from other countries with similar law systems to the UK such as Canada, Australia and Hong Kong for their practice.

In response to questions about the Transactional Licence, some respondents, including legal professionals and law firms, noted that FCL is not as efficient as BAILLI and the

functioning of the FCL licencing regime can be restrictive and may prevent the development of innovative products. One academic raised the issue that their application for a license for computational analysis using FCL data took a significant period of time to process. Some respondents called for data to be automatically available to all academic institutions without restrictions.

We received a small number of responses to the question on the terminology "computational analysis" used in the FCL Transactional Licence. Of those who responded, mainly academics, they considered that the term is a step in the right direction but requires further regulation. For instance, one respondent felt it was not clear why restrictions should be in place on analysis when the data is in the public domain. Two respondents suggested that the term 'Artificial intelligence' or 'AI' might be more appropriate.

7.5 Tribunal decisions published on GOV.UK

Respondents, namely legal professionals, academics, media representatives and civil society groups, answered that they do search for tribunal decisions online, using the BAILII portal, FCL and the online Employment Tribunals registry.

Respondents were generally positive about their experience in searching for decisions online but did flag some issues that they experienced. This included delays in publication of decisions, difficulties with the FCL search function, and the lack of availability of older decisions and that of first-tier mental health tribunal cases. Respondents, namely legal professionals, also highlighted that centralising records on one platform would facilitate better access.

In terms of the reasons for accessing tribunal decisions online, legal professionals noted that they did this in order to craft legal arguments, identify legal precedent, check the involvement of the other party in previous cases and to understand potential outcomes. Other respondents noted that they searched for tribunal decisions for research purposes and for press reporting.

In considering whether tribunal decisions should appear in online search engines, most respondents expressed the need to find them through online search engines to increase accessibility for the public, and not just for professionals.

In contrast, some respondents, namely legal professionals and civil society groups, expressed concerns with the visibility that online search engines provide to tribunal decisions. They flagged risks around inaccurate published information being difficult to recover, the risks to invasion of privacy and the potential misuse of information. They also raised concerns that increased visibility of decisions through online search engines could inhibit potential claimant or witness participation in proceedings. Employment tribunal decisions were raised specifically by a few respondents as an example where there were

unintended negative consequences of being available through online search engines. Respondents noted that they were aware of employers searching a prospective candidate's name to identify any previous employment claims and of previous claimants' future employment prospects being at risk.

Overall, respondents suggested for a more effective monitoring and protection of personal data. There was a general consensus that the right balance needs to be achieved in maintaining the open justice principle.

There were mixed responses from respondents to the question on what information is necessary for inclusion in a published decisions register and what safeguards would be necessary. Most respondents considered that sensitive information (such as name, address and parental status) should be redacted to protect individuals' privacy. In contrast, other respondents stated that a register should include the name of the parties, other meta information on the proceedings and the full context and details of the dispute.

7.6 Publication of sentencing remarks

The majority of respondents considered that sentencing remarks should be accessible by anyone, including non-parties, free of charge. They were of the view that this would increase transparency within the justice system, aid victim experience, help public understanding and maintain consistency in sentencing. Respondents felt that sentencing remarks should be made accessible and searchable online (such as through FCL). Some respondents, including media representatives, also suggested that sentencing remarks should be available both in writing and in audio format, but noted that appropriate redactions are necessary (for example, to protect children, vulnerable adults and victims of abuse).

However, some respondents, including PCCs, recognised that there is a need to balance the principle of open justice with other considerations, such as offenders' rehabilitation. Other respondents also acknowledged the practical challenges of publishing sentencing remarks, including resource implications, due to the high volume of remarks delivered.

