

Justice Data Matters

**Building a public mandate for
court data use**

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Foreword

Sir Bob Neill MP

**Chair of the Justice Committee, House of
Commons Select Committee**

Foreword from Sir Bob Neill MP

Open justice - a phrase very regularly used, but perhaps not picked apart often enough.

An integral component of the rule of law, an open, transparent and intelligible justice system is vital in ensuring people understand the laws that govern the land, instilling at the same time confidence and trust in the fairness and impartiality of our courts. It is why justice must not just be done, but seen to be done too. Open justice is not, however, an end in itself. The more we know and understand the justice system – where it is operating well, how it might be unfairly impacting some, and when and where it requires further resources – the better positioned we are, as legislators, policy makers and practitioners, to take steps to improve it.

Data is the main tool at our disposal to make those inroads. Where in years gone by, we have methodically chipped away at demonstrable problems or pressures in the system, rapid technological advancements today massively expand the power and speed of the tools available to us. The brave new world of the digital age offers huge potential to improve outcomes, harnessing and extrapolating data to increase transparency and accountability, promote understanding, drive efficiency, and devise new pathways to strengthen access to justice.

The recently launched judgements service hosted by the National Archives – the focus of this timely report – lays bare both the enormous opportunities and risks of sharing data of this kind. In taking this body of work forward, the Government will have to juggle a difficult balancing act between, on the one hand, delivering the significant and undeniable public good of digitalising court data, while on the other, avoiding the pitfalls of over-commercialisation and automation, both of which have the potential to undermine public confidence, and worse, hinder justice.

Ensuring they do not will require the setting of clear parameters, rigorously, continuously and independently monitored, on what data can be used, by whom and for what purpose. To maintain trust, this cannot be an esoteric exercise, but one in which the public are actively and genuinely consulted on, and invested in. It is why this report, the first of its kind globally, is so important. By shining a light on what the public know about court data, their attitudes on who can access it and the expectations on how it might influence and impact the administration of justice in the years ahead, we can begin to take a far more informed and nuanced approach to data collection, sharing and governance. For some, the research contained will confirm previously held concerns, while other findings may serve to surprise or upend widely regarded axioms. In any event, we must be cognisant of the issues raised and, crucially, guided by the evidence as we seek to address them.

The report does the sector a great service and a considerable debt of gratitude is owed to the Legal Education Foundation for spearheading this vital project. The Foundation has been a stalwart for a decade now in furthering understanding of the law and the expertise of its team, and the high regard with which they are held, cannot be overstated. A special vote of thanks should also be offered to Ipsos UK for carrying out the research upon which the report is based, and everyone who took part in the polling and public engagement exercises underpinning it.

There is no panacea to the challenges flagged, nor does the report seek to provide one. But by probing public opinions, and lucidly setting out the views received, the research clears a path for all of us with an interest in this field to initiate a far more informed debate on open justice and the future role of lawtech. It deserves to be read, and read widely.

Executive summary

Research context

The justice system in England and Wales is undergoing a period of rapid and unprecedented change. A £1.3 billion programme of court reform aims to replace formerly paper-based processes with new digital systems- transforming the way in which data about court operations and court users is collected and shared. Justice system agencies are increasingly investing in data driven technologies developed by the private sector to support them to deliver their functions. Against this backdrop, in May 2022, the government launched a new service at The National Archives changing the way in which judgments (the decisions made by the courts) are stored and published. This new development means that for the first time, these detailed documents are made available to download for free, in bulk and in a machine-readable format – attracting the interest of both researchers and companies which are keen to use this information to develop new services and business models.

Investing in improving the quality and availability of the data about the justice has the potential to deliver a wide range of benefits, from supporting evidence-based policy making to improving the transparency and efficiency of the system. When made available for third party use, data generated by the courts can help to support innovation and drive the development of new products and services. However, experience from other sectors, such as education and health, shows the dangers of moving beyond public acceptability in the way in which data is shared and used. Examples such as the Ofqual algorithm and the failure of the GDPR (General Practice Data for Planning and Research) data sharing initiative demonstrate that realising the benefits conferred by data requires investing in building a public mandate for data use. To develop this mandate, we need to understand what the public thinks and feels about the collection, governance and use of data held by the courts. With trust in the justice system on the line, what does the public consider acceptable when it comes to sharing and using data? What safeguards need to be in place, and what governance models need to be adopted to support data use that commands public trust?

This report, which is the first of its kind globally, combines quantitative polling and public deliberation to explore public attitudes to the publication and use of data held in court records, including judgments. It explores themes including: sensitivity of court judgment data; how court judgements may be used and by whom; what participants feel is an acceptable use of court judgment data; and how access and governance can create a system that the public trust.

Key findings

1. There is strong public support for robust governance and oversight of commercial use of court record data. Polling respondents overwhelmingly found it important (80%) that there are limits and controls on who can use information from court records and how they can use it. This group includes 40% who say it is 'very important'. Only 2% said it is 'Not at all important'. Workshop participants were clear that oversight must be independent and transparent, involving stakeholders outside of the justice system and without vested interest in commercial use of court judgements.

2. Transparency about access requests and data use is key to maintaining public confidence in and ensuring public support for third party use of court record data. Discussions often displayed an underlying distrust both in the justice system and commercial organisations. Ignoring the public's desire for independent and transparent oversight may further undermine public trust.

3. Levels of trust and comfort in different types of organisations using court record data vary, but especially high levels of discomfort are seen when it comes to third party organisations. A large percentage of polling respondents expressing discomfort about use by commercial organisations such as tech companies (50%), credit rating agencies (42%), insurance companies (38%), and law firms and lawyers not directly involved in those cases (32%). There were also higher levels of discomfort amongst older groups, self-employed people and those who did not have a degree-level education or above. Concerns were also raised about a perceived increased commodification of the justice system. Participants felt that profit motives would result in products and services that were designed with the interests of organisations rather than individuals in mind, exacerbating existing inequalities of power within the justice system.

4. The polling also demonstrated a strong correlation between how comfortable respondents feel about organisations and individuals having access to the information contained in court records, and how informed they feel about how those organisations and individuals use that data.

Participants in the polling were most comfortable with third party use of information in court records to “improve the way courts are run, for example by improving decision making or showing how to reduce costs” (56% comfortable) and least comfortable with third party access to “help commercial companies to develop products and services to be used within the justice system” (26% comfortable, 32% uncomfortable)

5. The public expressed concerns about a lack of transparency, publicity and awareness-raising activities around the decisions being made by government in relation to making court record data available for re-use. The polling showed low public awareness of how court records are used at present, by the government and by commercial companies. Most (70%) said that they knew “nothing” or “not very much” about the information contained in court records, and 74% said that they knew “not very much” or “nothing at all” about who has access to court records. Almost two thirds of respondents (64%) felt that the government keeps the public “fairly poorly” or “very poorly” informed about how information from court records is used.

6. Workshop participants felt uninformed about the changes being made and raised concerns about a lack of transparency and public engagement in significant changes to sensitive data use. They spoke about a disconnect between those making decisions, and those who may be disproportionately impacted by such decisions. Participants wanted to see a broader range of stakeholders and the public involved in decision making, to ensure that the interests of marginalised groups were protected and the promotion of public good prioritised.

7. Not all purposes for using the data in court judgments were considered acceptable or justifiable by the public. Participants felt that access arrangements should prioritise applicants and applications which can deliver proven public benefit. Discussions explored which uses participants considered to be acceptable, with a range of views shared. The use of data for predictive purposes, and to develop low-cost alternatives to court for those on low incomes, were particularly controversial. There was support for using data to tackle court backlogs and lower costs, however this was accompanied by concerns about compromising the quality and fairness of the justice system. While seeking to identify and address inequalities in the justice system was seen as a valid purpose, this was accompanied by fears that the analysis of court judgments would instead lead to further stereotyping or marginalisation of communities if not managed properly and ethically. For this reason, participants also felt that rigorous evaluation and ongoing monitoring of the performance of products and services built on court record data is needed.

8. Views on the acceptability of using data to develop services, tools and pathways for those on low incomes to access lower cost alternatives to court were mixed: Half of respondents to the polling exercise stated that they were comfortable with data from court records being used: “To help people on lower incomes to reach quick resolution of their disputes without embarking on lengthy legal proceedings which may be unaffordable to them”. However, there were marked differences in levels of comfort between respondents from higher and lower socio-economic groups. Only 44% of those on low incomes (up to £19,999) were comfortable with data from court records being used in this way, compared to 66% of respondents who earned over £55,000 per annum. In the public deliberation exercise participants expressed strong concern that the growth in products to predict case outcomes might be used to encourage people on low incomes not to pursue their cases in court exacerbating existing concerns about a “two-tier” justice system. A further concern was that these services would routinely advise specific groups or case-types to settle out of court, which would have a circular effect of removing such cases from the statistics used to inform future clients about outcomes.

Recommendations for building a public mandate

Below are the key recommendations derived from both the deliberative workshops and the polling, for continuing this conversation and maintaining the public’s trust in the justice system and management of access to court judgements.

- 1. Understand and accommodate the public’s interest in the use of justice data:** Decision makers must not underestimate the public’s interest in justice data and the importance of engaging them in dialogue about changes. This is key to maintaining and improving public trust in the justice system.
- 2. Prioritise transparency and good communication:** Communication with the public should prioritise transparency about court judgment management and changes to processes made to broaden access.
- 3. Ensure limits, controls and regulation that are in line with the public’s expectations:** Regulation and adequate oversight of access to and use of data was also considered a key priority by participants. Without trustworthy and independent oversight, it is unlikely that the public will feel comfortable with supporting ongoing bulk access to court records.
- 4. Further research to understand what ‘public interest’ looks like, and from whose perspective:** More research is needed to explore what the public consider to be ‘in the public interest’, as this is a key qualifier used when discussing appropriate use of bulk data from court judgments. As part of this, research needs to explore which models of access and governance effectively prioritise public interest over private profit, as well as the range of perspectives ‘public interest’ is interrogated from, and how ‘public interest is defined’
- 5. Further research to develop an approach for building meaningful public engagement into justice data governance:** More research could help to explore how the public could be supported to have an ongoing role in justice data governance. Participants expressed strong views that the public must have input, but the mechanisms for achieving this in a meaningful way must be clear. Future engagement and research has the potential to examine the different participatory mechanisms through which members of the public could help govern and shape conversations about court record data governance, and justice data governance more broadly.

1 Introduction

Background

Digitalisation of court data

The justice system in England and Wales is undergoing a period of rapid and unprecedented change. In 2016, the government initiated a £1.3bn programme of digital reform which by 2023 aimed to create new end-to-end digital processes and fundamentally alter the way in which people access and navigate courts and tribunals. In doing so, the reform programme will transform the quantity, quality and availability of data about the justice system and the individuals within it. The transformative potential of the digital reform programme has catalysed wider conversations about the way in which data and information generated by the justice system is made available to the public, including the information contained in court records. Arrangements for accessing judgments, that is, the decisions made by the courts, were considered by stakeholders to be ripe for reform¹. In 2021, the government responded, announcing that for the first time, judgments from courts and tribunals in England and Wales would be preserved and stored in a single repository, hosted by The National Archives. When the new service was launched in May 2022, judgments were published in a machine-readable format, and a license was created to support their bulk download.²

There is enormous potential for open and shared data to increase accountability and transparency within the justice system, and to create new opportunities to develop support for vulnerable people. However, there are also significant ethical concerns when it comes to the linkage, accessibility and governance of justice data, as well as over the consequences of its use through the deployment of predictive analytics and algorithmic tools. The data repository and sharing developments have also attracted the attention of companies who are interested in using this data to support the development of new products and business models. It has been less clear what the public thinks about the potential for making justice data more widely available, in bulk and for commercial uses. This project aimed to explore UK public attitudes, understanding and priorities in relation to the appropriate use and management of data held by the courts.

Deliberative engagement in relation to data sharing

Deliberative research on attitudes to the commercial access to health data provides helpful insight as to how the public might engage with this topic area.³ It has found that people expect the use and access to publicly-governed data to be done with the aim of clear public benefit, as this ensures a fair return to public bodies and those to whom the data relates. The public also expect such data to be handled cautiously, so that it is not exploited, extracted, or commodified in ways that cause detriment or harm to wider society or individuals.

More broadly, trustworthiness is central to the effective operation of and broader legitimacy of the justice system. Trust elicits public and societal confidence in procedural as well as substantive fairness, and the

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/835778/DigitalJusticeFINAL.PDF pp27

² <https://www.gov.uk/government/news/court-judgments-made-accessible-to-all-at-the-national-archives>

³ <https://www.adalovelaceinstitute.org/blog/the-foundations-of-fairness-for-nhs-health-data-sharing/>

system's ability to deliver equitable outcomes for all people. Some evidence suggests that the UK public have decreasing trust in the justice system, particularly amongst those from minoritised communities.⁴

A recent report published by the House of Lords⁵ described a 'new wild west' emerging with the absence of proper oversight of the use of AI in the criminal justice system. The report stated that public awareness and legislation are falling behind the pace of development of new technologies, which are frequently being applied without due process or evaluation.

There has been considerable research in the field of data stewardship, data sharing and data linkage (see for example Ada Lovelace Institute 2020-1, NatCen 2018), but very little work has been undertaken on justice data, specifically to understand public attitudes to commercial use of court records and datasets, or to explore the limits of public acceptance in this space.

Research aims

The Legal Education Foundation commissioned Ipsos UK to conduct research to understand the public's views on how commercial access to data in court records should be handled. The research aims to inform the development of policy in relation to bulk access to court judgments, and other types of information collected and stored by the courts service. The research is also intended to inform the work of the Shadow Senior Data Governance Panel, a body tasked with advising the Lord Chancellor and Lord Chief Justice on novel or contentious uses of data held by the courts. As such, workshops were structured to encourage participants to generate clear conditions and policy recommendations.

Aside from these recommendations, the research also aimed to begin a wider conversation, acting as a start point from which to identify areas where more research, public and senior stakeholder engagement is needed. As part of this aim, the projects created an Expert Advisory Group of senior actors with roles across the governance and conduct of the justice system and in commercial applications relating to it.

This project aims to establish the foundations for ways in which public deliberation can be meaningfully incorporated into data governance and data stewardship in the justice space.

Methodology

The overall research design included both a quantitative polling and deliberative engagement approach. Public polling was first conducted to quantify public opinions of justice system data and identify the core areas of concern. These findings then informed the design of deliberative public engagement exercises, which facilitated deeper exploration of public norms, attitudes and expectations in relation to justice data linkage and accessibility.

Quantitative polling survey

The online omnibus survey was run between the 21st and 25th April 2022 and achieved a nationally representative sample of 2,164 adults aged 16-75 in Great Britain. The survey was subject to thorough review by Ipsos' internal 'polls for publication' quality assurance process to ensure effective survey design and reliability.

⁴ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1407267

⁵ <https://publications.parliament.uk/pa/ld5802/ldselect/ldjusthom/180/180.pdf>

The survey aimed to generate robust data on public awareness and attitudes to how justice data is used and by whom by exploring the following areas:

1. Levels of public awareness and knowledge about the current use of justice system data
2. Attitudes to and concerns over the use of access to justice system data
3. Levels of trust and confidence in the actors and institutions responsible for justice system data
4. Views on third party use and commercialisation of justice system data
5. Views on regulation and governance of justice system data

Given the complex nature of justice data reform, the omnibus survey was limited in the extent to which it could generate a deep and nuanced understanding of the public's views, awareness and preferences in relation to all aspects of justice system data.

A high-level explanation of the topic was included in the questionnaire (see Appendix 7.1.1), but the nature of survey design limits how much key concepts can be further explained and clarified, nor is it possible to probe flexibly on expressed opinion. For this reason, the polling data was used mainly to provide a high-level understanding of public knowledge and opinion, and a baseline of uninformed public opinion ahead of the deliberative exercises. These insights were then used to inform the sampling approach and design of the deliberative workshops, including key issues to be explored in detail with workshop participants.

Expert Advisory Group

The Expert Advisory Group (EAG) was formed by The Legal Education Foundation as part of this research project, although it is intended to maintain future conversation and engagement moving forward.

The group consisted of a range of senior stakeholders from the justice system, legal technology organisations, and advocacy groups.

The objective of the EAG was to engage a wide range of expertise in the design of the research to:

- Ensure that participants were informed with balanced and accurate information
- Understand the insights that would be most useful and impactful for decision makers
- Scope potential case studies to bring the topic to life and stimulate meaningful discussion

Members of the Expert Advisory Group

Name	Role	Organisation
Kate Gregory-Smith	Head of Open Justice Policy	Ministry of Justice
Daniel Flury	Acting Director, Access to Justice Policy, Co-chair of the Shadow Senior Data Governance Panel	Ministry of Justice
Prof. Richard Susskind	IT Adviser to the Lord Chief Justice	Independent consultant
Lord Justice Fulford	Lord Justice of Appeal	Court of Appeal
Jenifer Swallow	Director	LawtechUK
Dr. Jeni Tennison	Founder and Executive Director	Connected by Data
Sinduja Manohar	Patient and Public Involvement and Engagement Specialist	Health Data Research UK
Fiona Rutherford	Chief Executive	JUSTICE
Dr. Anjali Mazumder	Theme Lead	AI and Justice and Human Rights
Imogen Parker	Associate Director (Policy)	Ada Lovelace Institute
Dr. Judith Townend	Senior Lecturer in Media and Information Law	University of Sussex
Dr. John Sorabji	Lecturer at UCL Laws, Barrister and Adviser to the Independent Review of the Human Rights Act	UCL Laws St 9 John Street Chambers

The EAG met with the LEF and Ipsos to discuss the early polling findings and advise on the design of the deliberative research. They offered critical insight into topical areas where insight from the public would be most helpful and impactful, clarified technical points that moderators should be briefed carefully on, and contributed ideas for relevant case studies that would prompt meaningful discussion. The discussion guides for each workshop were circulated to the EAG for all members to review and provide feedback. Having such a diverse EAG reviewing group ensured that the design was balanced and well informed.

Mini-deliberative engagement

Deliberative public engagement involves members of the public discussing issues in interactive sessions and with structured reference to wide-ranging evidence and different perspectives. The approach affords multiple benefits when exploring complex and contentious issues. It enables capacity building and active engagement with the evidence base, thus supporting members of the public to interrogate and understand complex issues before coming to a set of perspectives, conclusions or advice.

It also encourages a 'whole systems' approach to engagement; encouraging a range of actors including members of the public (but not limited to them) to deliberate on contentious issues together. It can therefore contribute to the improved quality, legitimacy and efficacy of policymaking as policymakers are

able to take account of diverse perspectives before proceeding with complex or controversial decisions. There is a strong tradition of work and research on how best to involve people in data systems.

The deliberative approach focuses on deep consideration of issues and is structured to help participants learn about a subject that may be new to them. This enables participants to arrive at an informed opinion by the end of the study, that may be different to what they believed at the start of it. As such, we sought to encourage dialogue informed by balanced and carefully considered evidence, with the EAG members helping to prioritise and ensure breadth in the topics and sources of evidence included.

The deliberation captured initial reactions to the reform, as well as scoping expectations for change and how this should or should not be governed.

Workshop 1 objectives: *Learning and Deliberating*. Capture baseline views/awareness and introduce participants to the topic area. This involved explaining the current nature of access to court record data and using specific case studies to explore how participants expect court record data to be used.

Workshop 2 objectives: *Deliberating and Co-producing*. Enabled participants to build on their early-stage exploration of values, expectations and case studies and articulate their expectations of good governance on the issue of access to court record data.

