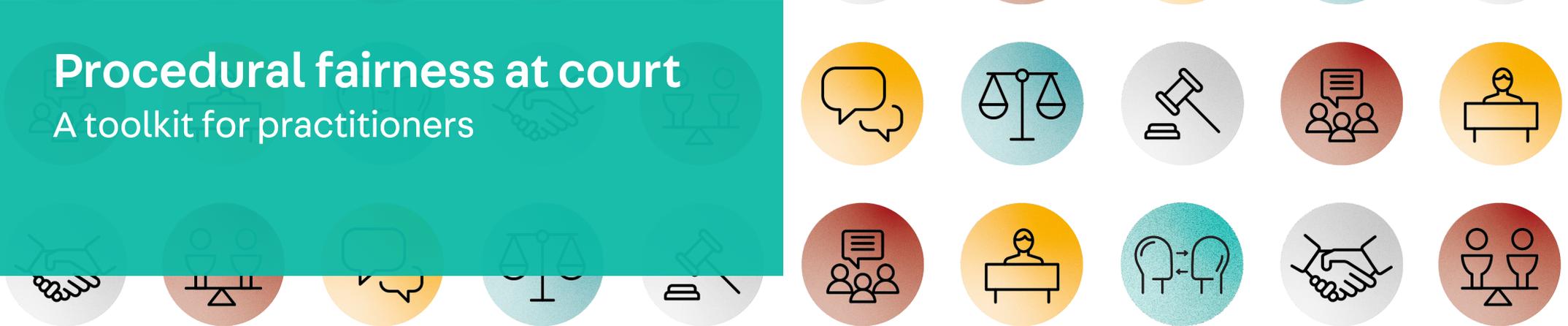


# Procedural fairness at court

A toolkit for practitioners



## About the Centre for Justice Innovation

The Centre for Justice Innovation seeks to build a justice system which all of its citizens believe is fair and effective. We champion practice innovation and evidence-led policy reform in the UK's justice systems. We are a registered UK charity.

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**With thanks to:** Carmen Robin D'Cruz, Phil Bowen, Vicki Morris and Claire Ely for their contributions.

This toolkit has been developed with the aim of sharing and championing good practice at court. This work has been generously supported by our funders, the Hadley Trust and through the Monument Fellowship.

We would like to extend our thanks to our sister organisation, the Center for Court Innovation, for allowing us to adapt a number of their resources on procedural justice to ensure they are as relevant and useful as possible for court practitioners in the UK.

# Introduction

The experience of attending court – whether you are there as a defendant, litigant, victim or to support a friend or family member – can be a distressing and confusing one. From the moment you arrive at the security screening of the court building, the court environment can feel unfamiliar and, at times, intimidating. Waiting times can be long, and people often don't know where they're meant to be, or what to expect. And very often, once they have had their hearing, they don't understand what has just happened.

At the Centre for Justice Innovation, we believe in having a justice system which everyone believes is fair and effective. While we recognise that there is probably little we can do to make court an enjoyable or stress-free experience, we believe that court users should understand the court process clearly and feel treated fairly by court staff. From small, individual adjustments and physical changes to the environment to systematic changes at an agency level, we know that we can improve people's perceptions of how fairly they were treated at court. This concept known as procedural fairness.

## Why should we care about procedural fairness?

To have a fair court system, people need to understand what's happening, need to feel respected, treated with decency, that decisions are reached fairly and with neutrality, and that their voice has been heard. Indeed, it's hard to imagine a court system that could be described as fair which does not promote these things. Understanding, respect, neutrality and voice— these are the four cornerstones of procedural fairness.

Ensuring people feel they have been given a fair trial requires people to feel they can effectively participate in proceedings and is essential in ensuring that victims and witnesses are able to give their 'best evidence'. However, over and above the principle of delivering a fair court system, we also know that a more procedurally fair court process impacts on outcomes— research shows that when people feel fairly treated in court, they are more likely to obey its decisions, are less likely to commit crime, less likely to contest decisions, and more likely to comply with supervisory agencies, such as children's services or probation.

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## Who the toolkit is for

This toolkit has been created for every professional working in the court environment. It is designed to help all court staff and practitioners, including judges, magistrates, court administrators, solicitors and barristers, legal advisors, security officers, court clerks, probation, social workers, youth justice workers, advocates, voluntary agency workers and any other court staff to assess their current practices and implement new processes that improve procedural fairness. It provides court practitioners with a brief overview of the evidence and helps them recognise and build on their current good practice to further embed procedural fairness in their court.

This toolkit has been developed to support court practitioners seeking guidance on how to improve court users' perceptions of the fairness of court processes and interactions. We know from efforts to improve procedural fairness in this country and elsewhere that all court staff have a role to play in enhancing procedural fairness. How court users are treated by every member of staff in the courthouse – including security, clerks, solicitors and the judge – contribute to the overall perceptions of a fair process.

SECTION 1

# The evidence

## What is procedural fairness?

Procedural fairness refers to the degree to which people perceive those in authority as legitimate and their decision-making as fair. If people feel fairly and respectfully treated, they will view the process, as well as those making the decisions, as more legitimate. This, in turn, impacts on the public's willingness to comply with that authority's decisions, i.e. to cooperate with justice agencies and to obey the law. Researchers<sup>1</sup> have identified four key elements that seem to drive people's perceptions of fairness:

1. **Understanding** – does the individual understand how decisions are made and what is expected of them?
2. **Respect** – does the individual feel that they are being treated with dignity and respect?
3. **Neutrality** – does the individual perceive that a decision is being made in an unbiased and trustworthy manner?
4. **Voice** – has the individual had an opportunity to be heard?

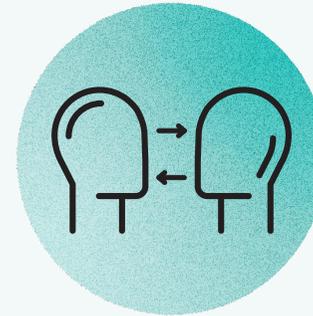
## Procedural fairness in the justice system

There is extensive evidence demonstrating the importance of procedural fairness in various different justice contexts, and the impact this has on people's perceptions of those settings and their associated agencies.

### Policing

There is considerable research exploring the influence of procedural fairness on policing, arguably the most prominent element of the justice system. This is particularly important as public perceptions of the legitimacy of police are crucial to determining the extent that people will cooperate with police and obey the law. A study from the National Policing Improvement Agency and the London School of Economics found that the most important factor motivating people to obey the law was the legitimacy of the police, and that "police legitimacy had a stronger effect on these outcomes than the perceived likelihood of people being caught and punished

## The four key elements that drive people's perceptions of fairness.



### Understanding

Does the individual understand how decisions are made and what is expected of them?



### Respect

Does the individual feel that they are being treated with dignity and respect?



### Neutrality

Does the individual perceive that a decision is being made in an unbiased and trustworthy manner?



### Voice

Has the individual had an opportunity to be heard?

for breaking the law.”<sup>2</sup> Conversely, a negative experience with the police can affect people’s willingness to engage with the police, even if they are a victim of a crime.<sup>3</sup> The research suggests that the perception of fair treatment may be of particular significance for young people in their interactions with the police.<sup>4</sup> This may be because young people are particularly attuned to perceptions of bias and signs of respect.

### Probation

For those on probation, service users report valuing probation officers that are respectful, non-judgemental, consistent and fair, and having the opportunity to tell their story and be listened to.<sup>5</sup> The evidence suggests that where perceptions of fairness are higher, rates of compliance with community orders are also increased, along with fewer breaches, and decreased reoffending rates while under community supervision.<sup>6</sup> Less positive relationships between service users and their probation officers can result in increases in missed appointments, or refusals to engage in a meaningful way. Specific examples of how procedural fairness is being implemented within probation practice include taking time to explain how the Probation Service and its processes work, explaining how decisions are made (including the reasons why), offering the chance to ask questions, and demonstrating a genuine interest in the wellbeing of service users.<sup>7</sup>

### Prison

Research also shows the impact of feeling fairly and equally treated within the prison system, whereby more positive feelings of procedural fairness within prison settings leads to lower levels of prison misconduct, better emotional well-being and mental health outcomes among prisoners, as well as lower rates of future offending.<sup>8</sup> For prison staff, more positive perceptions are linked to greater job satisfaction and commitment, lower stress and burnout rates, and feeling safer at work.<sup>9</sup>

## Procedural fairness in the courts

### Making courts fair

Ensuring people feel they have been given a fair trial (as outlined in Article 6 of the European Convention of Human Rights) requires people to feel they can effectively participate in proceedings.<sup>10</sup> Despite the evidence that many people who come to court do not feel treated fairly (see section 2), the evidence on procedural fairness in courts suggests we can change that. This research suggests that experiencing fair and transparent decision-making, as well as being treated with respect, shape perceptions

of the legitimacy of the court process in the eyes of victims, witnesses, litigants and defendants.<sup>11</sup> Procedurally fair practice, with its emphasis on encouraging engagement and participation from court users, helps defendants, litigants, victims and witnesses to understand proceedings and meaningfully contribute during hearings.<sup>12</sup> Similarly, victims who have not had their views heard are less likely to cooperate as witnesses again in the future and tend to make others in similar situations aware of their dissatisfaction.<sup>13</sup> In short, if we want courts to be perceived as fair by those who use them, we need them to adopt procedurally fair practice.