8. Access to court documents and information

Questions asked in the Call for Evidence	Number of respondents
Question 41: As a non-party to proceedings, for what purpose would you seek access to court or tribunal documents?	**50 (38%)**
Question 42: Do you (non-party) know when you should apply to the court or tribunal for access to documents and when you should apply to other organisations?	**25 (19%)**
Question 43: Do you (non-party) know where to look or who to contact to request access to court or tribunal documents?	**32 (24%)**
Question 44: Do you (non-party) know what types of court or tribunal documents are typically held?	**31 (24%)**
Question 45: What are the main problems you (non-party) have encountered when seeking access to court or tribunal documents?	**48 (37%)**
Question 46: How can we clarify the rules and guidance for non-party requests to access material provided to the court or tribunal?	**42 (32%)**
Question 47: At a minimum, what material provided to the court by parties to proceedings should be accessible to non-parties?	**51 (39%)**
Question 48: How can we improve public access to court documents and strengthen the processes for accessing them across the jurisdictions?	**44 (33%)**
Question 49: Should there be different rules applied for requests by accredited news media, or for research and statistical purposes?	**43 (32%)**
Question 50: Sometimes non-party requests may be for multiple documents across many courts, how should we facilitate these types of requests and improve the bulk distribution of publicly accessible court documents?	**19 (14%)**

8.1 Non-party access to court documents

Respondents noted that there are a variety of reasons why non-parties may seek to access court or tribunal documents. In answering the question, they highlighted the importance of enhancing public interest and understanding of the justice system. Respondents also stated that access to court or tribunal documents can help monitor the work of the judiciary and identify areas for improvements in the justice system.

The different purposes provided by respondents as to why non-parties seek access to court or tribunal documents included:

- Legal professionals using access to skeleton arguments and judgments to inform their legal work on other cases;
- Law firms using documents to better understand a case that deals with an area of legal interest to them;
- Academics using court documents for research;
- People using skeleton arguments, witness statements, and expert statements to follow the proceedings;
- Media professionals using documents to assist their reporting and gain insight into public policy issues connected to a particular case.

Lawtech respondents answered that their customers can seek to obtain court documents for a variety of reasons. These include: to understand timelines for a case and when it may go to trial, to generate statistical insights, and if they intend to enter into a commercial relationship with a party involved in a case and wish to manage their business risk.

Respondents varied in terms of how informed they are in accessing court or tribunal documents. Legal professionals in particular answered that they were aware of the rules and processes but acknowledged that most members of the public are not. Other respondents, including academics and media representatives noted that they are not clear how and when they should apply to access court documents. Overall, most respondents stated they are unaware of the process for requesting access to court or tribunal documents, especially which department, office, or tribunal to contact.

Respondents, namely academics and media representatives, criticised the costs and the processes for accessing documents.

Respondents raised that there is a lack of clarity around the Criminal Procedure Rules and Employment Tribunal Rules. A legal professional noted the ease of requesting access to the Upper Tribunal (Immigration and Asylum Chamber) through a form but recognised that this is not a widespread practice.

Most respondents answered to say that they were aware of the different types of court or tribunal documents that are typically held. However, respondents consistently highlighted

that availability of documents and information was too limited. Civil society groups in particular noted that they rely on CE-file to understand what documents have been filed in the cases they are following due to difficulty in navigating what filed documents are held in courts and to avoid paying the costs of obtaining (what may be) an irrelevant court order.

8.2 Barriers in accessing court or tribunal documents

In identifying the main problems they encountered when seeking to access court or tribunal documents, respondents highlighted that the process to obtain court or tribunal documents is not standardised, and that different jurisdictions have different processes. For instance, they noted that unlike in civil court proceedings, the employment tribunal's procedure rules do not provide for public access to the main statements of the case. Some respondents felt that this lack of uniformity is the main obstacle they face. There were also issues raised by some respondents, namely media representatives, of judges not allowing them access to court documents without a legal reason.

Another barrier identified by some respondents was the high costs in obtaining court documents. One respondent noted that it typically costs £11 to request a document from the High Court but they have also seen costs of up to £150 per 'document' (which in fact comprises multiple documents) in extreme cases. Many respondents also highlighted that it can be very expensive to obtain transcripts of criminal proceedings in the Crown Court, particularly for longer hearings. There were calls for such costs to be reduced, if not removed altogether.