Deliberative workshop sample

The deliberative workshops engaged a total of 30 participants across two three-hour online workshops. Quotas were set across a range of demographic indicators to ensure diverse experiences and views were represented and the quotas were informed by the results of the quantitative polling (see Chapter 2). Participants were also recruited to ensure adequate representation of those with a range of experiences of the criminal justice system. A full breakdown of the deliberative sample can be found in Figure 1.

Figure 1: Demographic breakdown of qualitative sample

Category		Target quota	Sample achieved
Gender	Male	15	17
	Female	15	16
Age	16-24	8	9
	25-44	8	9
	45-64	7	8
	65+	7	7
Ethnicity	Asian/British	9	9
	Black/British	3	7
	Mixed/other	3	1
	White British	15	16
Household income	<£26k	10	11
	£26k - £51k	10	11
	£52k - £99k	7	8
	£100k<	3	3
Employment status	Self employed	6	6
Previous experience of court/tribunal in England or Wales	Yes	6	13

How to read this report

Integrity of participants' voices

When reading this report, it is important to keep in mind that this research explores what the public think, perceive and feel. Accurately representing participants views is the sole purpose of this report.

There will be instances where these views do not align with how things currently work in the justice system. For example, participants may suggest something that is already in place, or have fears about something that is very unlikely to take place.

This does not negate the importance of these points, as they are key to understanding the boundaries and priorities of the participants. Excluding these would undermine the authenticity of our representation of participants views.

Framing of information in workshops

The design of the workshop discussion guide and stimulus was careful in the framing of key terms and elements of the topic.

The discussions made room for participants to refer to and discuss civil and criminal justice, as it was important not to over complicate or stifle discussions by setting parameters that they may not fully understand or feel comfortable with. However, as civil court records are most relevant to commercial interests in bulk data sets, stimulus (such as case studies) and probing questions steered discussion towards civil justice.

To give participants better context for their discussions, they were presented with an example of a judgment from an employment tribunal, and examples of how court data from judgments could be used.

Participants were prompted on some specific organisation types, and purposes for which access to bulk court records may be sought. To keep the information easy to digest and possible to discuss in the time available, the list of these organisations and purposes could not be exhaustive. For example, journalistic media organisations were not specifically prompted on, although participants occasionally referred to this independently.

Participants also naturally conflated terms such as: Court records, court judgments, justice data and court data. This is expected given the participants' unfamiliarity with the topic.

2 Quantitative polling findings

Polling was commissioned to inform the design and sampling of the deliberative research and contextualise the conclusions of the deliberation within a representative picture. The findings provide useful insight into a range of issues, including public awareness and high-level attitudes towards justice data, the ways in which bulk access to court records may be used, and to a range of organisations which may be involved in using bulk justice data. The questionnaire (see Appendix 7.1.1) provided a high-level introduction to court records and the change to how they are accessed.

This chapter summarises key themes in the polling data, before explaining how these findings informed the deliberative stage of the research. Further trends from the polling are included in Appendix 7.1.2.

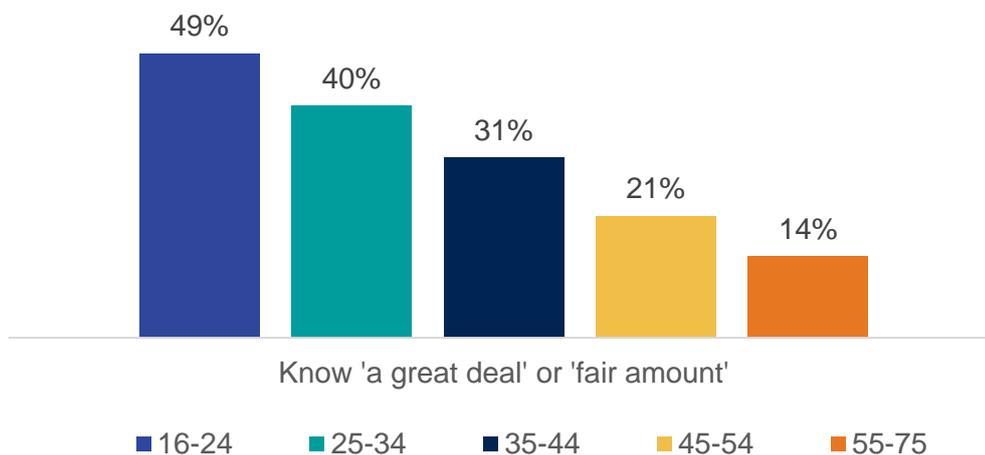
Key findings

Awareness

Respondents reported low awareness of the way that court data is currently managed. Most (70%) said they knew 'not very much' or 'nothing at all' about the information contained in court records. 74% said they knew 'not very much' or 'nothing at all' about who has access to court records. Nearly three quarters of respondents (73%) responded that they knew not very much or nothing at all about how the UK Government currently uses information from court records, and 76% stated that they knew not very much or nothing at all about how commercial organisations currently use information from court records.

This low level of self-reported awareness was consistent across most demographics, including education and income levels. However younger respondents were more likely than older to report being aware.

Figure 2: How much, if anything, would you say you knew before reading the paragraphs just shown to you about the information that court records contain.



Source: Ipsos. Fieldwork dates: 21st - 25th April 2022. Base: 2,164 GB Adults aged 16-75.

Respondents felt that the government did not keep the public informed about these matters. When asked 'Do you feel that the UK government keeps the public well informed or poorly informed about how the government (and other organisations working on its behalf) currently uses information from court records?', almost two-thirds (64%) felt that the government keeps the public 'fairly poorly' or 'very poorly' informed. Younger respondents concurred with this view, although to a lesser extent; approximately half of those aged 16–34 felt that the government does not keep the public well informed (52%), whereas over a third think the government does this well (39% of those aged 16-24 and 36% aged 25-34).

Levels of comfort: Organisations

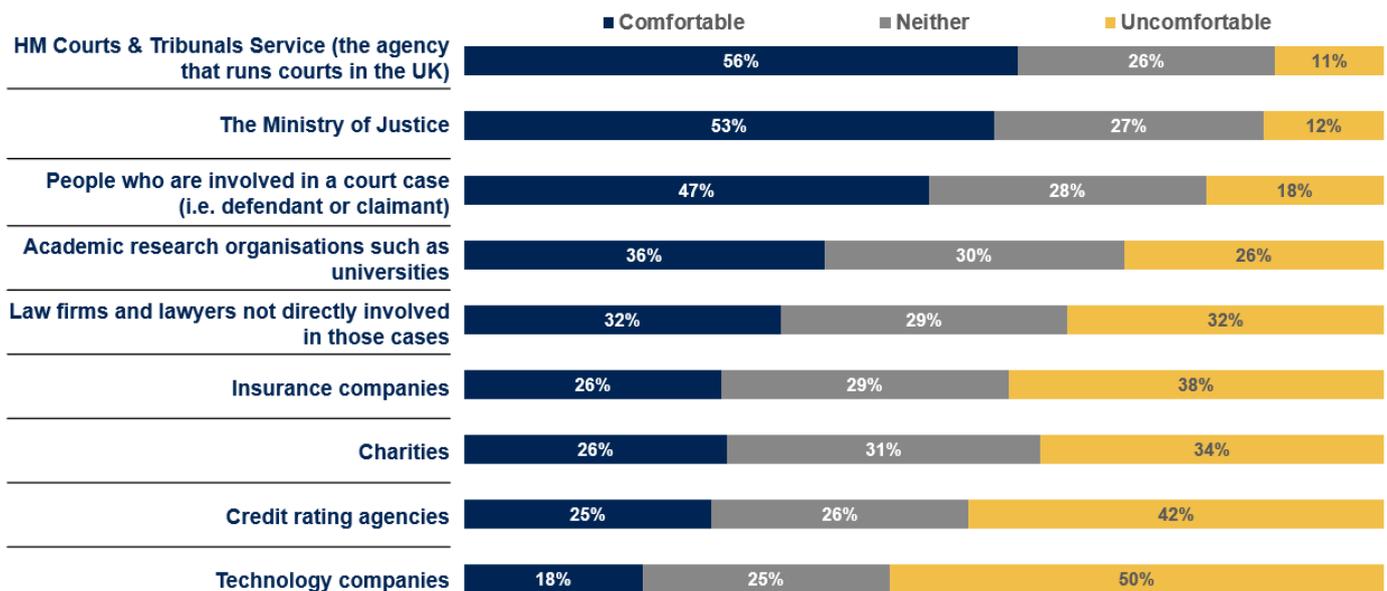
The survey asked how comfortable or uncomfortable respondents felt with nine different categories of organisations or individuals accessing and using information from court records:

- Technology companies
- Law firms and lawyers not directly involved in those cases
- Credit rating agencies
- Insurance companies
- The Ministry of Justice
- People who are involved in a court case (i.e. defendant or claimant)
- Charities
- Academic research organisations such as universities
- HM Courts & Tribunals Service (the agency that runs courts in the UK)

It should be noted that high proportions of respondents chose neutral answers such as ‘don’t know’ or ‘neither comfortable nor uncomfortable’, with between a quarter and a third selecting ‘neither comfortable nor uncomfortable’ across the nine categories. This perhaps reflects the low levels of awareness about how justice data is managed and used. It also demonstrated the need to brief participants in deliberative workshops about the ways in which these groups access and use and data from court records, in order for informed and meaningful discussion to delve more deeply into expectations and concerns.

Overall, respondents felt significantly more comfortable with government organisations and those directly involved with a case (defendants and claimants) having access than for other categories. HM Courts & Tribunals Service (HMCTS) and the Ministry of Justice (MoJ) were the only two categories for which over half said they were comfortable (56% for HMCTS, 53% for MoJ).

Figure 3: How comfortable or uncomfortable do you feel about each of the following being able to access and use information from court records?

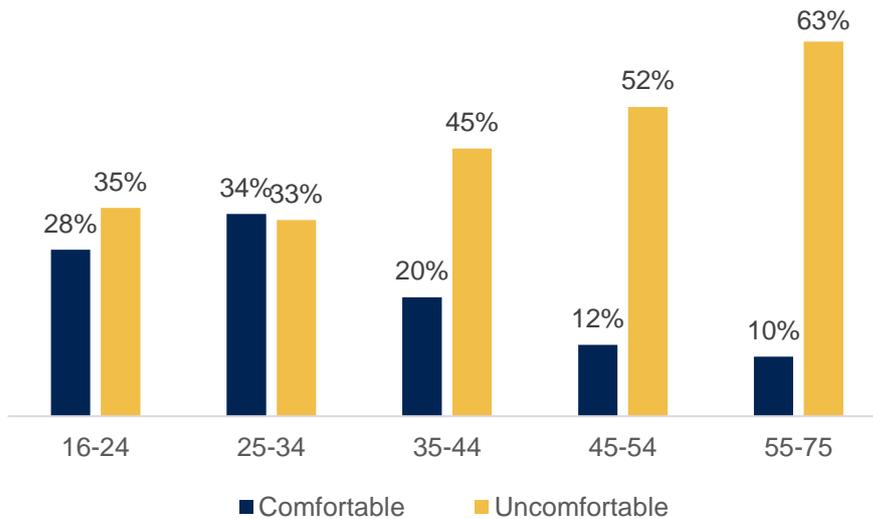


Source: Ipsos. Fieldwork dates: 21st - 25th April 2022. Base: 2005 GB Adults aged 16-75 who did not select ‘don’t know’ at Q3

The polling showed a strong correlation between how comfortable people feel about organisations and individuals having access to data and how well informed they feel about how data is currently used. Those who feel well informed about how data is currently used are more likely to feel comfortable with organisations having access. For example, those who reported being uninformed about how commercial organisations use data from court records were far more likely to say they felt uncomfortable with technology companies accessing and using court records than those who reported being informed (89% uninformed vs 8% informed).

There were also themes by age. Younger respondents felt more comfortable than older respondents with most organisation categories accessing and using court records (see Figure 4). As above, this correlated with younger groups feeling more informed about how access to court record is managed.

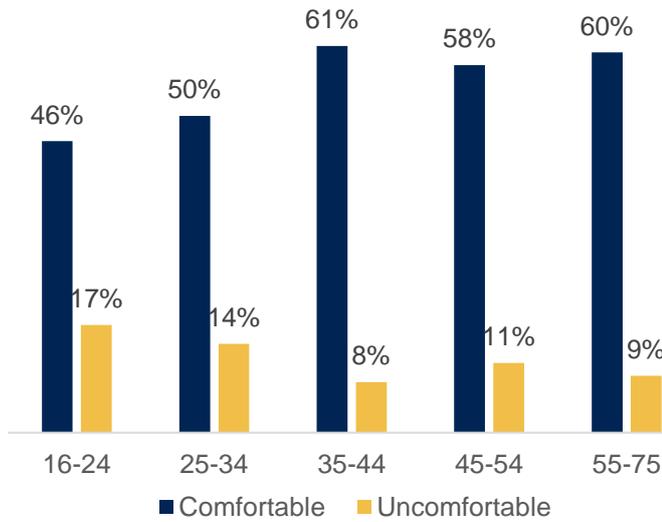
Figure 4: How comfortable or uncomfortable do you feel about technology companies being able to access and use information from court records?



Source: Ipsos. Fieldwork dates: 21st - 25th April 2022. Base: 1464 GB Adults aged 16-75 who answered 'Very' or 'Fairly comfortable or uncomfortable at Q3a.

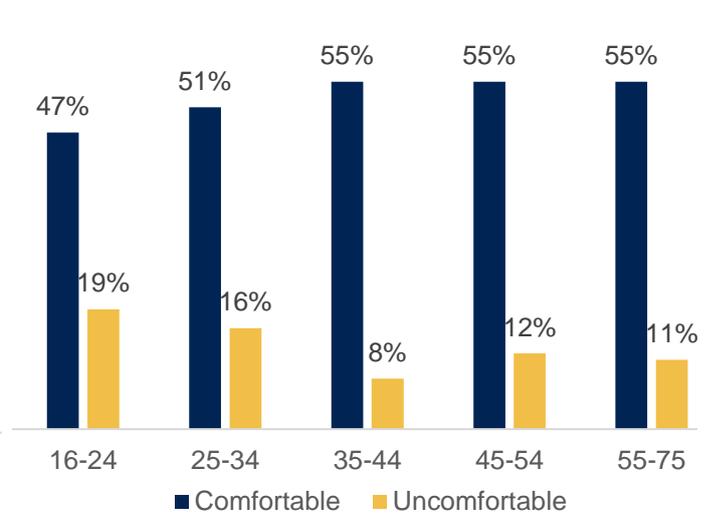
However, there were two key exceptions to this age theme: HMCTS and the MoJ. While relatively high proportions in all age groups were comfortable with these government bodies accessing and using court records, the proportion was higher among older than younger participants (see Figures 5 and 6, next page).

Figure 5: How comfortable or uncomfortable do you feel about HM Courts and Tribunals Service being able to access and use information from court records?



Source: Ipsos. Fieldwork dates: 21st - 25th April 2022. Base: 1421 GB Adults aged 16-75 who answered 'Very' or 'Fairly comfortable or uncomfortable at Q3i.

Figure 6: How comfortable or uncomfortable do you feel about The Ministry of Justice being able to access and use information from court records?



Source: Ipsos. Fieldwork dates: 21st - 25th April 2022. Base: 1421 GB Adults aged 16-75 who answered 'Very' or 'Fairly comfortable or uncomfortable at Q3e.

The only category where there was no age theme in levels of comfort was 'people who are involved in a court case'.

Education was also a factor in levels of comfort with certain organisation types. Respondents with a degree or higher level of education felt more comfortable than the overall sample with HMTCS (65% vs 56% of total sample), charities (30% vs 26% of total sample) and academic research organisations (44% vs 36% of total sample) accessing and using court records.

Those who are self-employed displayed generally lower levels of comfort with access to court records. They were more likely than the total sample to say they were uncomfortable with technology companies (68% vs 50% of total sample), credit rating agencies (53% vs 42%), insurance companies (48% vs 38%), charities (41% vs 34%), law firms not involved with the case (40% vs 32%), and the MoJ (20% vs 12%). This is possibly due to the higher liability that self-employed people often have in their professional lives, which may make them more likely to encounter the justice system, or more worried about the business and reputational impacts if they were to be involved in one.

Levels of comfort: Purposes

Participants were also asked about their levels of comfort with court records being used for six different purposes:

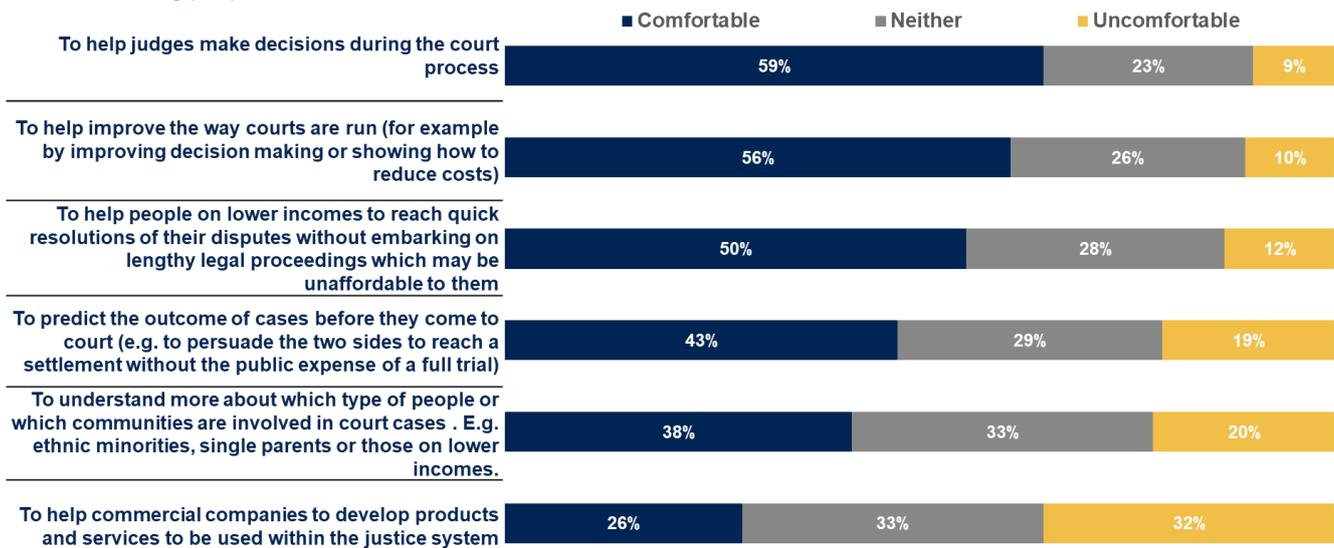
1. To help judges make decisions during the court process
2. To help improve the way courts are run (for example by improving decision making or showing how to reduce costs)
3. To help people on lower incomes to reach quick resolutions of their disputes without embarking on lengthy legal proceedings which may be unaffordable to them

4. To predict the outcome of cases before they come to court (e.g. to persuade the two sides to reach a settlement without the public expense of a full trial)
5. To understand more about which type of people or which communities are involved in court cases (e.g. ethnic minorities, single parents or those on lower incomes).
6. To help commercial companies to develop products and services to be used within the justice system

Participants were most comfortable with court records being used to help judges make decisions during the court process (59% said ‘very comfortable’ or ‘fairly comfortable’) and to improve how courts are run (56% said ‘very comfortable’ or ‘fairly comfortable’).