**“ To go into court as an addict but to be seen as a human being was the start of my journey to treatment.**

Family Drug and Alcohol Court parent

### Improving outcomes

The evidence suggests that when court users perceive the court process as fair and feel respected and heard, they are more likely to accept and comply with the court’s decision, have a positive view of the court and the justice system more widely, and obey the law in the future.<sup>14</sup>

Research conducted in a range of court settings, including criminal and family courts, has shown that the experience of the court process is more important than the court outcome.<sup>15</sup> Procedural fairness has a greater impact on court users’ views of the court system than whether they ‘won’ or ‘lost’ their case. There is significant evidence demonstrating that the acceptance of court decisions and overall opinion of the court system are linked more to the individual’s experience during the court process than the actual outcome.

### Particular groups

Research suggests that a procedurally fair court experience is likely to have a significant impact for all individuals. However, there is some evidence that it may be particularly important to the following groups.

- **Children and young people:** Research has demonstrated that young people’s perception of their sentencer has the biggest impact on their opinion of the overall fairness and legitimacy of the court system, even when controlling for the outcome of their case.<sup>16</sup> Youth courts in England and Wales are already subject to a range of adjustments intended to make them more suitable for children and young people,

including, for example, having specialist court sittings that are closed to the public with less formal courtrooms, and more direct engagement between the judiciary and children and young people. In our own research, we have identified innovative practices that involved children and young people, such as direct engagement dialogue with magistrates and adjustments to the physical layout of the courtroom, were considered to have improved their experience of the court system.<sup>17</sup>

**“ Speak directly at me! Not my solicitor.**

Young person from Young People's Voices paper

- **Young adults:** Research suggests that the use of complex language and legal jargon in the court and its formal setting makes it difficult for young adults to understand proceedings due to continuing developments in maturity and brain development. The process, therefore, can be hard to follow, intimidating, and with limited opportunity for the young adult to have their voice heard and engage directly in the process.<sup>18</sup> Our report, “A fairer way: procedural fairness for young adults at court”, published in 2018, sets out a model for a procedurally fairer court process for young adult defendants in England and Wales.<sup>19</sup>

**“ They speak a different language.**

Young adult from Young Adult Voices paper

- **People who have experienced trauma:** While the court experience is a negative one for many, it may be particularly distressing for individuals who have experienced trauma, especially those who have experienced domestic abuse, who may be re-traumatised through the perception of negative treatment or language from court staff, or feelings of hopelessness over the outcome of the case. Trauma can also impact on an individual's ability to understand the court process. Many court hearings - such as care proceedings or child arrangement hearings - are in themselves traumatic. Enhancing procedural fairness in the court may reduce court user's anxieties and the risk of re-traumatisation.<sup>20</sup>

- **People from communities with low levels of trust in the justice system:** The Lammy Review, published in 2017, highlighted racial disproportionality in all areas of the criminal justice system.<sup>21</sup> This disproportionality has led to anger and a lack of trust in criminal justice agencies. In general, Black, Asian and Minority Ethnic (BAME) individuals report less trust in the justice system and greater negative experiences with legal authorities, with over half (51%) of British-born BAME people believing that the criminal justice system discriminates against particular marginalised groups and individuals. There is evidence that procedural fairness can improve perceptions of racial bias and inequality among BAME communities. If individuals from BAME backgrounds experience a criminal justice process that is marked by respect, understanding, neutrality and a voice for all, then this will build trust in the system and lead to greater cooperation with justice outcomes and agencies.

**“ This court is different. We don't do conflict. We minimise hostility. This is about solving problems.**

Family Drug and Alcohol Court judge, to a parent

### Procedural fairness in problem-solving courts

While procedural fairness has been shown to be an important component of any court setting, it is a particularly significant factor in the growing evidence demonstrating the benefits of adopting problem-solving approaches in court.<sup>22</sup> Problem-solving courts are a diverse family of court models, which combine a multi-agency approach to assessment, supervision and intervention with judicial monitoring - the process by which individuals are regularly brought back in front of the same judge to discuss progress, challenges and opportunities for change.

**“ I much prefer having the same people so I don't have to explain myself constantly.**

Young person from Young People's Voices paper

**“ [When] the Judge [was] listening to me and talking to me... I liked the approach and I did not feel judged. It's the first time I've felt like that in a long time.**

Belfast Substance Misuse Court service user

Although problem-solving courts represent a very small percentage of court hearings, the evidence strongly suggests that they can improve outcomes, and that they do so in large part because the process of judicial monitoring enhances perceptions of procedural fairness. Research on the most common type of criminal problem-solving court, the drug court, suggests that the use of judicial monitoring enhances their perceptions of procedural fairness<sup>23</sup>- as an influential, multi-site evaluation of drug courts in the USA concluded, “The most striking finding in this research is the power of the judge, and judicial interactions with the offenders, to promote desistance... Drug court participants who reported more positive attitudes toward the judge had greater reductions in drug use and crime.” In the family justice system, the most established and evaluated problem-solving court model is the Family Drug and Alcohol Court (FDAC), an alternative problem-solving approach to public law care proceedings. Extensive research on FDAC has highlighted the importance of the interactions between the judge and parents in the court’s success.<sup>24</sup> Parents valued being given the opportunity to have their voices heard by the judge and recognised the impact of the judge’s encouragement in helping them to maintain their motivation to change, and they felt that they understood the decisions made by the judge, even when those decisions went against them, leading to significantly fewer contested hearings than in standard proceedings.<sup>25</sup>

**“ I have never heard parents speak so openly in court as they do in FDAC. Confidence develops. You see them build a relationship with the judge.**

Local Authority social worker

## SECTION 2

# The court experience

## Experiences of the court

At present, there is plenty of evidence to suggest that people who come to court do not feel fairly treated. Access to information is often lacking for individuals preparing to attend court, as well as once a court user arrives at court. A recent study conducted by Revolving Doors on improving defendant engagement in criminal court, on behalf of Her Majesty's Courts and Tribunal Service (HMCTS) found that there is a lack of clear guidance on what to do, where to go, or who they can direct their basic queries to. The report found that criminal courts often failed to provide relevant or user-friendly information to court users to help them understand the process, or to help them to make informed decisions, particularly around accessing legal representation. There was also a lack of information and signposting to local services to help court users to address their needs.<sup>26</sup>

Similar findings have been found outside of criminal court. Recent research looking at care proceedings, found that “Parents wanted clearer explanations of the court process... Most parents felt the court treated them with a lack of respect...”<sup>27</sup> Research examining the extent that people are able to effectively participate in their court hearings (family, crime and tribunals) found that individuals were often “silenced and marginalised” during proceedings.<sup>28</sup>

In our own research, we have consistently found that through its complex procedures, concepts and language, the court process can disempower and alienate court users, leading to a lack of engagement and participation. Moreover, over the past twelve years, resource challenges faced by court system, resulting in court closures and cuts to legal aid, have created further barriers to court user participation due to long waiting times for hearings. Moreover, the hastened move to virtual hearings, required by the Covid-19 pandemic, raise new opportunities and challenges for how fairly treated people coming to court feel.

## Practice challenges

There is no doubt that there are a range of practice challenges which can undermine efforts to uphold principles of procedural fairness in our courts. These include:

### Court backlogs

A report from the Criminal Justice Joint Inspection, published in May 2022, outlined how most agencies within the criminal justice system have still not returned to their pre-Covid functioning, with some still operating at “unacceptable levels”.<sup>29</sup> The report highlighted a number of ongoing issues, including that the number of Crown Court cases that were waiting for longer than a year had increased by more than 340% since the first lockdown in March 2020.<sup>30</sup> The Chief Inspectors of Police, Crown Prosecution Service, Probation and Prisons warn that without a coordinated approach to recovery there is a risk of further fractures within the justice system, leading to a greater strain on our courts. Within the family justice system, the most recent family court statistics (January – March 2022)<sup>31</sup> describe a similar picture of delays and court backlogs. The Law Society of England and Wales has persistently voiced their concern about the significant backlogs in the family courts – which pre-date the pandemic, detailing how delays can cause significant harm as well as uncertainty for the parties involved.<sup>32</sup> The impact of delays continues to be felt particularly in care proceedings. On average, care cases took 49 weeks in the period from January to March 2022, up six weeks compared to the same quarter in 2021. There are also significant delays in private law family cases, impacting on children’s contact with their parents.

Not only do backlogs delay people getting to court, but backlogs can also reinforce a focus on the speed of court hearings, which may be at the expense of fairness. Busy courts with extensive daily court lists often result in the need for court staff to communicate vast amounts of complex legal information quickly to ensure the smooth and prompt running of the court, without any time to explain in plain language or check that people understand. This can undermine the court’s ability to promote and maintain procedural fairness.

### **Language and communication needs**

A lack of available data about court users' preferred spoken and written languages means that court users with limited English often must navigate the court process without appropriate language support.<sup>33</sup> Of the translation and interpretation requests that were recorded by criminal justice agencies, the vast majority (89%) came from HM Courts and Tribunals Service, with approximately 150,000 requests in the year to March 2020. The actual number of individuals in the court system in need of language support is likely to be much higher given the number of agencies that fail to record this information, as well as the exclusion of individuals who were not offered language support, and those who were offered it but chose not to use it.

### **Communication needs and neuro-diversity**

Court hearings can be difficult enough to follow for most people, particularly when processes aren't explained and complex legal language is used, but can be especially challenging for individuals with neuro-divergent conditions such as ADD/ADHD, autism, traumatic brain injury or other learning difficulties and disabilities. A joint report, looking at neuro-diversity in the justice system, from three criminal justice inspectorates (HM Inspectorate of Prisons, HM Inspectorate of Probation and HM Inspectorate of Constabulary and Fire and Rescue Services) found a clear lack of consistent and coordinated support for neuro-divergent people going through the justice system.<sup>34</sup> The report concludes that more effective screening tools are needed in order to improve the identification of communication needs and neurodiversity, and in turn raise awareness and understanding in relation to neurodiversity and the support that neuro-diverse individuals need to effectively participate in the court process.