Other problems raised by respondents in accessing court or tribunal documents included:

- The lack of awareness among court staff of HMCTS' guidance for supporting media access to courts and tribunals;
- That the Magistrates Court is not a court of record despite dealing with majority of criminal cases;
- Delays in receiving access to court documents;
- Delays in receiving a response from the court or tribunal, or a failure to respond;
- Reluctance from legal representatives to share documents such as skeleton arguments;
- Difficulties in accessing witness statements and evidence submitted by parties;
- Not always knowing what documents are available on a particular case;
- Media requests for case documents being rejected by judges, which can only be overcome through a costly court application.

When answering the question on how the rules and guidance for non-party requests to court or tribunal documents could be clarified, many respondents suggested that the rules and guidance should be standardised. They suggested that this should include the time that it should take to obtain the different categories of documents. Alternatively,

respondents such as legal professionals noted that the different rules applicable across jurisdictions could be collated and made available in a central location.

Respondents, namely members of the public, felt that information should be available in simple language that can be easily understood and that the process should be set out through a step-by-step guide. Respondents also called for better training of court staff to ensure they understand the rules and guidance and a revision of the rules to make more court documents easily accessible.

8.3 Materials to provide to non-parties

In terms of what materials should be accessible to non-parties at a minimum, respondents felt that this depended on various factors, such as the type of court or tribunal concerned, the nature of the proceedings and the nature of the non-party requesting the documents. For instance, respondents such as legal professions and academics considered that they should have enhanced access to court documents (beyond what is available to the general public) due to the nature of their work.

In general, respondents agreed that, unless there is a good reason not to, non-parties should have sufficient access to documents (for example, witness statements, applications, and skeleton arguments) to ensure they can understand the hearings and judgments. Some respondents noted that court documents in criminal court or employment tribunal proceedings may be an exception in terms of allowing access to full court records.

8.4 Improving public access to court and tribunal documents

Many respondents were of the view that MoJ and HMCTS should continue to digitise the justice system to improve access to court and tribunal documents, alongside some calls for having them accessible on a central, easily-to-navigate location. They also highlighted the importance of providing access to documents early in the proceedings, particularly for members of the media. Other respondents felt that it was important to address the high costs for accessing court documents.

As noted above, under section 8.2, respondents also called for standardising rules and procedures for obtaining court and tribunal documents and making them easier to understand.

8.5 Rules and guidance for non-party access to court documents

Most respondents did not consider that different rules should apply for requests by accredited news media, or for research and statistical purposes, over other requests. This is because they believed that in the interests of open justice, everyone should have the same rights and level of access. Having different rules for different groups, they felt, could create confusion and additional work. In contrast, some respondents, namely media representatives, answered that different rules should apply and that provisions allowing for access to criminal court documents could be strengthened and enhanced.

9. Data access and reuse

Questions asked in the Call for Evidence	Number of respondents
Question 51: For what purposes should data derived from the justice system be shared and reused by the public?	**42 (32%)**
Question 52: How can we support access and the responsible re-use of data derived from the justice system?	**32 (24%)**
Question 53: Which types of data reuse should we be encouraging? Please provide examples.	**17 (13%)**
Question 54: What is the biggest barrier to accessing data and enabling its reuse?	**35 (27%)**
Question 55: Do you have any evidence about common misconceptions of the use of data by third parties? Are there examples of how these can be mitigated?	**8 (6%)**
Question 56: Do you have evidence or experience to indicate how artificial intelligence (AI) is currently used in relation to justice data? Please use your own definition of the term.	**11 (8%)**
Question 57: Government has published sector-agnostic advice in recent years on the use of AI. What guidance would you like to see provided specifically for the legal setting? In your view, should this be provided by government or legal services regulators?	**9 (7%)**

9.1 Justice data reuse purposes

Many respondents highlighted the importance of being able to access justice data for multiple reasons, including to undertake legal research, to develop potential Lawtech products, to perform data analysis to support the understanding of the justice system, and for accountability. Respondents, namely civil society groups, underlined the importance of justice data to monitor potential biases and prejudice in the system.