They were least comfortable with using court records to understand which types of people or communities are involved in court cases (38% said ‘very comfortable’ or ‘fairly comfortable’) and to help commercial companies develop products and services for the justice system (26% said ‘very comfortable’ or ‘fairly comfortable’). Figure 7 below, shows the net responses for each purpose.

Figure 7: How comfortable or uncomfortable do you feel about information from court records being used for each of the following purposes?



Source: Ipsos. Fieldwork dates: 21st - 25th April 2022. Base: 1995 GB Adults aged 16-75 who did not select ‘don’t know’ at Q4

There were some notable themes by subgroup here. Younger respondents were less likely to feel comfortable with court records being used to help judges make decisions, with slightly less than half of 16-24 years olds saying they felt ‘very comfortable’ or ‘fairly comfortable’ (49%). In contrast, almost two-thirds of those aged 55-75 felt ‘very comfortable’ or ‘fairly comfortable’ with this use (65%).

Level of education also affected comfort levels. Respondents with a degree or higher education were more likely to say they felt ‘very comfortable’ or ‘fairly comfortable’ with court record being used to help judges make decisions (67% vs 59% of total sample), and to help improve how courts are run (64% vs 56% of total sample).

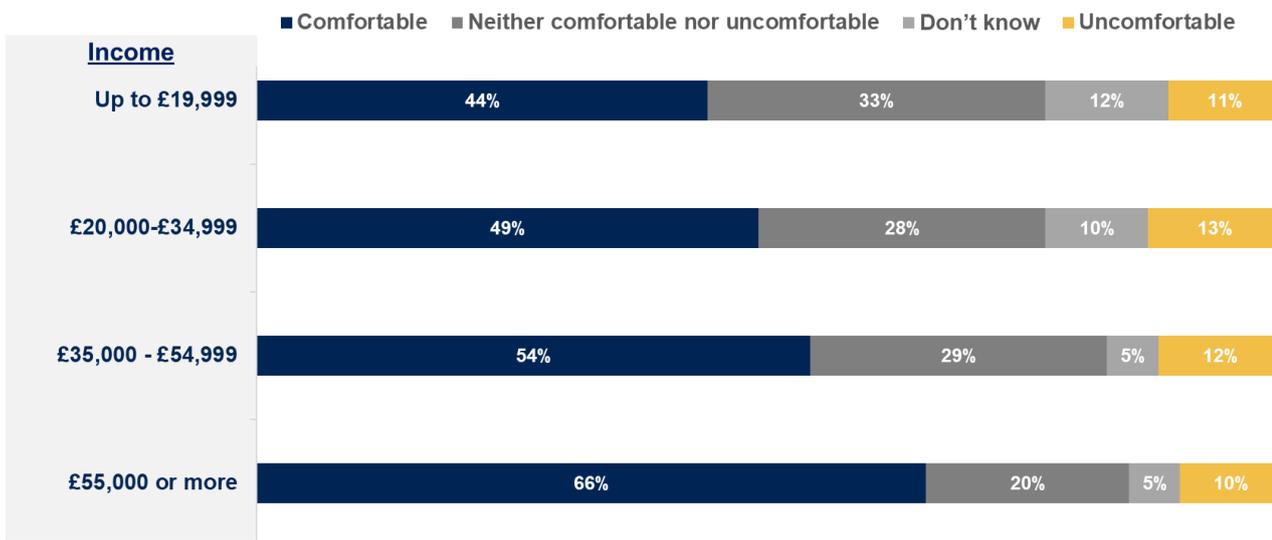
A very important theme was differences in comfort between income levels and socio-economic groups (SEG), especially for purposes that are relevant to these demographics. Respondents who were in the higher SEG group (AB) were significantly more likely than lower SEG groups to say they were ‘very comfortable’ or ‘fairly comfortable’ with court record being used to help people on lower incomes to reach

quick resolutions (57% vs 46% for C2 and DE). Those on higher incomes (over £55,000 per year), were more likely to say they were ‘very comfortable’ or ‘fairly comfortable’ with this use than those with lower incomes (see Figure 8 below). It is important to note that there were no corresponding trends for being ‘uncomfortable’, indicating that C2 DE, and lower income respondents may be less familiar with, rather than opposed to this purpose.

Respondents in higher socio-economic groups (AB) were most likely to say they felt ‘very comfortable’ or ‘fairly comfortable’ with court records being used to understand more about which type of people or which communities are involved in court cases (44%, compared to 34% of C2 and 35% of DE).

These themes by income and socio-economic group are particularly relevant for purposes that may be sought to target, research and support those on low-incomes or those from disadvantaged communities. These findings verified the sampling approach to ensure our quota ensure that those on lower-incomes were well represented in the discussions.

Figure 8: How comfortable or uncomfortable do you feel about information from court records being used to help people on lower incomes to reach quick resolutions of their disputes without embarking on lengthy legal proceedings which may be unaffordable to them



Source: Ipsos. Fieldwork dates: 21st - 25th April 2022. Base: 1969 GB Adults aged 16-75 who are employed and disclosed their income.

Importance of controls and limits to court record access and use

The final question in the survey was ‘How important, or not, do you think it is that in the future there should be limits and controls on who can use information from court records and how they can use it?’

A large majority of respondents stated that they consider it important (80%) that there should be limits and controls on who can use information from court records and how they can use it. There was also a clear strength of feeling, with half of those who think this is important (40% of total sample) saying it is ‘very important’ (as opposed to ‘fairly important’). Only 2% said it is ‘Not at all important’.

Figure 9: How important, or not, do you think it is that in the future there should be limits and controls on who can use information from court records and how they can use it?



Source: Ipsos. Fieldwork dates: 21st - 25th April 2022. Base: 2164 GB Adults aged 16-75

This strong finding emphasises the need for public engagement on how access to court records should be managed, and what these limits and controls should look like.

How findings informed the deliberative research

Deliberative workshop design

Based on the trends in the polling data, several factors were considered when designing the deliberative workshops.

The first workshop made time to probe on participants' existing levels of awareness about court records and about how they are accessed and to probe on their reactions when informed about these. This was to gain further depth into how informed or uninformed people feel, and how much they expect the public to be made aware in relation to justice data in general. While the workshops allowed for participants to share their views on court records for all types of justice (including criminal), the examples, case studies and probes were framed around civil cases. Once participants were informed about the move to court records being accessible in bulk, in machine-readable format, the workshops explored three potential purposes covered in the polling survey for more nuance. These three purposes were chosen as they are topical within the legal sphere among those who are considering how bulk court records may be used:

- To help improve the way courts are run (for example by improving decision making or showing how to reduce costs)
- To help people on lower incomes to reach quick resolutions of their disputes without embarking on lengthy legal proceedings which may be unaffordable to them
- To understand more about which type of people or which communities are involved in court cases

Case studies were carefully selected to make space for discussions around different uses of bulk court records, different organisations that may be involved, and different outcomes that may be possible. The examples were intentionally presented in a balanced way to understand what aspects of the case studies participants thought were positive or negative, and how strongly they felt about them, without being leading.

Given the mixed polling findings on comfort levels over which organisations or individuals may access court records, questions within the discussion guide prompted participants to think about who may be involved in different types of court record data use. This was to try and elicit nuance about appropriate access, trust in different organisations and any specific hopes or concerns that influenced these views.

Deliberative workshop sampling

The sampling for the deliberative workshops was purposive, aiming for a good spread of demographics, while also adjusting to ensure that relevant perspectives and voices were included in discussions, such as those who had personal experience with the justice system

The polling informed this purposive approach in the following ways:

- **Age:** The quotas aimed for an even spread of age rather than reflecting the UK's age profile. This was due to the key trends in age shown in the polling, which demonstrated a need to bring a balance in age to the discussions so that these differences could be explored naturally. When allocating breakout rooms within the workshops, we made sure that younger participants were included in each one.
- **Self-employed:** Given the consistent trend in lower comfort levels for those who are self-employed, the quota included a minimum of 6 self-employed participants.
- **Household income:** There were subtle trends in comfort levels of those with higher or lower income levels, particularly for some of the purposes that relate to lower income groups. It is vitally important to make space for the views of those on lower incomes, and so the sample was slightly adjusted towards higher representation of this group.

3 Deliberative workshop findings

This chapter explores the themes arising from the deliberative workshops. The first sections discuss the initial reactions to information about court records and the changes to how they are accessed, before the following sections delve into the participants' concerns and hopes over how this data may be used.

Initial attitudes to judgment data

This section summarised participants' initial reactions when introduced to court judgments, the information they contain and how they are currently accessed. It is important to note that at this stage they had not been informed about the change to access.

Lack of awareness about the requirements of open justice

Fitting with the poll findings, many participants expressed surprise about the level of information about court cases that is already available in judgments. This surprise was shared by some participants who have been involved in cases themselves, who were unaware the records may be publicly accessible until the workshop.

“I have recently been involved in a court case and I wasn't aware that all of this was public ... It now makes me think what could be out there.”

– Workshop 1, Group 3

Not only were they surprised that judgments themselves were publicly available, they were also surprised at the level of detail and subjective information included in some judgments. They commented that detail such as the judge's opinion on the reliability of witnesses is different to objective facts about the premise and verdict of the case, which they might expect to be public.

There was particular concern about witness names being publicly available, with participants worrying that this would put off future witnesses from agreeing to participate in a case, or that this information being available in public may put certain witnesses at risk of retaliation.

“My experience in an industrial tribunal, the person representing me I didn't meet until 5 minutes before. A lot of things said were incorrect. To think that a record is out there somewhere with a judgment and somebody looking at how reliable I was...it worries me quite a lot... Judgments may be made that you're a troublemaker. I know it has to be there, but it is quite worrying and the decisions that could be made about you based on what's on record.”

- Workshop 1, Group 1

Views on the concept of open justice

While there were mixed levels of comfort about court judgments being publicly available, participants did acknowledge and appreciate the importance of open justice. They agreed that it is important that judges, and the justice system overall, are accountable to the public and that this cannot be the case without transparency. Participants were informed that judgments from certain cases, particularly family court cases involving children, are not generally available to the public. This was something many participants were supportive of, feeling that such cases are more personal and sensitive.

There were high levels of general distrust in the justice system across groups, with a perception that justice proceedings are often skewed in favour of the wealthy or powerful. Distrusting participants could see that open justice is an important factor to mitigate this.

When informed about the existence of private publishers⁶ of court judgments participants were alarmed about the lack of transparency of the data sets held by them and the possibility that they have more court judgments than are publicly available. Some questioned whether we currently have genuine open justice with private publishers charging for access to judgments that are not available to the public.

Views on sensitivity of justice data

When introduced to the types of information that can be included in court judgments, participants discussed how sensitive they thought court judgments are.

In a poll activity during the first workshop, 17 out of 24 participants said that information about a person's involvement in a court case is 'very sensitive', and the same amount thought this information is 'equally as sensitive' as medical records.⁷

Information about financial circumstances and medical history, such as those details provided in employment tribunal judgments being included in judgments was seen as very personal as they can change over time and have significant impacts on a person's life, although participants could see that in certain cases this would be important information relevant to the case. Similarly, demographic information about age, gender, ethnicity and socio-economic background were seen as sensitive due to the possibility of discrimination based on these characteristics. Again, participants understood that these details may be relevant in some cases, but some thought that unless they were relevant, they should not be included in records.

There were participants who felt that regardless of the outcome of a case, some types of information could be damaging to a person if publicly available. For example, if the judge included an opinion that they were not a credible witness, if there were details about a stigmatised mental health issue or a domestic violence allegation, or involvement in an employment tribunal that may lead future employers to consider them a 'troublemaker' even if they won the case.

Expectations for how access to court records would be managed

Please note that this discussion was conducted before participants were introduced to the change in access to court judgments brought about by the creation of the new case law repository.

Participants expected that those who access court judgments must have to justify why they need to do so and must be held accountable if they use the information in a different way than they were permitted to, such as selling it onto third parties.

They also felt that there should be limitations on the information available. Participants felt very strongly that judgments in minor cases and crimes should not be available after a certain period, to allow people to move on with their lives without the worry that an issue from their past would re-emerge years later.

Some participants felt that the only information available to the public should be the objective facts about the case, such as the names of the claimant and defendant (not witnesses), when the case was held, the

⁶ Legal publishing companies like Justis, Lexis Nexis, Thomson Reuters

⁷ This poll was an informal activity during the deliberative workshops which is purely indicative of participants high level views. It is a sample of 24 participants who answered the poll and cannot be treated with the same statistical significance as the quantitative polling survey.

verdict, and the settlement or sentence. They did not all expect detailed and subjective notes from the court case to be included in the publicly available judgments.

"For public records it should just be the name of the claimant, the name of the defendant, the date it happened, the judge's verdict and the decision of what the verdict is, the settlement and that should be it. And if anyone should want to find out further, they should have to contact the court because I don't see why the general public need to know anything else."

– Workshop 1, Group 3

Initial reactions to the change in access to court judgments

After their initial discussions about court records, and expectations about how they should be managed, participants were introduced to the change in access to court judgments and allowing for bulk downloading. In response to information provided about the change, participants explored a wide range of issues and areas that they identified, including consequences for republication and reuse of data, data ethics and privacy, implications for vulnerable and minoritised people and purpose and effectiveness of the use of this data.

There were strong feelings that the move towards court judgments being available in bulk, in machine readable format, had been made without transparency and without informing the public. Despite this, there were participants who felt that this change is a good move rebalancing the power that access to bulk court judgments provides, moving away from the system where those with money can buy access through private publishers.

"With them opening the records more freely they're trying to eliminate the fact that you only have access to those records if you have money ... I don't think it's right, the way it's happened, the fact it's so quiet is scary. But it does make it more inclusive for people of all walks of life."

– Workshop 1, Group 5

However, there was also some scepticism about whether this change would genuinely improve or instead worsen power imbalances. Participants commented that 'normal people' would not be able to make use of this bulk data in the same way as large organisations, due to a lack of software, legal teams and low public awareness and legal or statistical literacy.

Views about the limitations of technology

Given that bulk court judgments will be in a machine-readable format, participants frequently shared their views about automation and technology throughout the discussions in both workshops.

Many participants felt that automated analysis of bulk court judgments would lack the ability to understand the nuance of complex case records, written by humans and including subjective details. They argued that reducing human situations and descriptions to numbers will not capture the full picture and therefore may be unlikely to give reliable insights.

There was also a high level of distrust in algorithms, with many participants referring to the 2020 A-level prediction scandal.⁸ They argued that algorithms are programmed by humans and can therefore contain inaccuracies that are extrapolated into major issues. Furthermore, they felt that algorithms can learn bias

⁸ <https://www.bbc.co.uk/newsround/53803651>

from the programming and data sets they are built on, and that these biases can then widen inequalities further on a large scale, especially if used to make predictions about the outcome of a case.

"They can't use past cases of a similar subject matter to determine the outcomes of fresh cases ... As humans, we carry our own stereotypes ... but what they are doing is asking a computer system to carry the same stereotypes. Every fresh case should start with zero and then it should be taken from there."

– Workshop 2, Group 5

Some participants worried that society is becoming increasingly reliant on algorithms and suspected that this change in access and format of court records signals a move towards allowing algorithm based automated in justice. While this may not be the case, it is important to note that members of the public are likely to be highly concerned about this.

Unease about justice data becoming a commodity

Participants felt that the purpose of publicly available court judgments is purely to support the principle and operation of open justice, and that they should not be commodified by commercial organisations seeking to generate a profit. Several participants were quick to comment that this change risked undermining the justice system by encouraging business models reliant on it, which may influence processes and the way courts are run.

"I was concerned that big companies could come in and buy this information. The legal system becomes a kind of business."

– Workshop 1, Group 4

They were highly concerned about the ways in which commercial organisations may use bulk court judgments if not carefully regulated. Some participants felt that 'big data' will always tend to be used against the public's interest due to the opportunity for profiting from it.

They suggested that products and services that use this data will be designed with organisations rather than individuals in mind, as they are a target market that are likely to be able to pay more and be more frequent clients. This priority was thought to inevitably lead to a prioritisation of industry benefits over public good.

"What worries me is how your information that you have no control over can be used by other people to work against you. A company is not going to use that information in your favour. They're going to use that information in their favour against you."

– Workshop 1, Group 5

Aside from legal service business models, participants were highly concerned that the bulk data could be used or sold on for marketing purposes or to scammers, leading to an increase in already high levels of cold calls to members of the public. The level of personal detail in records was seen to make scam calls a higher risk as callers could refer to details that may make them more convincing, especially to vulnerable people. They also worried that access to bulk data sets of judgments could make those involved in court cases more susceptible to fraud schemes.

These concerns were amplified by a general pessimism in the ability to control how data is accessed and used, once it is available in bulk. Participants referred to other ways in which data has been compiled and shared for a well-intentioned purpose, but then misappropriated and used for a harmful reason that was not intended. Due to the nature of court judgments, participants felt that there is a high risk of the

data being misused for exploitation and discrimination and had concerns that this would be difficult to prevent.

Views on specific use cases for bulk judgment data

During the workshops, participants were presented with a range of hypothetical uses of bulk court records. Some were case studies (from the UK and the USA), and some were purposes which may be sought in the UK court systems (also explored in the polling stage of this research). These examples were chosen and designed to introduce a balance of opportunities and risks, and included:

- Researching trends in court cases and highlighting inequalities
- To understand more about which type of people or which communities are involved in court cases
- To help improve the way courts are run (for example by improving decision making or showing how to reduce costs)
- Providing lower cost legal advice based on predictive analysis of bulk court records
- To help people on lower incomes to reach quick resolutions of their disputes without embarking on lengthy legal proceedings which may be unaffordable to them
- Screening agencies providing insights or scores on individuals for employers or landlords

Purpose 1: Researching trends in court cases and highlighting inequalities

This purpose was introduced as a case study from Utah, USA (see Appendix 7.2.2).

Participants thought that researching inequalities in the court system is a valid and important use of bulk court judgments. They explained that work done for the greater public good, and to benefit groups who are typically marginalised or underrepresented is important to ensure that justice is equally accessible to all.

There was a strong feeling that the justice system currently favours those with money or power, who may have skilled and expensive legal teams to support them. They contrasted this to 'everyday' people or those on low incomes, who not only may lack funds, but also the legal literacy to understand their obligations or options when facing a potential court case. Participants could see that such research is key for giving disadvantaged groups a voice and providing evidence to push policy change that can make a real difference to those who are often vulnerable in the justice system.

"There's an advantage to researchers having this sort of information. You could help people that are less privileged. If the data is being used to conduct research that will lead to government policy that will help people that are less privileged, then it would be fine."

– Workshop 1, Group 4

However, there were participants who felt that for this benefit to be realised, only researchers need access to bulk court judgments. They suggested that a researcher can share the resulting statistics and findings to push for change, without the court judgments themselves being shared in bulk publicly. There were also participants who felt that researchers could (and should) achieve their goals with anonymised court records, arguing that individuals' names would not be part of the data needed.

Participants felt strongly that only academic research organisations are valid and reliable users of bulk court record data. They did not feel that access to bulk judgments would need to be available to other types of organisations to achieve this purpose.

Purpose 2: To understand more about which type of people or which communities are involved in court cases

This purpose was presented as a hypothetical future use of bulk court judgments. It was also explored in the polling (see Chapter 2).

This purpose elicited a complex reaction from participants; while they could see ways in which this could benefit vulnerable groups, there were also strong concerns about potential negative impacts.

Participants acknowledged that this type of analysis could identify groups that need further support when involved in a case, such as financial legal aid, better legal representation and advice. They also suggested this insight could be helpful for local councils to identify social issues within their constituency that increase the likelihood that specific groups end up involved in a court case.