### **Remote hearings**

In the last few years, and rapidly accelerated by the Covid-19 pandemic, there has been a move towards a greater use of remote hearings at court, where some or all participants attend by video or audio rather than in person. This has drastically changed some people's experience of the court process. A recent evaluation completed by HMCTS on experiences of remote hearings during the pandemic found that, in general, court users were slightly more satisfied with remote hearings due to benefits such as convenience, reduced costs and reduced anxiety. Legal representatives were also positive about the benefits, particularly during the pandemic, but were undecided about their use going forward. Judges also had a mixed reaction to remote hearings, with half believing they are effective at creating an environment similar to that of in-person hearings, but concerns were raised about the impact on well-being and workload.<sup>35</sup> A rapid consultation undertaken by the Nuffield

Family Justice Observatory (NFJO) specifically focused on remote hearings in the family courts found that the majority of professional respondents saw a continuing role for certain types of remote hearing, although many felt that the decision should be made on a case-by-case basis.<sup>36</sup>

However, the use of virtual hearings can also have a negative impact, particularly on neuro-divergent court users and those with other communication needs. A 2020 report from the Equality and Human Rights Commission examined the inclusivity of the justice system and almost all the criminal justice professionals interviewed felt that use of video hearings does not enable defendants to participate effectively and reduces opportunities to identify if they have a disability.<sup>37</sup> Similarly, the NFJO consultation<sup>38</sup> raised concerns about the use of remote hearings where intermediaries or interpreters are required, and noted significant challenges facing litigants in person. HMCTS recognises the need for greater support for vulnerable court users when attending a remote hearing, in order to ensure that all court users can effectively participate in their hearings. Furthermore, this shift to virtual hearings can also mean that court users are unable to avail themselves of in-court support, such as advice or signposting services to help them to address their needs.

As a result of the different experiences of court users going through in-person or virtual hearings, there are a number of varying strategies that can be employed to improve the perceived fairness of the process, depending on whether the court user is attending court in person, or attending remotely. This will be outlined in Section 3 of this guidance.

## SECTION 3

# Putting procedural fairness into practice

## Improving procedural fairness in the courts

In the following section, we outline strategies and measures that can be implemented to support court staff to ensure that procedural fairness is promoted, as well as to enable them to monitor court users' perceptions of fairness in the court. Each of the recommended strategies is linked to at least one of the four key dimensions of procedural fairness - neutrality, voice, respect and understanding.

Efforts to improve procedural fairness in a local court need not require large-scale investment and transformation, and instead enhanced practices can be incorporated into existing training and monitoring procedures. Maintaining clear and respectful communication between court staff and court users is the most basic, yet most effective, way of ensuring a procedurally fair process. To a large extent, improving fairness in the court does not have to be a complicated or arduous process. Simple, often unnoticed, practices such as making eye contact and addressing parties by name can have a big impact on making people feel fairly treated.

Making large systemic changes, on the other hand, to longstanding processes can be very difficult, and each individual working in such a system may feel that they have little control over how things are done. It may seem particularly challenging to propose a change of culture and try new strategies when the court system is under enormous strain resulting from resource constraints and a large case backlog, worsened during the pandemic. However, improving the fairness of the court process is a strategic objective of a number of agencies working within the court system. The Judicial College Strategy 2021-2025 states its commitment to expanding its training package, including training on diversity, inclusion and dealing with issues fairly, and "ensuring that all processes for which they have a remit are transparent and fair."<sup>39</sup> The Legal Services Board seeks to provide fair outcomes for all, so that individuals "of all backgrounds have ready access to the services they need, are satisfied with the service they receive and can easily access quick and fair redress."<sup>40</sup> The Bar Council, which represents 16000 practicing barristers in England and Wales, outlines fairness and respect as two key values in delivering justice, and "promoting equal access to

justice for all."<sup>41</sup> The recent Target Operating Model published by the Probation Service highlights the importance of procedural justice in risk management, public protection, and delivering effective supervision.<sup>42</sup> Finally, the Strategy and Change Directorate of HMCTS states its desire for "every user to feel they have been treated swiftly, fairly and with respect."<sup>43</sup> It is therefore essential for senior leadership in all agencies working within the courts to prioritise this work if they are to achieve these aims.

## Putting it into practice

There are specific strategies and tools that can be employed by practitioners in order to enhance procedural fairness within the courts and as a result increase public trust in the court system. Here we detail the various ways that court staff can improve the court experience for those that attend. We have organised the measures that can be taken into three levels of strategies: Individual, which any court professional can implement in their own behaviours; Environmental, referring to changes to the physical setting; and Agency, or system-level changes. First, we will describe each of the recommended strategies, before providing practical tools to allow you to assess and monitor their implementation into your day-to-day practices.

*NOTE: Throughout this section and in the associated resources in Section 4, for ease we use the term, 'court users' to refer to not only defendants but children & young people, parents and carers who may be appearing at court.*

### Individual

Members of the judiciary and all other court staff can engage in small behaviours like using a respectful tone when speaking to parties and explaining court etiquette to help answer potential questions and concerns, which contribute to a sense of fairness and justice. An individual can contribute to the improvement of procedural fairness at court by incorporating the following actions:

**Do introductions:** Courtroom staff should ensure there is clear and respectful communication within the courtroom. Legal representatives should make themselves known to parties prior to their hearing. At the beginning of each court session, simple and quick introductions, including an explanation of each professional's role will ensure the defendant's understanding of the proceedings. This can be initiated and led by the judge, magistrates or legal advisor. They should address the person by name in order to personalise the interaction and demonstrate respect. U R

**Demonstrate impartiality:** In order to demonstrate neutrality and to avoid the appearance of collusion, all professionals in the court room should address each other by name, and treat all legal representatives with the same courteous respect. N R

**Check additional needs:** Efforts should be made to ascertain if the court user has any additional needs, including language support, or any other communication or neuro-divergent needs. This should be routinely asked by legal representatives prior to the court hearing, and communicated to other court staff. This can also be queried by probation staff if they are involved in the case prior to the hearing. Adjustments to how the court hearing is run, including using an interpreter, or taking additional time to explain the process, should be made in response. U

**Address the court user:** When seeking information during the hearing, judges/magistrates should speak directly to the court user, rather than their solicitor. When engaging with courts users with limited English, court staff should demonstrate respectful body language to court users with limited English proficiency, speak slowly in plain language and take time to check understanding. Where an interpreter is employed, court staff should speak directly to the court user rather than the interpreter. R U

**Utilise non-verbal cues:** Body language can be an excellent indicator of whether an individual is engaged and listening during proceedings. All professionals in the court room should make use of non-verbal cues, such as eye contact, to demonstrate that they are engaged and to acknowledge the court user. R

**Prepare scripts:** Pre-prepared scripts which model best practices could be created. Prepared scripts can be a helpful tool for judges to outline key points that should be covered and help convey the required information efficiently. Scripts that anticipate challenging situations can also help court staff to manage difficult cases, such as with upset family members or individuals presenting with challenging behaviour. In order to enhance the personal interactions through increased direct communication between the individual and judge, these scripts should be personalised to each hearing and court user. U R V

**Use open-ended questions:** It's important to confirm that parties understand what they are being told. Open-ended questions provide a greater opportunity to ascertain if the court user truly understands what is being said during proceedings. If possible, judges and magistrates should provide defendants/litigants with some time to have their voices heard by allowing them to tell their side of the story. Another useful strategy that may be employed is to ask the person to repeat and summarise the proceedings to ensure they understand. U V

**Explain the court process:** Where possible court sessions should start on time, however when delays occur, court staff should make all court users aware and provide a reason for this delay. Court staff should provide information about the order of cases which demonstrates respect for all those waiting for a case to be heard. Judges and magistrates should take time to outline the court process to the defendant/litigant and explain how decisions are made. U R

**Be aware of language:** Plain language should be used wherever possible to ensure that the court user can follow and understand the proceedings taking place. Judges, magistrates and legal representatives should make an effort to explain any complicated legal language that is used. U

**Attend training:** All staff should attend regular training including on topics such as procedural fairness and its importance in the court, motivational interviewing, disability awareness and implicit bias. U R N V

## Environmental

With consideration for those who attend court, a number of adjustments can be made to the physical environment to ensure that every court user feels comfortable and respected in the space and has an understanding of what their day in court should look like. These adjustments include:

**Ensure respectful security screenings:** Security screenings should be carried out respectfully. Court security officers, like all staff, should be trained on procedural fairness. They should explain the procedures clearly as well as use clear and visible signs to describe the security process. R U

**Ensure accessibility:** Ensure that the court building is accessible for individuals with disabilities, for example with clearly designated wheelchair-accessible entrances and elevators, and visible signage. All oral and written instructions should have adapted versions for visually and hearing impaired court users. Clear and simple language should be used to aid understanding for individuals with limited English. Victims should be able to access a waiting area away from their accused perpetrator(s). R U

**Display information:** Courts should try to ensure that there are clear and informative physical signs displayed around the court building that highlight simple and consistent court rules. Signs should use an easy-to-read font and size, be written in plain language without legal jargon and be displayed at eye level for maximum visibility. Signs with simple, easy-to-understand messaging should be available for individuals with limited English. U

**Provide information:** Information helpdesks and community advice services can provide much needed assistance for court users to find out vital information about the court process. Pre-prepared information materials and resources, which can be given to court users to read while they wait or left in waiting areas, can help court users to gain a better understanding of court waiting times, the order of proceedings and what will happen during their court proceeding as well as answer some frequently asked questions. U R