Respondents from the Lawtech sector considered that the MoJ and HMCTS should develop a more sophisticated understanding of the system in a quantifiable way before giving access to data for the potential development of products. Examples of potential uses suggested by respondents were: the potential for employers to use employment

tribunals data to design their human resources policies and develop training for managers around common tribunal claims and the potential use of county court judgments for credit referencing agencies and financial regulators/authorities.

In terms of access, respondents suggested developing different types of access permissions and models, via secure portals or self-certification processes. One academic observed that the appetite for granting third parties' access to justice data varied depending on the aim of the use. In that vein, polling research was cited to reflect on different public attitudes, highlighting that the public feels more comfortable giving data access to improve the way courts are run and less comfortable giving access to help commercial companies in developing products.

9.2 Supporting access and responsible re-use of justice data

Most respondents, including civil society groups, legal professionals and academics, highlighted the need to make justice data more accessible and available for different reasons and uses. Their responses suggested the possibility of giving access to open data catalogues and the need for clear data ownership.

Respondents including civil society groups, academics, media representatives and legal associations called for data collection in a usable and ‘understandable’ format. Some respondents, namely academics, proposed for legal frameworks to be developed that enable transparent collection, management and sharing of data in a secure way. Lawtech representatives considered that any complex or unnecessary restrictions may have an adverse effect on innovation, and so the right balance is needed when developing legal frameworks.

There was general agreement among respondents that appropriate safeguards are needed where access to personal data is concerned. In promoting responsible re-use, some suggested the use of anonymisation while others spoke about re-using data under controlled systems or digital environments. Academics and civil society groups cited the MoJ’s Data First programme as a good model for data sharing. Respondents also highlighted that responsible use cannot be controlled once data is in the public domain.

Some respondents supported the managing of requests for case-level data by the Data Access Panel and the Senior Data Governance Panel, welcoming such oversight of access to data. They considered it necessary to have clear directions for applicants on the limitations and implications of misuse. One respondent emphasised that the principle of open justice is important, but it should be balanced with other principles and with considerable awareness of risks, pointing to the principles set out in the Re-use of Public Sector Information (RPSI) Act 2015.

9.3 Promoting justice data re-uses

Respondents suggested that justice data could be made more accessible through the following ways:

- Enabling downloadable data sets in a machine-readable format;
- Centralised judgments in a single portal;
- Publication of a complete catalogue of available data;
- Publication of reporting restrictions;
- Publication of data in digestible format for non-experts.

Respondents also suggested the following potential re-uses of justice data that could be set up or expanded:

- Continued publication of statistics (e.g. length of sentences, percentages of unrepresented defendants, length of remand decisions, outcomes of cases);
- Publication of aggregate anonymised data;
- Publication of high-level statistical data on the use of the courts and tribunals system;
- Linking of data with other government departments (e.g. NHS, Department of Education).

Respondents also suggested developing clear guidance on the re-uses of data that can be applied for, outlining uses that could serve the public good. They raised the importance of re-using justice data to understand user-journeys, the functioning of the system, and how the system serves people going through it. Respondents, namely academics and civil society groups, felt that having more data was important to help better understand the criminal justice system. Data reuse can enable public legal education programmes and materials.

9.4 Barriers to justice data

Respondents highlighted a number of challenges and barriers to accessing data, including:

- Resourcing issues (e.g., unanswered emails or phone calls) and the lack of a single point of contact
- Unclear processes and/or routes for requests
- The lack of data collection
- The format and structure of data
- Old legacy systems that are not suitable for bulk data downloads
- Incomplete free databases online and the costs of accessing commercial legal databases, data protection and privacy regulations
- Restrictions to computational uses
- The lack of a clear and consistent definition and scope of justice data

- The complexity of the legal systems and processes
- Complex user manuals and jargon heavy data
- Lack of knowledge of the data that exists or is available for re-use
- Fear and a lack of understanding of how data might be used
- Inconsistencies in data sharing and publication across government departments.