However, participants generally felt uncomfortable about the potential negative impacts of this type of analysis. They had strong concerns that trends identified would be more likely to result in further bias and stereotyping of vulnerable and marginalised groups, rather than findings solutions to the underlying issues. There was an assumption that this research would focus on specific demographics such as low-income groups and ethnicity.

Participants felt it was extremely important that such analysis is only done where there is a commitment to address issues highlighted, and that organisations involved should follow an ethical approach to prevent this information being used to further marginalise the groups focused on. Without these commitments, participants felt that these groups would be let down, or further harmed.

"I do worry about looking at data in such big groups. The individuality gets lost if you take great big segments of society, but if you're talking policy decisions and trying to help a certain segment of the population, it outweighs that"

– Workshop 2, Group 2

Participants also noted that individuals who commit certain crimes (such as drug possession) are only included in justice data statistics if they are caught. They commented that those from disadvantaged backgrounds are more likely to be caught than those in more privileged positions, and that this would further stereotypes that are not accurate, such as that low-income groups typically consume more illegal drugs than other groups.

Again, many participants felt that only anonymised data is needed for this purpose and that court judgment usage should be limited in this way.

As with the previous purpose, participants expected and accepted that academic researchers would be a key organisation involved.

Participants felt that relevant charities and advocacy groups should be involved, to choose, interpret and make use of the research. Specific charities mentioned included Mind, Shelter, and domestic violence abuse charities. Many also thought that Citizens Advice would be an appropriate organisation to use the data to provide support where it is needed.

Participants also felt that individuals or organisations that work with groups shown to be most often involved with certain types of court cases could put such research to valuable use, such as local councils, social workers, teachers for young offenders or vulnerable young people, and probation workers.

Aside from these groups, many participants felt that the bulk data should not be accessible to any and every type of organisation; only those who are using it to identify issues and find solutions.

"You need somebody who's experienced at being able to delve into those reports and being able to extract the right things, use the right filters, even somebody like Citizens Advice, independent to the whole system."

– Workshop 2, Group 2

Purpose 3: To help improve the way courts are run (for example by improving decision making or showing how to reduce costs)

This purpose was presented as a hypothetical future use of bulk court data. It was also explored in the polling (see Chapter 2).

This purpose divided opinion among participants, with mixed views on whether the outcomes would be beneficial to the public or not.

There were participants who felt that this use of bulk court data would be smart, identifying ways to make better use of court space and time. Participants who had personal experience of the justice system commented that the process could be improved for better efficiency, benefiting the courts and those involved in cases. They suggested other ways in which the process could be made more efficient, for example with some elements moving online, or there being more video appearances where appropriate.

Participants spoke about the financial and mental health burden on individuals when their court cases are delayed, drawn out or overly complex to navigate. They emphasised that certain types of cases can have a more significant impact if prolonged, such as housing issues or sexual assault cases, where further harm may be caused by delays.

"Anything that brings court cases to the forefront and gets them through quickly has got to be better because a lot of them seem to be so long drawn-out, and people kept in custody"

– Workshop 2, Group 2

However, alongside these benefits, participants felt there is a big risk of over-automating processes and removing a vital human element to interactions with the justice system. There was a strong feeling across groups that there must always be a way to speak to a human court employee when navigating any online or automated aspects of the process. Participants made many references to changes to the availability of GPs, and the impact of adding barriers to human interaction when experiencing stressful situations, such as legal or health issues.

Another concern was that an over-emphasis on streamlining court processes could lead to a lack of consideration for nuances, special circumstance, or unpredictable elements of a case. Participants commented that quick does not always mean better, and that cases still need proper consideration at all stages of the process. Some felt that disadvantaged groups are more likely to be disenfranchised by changes to improve court efficiency, as they lack the resources to advocate for themselves or challenge issues arising from automation.

There were also participants who voiced their pessimism that genuine efficiencies would be made. They had the view that those managing court processes already know where problems lie and what could be done to solve them, but do not have real incentive or interest in addressing issues. They argued that access to bulk data is not needed to make improvements, and that professionals in the courts already have the insight, experience and knowledge to improve processes if they wish to.

While the purpose described to participants was to identify ways to improve use of court time, and speed up administration, some participants worried that this could be the first step in moving towards eventually automating verdicts for minor cases – something they found incompatible with a fair justice system.

Participants expected management consultancy companies to be involved in this purpose, as these are the typical organisations to advise on making efficiencies. They also expected that the courts themselves would need to be involved, both to provide the data and action changes to make improvements based on the analysis.

Aside from consultancies and courts, participants wanted to see others involved to oversee the process of using data to improve the administration of justice. They wanted to see independent regulators to monitor the use of the data and ensure it is managed appropriately, as well as assessing the proposed changes to understand what implications they may have for those involved in cases, especially those who are or could be most vulnerable.

As well as a regulatory body, participants wanted a diverse group of members of the public to be involved in decision making. They suggested that public engagement and input would help ensure that decisions are not made only by high-income legal professionals, who participants felt would not relate to the challenges of low-income people. Some referred to the workshops they were currently participating in as a good way of bringing public input into changes to court systems.

Purpose 4: Providing lower cost legal advice based on predictive analysis of bulk court records

This purpose was introduced as a case study based on Solomonic, UK (see Appendix 7.2.2).

It is important to note that this case study of providing lower cost legal advice overlapped in themes with the purpose discussed next: 'To help people on lower incomes to reach quick resolutions of their disputes without embarking on lengthy legal proceedings which may be unaffordable to them'. Participants sometimes discussed these simultaneously, or conflated the two.

This case study prompted much nuanced discussion among participants. While they acknowledged and appreciate potential benefits, generally there was a high level of scepticism about the extent to which this service would benefit the public.

There were participants who felt that this type of service could be beneficial in the following ways:

- Helpful for those who cannot afford proper consultation with a legal professional, to get insight about their chances in court. However, participants noted they would still need to be able to afford this alternative service.
- Helping people understand if it is in their best interest to settle out of court, if they would prefer to avoid the costs of a case with low chances and keep the details of the dispute out of public record. There was a clear overlap here with the subsequent purpose of reaching quick resolution.

- For businesses who want to reduce their financial risks by assessing the likely outcome of a case. Particularly for SME's who may not have well-resourced legal teams, or extensive court experience to base their judgment on.

However, participants were concerned about how accurate and helpful advice based on bulk court data may be, and frequently referred to the limitations of technology such as automated analysis of subjective or nuanced information.

There was generally a high level of discomfort and distrust in predictive analytics, with participants arguing that data-based predictions are often wrong. They referred to the A-level prediction scandal in 2020 (as referenced earlier) and even weather forecasting as examples of predictive algorithms being wrong, sometimes with significant impacts on individuals. One participant described predictive analytics as 'crystal ball gazing with a computer'.

Participants suggested that predictive advice services should always incorporate some element of human analysis, and not rely solely on automated statistics. They felt this would mitigate the risk of oversimplifying complex circumstances and allow for predictions and advice to be sense checked by a professional, rather than being given to clients without context or oversight.

Another concern was that these services would routinely advise specific groups or case-types to settle out of court, which would have a circular effect of removing such cases from the statistics used to inform future clients about outcomes. Participants worried that diverting a high volume of lower chance cases from the courts would stop judicial precedents from progressing, with future outcomes heavily influenced by a stagnant set of previous cases.

"If it says you've got a 90% chance of losing the case, nobody takes any of those cases to court. So, that data stays the same."

- Workshop 2, Group 2

Participants again worried that this could make it harder for 'normal people' to access good-quality, in-person legal advice. They thought this would happen by replacing initial interactions with an automated digital service rather than interaction with a human professional, and also by influencing lawyers not to take on a case for which predictive analytics deem to have a low chance of success.

There were many participants who felt that this approach overlooked the importance of justice. They argued that many people want to have their say in court because they feel strongly that they have been wronged, and the predicted outcome or financial impact of the case is not the most important factor to everyone, even if they have very limited resources.

"If I feel like I have been wronged in a way so badly that I need to take it to court, then I would take it to court. Why would the fact that someone had lost or won in the past be determining whether I go or not? "

– Workshop 1, Group 3

Purpose 5: Helping people on lower incomes find quick solutions and avoid costly court proceedings

This purpose was presented as a hypothetical future use of bulk court data. It was also explored in the polling (see Chapter 2).

As mentioned in the section above, there was a significant overlap in how participants discussed this purpose, and the case study above which was based on Solomonic.

Like the previous purpose, this example prompted many participants to share their scepticism about the reliability of predictive analytics in the justice system, and concern about the impact it could have. However here, that concern was specifically focused on the impacts for low-income groups.

Participants again reiterated how seeking justice is often more than a financial decision and argued that individuals should not be diverted from the opportunity to take their case to court solely because they are from a disadvantaged background or on a low income. They worried that consistently advising those on low incomes to avoid court would support unethical organisations or individuals with wealth to be able to routinely pay their way out of trouble and keep patterns of misconduct out of public knowledge.

There were strong concerns that the data used for this practice would be biased against low-income groups and become more so the longer this practice was implemented. This concern was based on the following assertions by participants:

- Participants said that low-income groups are likely to have had less legal and financial support, resulting in poorer outcomes. This in turn would mean the data would indicate low-income individuals always have a poor case to make in court.
- They felt that advice based on this data would almost always encourage low-income groups to settle out of court or enter mitigation, meaning that fewer cases by low-income people make it to court and the data set becomes further skewed.

"I hate to say it but if you don't have the funds to go to a solicitor or barrister, I think you'd lose out. You'd be encouraged not to go any further."

– Workshop 2, Group 4

"It always seems like if you've got money, it's about who you know, but if you don't have money, you should settle out in court, and I don't think that's fair."

- Workshop 2, Group 4

The key concern here was that by consistently informing lower-income groups that their chances in court are low, this group would be further marginalised, giving the message that justice is not for them.

Aside from these more technical concerns, some participants felt that discouraging a specific group from seeking justice in court undermines the concept of justice entirely, taking away the voice of an already marginalised section of society. Many also described this purpose as a second-class justice system for those who do not have money or power, where they do not have the same treatment or opportunities as the rest of society. While this purpose aims to help those on lower incomes, participants felt this purpose would negatively impact them instead.

"The underclasses, they would not feel that they'd ever had their day in court. They're being put into a digital thing. I think it would give a two-class system."

– Workshop 1, Group 4

There were also participants who were pessimistic about the intentions behind such a process based on their underlying distrust in the justice system. Some of these participants felt that a second-class justice system for low-income groups would be achieved by design, rather than as an unintentional side effect of a well-meaning strategy. Others suggested that an initiative to encourage low-income groups away from court cases may be designed to save the courts the expense of legal aid.

Despite this overall high level of discomfort, there were some participants who saw value in this purpose. These participants said that it could often be in the individuals benefit to know what options they have beside court, and what outcomes they may expect from court, settlement, or mediation. Some argued that this wouldn't only benefit low-income groups, as most people want quick resolutions to their disputes and may wish to save on costly court proceedings. A participant also noted that encouraging people towards mediation instead of court could help to avoid the UK becoming an overly litigious society, giving America as an example of what we should not aim to mirror.

Participants again felt that data alone should not be the basis for advice and should always be accompanied by human professional advice. They argued that numbers and statistics cannot comprehend complex subjective detail involved in court cases and should not be relied upon solely when making important life decisions such as whether to go to court.

"They should be suitably qualified, trained people. It could be like a call centre, people who understand how that data works, so they can help people to interpret it. I think the cost savings from solicitors, legal aid, could be huge, but having people who are trained to understand the data, to help people through what they're looking at."

– Workshop 2, Group 2

Participants were clear that if this process were to be implemented, the advice should be free to end users as they would likely not be in a position to pay.

Participants were concerned that those managing this process and making decisions would not fully understand the challenges facing those from disadvantaged backgrounds or would not be genuinely committed to understanding and removing barriers to justice.

If bulk court records were to be used in this way, participants wanted to see charities and not-for-profits involved, as they were seen to prioritise genuine advocacy and are independent of the courts. They suggested the Citizen Advice Bureau, housing associations, and charities.

"I'd just really worry about private companies providing this data. I like the idea of charities or not-for-profits having maybe free access to this. At least you know if they've taken this data they're trying to give you an honest assessment of what it means. It would help those more disenfranchised to access this."

– Workshop 2, Group 1

There were mixed views about how involved lawyers should be in this process. Many felt that lawyers have too much of a vested interest to take on cases with better chances and divert non-profitable cases.

"We like to think lawyers are very good people but, no offence, a lot of them just do things for expediency and work within their biases"

– Workshop 2, Group 1

Purpose 6: Screening agencies providing insights or scores on individuals for employers or landlords

This purpose was introduced as a case study based on screening agencies in the USA (see Appendix 7.2.2).

Participants had mixed views on the acceptability of this use case and discussed the impacts on society as well as the potential benefits for landlords and employers.

In discussions, participants did appreciate how the use of bulk justice data for screening services could help landlords and employers mitigate risks, particularly small businesses with less resources to manage

the potential impact of an individual tenant or employee. There were several landlords and employers in the groups who reflected on how this may be helpful from their own experience. Some participants felt that people have a right to know if an individual is of particularly high risk based on relevant court data such as evictions, employment issues or long-term criminal behaviour.

Participants who supported these services did add that only private landlords should be able to reject applicants based on such data, as local authorities have a duty to provide housing to those who need it regardless of court history.

However, some participants (including some landlords) felt that there are already adequate sources available to mitigate the risks that come with renting out a property or hiring people. They referred to previous references, credit checks, DBS checks and searching for names on the internet. These participants felt that using bulk court records in this way was unnecessary.

Despite some support for these services, there was a strong feeling across groups that the impacts on an individual and societal level could be too severe to justify this use of bulk justice data.

Many participants had concerns about how poor scores by such screening services could impact people who have been involved in court cases. They worried that people may be blocked from most housing and employment opportunities if these services became commonly used, which would prevent them from moving on with their life. Participants suggested that this impact could increase homelessness and crime by locking people out of options to live an honest and stable way of life, drawing them into further crimes or homelessness due to the lack of social housing already available.

There were also participants who worried that landlords may use this information to charge higher rent to those with a lower score based on a previous court case, which they felt would be exploitative.

"It would have its advantages, but the disadvantages are heavier. Because of the discrimination it would cause the people involved in these court cases, I feel like it's just not worth it."

– Workshop 1, Group 4

There was also a consistent view that not all court involvement is the same in terms of relevance, severity and recency. They worried that screening services would lack the nuance to provide useful and appropriate scores or advice to clients. One participant gave an example of the high number of people with no criminal history who were arrested during climate change protests, questioning whether these people would be 'blacklisted' from jobs and housing.

The relevance of the person's history was seen as important. For example, a landlord should only need to know about cases related to evictions or issues paying rent. An employer should only need to know about cases related to job performance or fraud. Some participants did think there may be expectations if the job is particularly sensitive (e.g., schools), but felt that existing procedures such as a DBS check should suffice.

The severity of somebody's court history was seen as relevant if they have been convicted of a violent or sexual offence. Participants felt that employers and landlords should always know about very severe cases which may put others at risk.

Recency of a person's court history was a highly important topic to participants. They felt that there is a key difference between people who have made mistakes in the past but have since changed and moved

on, and those who have a pattern of behaviour, such as frequently getting fired or evicted. Participants felt that if a screening services using bulk court judgments were allowed in the UK, they should only use information from the last 5 years. They felt this would allow people to move on with their lives (with some exceptions for severe cases) while still protecting employers and landlords from those with consistent patterns of misconduct.

One participant commented on the current cost of living crisis, suggesting that many more people will begin to struggle with bills and debts potentially leading to an increase in related court cases. This participant worried about how many vulnerable people may have their financial situation worsened by the combination of increasing poverty and screening services based on bulk court records in the UK.

Aside from these concerns, participants were also worried about the accuracy of the outputs from hypothetical screening services. There was little trust in third party commercial organisations to do proper due diligence when managing such sensitive data. Participants commented how easy it can be to mix up common names, referring to stories about people being stopped at airports when mixed up with wanted criminals or terrorists. Participants emphasised that there must be serious financial and legal consequences for businesses that misuse or mis manage court data.

Many participants suggested that if these services existed in the UK in the future, they should have to ask the individual for consent before running a check on them. They also felt that screening companies must show individuals their score and what it is based on so that they are aware and have the opportunity to challenge inaccuracies.

4 Conditions set by participants

Throughout Workshop 2, participants were prompted to share preferences and set boundaries for how bulk justice data could be accessed and used in an acceptable way. At the end of Workshop 2, a specific activity focused on refining these into a clear set of conditions. During this activity participants referred to both criminal and civil court cases.

Purpose and public benefit requirement

Participants indicated that a clear purpose should be given and approved for access to the data, with the expectation being that acceptable uses should centre around the delivery of public benefit (for instance, in enabling increased transparency and the principles of open justice to be realised), rather than exclusively for the purpose of commercialisation and profitability.

“I think the process of acquiring data or records should be a strong process that would vet individuals and what exactly they’re using the data for. They must say what they require the data for. If it’s deemed to be in the public interest, or a reasonable request, then information should be forthcoming.”

- Workshop 2, Group 2

Participants had strong feelings about the monetisation and commercial use of data, cautioning against data being used in ways that involved resale or commodification, particularly for marketing purposes.

“Charities, not-for-profits, public interest groups... as opposed to private companies that are selling this as a service; I’d like them to have superuser access to compile data in relation to the particular issue that they are facing. They could be doing it for a more honourable purpose than someone trying to extract a subscription fee for access to this data.”

- Workshop 2, Group 1

In general, participants indicated that uses of data should aim to improve the effectiveness of the justice system for all stakeholders and beneficiaries and generate clear improvements in the fairness and equality of outcomes and benefits.

There was a recognition that use of and access to such data had the potential to help address asymmetries of power within the justice system, supporting underrepresented groups and communities. However, this was accompanied by expectations that such claims should not be accepted uncritically and needed to be clearly evidenced through ongoing monitoring and evaluation to ensure that initiatives meaningfully benefit society and help underrepresented groups.

Public awareness and transparency

In line with these expectations, participants also expressed the importance of ensuring that the principles of open justice are adhered to and are a key part of how data access itself is governed. Beyond increasing public awareness about proposals to make data available, transparency about the data itself was considered paramount:

- **Transparency about the types of data made available and purpose:** Participants indicated that the public, particularly those directly involved in and affected by court cases, should know that this data is publicly available and should be informed about the changes proposed to provisions about access to court data.

“I like the point about awareness. A lot of people don’t know this. Personally, I didn’t. A lot of people will want to know about it”

- Workshop 2, Group 1

- **Transparency about who and the types of organisations accessing the data:** In addition to the requirement that there is full transparency about what data is made available and for what purposes, participants indicated the importance of publishing details about who, and what type of organisations had accessed the data, as well as the purposes to which the data had been used.

“If you had a list of organisations who had requested bulk ... a list available to the public to see who’s accessed the records and what they’ve been used for... That would be really good, to see that.”

- Workshop 2, Group 2

- **Transparency about the limitations of the data sets and how the data has been used to inform decision making:** Participants stressed that whilst accurate data can be used and collected, all data sets have their limitations. As a consequence, they felt that the limitations of data sets and algorithmic systems, including the assumptions underpinning analysis should be made clear to end-users so they can decide how much credence to give it in their decision making. This transparency should extend to clear and ‘explainable’ bases for decision making where individuals may be negatively impacted (such as screening agencies or employers), so that a legitimate basis for appeal and challenge would be available.
- **Transparency about data breaches, misuse and exploitation:** Participants also indicated the importance of public awareness and transparency about misuses of such data. For instance, by publishing details of data breaches and information about organisations and individuals that were found to have misused this data (e.g. by selling on or commodifying the data, or using the data for a purpose other than that which was agreed at the point of approving access. Furthermore, there was an expectation that there would be a clearly visible audit trail of access to data sets to enable full transparency and accountability.