**Make adjustments to the courtroom:** Situating the judge's bench at eye level allows for eye contact between the judge and the court user during proceedings, while placing microphones around the courtroom to amplify what the judges and other court staff are saying can help court users to hear and understand what is happening. U V

## Agency

Changes must be implemented and cascaded down from an organisational level to ensure that every staff member is committed to the same principles of fairness and justice. Some examples of changes that can be made at an agency-level include:

**Align court objectives with practice:** Ensure the mission and objectives of court and related agencies align with principles of procedural fairness and promote practices that support these objectives. U R N V

**Review recruitment processes:** Insert principles of procedural fairness into the recruitment process and prioritise candidates who demonstrate these elements. U R N

**Encourage staff training:** Create a training programme and train staff at all levels in the principles and importance of procedural fairness, and in motivational interviewing and other advanced communication techniques. Training should be multi-disciplinary and attended by all in order to improve the overall culture of the court. All court staff should be trained in implicit bias to better understand their own decision-making processes. U R N V

**Utilise procedurally fair scripts:** Create generic organisational pre-prepared scripts that each court professional can adapt to their own needs. U R N V

**Adjust court procedures:** Implement procedural measures in the court in order to improve the experience of coming to court, such as by incorporating a community advice service to ensure that court users can receive the necessary support / referral routes to prevent further court appearances. U R

**Engage with local services:** Consider improving knowledge of and making connections with local service providers in order to be able to refer court users on a voluntary basis to help them to address any additional needs they have e.g. housing, debt, mental illness, substance misuse. U R N V

**Monitor individual and environmental conditions:** Ensure that there are monitoring procedures in place in order to regularly assess whether individual practices and environmental conditions are aligned with the court's mission and objectives and are considered procedurally fair as outlined above. This can be achieved through the use of self-assessments and other court observation tools. U R N V

**Ask for feedback:** Collect feedback regularly and implement that feedback to improve court users' experiences. Providing court users with the opportunity to offer feedback regarding their experiences gives them a voice and demonstrates to them that they are being heard. This can be done through comment boxes left in accessible areas with comment cards provided to anyone in the court building. V R

## How can we help?

We believe that procedural fairness should be an integral component of how courts measure success. Procedural fairness prioritises treating people with dignity and respect, ensuring they understand the process, that they have a voice, and that they believe decisions are made neutrally and fairly. This is important for promoting public trust and a belief in the legitimacy of the justice system. A strong belief in the justice system increases the likelihood that people will cooperate with justice agencies and comply with their decisions.

The Centre for Justice Innovation champions and supports innovations that emphasise procedural fairness, including those that seek to address racial disparities within the justice system. We can offer advice, support and training to areas seeking to enhance the procedural fairness of their court. For more information, please visit our website: [www.justiceinnovation.org](http://www.justiceinnovation.org)

## SECTION 4

# Toolkit resources

## Introduction to the resources

There are five main resources included within this pack. These have been adapted to account for the varying roles and responsibilities of a range of court professionals, but we hope these will be useful to court staff and court users in both criminal and family courts, and in youth court settings. The five resources are:

1. **Practical tips for improving procedural fairness at court:** This resource outlines a number of actions that can be implemented throughout the court process to improve procedural fairness. Guidance is provided for (i) in-person court hearings and (ii) remote court hearings;

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2. **Practice guide for (i) judges and magistrates; (ii) legal representatives; (iii) probation staff, social workers and youth justice workers; and (iv) all other court staff:** This help-sheet provides court staff with guidance to assess individual, environmental and organisational strategies that can improve procedural fairness at court;

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3. **Self-assessment of court practices:** This assessment tool can be used by judges, magistrates and other court staff to help them to assess their individual practices, as well as the environmental and agency factors that may cultivate stronger perceptions of fairness among court users;

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4. **Courtroom observation assessment:** This assessment tool can be used by anyone, not just court staff, who is observing court proceedings, to assess the interactions between judges, magistrates, or any other court staff, and court users. A number of different courtrooms within the court should be observed to provide a more general view of the court as a whole;

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5. **Court user feedback form:** This form can be completed by any court user who attends court, either in-person or remotely, in order to gather feedback on their experiences with the aim of improving the experience for future court users.

## How to use them

The self-assessment tool and courtroom observation assessment can be used regularly to monitor how procedurally fair the court process. Court professionals seeking to improve procedural fairness at court can compare the findings from these assessments with the tips outlined in the first resource. This provides staff and practitioners with some guidance on what practices could be implemented or adjusted to improve the procedural fairness of court processes occurring both in-person and remotely. Similarly, court professionals can refer to the practice guide at any time as a quick reminder of a number of ways that changes can be made, at an individual, environmental and agency level.

Court users, including family and friends of defendants and litigants, may also wish to use the observation assessment to evaluate the procedural fairness of the court hearings they observed. All court users should be provided with a feedback form to allow them to reflect on their experience at court. Where appropriate, assistance can be provided by probation staff, social workers and youth justice workers to ensure that court users receive the necessary support in completing the form.

If you would like any advice or support to use these resources, please contact the Centre using the following details:

e: [info@justiceinnovation.org](mailto:info@justiceinnovation.org)  
 t: 0203 735 9436  
 w: [www.justiceinnovation.org](http://www.justiceinnovation.org)

## PROCEDURAL FAIRNESS TOOLKIT: 1A

### Practical tips for improving procedural fairness at court

#### ARRIVING AT COURT

**Accessibility:** Wheelchair-accessible entrances and elevators are clearly signposted, and all oral and written instructions have adapted versions for visually and hearing impaired court users.

**Security screening:** Court security officers are respectful to court users and explain the procedures clearly as well as use clear and visible signs to describe the security process.

#### COURT ENVIRONMENT

**Signage:** Simple, clear and informative physical signs are displayed around the courthouse. Signs are in an easy-to-read font and size, written in plain language without legal jargon and displayed at eye level for maximum visibility.

**Information desks:** Courts have an information helpdesk or community advice service for court users to access, with the opening hours clearly displayed. Where such a service isn't available, pre-prepared information resources are provided to help court users to gain a better understanding of court.

**Facilities:** The building's facilities are well-maintained and clean to help to create a respectful atmosphere in the court's lobby or waiting area.

#### BEFORE COURT PROCEEDINGS

**Court rules:** There are simple and concise courtroom rules which are clearly displayed throughout the court building.

**Order of the day:** Timings for the day are clearly explained to court users, including the order that cases will be called, and any delays to court proceedings. Court users are kept informed regarding timings.

**Legal pre-meet:** Legal representatives introduce themselves and spend a short time explaining the court process with parties before their hearing.

**Check for additional needs:** Efforts should be made to check whether court users have additional needs that require support, including language support, or any other communication or neuro-divergent needs and make any necessary adjustments.

#### DURING COURT PROCEEDINGS

**Do introductions:** Judges and magistrates introduce themselves and the other court staff present and explain their roles at the beginning of each court session to ensure the court user's understanding of the proceedings.

**Greet all parties neutrally:** Judges and magistrates address all court staff by name, and treat all legal representatives with the same courteous respect.

**Explain the court process:** Court users are provided with information about the order of cases. Judges and magistrates outline the court process to the court user and explain how decisions are made.

**Explain extraneous factors:** When delays occur, court users are made aware and given a reason for this delay.

**Use plain language:** Where possible, the use of complex language or legal jargon is avoided. Any complicated legal language that must be used is clearly explained.

**Be aware of body language:** Use of non-verbal cues, such as eye contact, to demonstrate engagement and to acknowledge the defendant.

**Check understanding:** Open-ended questions are used to ascertain if the court user truly understands what is being said during proceedings.

**Personalise scripts:** Judges and magistrates can use pre-prepared scripts which model best practices. These scripts are personalised to each hearing and court user to enhance the interactions.

#### FOLLOWING COURT PROCEEDINGS

**Feedback:** Court users are given the opportunity to offer feedback regarding their experiences and implement that feedback to improve court user experience.

## PROCEDURAL FAIRNESS TOOLKIT: 1B

## Practical tips for improving procedural fairness during remote hearings

### BEFORE COURT PROCEEDINGS

**Check access to technology:** Attempts are made prior to the court hearing to check court users' access to and proficiency with technology to the extent that they will be able to log in and attend their hearing without undue stress.

**Check for additional needs:** Efforts should be made to check whether court users have additional needs that require support, including language support, or any other communication or neuro-divergent needs and make any necessary adjustments.

**Consider suitability for remote hearings:** Before scheduling a hearing, court staff consider whether the court user will be able to effectively engage in their hearing remotely. If not, efforts are made to move to an in-person hearing.

**Allow for extra time:** Additional time is factored in during scheduling, as virtual hearings can take extra time as a result of technology difficulties, interruptions or distractions, as well as a need for greater breaks due to the screen.

**Legal pre-meet:** Legal representatives introduce themselves and spend a short time explaining the court process with parties before their hearing.

### AT THE START OF COURT PROCEEDINGS

**Supervise joining arrangements:** When making arrangements for court users to join the hearing, court staff should ensure that victims and/or witnesses, and defendants/litigants do not join the virtual waiting room at the same time unsupervised.

**Do introductions:** Judges and magistrates introduce themselves and the other court staff present and explain their roles at the beginning of each court session to ensure the court user's understanding of the proceedings.

**Greet all parties neutrally:** Judges and magistrates address all court staff by name, and treat all legal representatives with the same courteous respect.

**Ask about environment:** Check with the court user whether they have access to a private space for the hearing or if others can overhear. If this isn't possible, be aware that the court user may have distractions and may need some things repeated.

**Outline IT arrangements:** Court staff explain at the beginning that there is always a risk of technological issues during virtual hearings, and what to do if these occur.