More broadly, respondents also highlighted the lack of readily available Application Programming Interface and licensing regimes. Where they do exist, as in the case of the Find Case Law service, respondents noted a lack of clarity and delays for transactional licence applications.

Respondents, namely civil society groups and academics, considered that the financial cost of accessing data was often a barrier to creating large data sets, and financial barriers will most likely lead to the creation of new gatekeepers (or reinforce existing gatekeepers), and will limit the development of new technologies.

9.5 Misconceptions on justice data uses

Several respondents, including civil society groups and legal associations, referenced research undertaken by Ipsos on behalf of the Legal Education Foundation, which provided information on some of the common misconceptions about justice data usage, including concerns on how that data might be used. One respondent highlighted findings from the research showing that most members of the public were unaware of the information contained in court records, or about who has access to court records. They also considered that the research demonstrated a lack of awareness of how judgments are used as precedents in a common law system.

Another respondent suggested that a misconception may be that judges' decisions can be predicted by analysing their previous decisions. But, in their view, judgments (particularly family court judgments) are too unstructured to permit reliable analysis to detect such patterns of behaviour.

One response highlighted the common public misconception that the media use data to form a spurious narrative and suggested this could be mitigated by adding context to data sources and encouraging the public to investigate themselves via open data.

9.6 Uses of Artificial Intelligence in relation to justice data

While there was general agreement that AI technology is not yet sophisticated enough to operate reliably without human oversight, respondents across different sectors provided a wide range of examples to the question of how AI is currently used in relation to justice

data. Though it was not always clear if every example highlighted what currently exists or was an aspiration for uses of AI in the future, the examples provided included:

- Using Large Language Models (LLMs) and Generative AI to structure legal data;
- Combating AI generated inaccuracies (often referred to as AI "hallucination') by sense checking AI generated results for accuracy;
- Recording and producing transcriptions of trials;
- Assisting with legal research and smart search of case law;
- Making legal language more digestible to non-professionals;
- Improving document scanning and search functionality;
- Assisting with drafting;
- Identifying precedents in case law;
- Processing unstructured information from multiple sources;
- Speech-to-text transcription;
- Automated translations.

Additionally, respondents suggested that AI could be used to:

- Make information more accessible to the public at a lower cost than is typically paid in obtaining legal services;
- Enhance citizen services by providing legal information, advice and assistance;
- Develop chatbots;
- Develop online dispute resolution platforms;
- Understand how a new judgment affects existing body of case law.

An academic respondent noted that the lack of up-to-date, publicly available data makes it difficult to accurately map how and where AI tools are currently in use in legal services across England and Wales. They also pointed to a lack of a register of providers of AI technologies and that, unlike in jurisdictions such as the United States and Canada, courts in England and Wales do not yet issue practice directions that would require parties to state where they have used AI in preparing their case. They felt that this reduces visibility of the use of AI tools and undermines the ability to research their impact on case outcomes.

9.7 AI guidance for the legal sector

Respondents generally considered that the government and regulators should collaborate with professional bodies to progress guidance frameworks. However, they recognised that regulation may be difficult at a time when the technology appears to be in a state of exponential development.

Beyond guidance, respondents, primarily civil society groups, suggested that the use of AI must be carefully regulated on a statutory footing and that a centralised specialist AI

regulator would be the best body to do this. On this point, one academic felt that existing regulations and guidance were inadequate to address the potential harms and secure the benefit of the increasing use of AI in the context of legal services and the justice system.