Spectrum and proportionality of data access

Participants proposed a tiered system that articulated the level of data that might be accessed based on the severity of the cases, the sensitivity of the data contained within the court cases, the type of court, and the type of organisation accessing the data. This should include the purpose for which the information was accessed, relevant specifically to intended purpose or use (for instance, landlords might only be able to access and see eviction cases). These suggestions reflected a desire for proportionality and a measured approach to stewarding the data in ways that balanced wider societal benefit with privacy considerations and impacts on the individuals impacted.

“If it’s very specific data, and there’s a very specific purpose, and a specific outcome... then I’m happy with it. It would have to be all of those things.”

- Workshop 1, Group 4

As the nature of these data sets often include highly sensitive information about people’s financial, economic, employment and housing circumstances, there was a strong sense from some participants that judgments should be anonymised for some uses. Participants felt it would be possible to conduct research, develop case predictions, and use data to improve the efficiency of courts without gathering and assembling data in ways that necessarily identify individuals.

Consequently, some participants also recognised the importance of ensuring mechanisms that enabled participants to correct, address, and request the anonymisation of personal data contained in court judgments; in addition to being able to access court record data as it related to themselves. Participants felt that it was important that defendants and claimants in a court case should have the right to be able to access and check their own records and have any inaccuracies corrected within a specific timeline.

“Getting information incorrect, that’s very worrying ... If it was done by AI, would you be able to challenge it? ... Would you be able to say this information is incorrect? Or would the computer say ‘No’ and that’s it?”

- Workshop 1, Group 1

More generally, it was recognised as essential that data was kept up to date, and adequate mechanisms were put in place to ensure that the data was accurate. Participants stressed the importance of individual court judgments being included accessible bulk data sets only for a time limited period, with participants suggesting a clear time period (such as between 5-10 years). This was suggested to ensure people with a historical court history, but no recent trouble, are able to move on in life without being discriminated against and blocked from housing, credit or employment opportunities.

Financial contributions for access

The issue of compensation for and monetisation of access to data drew mixed views from participants. However, there were some core themes that, again, sought to take a proportionate approach to access and use.

Participants indicated that there should be some fees for access to bulk data sets on the basis of the recoverability of the costs that enabling access would entail. There was a strong sense from participants that fees should cover administration and maintenance for ensuring the data system works adequately and in recognition of the cost of curating high quality data.

However, participants recognised that organisations and individuals were likely to vary in their ability to contribute financially towards the cost, and some suggested that the level of fees should be set depending on the level of data and the circumstances of the organisation or individual accessing it. As such some participants suggested a means-tested tiered fee. For instance, larger companies with the financial means should contribute more, calculated as a percentage of their turnover. Participants thought smaller organisations should pay less, and non-profits and individuals should not pay a fee.

"If it’s something that’s chargeable, it’s creating a barrier for those on a low income. Especially with the rise in cost of living, it’s not accessible to the general public. There will be that barrier there."

- Workshop 2, Group 1

Participants identified that the volume and granularity of data might impact considerably on the fee, with larger, more granular datasets having increased risk, depth and therefore social and economic value, whereas access to individual court records or a small range of judgments might require a smaller fee or access at no cost.

Participants made an exception for individuals to whom the data related. In this instance, they felt that access to insight and advice informed by this data should be made available by right to people on all incomes. They felt that ability to pay should not further entrench inequality through making access to individual court record data a ‘luxury’ rather than a right.

Data stewardship

In addition to the GDPR provisions related to secure storage of data sets, participants indicated that the nature and sensitivity of data warranted additional mechanisms for data governance. Reasons for this include the recognition that court judgment data often contained highly sensitive information about individuals and was therefore at risk of reinforcing biases, prejudices and stigmatisation of marginalised groups and communities. Participants noted that those on low incomes and racial and ethnic minorities are more likely than average to pass through the justice system, often due to underlying social issues and disproportionate policing of these communities.

Given the sensitivity of this data, it was felt that this information carried a particular responsibility for data stewards and for those enabling third party access. Some participants stressed that this data should be treated with security akin to that given to financial transactions data and should have stringent governance processes that ensured adequate protection from resale or data breaches.

"It should be bank level security. This is really personal, private information. If you have somebody calling you saying, 'I'm from this court. I understand you were in this thing,' you're much more likely to reveal information [to scammers]."

- Workshop 2, Group 2

Participants also expected clear limits on the frequency and volume of access to bulk judgment data, as well as its purpose on the part of individuals and of organisations. To improve accountability participants felt that organisations who are granted access must have a named individual who is accountable and responsible for ensuring compliance with data protection standards and expectations (these individuals are often known as 'data stewards' in organisations).

Participants recognised that the data sets would likely be used to drive and inform technologies for the use of analysis, research, and prediction. They emphasised that in these instances the data itself needed to meet quality standards; but also, that the technologies and approaches to deriving insights and prediction needed to be quality assured with claim verified as accurate. Participants stressed the importance of processes in place (through internal and external audit) to ensure that the data and software developed using the data, was reliable, adequately funded, tested and piloted, and independently reviewed.

"The other thing is to make sure the software is reliable... You've only got to look at the government's track and trace system to see how badly these things can work out. You need to make sure it's thoroughly tested and reliable."

– Workshop 2, Group 1

Governance and regulation

In line with the quantitative polling, workshop participants were clear that strong, clear and enforced regulations must be in place to control who accesses bulk court records, for what purpose, and that the regulations are complied with.

"Regulation is really important to me because if it is regulated, it means they've got someone to answer to. If someone isn't keeping an eye on it, and there isn't a regulatory body involved, that's when it doesn't become fair, transparent or isn't challenged."

- Workshop 2, Group 4

“You’d limit the powers to the companies with access to it to specifically the jurisdiction in the UK presumably. Companies are always inadvertently falling foul of the restrictions. I do think that consistent and severe penalties should be in place for companies that do abuse their access to this data.”

- Workshop 2, Group 1

Participants shared their conditions for how this system should be governed:

- **Independent gatekeeping and oversight role:** Participants emphasised the importance of a governing body to ensure strong and sustainable accountability. There was a strong desire for outcomes from the use of this data to be accountable and scrutinised nationally and independently of government and third parties who would stand to benefit from use and access to that data. Participants referred to the key role of the ‘independent’ gatekeeper with a proven track record of trustworthiness and credibility.
- **Accountability and regulatory consequences for misuse:** Participants indicated the importance of consequences and enforcement mechanisms for those who misuse the use of and access to data. Some suggested fines and provisions that banned offenders from future access to bulk court data. They felt that consequences should be severe enough as to make misuse of data unappealing, worrying that inadequate fines could be considered an acceptable financial risk by companies who stand to make large profits in that misuse. For this reason, they felt strongly that the independent regulator must have adequate ‘legal teeth’ and resources to be able to ensure full accountability. The role of such a regulatory body would be to monitor uses and applications to ensure that data is used exclusively for the purpose given on application and that data is not commodified or sold on for marketing purposes.

“Feel there needs to be some sort of third-party regulator that can assess and also monitor them ... anyone who is accessing this data should be subject to some really stringent controls otherwise they lose their access and get booted out.”

– Workshop 2, Group 1

Ensuring people remain ‘in the loop’

A key area of anxiety and concern for participants related to the use of data to make predictions and assessments about court outcomes and likely consequences of situations before they had taken place. There was some concern that this would generate stigma for groups and individuals before they had the chance to embark upon a fair hearing, and that algorithmic systems risked prejudging individual circumstances.

“Some people just need to tell their story and know that it’s not a computer making the decision. There’s a humanity required to listen to a person tell their story.”

- Workshop 2, Group 1

Participants also felt that over-automating court processes could also remove the ability for people involved in cases to speak with another human. They thought that this would reduce the ability to make considerations for nuance or extenuating circumstances, or for people to ask for help if something in the process seems to have gone wrong or be unfair.

Given the sensitive nature and likely significant impact of such decision making, participants clearly indicated that such systems should have clear and critical human oversight, with advice and decisions that are informed by data and algorithms held to account by human professionals who are always kept ‘in the loop’. There was a concern that the data contained within court judgments would not always fully

represent specific situational differences for people, and that algorithmic systems could adversely influence or bias human judgments. Participants felt it would be critical to ensure that humans were equipped to be critical of the technological systems they worked with, as well as able to engage in dialogue with the individuals impacted with the use and application of human common sense in such instances.

“In terms of trust, that is difficult because it comes down to the human element as well. Inanimate objects don’t have that, so we have to depend on the gatekeeper of the information. Do they have the trust to use the information morally?”

- Workshop 2, Group 5

5 Participant views on purposes and use of data

Purpose 1: Researching trends in court cases and highlighting inequalities

Participants thought that researching inequalities in the court system is a valid and important use of bulk court judgments. They were supportive of work done for the greater public good, and to benefit marginalised or underrepresented groups.

For this type of purpose, participants felt strongly that only academic research organisations are valid and reliable users of bulk court record data. They did not feel that access to bulk judgments would need to be available to other types of organisations to achieve this purpose. They suggested that a researcher can share the resulting statistics and findings to push for change, without the court judgments themselves being shared in bulk publicly.

There were also participants who felt that researchers could (and should) achieve their goals with anonymised court records, arguing that individuals' names would not be part of the data needed.

Purpose 2: To understand more about which type of people or which communities are involved in court cases

This purpose elicited a complex reaction from participants; while they could see ways in which this could benefit vulnerable groups, there were also strong concerns about potential negative impacts.

Participants felt it was extremely important that such analysis is only done where there is a commitment to address issues highlighted, and that organisations involved should follow an ethical approach to prevent this information being used to further marginalise the groups focused on. Without these commitments, participants felt that these groups would be let down, or further harmed.

Participants strongly felt that academic researchers would, and should be, involved in conducting this analysis, and that relevant charities and advocacy groups should be involved, to choose, interpret and make use of the research.

Purpose 3: To help improve the way courts are run (for example by improving decision making or showing how to reduce costs)

Participants were divided over whether the outcomes of this work would be beneficial to the public or not.

Some felt that justice system processes could be improved for better efficiency. Using data to reduce delays in court processes was seen as being of particular importance, particularly in cases like housing and sexual assault.

Other participants expressed scepticism over whether data was really needed to achieve this outcome, stating their view that those managing court processes already know where problems lie and what could be done to solve them. In their view, the barrier to addressing issues was one of incentive and interest, not access to data.

There were high levels of concerns about seeking efficiencies by over-automating processes and in turn removing a vital human element to interactions with the justice system. There was a strong feeling that there must always be a way to speak to a human court employee when navigating any online or

automated aspects of the process. Participants felt that disadvantaged groups are more likely to be disenfranchised by changes to improve court efficiency, as they lack the resources to advocate for themselves or challenge issues arising from automation.

Some participants worried that this could be the first step in moving towards eventually automating verdicts for minor cases, something they found incompatible with a fair justice system.

Purpose 4: Providing low-cost legal advice based on predictive analysis of bulk court records

This example prompted many participants to share their scepticism about the reliability of predictive analytics in the justice system. There were strong concerns about the impact it could have for low-income groups.

Participants emphasised that seeking justice is often more than a financial decision and argued that individuals should not be diverted from the opportunity to take their case to court solely because they are from a disadvantaged background or on a low income.

They felt that advice based on this data would almost always encourage low-income groups to settle out of court or enter mitigation, meaning that fewer cases by low-income people make it to court and the data set becomes further skewed. They also worried that consistently advising those on low incomes to avoid court would support unethical organisations or individuals with wealth to be able to routinely pay their way out of trouble and keep patterns of misconduct out of public knowledge.

Participants felt that discouraging a specific group from seeking justice in court undermines the concept of justice entirely, taking away the voice of an already marginalised section of society. Many described this purpose as a second-class justice system for those who do not have money or power, where they do not have the same treatment or opportunities as the rest of society. There were participants with high levels of distrust in the justice system who felt that a second-class justice system for low-income groups would be achieved by design via this purpose, rather than as an unintentional side effect of a well-meaning strategy.

Purpose 5: Screening agencies providing insights or scores on individuals for employers or landlords

Some participants did appreciate how the use of bulk justice data for screening services could help landlords and employers mitigate risks, particularly small businesses with less resources to manage the potential impact of an individual tenant or employee.

However, there was a strong feeling across groups that the impacts on an individual and societal level could be too severe to justify this use of bulk justice data. Many participants had concerns about how poor scores by such screening services could impact people who have been involved in court cases. They worried that people may be blocked from most housing and employment opportunities, which could in turn increase homelessness and crime by locking people out of options. For this reason, participants felt that if a screening services using bulk court judgments were allowed in the UK, they should only use information from the last five years.

Participants were also worried about the accuracy of the outputs from hypothetical screening services. There was little trust in third party commercial organisations to do proper due diligence when managing such sensitive data.

6 Conclusion and next steps

The research and public engagement has provided useful insight into the public's attitudes towards use of data held in judgments. It also provides an indication of the public's attitudes towards governance in this space.

The polling findings show low levels of public awareness in the way that court records are managed and used by third-parties, high-levels of uncertainty about the acceptability of different purposes for this use, and a strong desire for thorough regulation and governance of access to court records.

The workshop discussions have demonstrated that engaging the public in meaningful dialogue about access and third-party use of court judgment is possible, and furthermore that it is something the public want and expect to be a part of decision making.

As explained in the introduction, this research aims to be the beginning of a conversation about access to court judgements, and third-party use. Below are some recommendations derived from both the deliberative workshops and the polling, for continuing this conversation and maintaining trust with the public in the justice system and management of access to court judgements:

Recommendations for building a public mandate:

- 1. Understand and accommodate the public's interest in the use of justice data:** Decision makers must not underestimate the public's interest in justice data and the importance of engaging them in dialogue about changes. This is key to maintaining and improving public trust in the justice system.
- 2. Prioritise transparency and good communication:** Communication with the public should prioritise transparency about court judgment management and changes to processes made to broaden access.
- 3. Ensure limits, controls and regulation that are in line with the public's expectations:** Regulation and adequate oversight of access to and use of data was also considered a key priority by participants. Without trustworthy and independent oversight, it is unlikely that the public will feel comfortable with ongoing bulk access to court records.
- 4. Further research to understand what 'public interest' looks like, and from whose perspective:** More research is needed to explore what the public consider to be 'in the public interest', as this is a key qualifier used when discussing appropriate use of bulk court judgments. As part of this, research needs to explore which models of access and governance effectively prioritise public interest over commercial profits, as well as the range of perspectives 'public interest' is interrogated from, and how 'public interest is defined'
- 5. Further research to develop an approach for building meaningful public engagement into justice data governance:** More research could help to explore how the public could be supported to have an ongoing role in justice data governance. Participants expressed strong feelings that the public must have input, but the mechanisms for achieving this in a meaningful way have to be clear. Future engagement and research has the potential to examine the different participatory mechanisms through which members of the public could help govern and shape conversations about court record data governance, and justice data governance more broadly.

7 Appendices

7.1 Quantitative polling

7.1.1 Questionnaire

INTRODUCTION

Please read through this background information carefully before answering the next set of questions.

These questions are about the information that is contained in the official record of court cases, and about who should be allowed to see or use this information.

Court records are written accounts of what takes places within the courts. They relate to cases of many different kinds (for example people filing for divorce, disputes over custody of a child, claims for damages or claims in an employment tribunal). They will contain a variety of information about the nature of disputes, personal information about the people involved (for example their names, gender, ages, and their addresses), and about the outcome of the case.

One special kind of court records are **court judgments**, which are detailed written documents recording and explaining the decisions made by the judges. These will include information about people involved in the case and the nature of the dispute, and can sometimes include whether judges personally believed that the people disputing the case or the witnesses who gave evidence were honest or dishonest.

The laws about who may see or use **court judgments** are different to the laws about who may see or use other kinds of court records. At the moment, **court records** are publicly available, but people must apply to the court to access them. **Court judgments** are currently only available through certain websites, and individuals can only download one judgment at a time.

The UK government has announced plans to make it easier for people to access court records. This will include making it possible for people to download court judgments in bulk, from multiple cases at a time.

Throughout this questionnaire we refer to 'court records'. This includes court judgments.

Q1. How much, if anything, would you say you knew before reading the paragraphs above about the information that court records contain?

Q2. How much, if anything, would you say you knew before reading the paragraphs above about who has access to court records?

Q3. How much, if anything, would you say you know about how the UK government currently uses information from court records?

RANDOMISE ORDER OF Q4 TO Q6

Q4. And how much, if anything, would you say you know about how commercial organisations currently use information from court records?

Q5. And how much, if anything, would you say you know about how academic organisations such as universities currently use information from court records?

Q6. And how much, if anything, would you say you know about how charities currently use information from court records?

ALTERNATE ORDER OF RESPONSES, DK ALWAYS LAST

A great deal

A fair amount

Not very much

Nothing at all

Don't know

Q7. Do you feel that the UK government keeps the public well informed or poorly informed about how the government (and other organisations working on its behalf) currently use information from court records?

ALTERNATE ORDER OF RESPONSES, DK ALWAYS LAST

Very well informed
 Fairly well informed
 Fairly poorly informed
 Very poorly informed
 Don't know

Q. How comfortable or uncomfortable do you feel about each of the following being able to access and use information from court records?

RANDOMISE ORDER OF Q8 TO Q15

Q8. **Technology companies**Q9. **Law firms and lawyers not directly involved in those cases**Q10. **Credit rating agencies**Q11. **Insurance companies**Q12. **The Ministry of Justice**Q13. **People who are involved in a court case (i.e. defendant or claimant)**Q14. **Charities**Q15. **Academic research organisations such as universities**Q16. **HM Courts & Tribunals Service (the agency that runs courts in the UK)**

ALTERNATE ORDER OF RESPONSES, DK ALWAYS LAST

Very comfortable
 Fairly comfortable
 Neither comfortable nor uncomfortable
 Fairly uncomfortable
 Very uncomfortable
 Don't know

Q. And how comfortable or uncomfortable do you feel about information from court records being used for each of the following purposes?