**Explain the court process:** Court users are provided with information about the order of cases. Judges and magistrates outline the court process to the defendant and explain how decisions are made.

**Explain extraneous factors:** When delays occur, the defendant and other attendees are made aware and given a reason for this delay. Defendants/litigants are given the opportunity to explain any potential distractions on their end.

### DURING COURT PROCEEDINGS

**Use plain language:** Where possible, the use of complex language or legal jargon is avoided. Any complicated legal language that must be used is clearly explained.

**Check understanding:** Open-ended questions are used to ascertain if the defendant truly understands what is being said during proceedings.

**Personalise scripts:** Judges and magistrates can use pre-prepared scripts which model best practices. These scripts are personalised to each hearing and court user to enhance the interactions.

**Avoid assumptions:** Judges and magistrates recognise that court users may act differently than they would in-person at court, including how they dress and their behaviour, and avoid making assumptions about this.

### FOLLOWING COURT PROCEEDINGS

**Feedback:** Court users are given the opportunity to offer feedback regarding their experiences and implement that feedback to improve court user experience.

**PROCEDURAL FAIRNESS TOOLKIT: 2A**

**Practice guide for judges & magistrates**

INDIVIDUAL	ENVIRONMENT	AGENCY
<b>I can:</b>	<b>The environment can:</b>	<b>Agency policies can:</b>
Introduce myself and my role and address court users by name <b>U</b> <b>R</b>	Be accessible for individuals with disabilities with clearly designated wheelchair-accessible entrances and elevators and visible signage <b>R</b>	Ensure the mission and objectives of the court align with the principles of procedural fairness and promote practices that support these objectives <b>U R N V</b>
Use non-verbal cues, such as eye contact, during hearings <b>R</b>	Help to put people at ease on arrival by ensuring security screenings are respectful and courteous <b>R</b>	Insert principles of procedural fairness into the recruitment process and prioritise candidates who demonstrate these elements <b>U R N V</b>
Demonstrate impartiality by treating every person equally and respectfully <b>R N</b>	Highlight court rules and security procedures by displaying clear and informative signs around the courthouse <b>U</b>	Stagger court appearance times to reduce security lines and waiting times, avoiding overcrowding and frustration <b>R</b>
Explain the court process, timings, and how decisions are made <b>U</b> <b>R</b>	Create a welcoming and respectful atmosphere with well-maintained waiting areas and public facilities <b>R</b>	Regularly assess environmental conditions and make adjustments as required <b>U R N V</b>
Personalise pre-prepared scripts to each court user <b>U R V</b>	Provide court users with information about the court process and waiting times through an information helpdesk or community advice service <b>U R</b>	Make available generic, pre-prepared scripts that models best practice, which each court professional can adapt <b>U R N V</b>
Use plain language and explain any complex legal terminology used <b>U V</b>	Offer pre-prepared information resources to court users that they can read while they wait <b>U</b>	Utilise monitoring procedures, such as court observation tools and self-assessments, to regularly assess whether individual practices are considered procedurally fair <b>U R N V</b>
Use open-ended questions to check understanding <b>U</b>	Facilitate better engagement and communication by situating the judge's bench at eye level <b>R</b>	Support the operation of a community advice service to ensure that court users can receive the necessary support / referral routes for support <b>U R</b>
Attend training to continue to improve knowledge and understanding of procedural fairness, implicit bias and other topics <b>U R N V</b>	Help court users to hear and follow proceedings by placing microphones around the courtroom <b>U</b>	Develop and co-ordinate a training programme for all court staff on a variety of topics and encourage staff to attend <b>U R N V</b>
		Prioritise establishing connections with local service providers in order to be able to refer court users to help them to address any additional needs <b>U R N V</b>
		Provide court users with the opportunity to feedback regularly and implement that feedback to improve court user experience <b>V R</b>

PROCEDURAL FAIRNESS TOOLKIT: 2B

## Practice guide for legal representatives

INDIVIDUAL	ENVIRONMENT	AGENCY
<b>I can:</b>	<b>The environment can:</b>	<b>Agency policies can:</b>
Introduce myself before the court hearing and explain my role and what court users can expect during the hearing U R	Be accessible for individuals with disabilities with clearly designated wheelchair-accessible entrances and elevators and visible signage R	Ensure the mission and objectives of the court align with the principles of procedural fairness and promote practices that support these objectives U R N V
Check with the court user if they have any additional needs, including language support, or any other communication or neuro-divergent needs, and ask for any necessary adjustments to the hearing be made U	Help to put people at ease on arrival by ensuring security screenings are respectful and courteous R	Insert principles of procedural fairness into the recruitment process and prioritise candidates who demonstrate these elements U R N V
Use non-verbal cues, such as eye contact, during hearings, to reassure the court user R	Highlight court rules and security procedures by displaying clear and informative signs around the courthouse U	Stagger court appearance times to reduce security lines and waiting times, avoiding overcrowding and frustration R
Demonstrate impartiality by treating every person equally and respectfully R N	Create a welcoming and respectful atmosphere with well-maintained waiting areas and public facilities R	Regularly assess environmental conditions and make adjustments as required U R N V
Include the court user in hearings, and avoid answering for them if the judge/magistrate asks them a question V	Provide court users with information about the court process and waiting times through an information helpdesk or community advice service R U	Make available generic, pre-prepared scripts that models best practice, which each court professional can adapt U R N V
Use plain language and explain any complex legal terminology used U	Offer pre-prepared information resources to court users that they can read while they wait U	Utilise monitoring procedures, such as court observation tools and self-assessments, to regularly assess whether individual practices are considered procedurally fair U R N V
Following the hearing, summarise what happened and use open-ended questions to check understanding U V	Facilitate better engagement and communication by situating the judge's bench at eye level R	Support the operation of a community advice service to ensure that court users can receive the necessary support / referral routes for support U R N V
Attend training to continue to improve knowledge and understanding of procedural fairness, implicit bias and other topics U R N V	Help court users to hear and follow proceedings by placing microphones around the courtroom U	Develop and co-ordinate a training programme for all court staff on a variety of topics and encourage staff to attend U R N V
		Prioritise establishing connections with local service providers in order to be able to refer court users to help them to address any additional needs U R N V
		Provide court users with the opportunity to feedback regularly and implement that feedback to improve court user experience V R

**PROCEDURAL FAIRNESS TOOLKIT: 2C**

**Practice guide for probation staff, social workers and youth justice workers**

INDIVIDUAL	ENVIRONMENT	AGENCY
<b>I can:</b>	<b>The environment can:</b>	<b>Agency policies can:</b>
Introduce myself and my role and provide some information about the Probation Service / Social Services/Youth Justice Service (if probation / social services/ youth justice service is involved prior to the hearing) <b>U R</b>	Be accessible for individuals with disabilities with clearly designated wheelchair-accessible entrances and elevators and visible signage <b>R</b>	Ensure the mission and objectives of the court align with the principles of procedural fairness and promote practices that support these objectives <b>U R N V</b>
Check with the court user if they have any additional needs, including language support, or any other communication or neuro-divergent needs, and ask for any necessary adjustments to the hearing be made <b>U</b>	Help to put people at ease on arrival by ensuring security screenings are respectful and courteous <b>R</b>	Insert principles of procedural fairness into the recruitment process and prioritise candidates who demonstrate these elements <b>U R N V</b>
Demonstrate impartiality by treating every person equally and respectfully <b>R N</b>	Highlight court rules and security procedures by displaying clear and informative signs around the courthouse <b>U</b>	Stagger court appearance times to reduce security lines and waiting times, avoiding overcrowding and frustration <b>R</b>
Use plain language and explain any complex legal terminology used <b>U</b>	Create a welcoming and respectful atmosphere with well-maintained waiting areas and public facilities <b>R</b>	Regularly assess environmental conditions and make adjustments as required <b>U R N V</b>
When giving evidence during a hearing, include the court user in the discussion where possible <b>V</b>	Provide court users with information about the court process and waiting times through an information helpdesk or community advice service <b>R U</b>	Make available generic, pre-prepared scripts that models best practice, which each court professional can adapt <b>U R N V</b>
Following the hearing, summarise what happened and explain what the next steps are with probation, social serves or the youth justice service <b>U</b>	Offer pre-prepared information resources to court users that they can read while they wait <b>U</b>	Utilise monitoring procedures, such as court observation tools and self-assessments, to regularly assess whether individual practices are considered procedurally fair <b>U R N V</b>
Use open-ended questions to check understanding <b>U</b>	Facilitate better engagement and communication by situating the judge's bench at eye level <b>R</b>	Support the operation of a community advice service to ensure that court users can receive the necessary support / referral routes for support <b>U R N V</b>
Attend training to continue to improve knowledge and understanding of procedural fairness, implicit bias and other topics <b>U R N V</b>	Help court users to hear and follow proceedings by placing microphones around the courtroom <b>U</b>	Develop and co-ordinate a training programme for all court staff on a variety of topics and encourage staff to attend <b>U R N V</b>
		Prioritise establishing connections with local service providers in order to be able to refer court users to help them to address any additional needs <b>U R N V</b>
		Provide court users with the opportunity to feedback regularly and implement that feedback to improve court user experience <b>V R</b>