In terms of guidance for the legal setting, respondents proposed the following:

- Legal and professional obligations that apply to lawyers who use or provide AI-enabled legal services;
- The benefits and risks of using AI in legal services;
- Best practices and recommendations for lawyers who use or provide AI-enabled legal services;
- Mandating a register of providers of AI products and services marketed at the legal services and the justice system;
- Adding a rule to the Civil, Criminal and Family Procedure Rules requiring parties to disclose when they have used AI in the preparation of materials provided to the court.

More broadly, respondents also identified additional areas for developing clear guidance, which included:

- Privacy and data protection;
- Algorithmic transparency;
- Accuracy, transparency and public trust;
- Impacts on legal professional roles;
- Ethical standards and safeguards;
- Use of generative AI.

However, respondents highlighted various potential risks and challenges of using AI technology, including:

- The risks of exacerbating biases and discrimination;
- Confidentiality breaches;
- The lack of quality control and accountability;
- Concerns around accuracy and reliability;
- The absence of agreed transparency standards to support consumers to compare and verify the performance of different AI tools.

A civil society group respondent suggested that the UK approach to the regulation of AI, as set out in the AI regulation white paper, is a missed opportunity to ensure that fundamental rights and democratic values are protected. They proposed a range of principles to be considered. These included ensuring transparency and accountability, consulting the public before the government deploys automated decision-making tools, and putting in place a specialist regulator to enforce the regulatory regime which ensures that people can seek redress when things go wrong. Separately, an academic respondent considered that the government should urgently address the ecosystem factors such as access to data,

funding, and business models that result in AI products being developed to favour repeat players and large law firms.

Respondents stated that there are significant gaps in the UK GDPR and Data Protection Act 2018, with the need to map out spaces that are not adequately covered by law and regulation.

One respondent acknowledged that the justice sector creates lots of opportunities for processing that can have significant effects on individuals and any such processing should consider the ICO's Guidance on AI and Data Protection. They emphasised that if oversight and understanding of the justice process is to be achieved, the use of algorithmic transparency standards, and the explainability of any AI process will be essential.

10. Public Legal Education

Questions asked in the Call for Evidence	Number of respondents
Question 58: Do you think the public has sufficient understanding of our justice system, including key issues such as contempt of court? Please explain the reasons for your answer.	**24 (18%)**
Question 59: Do you think the government are successful in making the public aware when new developments or processes are made in relation to the justice system?	**23 (17%)**
Question 60: What do you think are the main knowledge gaps in the public's understanding of the justice system?	**24 (18%)**
Question 61: Do you think there is currently sufficient information available to help the public navigate the justice system/seek justice?	**24 (18%)**
Question 62: Do you think there is a role for digital technologies in supporting PLE to help people understand and resolve their legal disputes? Please explain your answer.	**26 (20%)**
Question 63: Do you think the government is best placed to increase knowledge around the justice system? Please explain the reasons for your answer.	**24 (18%)**
Question 64: Who else do you think can help to increase knowledge of the justice system?	**22 (17%)**
Question 65: Which methods do you feel are most effective for increasing public knowledge of the justice system e.g., government campaigns, the school curriculum, court and tribunal open days etc.?	**41 (31%)**

10.1 Public understanding of the justice system

Most respondents felt the public did not have a good understanding of the justice system and the key concepts, processes, and rules within the justice system.

Many respondents outlined that many people feel fear and confusion when faced with legal proceedings. Court users and organisations representing court users echoed this, saying that there is little understanding of the roles, responsibilities, and powers of different functions of the courts, such as the judiciary, barristers, and the CPS. Some respondents commented that media reporting often focuses on exceptional or controversial cases, so

the public do not have a full understanding of the justice system particularly the complexities of sentencing. Accessibility of the law and public understanding of the justice system were seen by many as important principles which underpin the rule of law.

Some respondents mentioned the lack of robust information plus the language and communications used in the justice system as being a barrier to public understanding. Employment Tribunals were highlighted as an area where good information exists, such as by Citizens Advice and the Advisory, Conciliation and Arbitration Service (ACAS), but it is not comprehensive or linked across sites. They noted that single sources of authority are needed to provide trusted and accessible information to people.