RANDOMISE ORDER OF Q17 TO Q22

Q17. **To help improve the way courts are run (for example by improving decision making or showing how to reduce costs)**Q18. **To predict the outcome of cases before they come to court (for example to persuade the two sides to reach a settlement without the public expense of a full trial)**Q19. **To help people on lower incomes to reach quick resolutions of their disputes without embarking on lengthy legal proceedings which may be unaffordable to them**Q20. **To understand more about which type of people or which communities are involved in court cases (i.e. defendants or claimants). For instance, ethnic minorities, single parents or those on lower incomes.**Q21. **To help judges make decisions during the court process**Q22. **To help commercial companies to develop products and services to be used within the justice system**

ALTERNATE ORDER OF RESPONSES, DK ALWAYS LAST

Very comfortable
 Fairly comfortable
 Neither comfortable nor uncomfortable
 Fairly uncomfortable
 Very uncomfortable
 Don't know

Q. How much trust, if any, do you have in each of the following to use information from court records responsibly?

MATCH ORDER OF Q23-Q31 TO Q8-Q16

Q23. **Technology companies**

Q24. **Law firms and lawyers not directly involved in those cases**

Q25. **Credit rating agencies**

Q26. **Insurance companies**

Q27. **The Ministry of Justice**

Q28. **People who are involved in a court case (i.e. defendant or claimant)**

Q29. **Charities**

Q30. **Academic research organisations such as universities**

Q31. **HM Courts & Tribunals Service (the agency that runs courts in the UK)**

ALTERNATE ORDER OF RESPONSES, DK ALWAYS LAST

A great deal

A fair amount

Not very much

None at all

Don't know

Q32. **How important, or not, do you think it is that in the future there should be limits and controls on who can use information from court records and how they can use it?**

ALTERNATE ORDER OF RESPONSES, DK ALWAYS LAST

Very important

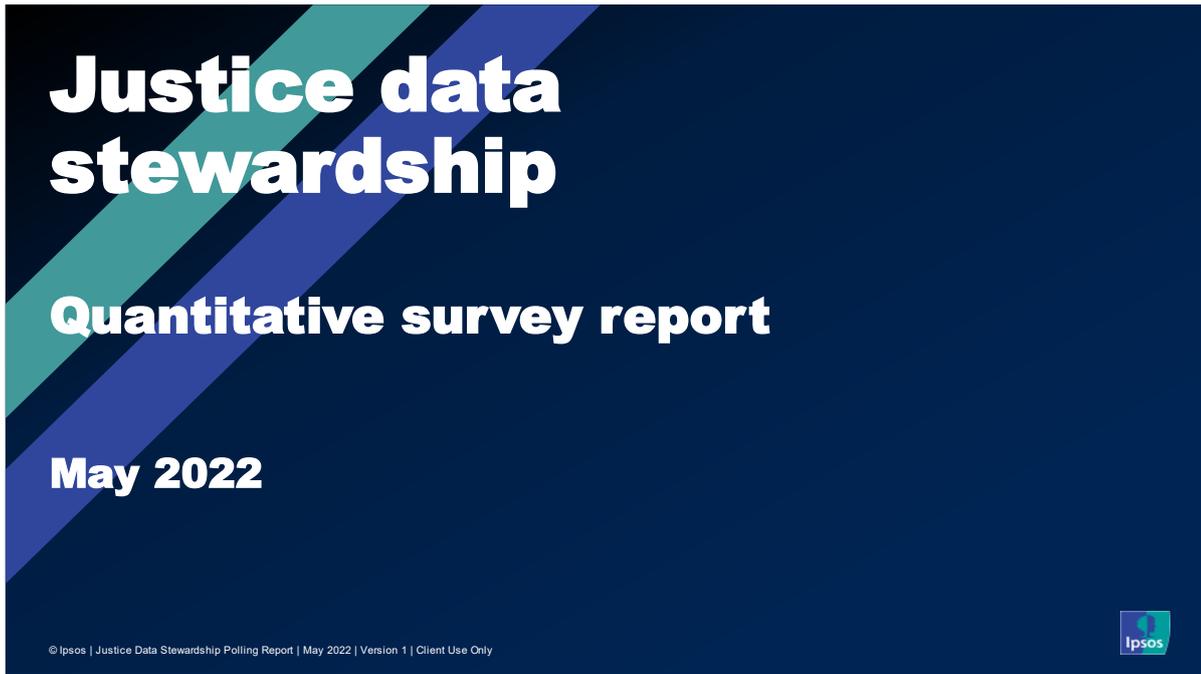
Fairly important

Not very important

Not at all important

Don't know

7.1.2 Key findings (slides)



Background

A digital court reform programme is nearing completion that will include a new end-to-end digital processes and fundamentally alter the way in which people access and navigate courts and tribunals.

A decision has also been taken to create, for the first time, a repository of judgments of the courts and tribunals in England and Wales. These judgments will be made available to download in bulk in a machine readable format from when the service launches in May.

These developments have attracted the attention of commercial actors who are interested in using this data to support the development of new products and business models.

To date, very little work has been undertaken to understand public attitudes to commercial use of these datasets, or to explore the limits of public acceptance in this space.

The Legal Education Foundation have commissioned Ipsos to conduct research into public attitudes to justice data stewardship.

Methodology

This slide deck shares the findings from a quantitative survey, that is the first stage of a mixed methods research project exploring public attitudes to justice data stewardship.

The survey:

- A survey of 2,164 adults in Great Britain, aged between 16 and 75
- Run as part of the Ipsos omnibus service: Observer
- Fieldwork conducted 21st to the 25th April 2022

The next stages of the project

- Ipsos will design deliberative workshops to explore key themes
- The design of the workshops will be partly informed by the findings of this survey report.

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Key findings to consider

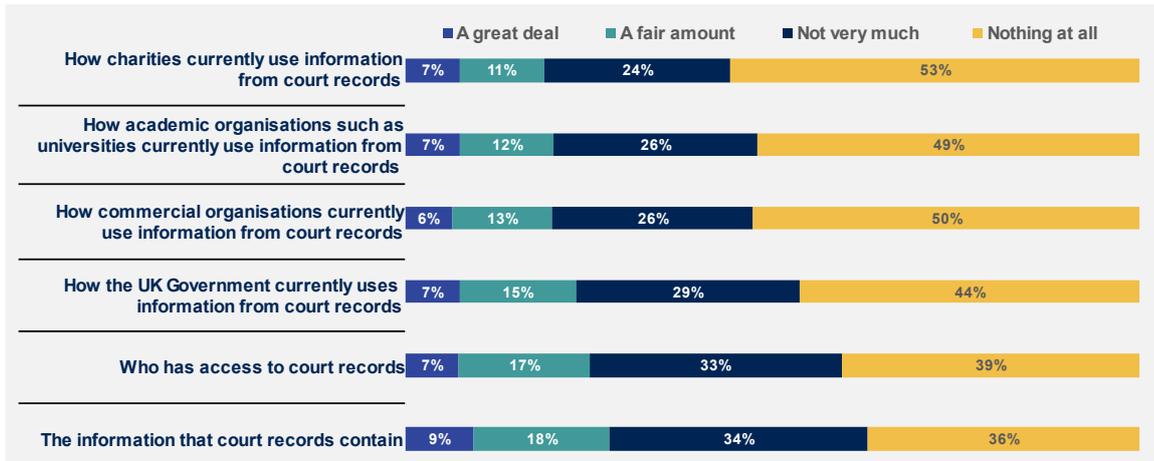
Topline finding is that the issue of third-party access to court data and use for commercial, predictive and profiling purpose is a high priority

- **The public overwhelmingly find it important (80%) that there are limits and controls on who can use information from court records and how they can use it.**
 - This group includes 40% who say it is 'very important'. Only 2% said it is 'Not at all important'.
- **Respondents did not feel well informed about how different organisations use court record data (ranging from 73% to 77% reporting that they know 'not very much' or 'nothing at all') and they reported low levels of knowledge about who has access to court data (72% uninformed).**
- **Levels of trust and comfort in different types of organisations using court record data vary, but especially high levels of discomfort are seen when it comes to third party organisations**
 - Percentage who are 'uncomfortable': Insurance companies (38%), credit rating agencies (42%), charities (34%), law firms and lawyers (32%), tech companies (50%).
- **There were higher levels of discomfort amongst older groups, self employed people and those who did not have a degree-level education or above.**
- **More controversial uses revealed by polling indicates are to predict outcomes of court cases, to profile, and to develop commercial products for sale.**

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How much, if anything, would you say you knew before reading the paragraphs just shown to you about the following?



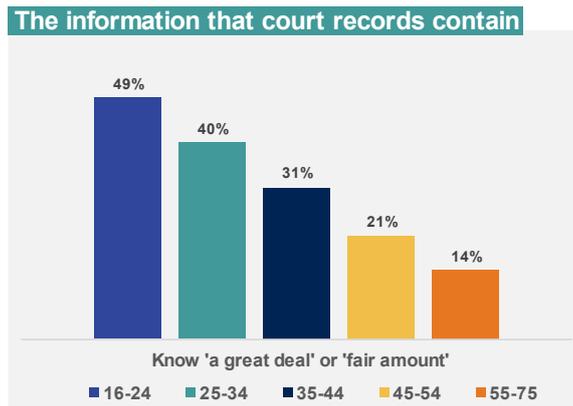
Base: 2164 GB Adults aged 165



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How much, if anything, would you say you knew before reading the paragraphs just shown to you about the following?

- Overall, respondents did not feel that they knew much about any of the items.
- However, when broken down by age younger respondents were significantly more likely to say that they felt informed than older respondents for all categories.
- Those in Scotland and those in rural areas were significantly more likely to say they were uninformed (80% and 79%) than average (70%).

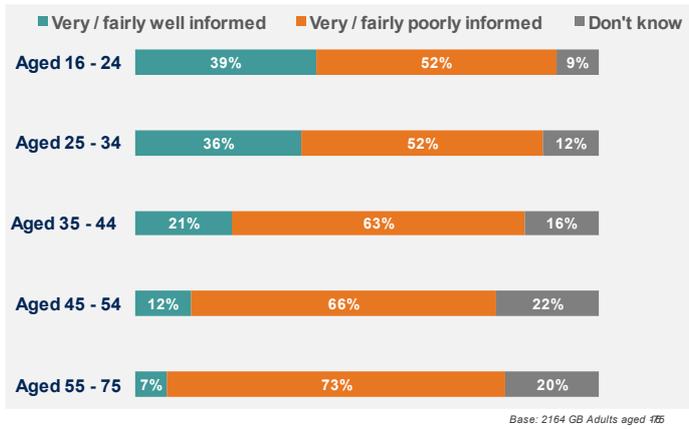


Base: 2164 GB Adults aged 165



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Do you feel that the UK government keeps the public well informed or poorly informed about how the government (and other organisations working on its behalf) currently uses information from court records?

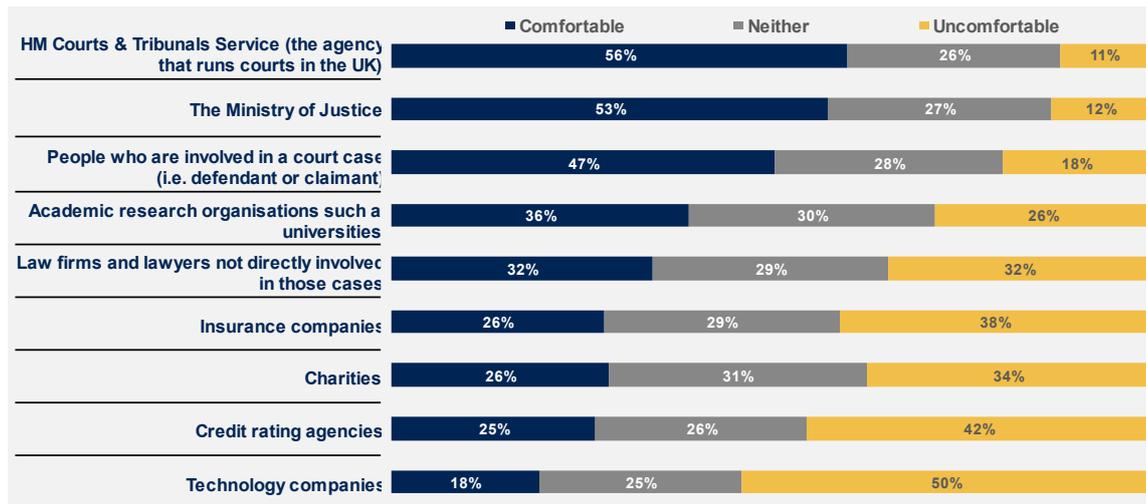


- Almost two-thirds (64%) felt that the government keeps the public poorly informed. One fifth (20%) thought the government keeps the public well informed.
- Those aged over 45 were more likely to feel that the government keeps the public poorly informed than those aged under 35.
- Those in Scotland and in rural areas were again more likely to say poorly informed (75% and 72%) than the average (64%).

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How comfortable or uncomfortable do you feel about each of the following being able to access and use information from court records?



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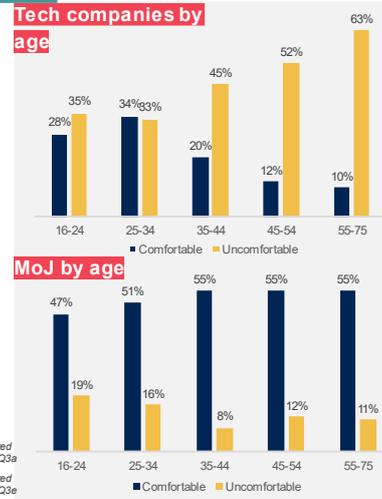
Base: 2005 GB Adults aged 16 who did not select 'don't know' at Q3



How comfortable or uncomfortable do you feel about each of the following being able to access and use information from court records?

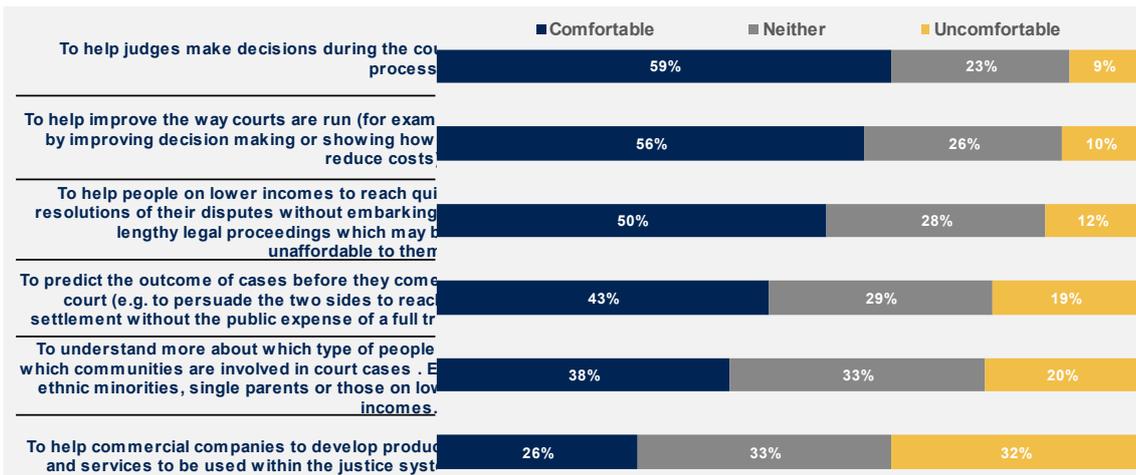
There were common trends around age employment and education:

- Younger groups felt more comfortable than older groups for each type of organisation with the following exceptions:
 - They were slightly more uncomfortable with 'HM Courts and Tribunals Service' and the 'Ministry of Justice' than older groups.
 - There were no significant age trends for 'people who are involved in a court case'.
- Those who are self-employed were more uncomfortable than other groups with 'Ministry of Justice', 'law firms not involved with the case', 'insurance companies', 'charities', 'credit rating agencies' and 'technology companies'.
- Those with a degree level education were more comfortable than other groups with 'HM Courts and Tribunals Service', 'academic organisations' and 'charities'.



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How comfortable or uncomfortable do you feel about information from court records being used for each of the following purposes?



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Base: 1995 GB Adults aged 16+ who did not select 'don't know' at Q4



How comfortable or uncomfortable do you feel about information from court records being used for each of the following purposes?

There were common trends around age, socioeconomic group (SEG), and education:

'To help judges make decisions during the court process'
(av. 59% comfortable)

- Younger groups less comfortable (16-24's 49%, 55-75's 65%)
- AB and C1 SEG's more comfortable (both 65%)
- Degree or higher education most comfortable (67%)

'To help people on lower incomes to reach quick resolutions'
(av. 50% comfortable)

- AB more comfortable (57%) than C2, DE (both 46%)*
 - Highest earners most comfortable (66%)
- * There were no corresponding trends for being 'uncomfortable', indicating that C2 DE respondents may less familiar with, rather than opposed to this purpose.

'To understand more about which type of people or which communities are involved in court cases'
(av. 38% comfortable)

- AB more comfortable (44%) than C2, DE (34 and 35%)
- Under 24's most comfortable (45%)

'To help improve the way courts are run'
(av. 56% comfortable)

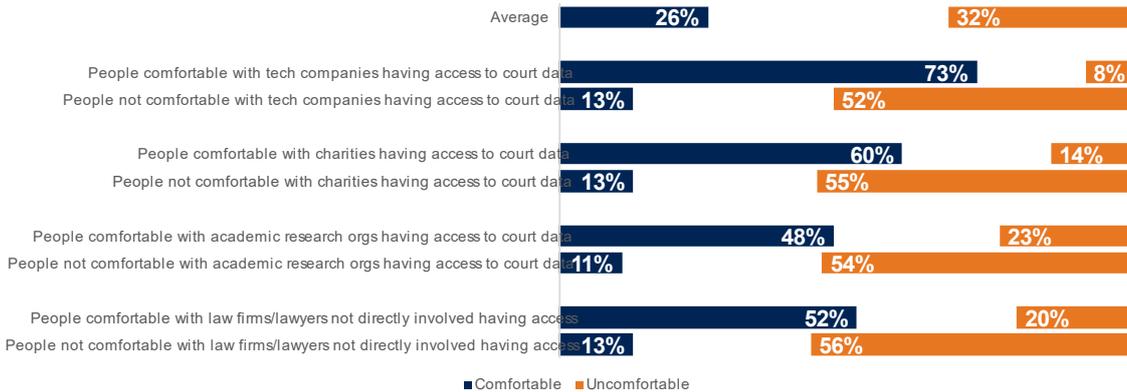
- Degree or higher education more comfortable (64%)

There were also consistent trends across each purpose when compared with how much trust respondents had in each type of organisation. The following slides demonstrate these.



How comfortable or uncomfortable do you feel about information from court records being used for each of the following purposes?

To help commercial companies to develop products and services to be used within the justice system

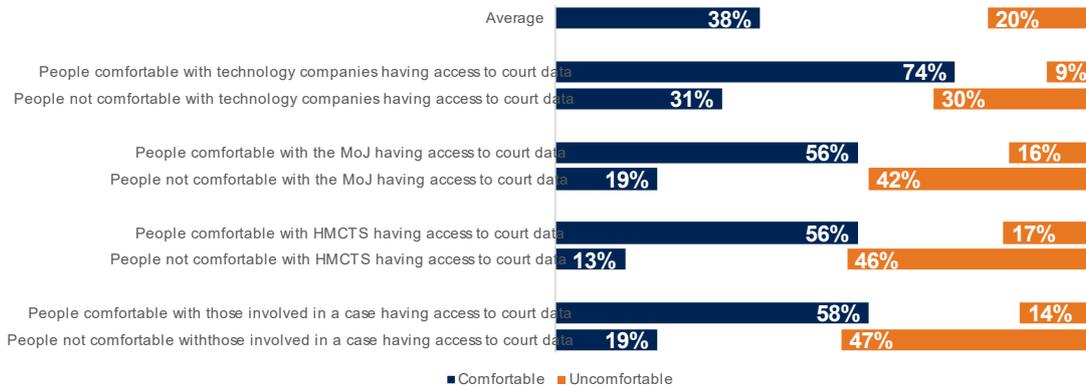


Key trends by level of comfort for Charities, academic research organisations, lawyers not directly involved with a case, and technology companies



How comfortable or uncomfortable do you feel about information from court records being used for each of the following purposes?

To understand more about which type of people or which communities are involved in court cases



Key trends by level of comfort for technology companies, the MoJ, HMCTS, and people involved in a case.