## PROCEDURAL FAIRNESS TOOLKIT: 2D

## Practice guide for court staff (including security officers, court clerks, legal advisors etc.)

INDIVIDUAL	ENVIRONMENT	AGENCY
<b>I can:</b>	<b>The environment can:</b>	<b>Agency policies can:</b>
Introduce myself and explain my role and address court users by name U R	Be accessible for individuals with disabilities with clearly designated wheelchair-accessible entrances and elevators and visible signage R	Ensure the mission and objectives of the court align with the principles of procedural fairness and promote practices that support these objectives U R N V
Explain the court process, including timings for the day. Provide regular updates in the case of delays R U	Help to put people at ease on arrival by ensuring security screenings are respectful and courteous R	Insert principles of procedural fairness into the recruitment process and prioritise candidates who demonstrate these elements U R N V
Demonstrate impartiality by treating every person equally and respectfully R N	Highlight court rules and security procedures by displaying clear and informative signs around the courthouse U	Stagger court appearance times to reduce security lines and waiting times, avoiding overcrowding and frustration R
Greet court users as they arrive at court, explain the security process and direct them where to go next R U	Create a welcoming and respectful atmosphere with well-maintained waiting areas and public facilities R	Regularly assess environmental conditions and make adjustments as required U R N V
Direct court users to information desks or support services, or to where they can find information resources U	Provide court users with information about the court process and waiting times through an information helpdesk or community advice service R U	Make available generic, pre-prepared scripts that models best practice, which each court professional can adapt U R N V
Use plain language and explain any complex legal terminology used U	Offer pre-prepared information resources to court users that they can read while they wait U	Utilise monitoring procedures, such as court observation tools and self-assessments, to regularly assess whether individual practices are considered procedurally fair U R N V
Use open-ended questions to check understanding U V	Facilitate better engagement and communication by situating the judge's bench at eye level R	Support the operation of a community advice service to ensure that court users can receive the necessary support / referral routes for support U R N V
Attend training to continue to improve knowledge and understanding of procedural fairness, implicit bias and other topics U R N V	Help court users to hear and follow proceedings by placing microphones around the courtroom U	Develop and co-ordinate a training programme for all court staff on a variety of topics and encourage staff to attend U R N V
		Prioritise establishing connections with local service providers in order to be able to refer court users to help them to address any additional needs U R N V
		Provide court users with the opportunity to feedback regularly and implement that feedback to improve court user experience V R

**PROCEDURAL FAIRNESS TOOLKIT: 3**

**Self-assessment of court practices**

① Not at all ② Seldom ③ Sometimes ④ Almost always

<b>ARRIVING AT COURT</b>				
The court provides wheelchair-accessible entrances and elevators, which are clearly signposted	①	②	③	④
Court security officers explain the security screening procedures clearly and use clear and visible signs to support with this	①	②	③	④
Security screenings are carried out respectfully by court security officers	①	②	③	④
When court users arrive at court, timings for the day are clearly explained to court users, including the order that cases will be called	①	②	③	④
<b>COURT ENVIRONMENT</b>				
The court displays simple, clear and informative signs across the court, which are easy to read and understand	①	②	③	④
Courtroom rules are clearly communicated to court users through clearly-displayed signage and by staff	①	②	③	④
All oral and written instructions have adapted versions for visually and hearing-impaired court users, as well as those with limited English or literacy abilities	①	②	③	④
The court has an information helpdesk or community advice service where court users can seek information and advice	①	②	③	④
The court offers court users pre-prepared information resources to read while they wait, which help court users to better understand the court process	①	②	③	④
Public facilities in the building, including waiting areas and bathrooms, are well-maintained and clean	①	②	③	④
<b>BEFORE COURT PROCEEDINGS</b>				
Any delays to court proceedings that occur throughout the day are clearly explained to court users in a timely manner	①	②	③	④
Court users' English language proficiency is determined, and those with limited English proficiency have access to a court interpreter during proceedings	①	②	③	④
Court staff, including judges and magistrates, are familiar with local services that they can signpost court users to where appropriate	①	②	③	④

<b>DURING COURT PROCEEDINGS</b>				
At the beginning of proceedings, judges and magistrates introduce themselves and the other staff in the courtroom, and explain their roles	①	②	③	④
Court users are provided with a summary of the court process and what will happen during proceedings, including how decisions are made	①	②	③	④
Judges and magistrates treat all court staff and legal professionals neutrally with the same courteous respect	①	②	③	④
Judges and magistrates address court staff and court users by their names	①	②	③	④
Court staff use non-verbal cues, such as eye contact, when speaking with court users	①	②	③	④
All court staff use plain language where possible and any complicated legal language that must be used is clearly explained	①	②	③	④
Judges and magistrates use open-ended questions when speaking with court users	①	②	③	④
Judges and magistrates use pre-prepared scripts which they personalise to each hearing	①	②	③	④
<b>FOLLOWING COURT PROCEEDINGS</b>				
Court users are given the opportunity to offer feedback regarding their experiences	①	②	③	④
Changes are made to court practices and the court environment in response to court user feedback	①	②	③	④
Training is available to all court staff on a range of subjects, including procedural fairness, communication techniques and implicit bias, among other topics	①	②	③	④

**PROCEDURAL FAIRNESS TOOLKIT: 4**

## Courtroom Observation Assessment

Court name: \_\_\_\_\_ Court # \_\_\_\_\_ Date: \_\_\_\_\_ Time of observation: \_\_\_\_\_

<b>1.</b>	Court hearings started on time	Never	Sometimes	Mostly	Always	N/A
<b>2.</b>	Where delays occurred, the reasons for the delay were clearly explained to court users at the beginning of the hearing	Never	Sometimes	Mostly	Always	
<b>3.</b>	The judge or magistrates introduced themselves at the beginning of the hearing	Never	Sometimes	Mostly	Always	
<b>4.</b>	Court staff present during the hearing were introduced and their roles were explained	Never	Sometimes	Mostly	Always	
<b>5.</b>	Court users were provided with an overview of the court process, including how decisions are made, either by the judge, magistrate or another member of court staff	Never	Sometimes	Mostly	Always	
<b>6.</b>	Where necessary, a court interpreter was provided for court users with limited English proficiency	Never	Sometimes	Mostly	Always	
<b>7.</b>	The judge or magistrate addressed all court staff neutrally with the same respect	Never	Sometimes	Mostly	Always	
<b>8.</b>	The judge or magistrate addressed court staff and court users by their names	Never	Sometimes	Mostly	Always	
<b>9.</b>	When the judge or magistrate spoke to court users, they employed non-verbal cues, such as eye contact, to demonstrate engagement	Never	Sometimes	Mostly	Always	
<b>10.</b>	The judge or magistrate could be heard clearly throughout the hearing	Never	Sometimes	Mostly	Always	
<b>11.</b>	The judge or magistrate used plain English where possible, and explains any complex legal jargon that is used	Never	Sometimes	Mostly	Always	
<b>12.</b>	The judge or magistrate provided court users with an opportunity to speak	Never	Sometimes	Mostly	Always	
<b>13.</b>	The judge or magistrate checked that court users understand proceedings by using communication techniques such as open-ended questions	Never	Sometimes	Mostly	Always	
<b>14.</b>	Where a court user was sentenced or an order was made, the judge or magistrate explained the requirements of the sentence / order and what they must do to comply	Never	Sometimes	Mostly	Always	N/A
<b>15.</b>	Where a court user was sentenced or an order was made, the judge or magistrate asked the court user to repeat back his / her understanding of the sentence received / order given	Never	Sometimes	Mostly	Always	N/A
<b>16.</b>	Where a court user was sentenced or an order was made, the court user was provided with written instructions about his / her sentence / order.	Never	Sometimes	Mostly	Always	N/A

**PROCEDURAL FAIRNESS TOOLKIT: 5**

## Court user feedback form

We want to ensure that the court process is fair for court users. This means they should **understand** what is going on, have a **voice** in the process, and be treated with **respect** and **neutrality**. To help us improve, we would like to hear about your experience in court. Your answers will not affect your case in any way. Thank you for your time and input.

Please tick to show whether you agree or disagree with the following:

<b>UNDERSTANDING</b>	<b>STRONGLY DISAGREE</b>	<b>DISAGREE</b>	<b>NEUTRAL</b>	<b>AGREE</b>	<b>STRONGLY AGREE</b>
Court staff or signs helped you understand where to go and what to expect	<input type="checkbox"/>				
The magistrates / judge explained clearly what was going on	<input type="checkbox"/>				
Your sentence / order was explained clearly to you	<input type="checkbox"/>				
You were able to ask questions if you did not understand	<input type="checkbox"/>				
<b>VOICE</b>	<b>STRONGLY DISAGREE</b>	<b>DISAGREE</b>	<b>NEUTRAL</b>	<b>AGREE</b>	<b>STRONGLY AGREE</b>
The magistrates / judge gave you or your lawyer the chance to tell your side of the story	<input type="checkbox"/>				
The magistrates / judge asked you open-ended questions (not just yes/no questions)	<input type="checkbox"/>				
The magistrates / judge listened to what you said	<input type="checkbox"/>				
You were actively involved in the court process	<input type="checkbox"/>				
<b>RESPECT</b>	<b>STRONGLY DISAGREE</b>	<b>DISAGREE</b>	<b>NEUTRAL</b>	<b>AGREE</b>	<b>STRONGLY AGREE</b>
Your case was heard without undue delays	<input type="checkbox"/>				
The professionals in court introduced themselves	<input type="checkbox"/>				
The magistrates / judge were polite to you	<input type="checkbox"/>				
Other court staff were polite to you	<input type="checkbox"/>				
<b>NEUTRALITY</b>	<b>STRONGLY DISAGREE</b>	<b>DISAGREE</b>	<b>NEUTRAL</b>	<b>AGREE</b>	<b>STRONGLY AGREE</b>
The magistrates / judge acted in an unbiased way	<input type="checkbox"/>				
The magistrates / judge did not treat you worse than others because of your race, sex, age, disability or some other reason	<input type="checkbox"/>				

Please tick to show how fair you found the court process and outcome:

	VERY UNFAIR	UNFAIR	FAIR	VERY FAIR
Overall, how fair did you find your treatment at court ?				
How fair did you find the sentence or order you received?				