Some respondents commented on the lack of understanding about the role of the media in open justice, and that people often do not realise that certain information will be in the public domain or that journalists have a right to report on cases (unless reporting restrictions are in place).

Many respondents commented that the public have a vague understanding of concepts such as contempt of court but are not clear about how these concepts translate in practice. Social media and the ubiquity of smartphones mean that people publicly comment on cases without understanding the potential restrictions or why the restrictions are in place. Similarly, trials can be derailed by jurors conducting online research. However, some respondents mentioned the positive aspects of social media enabling better understanding of the justice system, including bloggers such as the Secret Barrister.

10.2 Awareness of new processes in the justice system

Most respondents felt that the public did not have a good awareness of new processes in the justice system. However, some respondents felt that was largely due to the public not being interested rather than the information not being available, and believed people would only be interested in developments in the justice system that were relevant to them personally. Other respondents felt the justice system is often portrayed negatively and is not given the same respect or attention that public services such as the NHS receive.

The digitisation of the justice system was mentioned by various respondents as an area that did not have enough scrutiny and they felt that the government should be doing more to publicise and consult on changes, alongside ensuring better stakeholder engagement and more transparent governance and milestones.

Some respondents highlighted specific areas of law that need better and trusted sources of information. For example, people often turn to social media forums that discuss employment law with no regulation or oversight of the accuracy or quality of the information being shared. Legal professionals highlighted that they rely on resources

behind paywalls such as CrimeLine, Westlaw and LexisNexis to stay informed of developments, but the general public is unlikely to be aware of these or pay for them.

Various respondents highlighted the difference between a press release that announces a new development and the need for consistent information and education that increases the public's knowledge and awareness of how the system works. One respondent highlighted the example of Canada as an area of good practice in terms of giving broad information about the work of the courts, offering infographics, open days and virtual tours.

10.3 Main knowledge gaps

Respondents raised a wide variety of knowledge gaps across the justice system.

In terms of information about rights, roles and responsibilities within the justice system, respondents felt that there were gaps in people's understanding of:

- The different types of court and differing rules and processes for each;
- The role and functions of different people in court, including the judiciary, barristers, and the CPS and external organisations such as ACAS;
- The points of contact for court users to speak to and seek help from;
- The right to legal aid in certain circumstances.

Respondents identified knowledge gaps in understanding key concepts, including:

- Defamation and contempt of court (how it works and why it is important for a fair trial);
- Sentencing and knowledge of how a court decision has been arrived at;
- Charging decisions made by the CPS and the police;
- The burden and standard of proof;
- The difference between criminal convictions and civil liability or responsibility;
- Compensation across different jurisdictions (e.g. employment vs personal injury).

Respondents also identified knowledge gaps in people's understanding of legal processes, including:

- Completing procedural documents;
- How to prepare a court case (drafting statements, presenting a case in court);
- How precedent works and which decisions it applies to;
- Out of court 'informal' outcomes including community resolution orders;
- Enforcement mechanisms.

10.4 Sufficient information available to navigate the justice system

Respondents had mixed views on whether sufficient information was available to navigate the justice system.

Some respondents felt that sufficient information was available, but it was scattered in lots of different places and there was no single, reliable source of information that people could access. More information was not needed, but rather better quality and accessible information. One respondent cited the Victims Code as being a good example of all relevant information being brought together in one place in an accessible way.

Some respondents felt that, even if sufficient information was available, many people find the court system intimidating and opaque. They considered that information alone was not enough to combat a lack of confidence and capability, and that many people still needed additional support. It was commented that courts often rely on third party providers such as Support Through Court to provide this additional support, despite funding for these services being precarious.