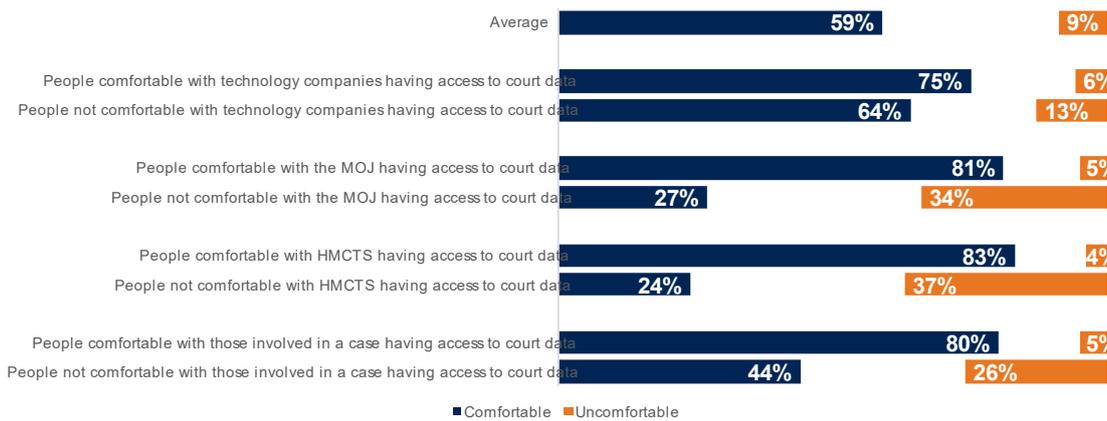
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Base: 1484 GB Adults aged 16+ who selected very or fairly comfortable or uncomfortable at Q4



How comfortable or uncomfortable do you feel about information from court records being used for each of the following purposes?

To help judges make decisions during the court process



Key trends by level of comfort for : MoJ, HMCTS, and people involved in a case

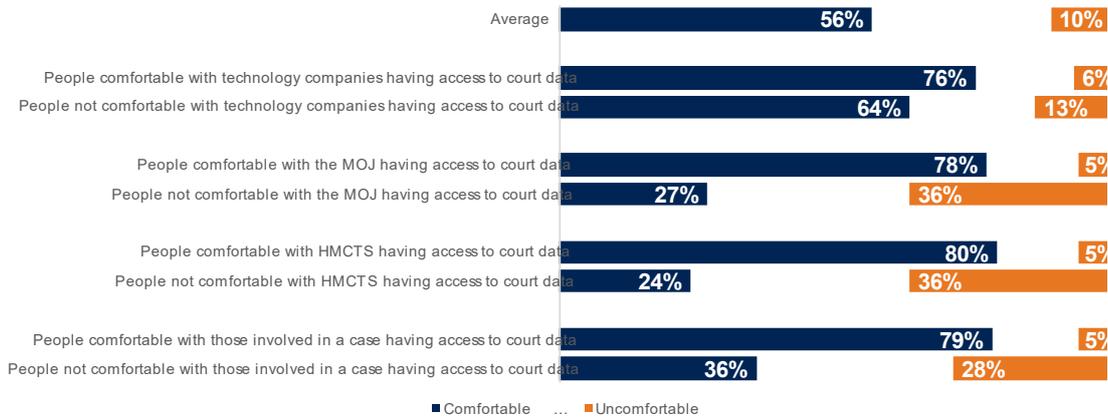
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Base: 1484 GB Adults aged 16+ who selected very or fairly comfortable or uncomfortable at Q4



How comfortable or uncomfortable do you feel about information from court records being used for each of the following purposes?

To help improve the way courts are run



Key trends by level of comfort for : technology companies, MoJ, HMCTS, and people involved in a case

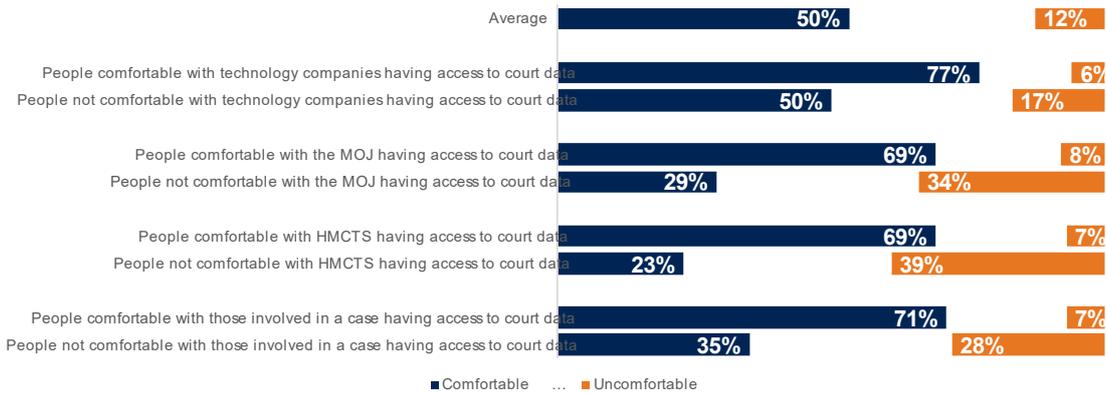
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Base: 1484 GB Adults aged 16+ who selected very or fairly comfortable or uncomfortable at Q4



How comfortable or uncomfortable do you feel about information from court records being used for each of the following purposes?

To help people on lower incomes to reach quick resolutions of their disputes without embarking on lengthy legal proceedings which may be unaffordable to them



Key trends by level of comfort for : technology companies, MoJ, HMCTS, and people involved in a case

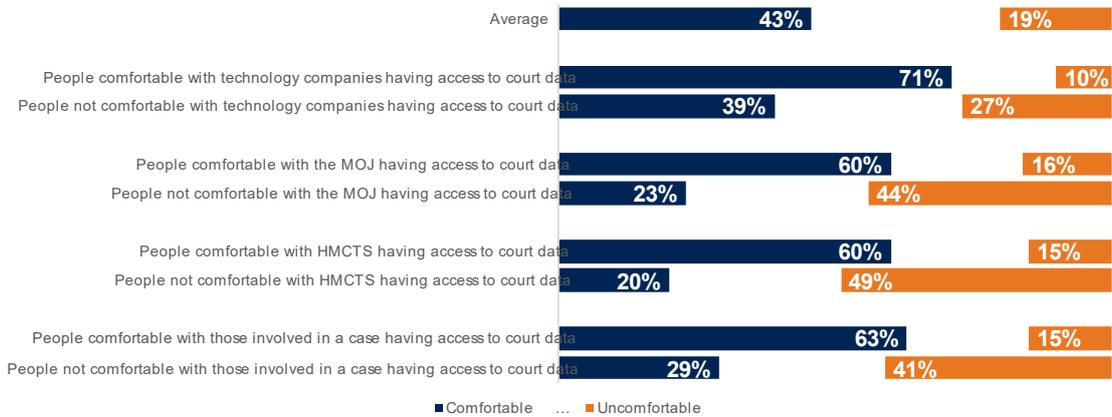
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Base: 1484 GB Adults aged 16+ who selected very or fairly comfortable or uncomfortable at Q4



How comfortable or uncomfortable do you feel about information from court records being used for each of the following purposes?

To predict the outcome of cases before they come to court

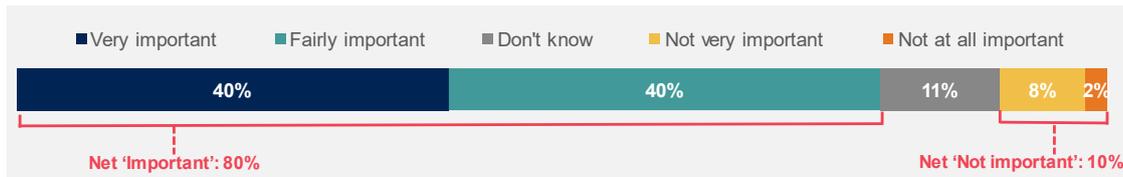


Key trends by level of comfort for: technology companies, MoJ HMCTS, and people involved in a case

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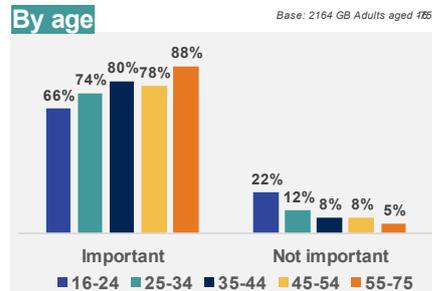
Base: 1484 GB Adults aged 16+ who selected 'Very or fairly' comfortable or uncomfortable at Q4 Ipsos

How important, or not, do you think it is that in the future there should be limits and controls on who can use information from court records and how they can use it?



The public overwhelmingly find it important (80%) that there are limits and controls on who can use information from court records and how they can use it.

- Of those who think this is important, half say it is 'very important'.
- Only 2% said it is 'Not at all important'.
- There is a notable age trend, with younger groups findings it less important than older groups.



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Base: 2164 GB Adults aged 16+

7.2 Deliberative Workshops

7.2.1 Workshop 1: Discussion guide

Justice Data Stewardship Deliberation: Workshop 1

Aims: Introducing the key information about data and data sharing in the justice system focusing on and exploring what it is; what justice data is; as well as current proposals relating to justice system data accessible to third parties; and considering the societal and ethical implications of how justice system data might be made accessible (considering a range of perspectives)

26th May: 18:00 – 21:00

Time	Activity	Questions and materials
17.30 - 17.50	Set-up: Facilitators check-in 25 mins	<ul style="list-style-type: none"> • Test link, mic and camera. • Test who has the host/co-host function and ensure it is allocated to the right team member(s) for recording breakout rooms. Make all moderators Co-hosts. • Change screen name to NAME – Moderator. • Check everyone is on the WhatsApp group for facilitation team to be able to ask questions, etc. <p>Meanwhile tech support is assigning participants who are in the waiting room, notetakers, moderators, experts and observers to break-out rooms.</p>
17.50 - 18.00	Participant check-in 5 mins	Participants log into the online session <ul style="list-style-type: none"> • Participants encouraged to join the zoom session early to check-in and check their video/mic. • Participants encouraged to get a pen and paper and have their participant pack with them. <p>Register as people join and change screen names as necessary to first name and first initial of surname (i.e., John H).</p>
18.00– 18:35	Plenary Introduction 35 mins	Ipsos Chair to give a warm welcome to the first Workshop (5 mins) <ul style="list-style-type: none"> • Explain who is here: Members of the public, Ipsos facilitators, Observers, Notetakers • This is Workshop 1 of 2. Will learn a lot today as introducing the topic. Feel free to take notes if that helps you! • Cover housekeeping and agenda • We will be going into breakout rooms - we've set these up, so you don't need to do anything – just let it happen • If we lose connection to you at any point in the session Jess P will call you to see if we can help bring you back in again • We'll be recording for our own notes • Confidentiality: we are interested in what you say, not who said what. Your comments will not be attributed back to you in our report. <p>Introduction to justice data topic (10 mins)</p> <ul style="list-style-type: none"> • Chair presents slides <ul style="list-style-type: none"> ○ Throughout these two workshops we are going to be discussing justice data, and how it is accessed, by who, and for what purposes. ○ The LEF have asked us to do this research, as so far, the public haven't been asked what they think about this – and that is really important to make sure that decisions made meet the public's expectations and priorities ○ Justice data means the information created by interactions between individuals and the justice system. Court records are a specific source of justice data. Judgments are a type of court record and contain information about the case, the individuals or organisations involved, the evidence and the decision reached. ○ There are different types of cases: Criminal, Civil, Family and Administrative <p>Poll activity (5 mins)</p>

		<ul style="list-style-type: none"> • How ‘sensitive’ do you think information about a person’s involvement in court cases is? <ul style="list-style-type: none"> ○ Not sensitive at all, a little sensitive, very sensitive • How does this compare to medical records for example? <ul style="list-style-type: none"> ○ Less sensitive, equally as sensitive, more sensitive <p>Example case report (10 mins)</p> <ul style="list-style-type: none"> • Chair/LEF introduce an example judgment • Give a quick overview, and point out the sort of information included • Re-iterate – this is an example of the sort of information we are talking about today – and how should or shouldn’t this be accessed, for what purposes, and why. <p>Poll repeat (5 mins) Now that we have familiarised with this example, we are going to re-do that last poll! Please feel free to pop in the chat what type of information felt particularly sensitive to you when we read through that example. <u>Poll Q’s:</u></p> <ul style="list-style-type: none"> • How ‘sensitive’ do you think information about a person’s involvement in court cases is? <ul style="list-style-type: none"> ○ Not sensitive at all, a little sensitive, very sensitive • How does this compare to medical records for example? <ul style="list-style-type: none"> ○ Less sensitive, equally as sensitive, more sensitive <p>Great, thanks everyone! We will go into breakout rooms to have a quick talk about how we feel about this type of data. After that we will learn more about how this data is currently managed, and how that may change...</p>
<p>18:35-19:00</p>	<p>Breakout</p> <p>What does justice data mean to us?</p> <p>(25 mins)</p>	<p>Introductions (5 mins) Facilitator lead on a few quick introduction questions</p> <ul style="list-style-type: none"> • What is your name • Whereabouts do you live? • Do you know anyone who’s ever done jury service? <p>Capture first reactions to the plenary (5 mins):</p> <ul style="list-style-type: none"> • Was anything surprising there? • Did you know much about what information was included in court records before hearing that? <p>Attitudes towards different types of justice data (15 mins) <i>Show Slide 16 on screen, showing the different types of information that might be contained within court records</i></p> <p>Let’s start by looking back at these different types of information we just heard about:</p> <ul style="list-style-type: none"> • Do they feel equally sensitive, or are some more sensitive than others? Why? • What do you think each of these types of information would be useful for? For who? <p>If you imagine that you have recently been involved in a court case, how sensitive would you consider this sort of information about your case?</p> <ul style="list-style-type: none"> • Is this if you were a claimant or defendant? Does that matter? Why? • Would it be different if this was a criminal, or civil law case (e.g., employment, housing or debt)? Why? <p>Ok we will take a comfort break now. Please don’t leave the meeting, just turn your mic/camera off if you wish. Please do be back by the time shown on the screen.</p>

19:00 19:10	BREAK 10 mins	
19:10- 19:20	Breakout Expectations for how justice data is accessed 10 mins	<p>Welcome back – hope you all had a good break! We will have a short session in this breakout room now, before we head back to the main room to learn a bit more about how justice data is managed.</p> <p>Expectations for access to court data (10 mins) Thinking about the example court record we were shown, and our discussion about the type of information contained in them – I want to discuss your expectations for how these are accessed by third parties.</p> <p>If you were involved in a case (like the one shown in the example), how much of that court record would you expect to be publicly available?</p> <ul style="list-style-type: none"> • Which bits would/wouldn't you expect to be publicly available? Why? • At what stage in the process would you expect to be publicly available? Why? • Do you think the outcome of the case would make a difference as to what is publicly available? E.g. case dismissed, complaint withdrawn? <p>Great – this has been really interesting! We are going to go back to the main room now so we can hear more about how access to court records works now, and how it may work in the future.</p>
19:20- 19:45	Plenary Current and future processes for accessing court records 25 mins	<p>Give a moment for participants to 'land' back in the plenary</p> <p>Quick intro by Chair (5 mins)</p> <ul style="list-style-type: none"> • Thanks everyone, it sounds like there were some really interesting conversations in the breakout rooms! • Natalie from the LEF is going to tell us a bit about how court records are currently managed • Feel free to jot down thoughts or questions as you go – this is a new topic for many of us, so the following information will be really important to help us have meaningful conversations, so that your views are heard within this research! <p>LEF presentation (5 mins) Natalie to cover:</p> <ul style="list-style-type: none"> • The principle of Open Justice – that justice needs to be seen to be done, means that the information in many, although not all, court records, has always been made publicly available. • If you are involved in a court case, what information is publicly accessible, and at what stage? • What is the current process for accessing this sort of information? What are the limitations/restrictions of this process? • Introduce the recent digital reform programme, and the decision to make judgments available to be downloaded for free in bulk, in machine readable format (emphasising how this is different to before – bulk and machine readable) • Clarify that without this change, there are some organisations that already have bulk court data of their own – for example insurers who regularly bring cases to court have bulk data of their own cases. Large companies have all of the data of their own employment tribunals, the government has access to data of the outcomes of cases brought against them... But other people or organisations cannot access that bulk data because they don't own it.

		<p>Introduce the case studies (15 mins) Chair to present: Now I'm going to introduce you to three case studies that you will discuss in your breakout rooms. Please do feel free to jot down any thoughts you have as I go to raise in your group:</p> <ol style="list-style-type: none"> 1. Improving outcomes for debt and eviction defendants 2. Using judgment data to provide tailored legal advice on outcomes 3. Court records for screening housing tenants
<p>19:45-20:05</p>	<p>Breakout</p> <p>Case studies (part 1)</p> <p>20 mins</p>	<p>Welcome back to breakout room.</p> <p>Capture reactions to presentation (5 mins) We will discuss the case studies very shortly, but I wanted to first capture your thoughts on the information that Natalie presented</p> <ul style="list-style-type: none"> • Was anything in the presentation surprising to you? What/why? • What issues did this information bring to mind? <p>Case Studies: Moderators will follow a rotation guide, so each breakout room discusses the case studies in a different order. This avoids order bias and makes sure that all are discussed in case some groups run short of time.</p> <p>Moderators: Be sure to probe equally on the good and bad, not assuming they will have negative views.</p> <p>Case study 1 (15 mins) Using court records to improve outcomes for debt and eviction defendants:</p> <ul style="list-style-type: none"> • Independent researchers were asked by Utah courts to investigate trends across cases where businesses were suing customers to collect debts or evict tenants. The researchers analysed tens of thousands of debt related cases to do so. • This study found that less than 4% defendants in Utah had legal representation in 2019, compared with more than 88% of claimants. • Defendants often don't participate in their cases at all because they don't receive notification that they are being sued, do not understand their rights and obligations, or can't afford to engage - These defendants receive an automatic verdict in favour of the claimant. • Policies for attorney fees and court-awarded damages often lead to worse outcomes for defendants who participate in a suit against them than for those who do not. The average court judgment in debt claims was 32% higher than the amount sought in the initial filing. • While most states offer 15 to 30 days between notice of eviction and move-out, Utah sets the minimum at just three business days. In 85% of eviction cases in 2019, the courts allowed landlords to charge triple the daily rent everyday that the tenant stays in the property after the 3-day notice period. • As a result of the findings, Utah have improved online resources available to litigants and made forms easier to understand for people without an attorney. They are working to make legal aid and other resources more widely available to consumers. • The state has also funded eviction diversion programs and created a process that allows some eviction case records to be erased so that a judgment does not haunt renters for the rest of their lives. <p>PROBES:</p> <ul style="list-style-type: none"> • What are your first reactions to this case study? • How important is it that this research was done?