Is there anything else you would like to share about your court experience? Please comment below.

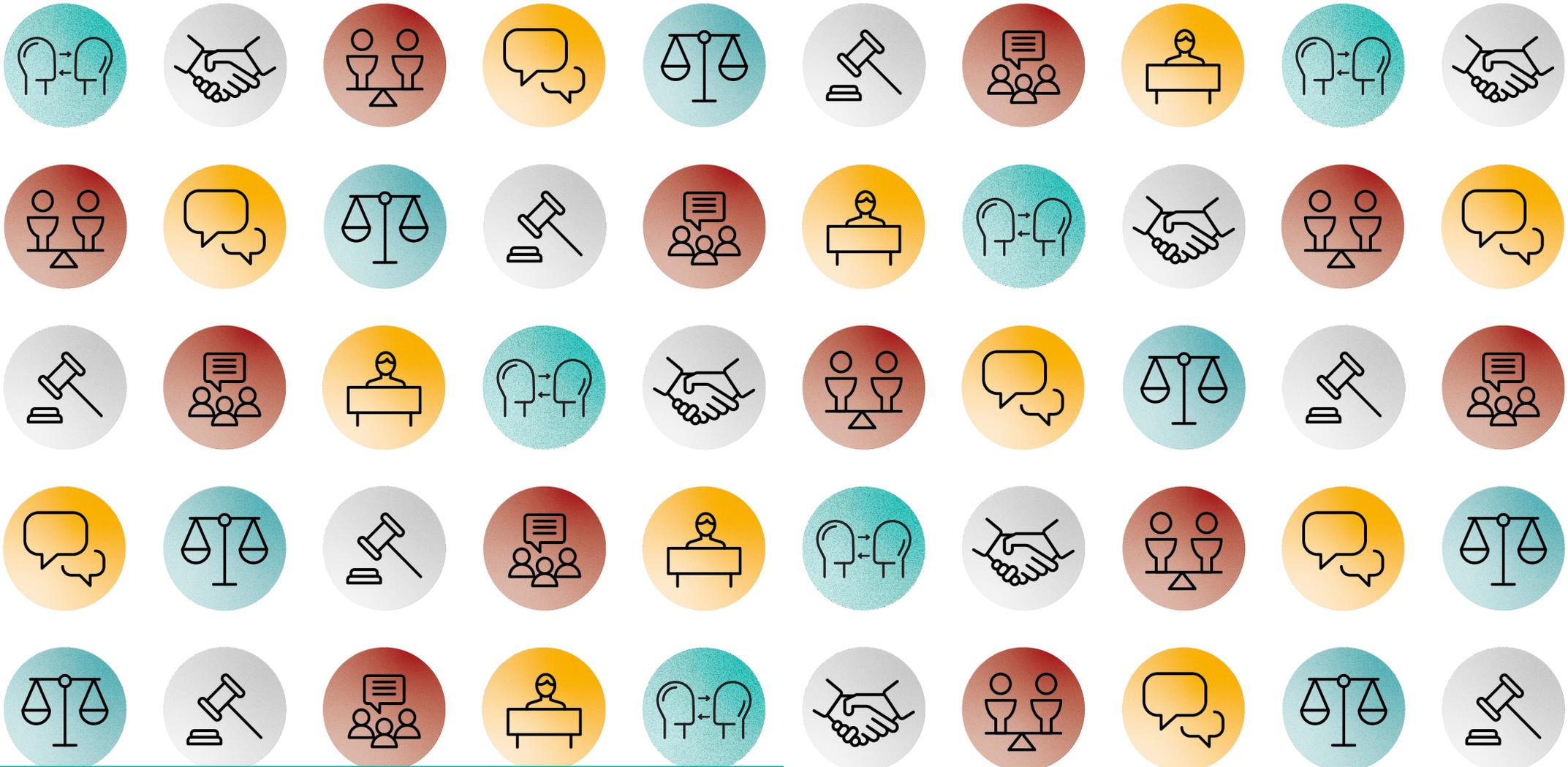
Thank you again for your time and input. Please return your survey to \_\_\_\_\_

If you would like to provide additional feedback to the court, please contact: \_\_\_\_\_

# Endnotes

- 1 See Tyler, T. (1990). Why people obey the law. *New Haven, CT: Yale University Press*; Lind, E.A., Kulik, C.T.; Ambrose, M. & de Vera Park, M.V. (1993). Individual and corporate dispute resolution: Using procedural justice as a decision heuristic. *Administrative Science Quarterly*, 38, 224–251.; Korsgaard, A. & Roberson, L. (1995). Procedural justice in performance evaluation: The role of instrumental and non-instrumental voice in performance appraisal discussions. *Journal of Management*, 21, 657–669.; Bies, R.J. & Shapiro, D.L. (1988). Voice and justification: Their influence on procedural fairness judgments, *Academy of Management Journal*, 31,676–685.; Price, K. et al. (2004). The effects of voice-based participation across multiple and interrelated stages of decision-making, *Academy of Management Proceedings*, 64, 1–6.
- 2 Myhill, A., & Quinton, P., (2011). 'It's a fair cop? Police legitimacy, public cooperation, and crime reduction: An interpretative evidence commentary', *NPIA*.
- 3 Fratello, et al. (2013). Coming of Age with Stop and Frisk: Experiences, Perceptions, and Public Safety Implications. *Vera Institute*.
- 4 See: Murphy, K., Gaylor, A. (2010). 'Policing youth: Can procedural justice nurture youth cooperation with police?' *Alfred Deakin Research Institute, Working Paper no. 6.*; Murphy, K. (2015). 'Does procedural justice matter to youth? Comparing adults' and youths' willingness to collaborate with police.' *Policing and Society*, 25(1), pp.53-76.
- 5 HM Inspectorate of Probation (2020). Procedural justice. Available at: <https://www.justiceinspectorates.gov.uk/hmiprobation/research/the-evidence-base-probation/models-and-principles/procedural-justice/>
- 6 See: Blasko, B., & Taxman, F. (2018). Development and predictive utility of a PJ measure for use in community settings. *Criminal Justice & Behavior*, [doi.org/10.1177/00938548177492](https://doi.org/10.1177/00938548177492); Gladfelter, A. S., Lantz, B., & Ruback, R. B. (2018). Beyond Ability to Pay: Procedural Justice and Offender Compliance With Restitution Orders. *International Journal of Offender Therapy and Comparative Criminology*, 62(13), 4314-4331.
- 7 HM Inspectorate of Probation (2020). Procedural justice. Available at: <https://www.justiceinspectorates.gov.uk/hmiprobation/research/the-evidence-base-probation/models-and-principles/procedural-justice/>
- 8 Beijersbergen, K. A., Dirkzwager, A. J. E., & Nieuwbeerta, P. (2016). 'Reoffending after release: does procedural justice during imprisonment matter?' *Criminal Justice and Behavior*, 43, 63-82.
- 9 Fitzalan Howard, F., & Wakeling, H. (2019). Prisoner and staff perceptions of procedural justice in English and Welsh prisons: Study of procedural justice perceptions of prisoners and prison staff, and the relationship between these perceptions and outcomes. *London: HMPPS*. Available at: <https://webarchive.nationalarchives.gov.uk/ukgwa/20210106053757/https://www.gov.uk/government/publications/prisoner-and-staff-perceptions-of-procedural-justice-in-english-and-welsh-prisons>
- 10 Jacobson, J. & Talbot, J. (2009). Vulnerable Defendants in the Criminal Courts: a review of provision for adults and children, *London: Prison Reform Trust*.
- 11 Jacobson, J., Hunter, G. and Kirby, A. (2015). Inside Crown Court. Personal Experiences and questions of legitimacy. *Bristol: Policy Press*.
- 12 Jacobson, J. (2020). 'Participation in courts and tribunals: Concepts, realities and aspirations.' *Bristol University Press*. Available at: <https://bristoluniversitypress.co.uk/asset/8895/policy-briefing-jacobson.pdf>
- 13 Commissioner for Victims and Witnesses in England and Wales (2011). 'Victims' Views of Court and Sentencing: Qualitative research with WAVES victims'. *Ministry of Justice*. Available at <http://www.justice.gov.uk/downloads/news/press-releases/victims-com/victims-views-court-sentencing1011.pdf>
- 14 See: Casey, P., Burke, K., & Leben, S., (2013) Minding the Court: Enhancing the Decision-Making Process, *49 CT. REV. 76 (2013) (an AJA White Paper)*, available at <http://goo.gl/RrFw8Y>; Lee, C.G., et al. (2013). A Comprehensive Evaluation of the Red Hook Community Justice Center: A Community Court Grows in Brooklyn. *Williamsburg, VA; Rossman, S., Roman, J., Zweig, J., Rempel, M., and Lindquist, C. (eds.) (2011) The Multi-Site Adult Drug Court Evaluation. Washington, DC: The Urban Institute; Burke, K., & Leben, S., (2008). Procedural Fairness: A Key Ingredient in Public Satisfaction, 44 CT. REV. 4 (2007-2008) (an AJA White Paper)*, available at <http://goo.gl/afCYT>; Tyler, T. (2008). Procedural Justice and the Courts, *44 CT. REV. 26 (2007-2008)*, available at <https://goo.gl/UHPkxY>; Tyler, T. and Huo, Y. (2002). Trust in the Law. *New York, NY: Russell Sage Foundation*; Papachristos, A. (2012). 'Why Do Criminals Obey the Law? The Influence of Legitimacy and Social Networks on Active Gun Offenders', accessed at <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7426&context=jcl>
- 15 See: See: Lind, E., & Tyler, T. (1988). 'The social psychology of procedural fairness,' *New York: Plenum*; Tyler, T. R., Degoey, P., & Smith, H. J. (1996). 'Understanding why the justice of group procedures matters,' *Journal of Personality and Social Psychology*, 70, 913-93; Tyler, T. R., Boeckmann, R. J., Smith, H. J., & Huo, Y. J. (1997). 'Social justice in a diverse society,' *Boulder, CO: Westview*; Tyler, T. R., & Blader, S. L. (2000). 'Cooperation in groups: Procedural Fairness, social identity and behavioral engagement,' *Philadelphia; Harwin, J., Alrouh, A., Ryan, M., and Tunnard, J. (2014). Changing lifestyles, keeping children safe: an evaluation of the first Family Drug and Alcohol Court (FDAC) in care proceedings. Brunel University; Tunnard J., and Ryan, M. (2016). Problem solving in court: current practice in FDACs in England. Lancaster University.*
- 16 Sprott, J. & Greene, C. (2008). 'Trust and Confidence in the Courts: Does the Quality of Treatment Young Offenders Receive Affect Their Views of the Courts?' *Crime and Delinquency*, cited in Lacey, L. (2012). 'Youth Justice in England and Wales: Exploring young offenders' perceptions of restorative and procedural justice in the referral order process.'
- 17 Hunter, G., Ely, C., Robin D'Cruz, C. & Whitehead, S. (2020). Time to get it right: Enhancing problem-solving in the Youth Court. *Institute for Crime and Justice Policy Research, Birkbeck and Centre for Justice Innovation*. [https://justiceinnovation.org/sites/default/files/media/documents/2020-06/time\\_to\\_get\\_it\\_right\\_final.pdf](https://justiceinnovation.org/sites/default/files/media/documents/2020-06/time_to_get_it_right_final.pdf)
- 18 Thomas, J. & Ely, C. (2018). 'A fairer way: procedural fairness for young adults at court'. *Centre for Justice Innovation*. Available at: <https://www.justiceinnovation.org/publications/fairer-way-procedural-fairness-young-adults-court>
- 19 Thomas, J. and Ely, C. (2018). A fairer way: procedural fairness for young adults at court. *Centre for Justice Innovation*. Available at: <https://www.justiceinnovation.org/publications/fairer-way-procedural-fairness-young-adults-court>