10.5 The role of digital technologies

Respondents were generally positive that digital technologies can have a role to play in resolving legal disputes. Some respondents cited particular initiatives, such as digital legal clinics and chatbots, as ways to widen access to legal support. However, most respondents also highlighted the risks around this, and felt that digital technologies should be deployed carefully to support and enhance people's experiences rather than replace human beings. This was particularly the case for respondents who raised the potential of AI, arguing that, while there was considerable potential to use AI to improve people's engagement with and experience of the justice system, effective safeguards must be in place before this type of technology is utilised.

Some respondents raised the potential for digital technologies to support wider public legal education about the justice system. Examples such as virtual courtrooms, short videos and animations, educational apps, and podcasts can all help make learning about the justice system more engaging.

10.6 Increasing knowledge of the justice system

Respondents had mixed views on who was best placed to increase knowledge of the justice system. Some respondents felt that the government should be providing and funding comprehensive information about the legal system and supporting people to exercise their rights. Others felt that government was not always trusted by people, particularly those challenging decisions made by the state, and therefore third sector organisations were best placed to provide this information and support. Some respondents felt a partnership approach between the government and third sector was the most appropriate way to ensure people can access the information and support they need to understand and navigate the justice system.

10.7 Methods for increasing knowledge of the justice system

Respondents highlighted the need for initiatives to improve the public's baseline understanding of the justice system and increasing knowledge to ensure people can exercise their legal rights when they need to. A range of methods were put forward, including:

- Government information campaigns;
- School curriculum, e.g. via citizenship classes;
- Court open days;
- Community outreach and information targeted to local population needs;
- Social media campaigns;
- Free online learning courses;
- Media educational products, e.g. BBC Ideas;
- Storylines in soap operas;
- Creation of a central justice hub with links to all relevant information in one place;
- Better training for the media on the impact of their reporting;
- Better training for court staff and judiciary on how to support people to navigate the justice system;
- Child-focused education for those with family members in the criminal justice system.

One respondent cited the 2019 UNODC/UNESCO report 'Strengthening the Rule of Law through Education' which includes measures the government could take to ensure a baseline public understanding of the justice system.

11. Impact Assessment, Equalities and Welsh Language

11.1 Impact Assessment

An Impact Assessment has not been prepared for this Call for Evidence response paper as the focus was to gather evidence, rather than consulting on a set of proposals. Responses received to the Call for Evidence will help to inform the production of an Impact Assessment for any future policy proposals.

11.2 Equalities

Section 149 of the Equality Act 2010 requires public authorities, including the Ministry of Justice, to have due regard to the need to:

(a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

(b) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.

An Equality Analysis has not been prepared for this Call for Evidence response paper as the focus was to gather evidence, rather than consulting on a set of proposals. Responses received to the Call for Evidence will help to inform the production of Equality Analysis when considering the likely impacts on people with protected characteristics: disability, race, gender reassignment, age, religion or belief, sex, sexual orientation, pregnancy and maternity, marriage and civil partnership of any future policy proposals.

11.3 Welsh Language Impact Test

A Welsh language version of this document is available at Call for Evidence document: Open Justice, the way forward - GOV.UK.

12. Conclusion and next steps

The Ministry of Justice would like to thank all respondents for their contribution to the Call for Evidence on Open Justice. This call for evidence will inform the government's continuing work on supporting and strengthening the openness of our courts and tribunal services and upholding the rule of law. We will continue our engagement with interested stakeholders as we develop policies in this area.

Annex A – Stakeholder Groups

Stakeholder Group	Number of respondents	Percentage of respondents
Individuals, court users, litigants in person	29	22%
Non-Government Organisations (NGOs), charities, civil society groups	26	20%
Legal professionals, legal associations, law firms	26	20%
Academia	16	12%
Media	16	12%
Judiciary and judicial associations	6	5%
Government agencies and regulators	5	4%
Police and Crime Commissioners	4	3%
Business and Lawtech	3	2%
	131	**100%**

Alternative format versions of this report are available on request Open Justice Policy at openjusticepolicy@justice.gov.uk