- 20 Malangone, D. (2017). Integrating Procedural Justice in Domestic Violence Cases: A Practice Guide. *Center for Court Innovation*. Available at: <https://www.courtinnovation.org/publications/integrating-procedural-justice-domestic-violence-cases-practice-guide>
- 21 Lammy, D. (2017). The Lammy Review: An Independent Review into the Treatment of, and Outcomes for, Black, Asian and Minority Ethnic Individuals in the Criminal Justice System. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/643001/lammy-review-final-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf)
- 22 Bowen, P. and Whitehead, S. (2016) Problem-Solving courts: An Evidence Review. *Centre for Justice Innovation: London*. Available at: <https://www.justiceinnovation.org/publications/problem-solving-courts-evidence-review>
- 23 Rossman & Zweig (2012). 'What Have We Learned from the Multisite Adult Drug Court Evaluation? Implications for Practice and Policy. The Multisite Adult Drug Court Evaluation'. *NADCP*. Available at <http://www.nadcp.org/sites/default/files/nadcp/Multisite%20Adult%20Drug%20Court%20Evaluation%20-%20NADCP.pdf>
- 24 See: Tunnard et al (2016). Problem solving in court: current practice in FDACs in England. *Lancaster University*; Harwin et al (2014). 'Changing lifestyles, keeping children safe: an evaluation of the first Family Drug and Alcohol Court (FDAC) in care proceedings.' *Brunel University*; Harwin et al (2016). After FDAC: outcomes 5 years later. Final Report. *Lancaster University*; Harwin et al (2011). The Family Drug & Alcohol Court (FDAC) Evaluation Project. *Brunel University*.
- 25 Harwin et al (2014). 'Changing lifestyles, keeping children safe: an evaluation of the first Family Drug and Alcohol Court (FDAC) in care proceedings.' *Brunel University*. Available at: [http://wp.lancs.ac.uk/cfj-fdac/files/2018/04/FDAC\\_May2014\\_FinalReport-V1.1.pdf](http://wp.lancs.ac.uk/cfj-fdac/files/2018/04/FDAC_May2014_FinalReport-V1.1.pdf)
- 26 Mullin, P., Collins, C. & Savage, K. (2022). 'Understanding and improving defendant engagement'. *Revolving Doors Agency, HM Courts & Tribunals Service*. Available at: <https://revolving-doors.org.uk/wp-content/uploads/2022/07/Understanding-and-improving-defendant-engagement.pdf>
- 27 Professor Judith Harwin and Lily Golding. (2022). Supporting families after care proceedings: supervision orders and beyond. Parental perspectives on care proceedings, supervision orders and care orders at home. Centre for Child and Family Justice Research, Lancaster University. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1064405/Harwin\\_Report\\_on\\_Parental\\_Perspectives.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1064405/Harwin_Report_on_Parental_Perspectives.pdf)
- 28 Jacobson, J. (2020). 'Participation in courts and tribunals: Concepts, realities and aspirations.' *Bristol University Press*. Available at: <https://bristoluniversitypress.co.uk/asset/8895/policy-briefing-jacobson.pdf>
- 29 Criminal Justice Joint Inspection (2022). *The impact of the Covid-19 pandemic on the criminal justice system – a progress report*. Available at <https://www.justiceinspectores.gov.uk/cjji/wp-content/uploads/sites/2/2022/05/CJ-Covid-19-recovery-progress-report-web-2022.pdf>
- 30 Committee of Public Accounts. (2022). *Reducing the Backlog in Criminal Courts*. Available at <https://publications.parliament.uk/pa/cm5802/cmselect/cmpublic/643/report.html>.
- 31 Ministry of Justice (2022). *Family Court Statistics Quarterly: January – March 2022*. Available at: <https://www.gov.uk/government/statistics/family-court-statistics-quarterly-january-to-march-2022>
- 32 <https://www.lawsociety.org.uk/contact-or-visit-us/press-office/press-releases/backlogs-and-delays-still-plague-family-law-court-system>
- 33 Hunter, G. et al. (2022). *Language barriers in the criminal justice system*. Available at: <https://www.bell-foundation.org.uk/app/uploads/2022/03/Language-barriers-in-the-criminal-justice-system.pdf>
- 34 Criminal Justice Joint Inspection (2021). *Neurodiversity in the Criminal Justice System: A review of evidence*. Available at: <https://www.justiceinspectores.gov.uk/cjji/wp-content/uploads/sites/2/2021/07/Neurodiversity-evidence-review-web-2021.pdf>
- 35 Clark, J. (2021). Evaluation of remote hearings during the COVID 19 pandemic: Research report. *HM Courts and Tribunals Service*, Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1040183/Evaluation\\_of\\_remote\\_hearings\\_v23.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040183/Evaluation_of_remote_hearings_v23.pdf)
- 36 Ryan, M., Rothera, S. (2021). Remote hearings in the family court post pandemic. *Nuffield Family Justice Observatory*. Available at: <https://www.nuffieldfjo.org.uk/wp-content/uploads/2021/07/remote-hearings-in-the-family-court-post-pandemic-report-0721.pdf>
- 37 Equality and Human Rights Commission (2020). *Inclusive Justice: A system designed for all*. Available at: [https://www.equalityhumanrights.com/sites/default/files/ehrc\\_inclusive\\_justice\\_a\\_system\\_designed\\_for\\_all\\_june\\_2020.pdf](https://www.equalityhumanrights.com/sites/default/files/ehrc_inclusive_justice_a_system_designed_for_all_june_2020.pdf)
- 38 Ryan, M., Rothera, S. (2021). Remote hearings in the family court post pandemic. *Nuffield Family Justice Observatory*. Available at: <https://www.nuffieldfjo.org.uk/wp-content/uploads/2021/07/remote-hearings-in-the-family-court-post-pandemic-report-0721.pdf>
- 39 Judicial Office (2021). *Judicial College Strategy 2021-2025*. Available at [https://www.judiciary.uk/wp-content/uploads/2021/12/Judicial\\_College\\_Strategy\\_2021-2025\\_WEB.pdf](https://www.judiciary.uk/wp-content/uploads/2021/12/Judicial_College_Strategy_2021-2025_WEB.pdf)
- 40 Legal Services Board (2021). *Re-shaping legal services: A sector-wide strategy*. Available at: [https://legalservicesboard.org.uk/wp-content/uploads/2021/03/Strategy\\_FINAL-For-Web2.pdf](https://legalservicesboard.org.uk/wp-content/uploads/2021/03/Strategy_FINAL-For-Web2.pdf)
- 41 The Bar Council (2019). *Bar Council Strategic Plan 2019-2024*. Available at: <https://www.barcouncil.org.uk/uploads/assets/86520690-7ab5-4cb1-93e63c26bc300c9f/Bar-Council-Strategic-Plan-2019-24.pdf>
- 42 HMPPS (2021). *The Target Operating Model for probation services in England and Wales: Probation Reform Programme*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1061047/MOJ7350\\_HMPPS\\_Probation\\_Reform\\_Programme\\_TOM\\_Accessible\\_English\\_LR.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1061047/MOJ7350_HMPPS_Probation_Reform_Programme_TOM_Accessible_English_LR.pdf)
- 43 HMCTS Strategy & Change Directorate, available at: <https://hmctsjobs.co.uk/roles/strategy-and-change-directorate/>



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