		<ul style="list-style-type: none"> How acceptable is it for the researchers to access tens of thousands of cases files to do this research?
20:05-20:15	BREAK	<i>Flexible break – moderators can give this break a little earlier or later at their discretion e.g., avoid interrupting flow, or at signs of fatigue</i>
20:15-20:55	Breakout Case studies (part 2) 40 mins	<p>Case study 2 (15 mins) Based on Solomonic:</p> <ul style="list-style-type: none"> Solomonic were awarded £50,000 funding from the Solicitors Regulation Authority to develop a case prediction product for people who were bringing claims against their employer but could not afford to pay for legal advice, and Small Businesses who were being sued. Solomonic claim that their product is designed to help lawyers, litigation funders, insurers, and in-house counsel to obtain competitive advantage when managing disputes. Solomonic's product automatically sifts through thousands of High Court claims, documents and court hearings to deliver intelligence that helps customers act quickly and make informed decisions. Pros: It could help assist employees and SMEs who are involved in employment tribunal claims to make more informed, data backed decisions. For example. An employee might use this data to decide whether or not to seek a claim in an employment tribunal. Cons: Automatically reading court judgments can make errors (e.g., mixing up salary and compensation) and can be limited in understanding things such as a judge's reasoning. Also, the insight provided is likely to be much more easily understood and analysed by employers with more resource, than individuals considering making a claim, therefore not necessarily balancing the power. <p>The data used may also be incomplete, as not all employment cases are published. Without knowing which ones are missing, we can't be sure that there aren't hidden biases in the insights provided.</p> <p>PROBES:</p> <ul style="list-style-type: none"> What are your first reactions to this case study? How important is it that this service exists? How acceptable is it for the researchers to access thousands of records in order to provide this service? <p>Case study 3 (15 mins) <u>Court records</u> and housing (in America although emphasise that this could be the case anywhere with bulk accessible court records):</p> <ul style="list-style-type: none"> Landlords are increasingly screening potential tenants electronically in two ways: searching online eviction records made available (which sometimes show that an eviction case was filed without listing the outcome of the case) and using tenant screening companies that score potential tenants using data such as residential history, civil and criminal case history, and credit history. This helps employers and landlords double check that they are employing/housing people they see as suitable, aiming to reduce their own risk. Unrestrained use of criminal background screening in housing (and other domains) risks creating a permanent underclass of people unable to access basic life necessities. For this reason, in 2016, the US government issued guidance discouraging landlords from adopting automatic bans of applicants with criminal records. In 2018 with a tenant screening company had to pay \$3million having been found to carelessly match people with similar names and birthdates to people with criminal records.

		<ul style="list-style-type: none"> • Where they can access this data, data brokers may scrape the data and include it in digital profiles, which may then be used in a discriminatory or unfair fashion. This could impact people’s job, education and housing opportunities. • In the UK, GDPR rules may sometimes limit how organisations can use specific types of data, but we don’t know for sure how effective this protection would be. <p>PROBES:</p> <ul style="list-style-type: none"> • What are your first reactions to this case study? • How important is it that landlords or employers can background check potential tenants/employees? • How acceptable is it for screening companies to access court records to provide this service to landlords or employers? <p>Use case justification discussion (10 mins)</p> <p>With these different use cases in mind:</p> <ul style="list-style-type: none"> • What benefits do you think bulk accessible court record data might be? How meaningful are those benefits? • Who do you think would benefit the most? • What disbenefits/negative impacts have come to mind about how court record data may be used if accessible in bulk? <p><i>Let them know we are going to the main room now – Lovely to meet you all and thank you for your hard work!</i></p>
<p>20:55-21:00</p>	<p>Plenary</p>	<p>Chair - Thank and close</p> <p>Next steps:</p> <ul style="list-style-type: none"> • Workshop 2 date (31st May) • Lots of interesting points raised which will dig deeper into next week! • Confirm thank you payments coming from the recruiter in next few working days.

7.2.2 Workshop 1: Slide deck (including case studies)



Welcome to Workshop 1!

Why are we here?

This is a public engagement research project about how court records are managed and accessed. Don't worry if that sounds unfamiliar – we will learn lots as we go! (Feel free to grab a pen and paper)

Who is here?

- **Ipsos:** Independent specialists in deliberative engagement and researchers, will be guiding you through the discussions today
- **The Legal Education Foundation (LEF):** An independent charity helping people to understand and access the justice system. Natalie from the LEF will be sharing some information to help us with our discussions
- **Observers:** Some colleagues who are interested to see what you have to say
- **Notetakers:** They will be in each breakout room to capture the discussions
- **YOU (30 members of the public):** You are the real experts, as we are researching what is important to you!



Housekeeping....

- A lot of information will be provided - note down any questions and ask for clarification in breakout rooms when needed
- Please don't multitask! You may miss important information
- What you say is confidential We are interested in what you say, not who said what
- Recording audio only
- If we lose connection to you at any point in the session Jess P will call you to see if we can help bring you back in again
- You may want to write down Jess P's contact details just in case you need it later: Jessica.Pace@ipsos.com
- We will be going into breakout rooms often – you don't need to do anything

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Rules of engagement

1. Listen **respectfully**, without interrupting.
2. Listen actively and with an ear to **understanding others'** views. (Don't just think about what you are going to say while someone else is talking.)
3. **Any question is a good** question.
4. Criticise ideas, **not individuals**.
5. Commit **to learning**, not debating. Comment in order to share information, not to persuade.
6. Stay on topic and **try to be concise**.
7. **Avoid** blame, speculation, and inflammatory language.
8. Allow everyone the **chance to speak**.
9. **Avoid assumptions** about any member of the group or generalisations about social groups. Do not ask individuals to speak for their (perceived) social group.
10. **Be patient** with other participants and the team – we have a lot of information to get through.
11. Feel free to share your thoughts about this event with **friends and family**.
12. If posting **about this event on social media** please do not share any detail of the discussions.
13. Think and act as **citizens**

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Agenda

18.00–18:35 (35 mins)	Introduction	Plenary
18:35-19:00 (25 mins)	What does justice data mean to us?	Breakout rooms
19:00-19:10 (10 mins)	Comfort break	
19:10-19:20 (10 mins)	Expectations for how justice data is accessed	
19:20-19:45 (25 mins)	Current and future processes for accessing court records	Plenary
19:45-20:05 (20 mins)	Case studies (part 1)	Breakout rooms
20:05-20:15 (10 mins)	Comfort break	
20:15-20:55 (40 mins)	Case studies (part 2)	
20:55-21:00 (5 mins)	Thank you and next steps	Plenary

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What is justice data?

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Introduction to justice data

Throughout these two workshops we are going to be discussing justice data, and how it is accessed, by who, and for what purposes.

The Legal Education Foundation have asked us to do this research, as so far, the public haven't been asked what they think about this – and that is really important to make sure that decisions made meet the public's expectations and priorities.

Justice data means the information created by interactions between individuals and the justice system.

There are lots of different sources of justice data, but today we want to focus on the information contained in **court records** about the case, the individuals or organisations involved, the evidence and the decision.

There are different types of cases :

Criminal: When somebody is accused of a crime

Civil: housing, debt, personal injury, employment

Family: divorce, child custody disputes, cases about children being taken into care

Administrative (Individual versus the state): welfare benefits, mental health tribunal, Judicial Review

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Quick poll!

How 'sensitive' do you think information about a person's involvement in court cases is?

- Not sensitive at all
- A little sensitive
- Very sensitive

How does this compare to medical records for example?

- Less sensitive
- Equally as sensitive
- More sensitive

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Example case judgement

Here you can see:

- The defendants view that the claimant was being dishonest (he didn't really think there were health and safety issues)
- Who the witnesses were in the case and their roles (as well as the language they gave evidence in)

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Example case judgement

Here you can see:

- That the claimant had visited hospital twice for incidents at work
- That the defendant (the employer) admitted to keeping poor HR records, and may not have communicated clearly with the claimant
- That the judge found the health and safety issue was not very severe (an irritant)
- That the claimant may not have been honest about his skills

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11. The respondent also argued that even if I accepted the claimant's case about why he was dismissed, his claim should fail because the health and safety matter he raised did not fall within s.100(1)(c). Specifically, Mr Pollitt for the respondent submitted that the claimant did not "reasonably believe that there were circumstances harmful to health and safety".

Evidence and Findings of Fact

23. I heard evidence from six witnesses. The claimant and his wife, Mrs B. Thompson gave evidence in support of the claim. For the respondent I heard evidence from Adam Kowalski (a geller employed by the respondent); Dave Wilson (Production Manager); Anthony Pete (Laminating Manager); and Robert Smith (Managing Director). Mr Kowalski gave evidence in Polish through an interpreter.



28. Firstly, as I will cover in more detail later, there were two incidents at work which ended up with the claimant attending hospital. They took place on the 11 and 21 July 2017.
30. Secondly, Mrs Thompson in cross examination established (and Mr Pollitt in submissions acknowledged) that the respondent was not what might be called diligent in keeping records of matters relating to the claimant's employment. Mr Pollitt's apt description was that the respondent was "not an HR driven organisation". There was, for example, no formal letter giving notice to terminate the claimant's employment or confirming the reasons for dismissal. Nor, for example, on the respondent's own case, was the claimant given written confirmation that his probation period had been extended on the 15 May 2017.
37. Having heard the evidence and considered the documents referred to above I find that the gel was not corrosive but could be a skin irritant. It was not corrosive and immediately harmful to skin in the way that some other industrial chemicals like acids can be.
40. Their evidence (which was not disputed) was that claimant presented himself as an experienced geller. Neither Mr Pete nor Mr Wilson asked for a CV nor took up any references. Instead, they both said they took the claimant's word about his skills and experience. The difficulty in finding experienced gellers meant they were eager to employ one when they thought they had found one.

Example case judgement

Here you can see:

- Information about the claimants poor work performance
- How, and how often he had been cautioned about his performance
- Evidence of when and why the defendants decided to fire the claimant
- The judges opinions on who was a more credible and convincing witness

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44. Poor performance and conduct issues

45. The claimant did not dispute that concerns had been raised with him throughout his time with the respondent about the quality of his gelling. He also accepted he had been spoken to by Mr Pete about his use of a mobile phone on the shop floor. There was some dispute about how many times the issues had been raised. Pp.104-105 of the bundle were summary notes of incidents headed "Summary of dialogue between Anthony Pete [the claimant]; and in addition work diary entries recorded by Dave Wilson . In oral evidence, Mr Robert Smith confirmed he had compiled this after speaking to Mr Pete and Mr Wilson . It has 7 entries between 28 March 2017 and 19 July 2017.

The entry on 19 July 2017 relates to a meeting at which the respondent says it decided to dismiss the claimant following "continuing stream of poor gelling and phone use".

53. I prefer Mr Pete's evidence on this point to that of the claimant and Mr Kowalski. First, I found Mr Pete's evidence of incidents in general to be vivid and betraying no sign of having been fabricated. He was honest enough to accept when he could not remember specific dates but it was clear from his evidence that the incidents leading to the claimant's dismissal were very much alive to him. I found him a credible witness and prefer his evidence where it contradicts other witnesses (including the respondent's).

Quick poll!

How 'sensitive' do you think information about a person's involvement in court cases is?

- Not sensitive at all
- A little sensitive
- Very sensitive

How does this compare to medical records for example?

- Less sensitive
- Equally as sensitive
- More sensitive

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Break-out rooms

You should be moved
automatically any moment

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Recap: what info might be in court records?

- Full names of claimants (those who claim to have been wronged)
- Full names of defendants (those who have been accused of doing wrong)
- Details about those involved (ethnicity, age, gender, employment status and financial circumstances)
- The verdict
- The evidence given by the claimant or defendants (often damaging to those involved)
- The names of witnesses called by either party
- How reliable the judge thought the witnesses were (they may say this if there are conflicting statements given)
- The sentencing or settlement decided by the judge

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Comfort break!

Please be back by 7.10pm

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Open Justice

- Open Justice – the principle that justice needs to be seen to be done, and transparent to the public, means that the following information is available to the public:
 - the hearing (the fact that it is taking place, the people and organisations involved),
 - the evidence,
 - the way the judge has made her decision and
 - the judgment or decision made by the judge
- There are some exceptions: if the judge finds an overwhelming reason to keep it private, or in most Family Law court cases (to protect the anonymity of children involved).

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Current and future processes for accessing court records

If you are involved in a court case, what information is publicly accessible, and at what stage?

- If you are involved in a court case, your name, the date of your hearing, and the name of the person, organisation or government department you have a case against, will normally be made publicly available (published in the court and on a number of web based services).
- During or after the hearing members of the media and the public can apply to the court for a copy of the evidence that has been submitted in your case.
- At the end of your case, the judge will issue a decision and may produce a written document setting out their reasoning and evidence they have taken into account in making their decision. This is normally available to the public.

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Current processes for accessing court records

What is the current process for accessing this sort of information? What are the limitations/restrictions of this process?

- Existing processes for accessing this information are messy and complicated. It is difficult to find information about what hearings are happening which makes it hard to identify cases that the public needs to know about.
- Despite being technically 'available', many judgments are not freely available to the public. Private publishers invest large amounts of money in sending reporters to courts and buying documents from courts. These private publishers charge large fees to access their content and have the biggest collections of judgments.
 - A recent study found that only 55% of the judgments available from private publishers are available to the public. Journalists and open justice campaigners (who may want to monitor how corruption cases are managed), have long argued that this needs to be changed.
- Processes are designed to support individuals accessing information about an individual case (e.g. a reporter who is writing a story about a particular case).

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Future processes for accessing court record

Since 2016, a transformation programme funded by government has been taking place.

- The aim is to save money by closing court buildings, reducing court staff and improving efficiency by creating digital case files and new ways of hearing cases.
- Alongside these changes, the government has decided to make judgments (like the one you read earlier) available to download online, from a new website run by The National Archives.

The new website is different from what has existed before, because it enables companies and researchers for the first time to download in bulk, for free, all of the judgments that are published on the website.

- To do this, researchers and companies have to complete a short form explaining how they want to use the judgments they are downloading. The National Archive staff then decide whether this use is acceptable - judges, the public and the Ministry of Justice are not involved in this decision. Previously, none of the free to access websites allowed this.
- The judgments have also been made available in a machine readable format, which means that researchers and companies can more easily analyse the data in the judgments, and build new products and services.

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Future processes for accessing court record

Before this new service existed, there were some organisations that had their own bulk collections of data on cases and judgments, because they were involved in so many cases.

- For example, large insurance companies who are regularly involved in court cases, had access to large databases of the cases they were involved in.
- Government departments, such as the Department for Welfare Benefits, and the Home Office, whose decisions are often appealed in courts and tribunals, also have access to large datasets of the cases they are involved in.
- This gave them an advantage because they owned this data, they could prevent other people from accessing it, and use it to help them to decide what tactics and approaches to use in cases.
- Leading private publishers who invest large sums of money collecting information from courts, are also able to use this data to sell products built from this data to law firms.
- Very little information is available in the public domain about what data is held, by who and how they are using it.

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Case study 1 Improving outcomes for debt and eviction defendants

Researchers were asked by Utah courts to investigate trends where businesses sue customers to collect debts or evict tenants. The researchers analysed tens of thousands of debt related cases to do so.

- This study found that less than 4% defendants had legal representation compared with more than 88% of claimants.
- Defendants often don't participate because they aren't notified that they are being sued, don't understand their rights, or can't afford to - These defendants automatically lose their defence case.
- Due to attorney fees and court-awarded damages, there are often worse outcomes for defendants who do participate in a suit against them than for those who do not. The average court judgment in debt claims was 32% higher than the amount sought in the initial filing.
- Utah sets a minimum of three business days between notice of eviction and move -out for tenants (most states offer 15 to 30 days). In 85% of eviction case the courts allowed landlords to charge 3x the daily rent everyday that the tenant stays in the property after the 3 -day notice period.
- As a result of the findings, Utah have improved online resources available to litigants and made forms easier to understand for people without an attorney. They are working to make legal aid and other resources more widely available to consumers.
- The state has also funded eviction diversion programs and created a process that allows some eviction case records to be erased so that a judgment does not haunt renters for the rest of their lives .

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Case study 2 Using judgment data to provide legal advice on outcomes

Solomonic were awarded £50,000 funding from the Solicitors Regulation Authority to develop a case prediction product for people who were bringing claims against their employer but could not afford to pay for legal advice, and Small Businesses who were being sued.

- Solomonic claim that their product is designed to help lawyers, litigation funders, insurers, and in -house counsel to obtain competitive advantage when managing disputes.
- Solomonic's product automatically sifts through thousands of High Court claims, documents and court hearings to deliver intelligence that helps customers act quickly and make informed decisions.
- It could help assist employees and SMEs who are involved in employment tribunal claims to make more informed, data backed decisions. For example: An employee might use this data to decide whether or not to seek a claim in an employment tribunal.
- Automatically reading court judgments can make errors (e.g., mixing up salary and compensation) and can be limited in understanding things such as a judge's reasoning. Also, the insight provided is likely to be much more easily understood and analysed by employers with more resource, than individuals considering making a claim, therefore not necessarily balancing the power.
- The data used may also be incomplete, as not all employment cases are published. Without knowing which ones are missing, we can't be sure that there aren't hidden biases in the insights provided.

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Case study 3 Using judgment data to provide legal advice on outcomes

This case study focuses on America, but is possible anywhere where court records are available in bulk.

- Landlords are increasingly screening potential tenants electronically in two ways: searching online eviction records made available (which sometimes show that an eviction case was filed without listing the outcome of the case) and using tenant screening companies that score potential tenants using residential history, civil and criminal case history, and credit history.
- This helps employers and landlords double check that they are employing/housing people they see as suitable, aiming to reduce their own risk.
- Unrestrained use of criminal background screening risks creating a permanent underclass of people unable to access basic life necessities. For this reason, in 2016, the US government issued guidance discouraging landlords from adopting automatic bans of applicants with criminal records.
- Where they can access this data, data brokers may scrape the data and include it in digital profiles, which may then be used in a discriminatory or unfair fashion. This could impact people's job, education and housing opportunities.
- In 2018 with a tenant screening company had to pay \$3million having been found to carelessly match people with similar names and birthdates to people with criminal records.
- In the UK, GDPR rules may sometimes limit how organisations can use specific types of data, but we don't know for sure how effective this protection would be.

Break-out rooms

You should be moved
automatically any moment

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Comfort break!

Please be back in 10
minutes

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Thank you!

This is the end of Workshop 1.

What's Next?

- Workshop 2 is on Tuesday 31st May at 6pm
- Your thank you payments will be paid over the next few working days



7.2.3 Workshop 2: Discussion guide

Justice Data Stewardship Deliberation: Workshop 2

Aims: A final three-hour co-production (online) workshop that creates advice and recommendations for how commercial access to and use of data in the justice system should be governed; including conditions for use and access as well as 'red lines' and parameters for use and access.

31st May: 18:00 – 21:00

Time	Activity	Questions and materials
17.30 - 17.50	Set-up: Facilitators check-in 25 mins	<ul style="list-style-type: none"> • Test link, mic and camera. • Test who has the host/co-host function and ensure it is allocated to the right team member(s) for recording breakout rooms. Make all moderators Co-hosts. • Change screen name to NAME - Moderator. • Check everyone is on the WhatsApp group for facilitation team to be able to ask questions, etc. <p>Meanwhile tech support is assigning participants who are in the waiting room, notetakers, moderators, experts and observers to break-out rooms.</p>
17.50 - 18.00	Participant check-in 5 mins	Participants log into the online session <ul style="list-style-type: none"> • Participants encouraged to join the zoom session early to check-in and check their video/mic. • Participants encouraged to get a pen and paper and have their participant pack with them. <p>Register as people join and change screen names as necessary to first name and first initial of surname (i.e., John H).</p>
18.00– 18:25	Introduction Plenary 1 25 mins	Ipsos Chair to give a warm welcome back for Workshop 2 (5 mins) <ul style="list-style-type: none"> • Explain who is here: Members of the public, Ipsos facilitators, Observers, Notetakers • This is the final workshop. • Cover housekeeping and agenda • We will be going into breakout rooms - we've set these up so you don't need to do anything – just let it happen • If we lose connection to you at any point in the session Jess P will call you to see if we can help bring you back in again • We'll be recording for our own notes • Confidentiality: we are interested in what you say, not who said what. Your comments will not be attributed back to you in our report. Recap and outline for the workshop (10 mins) <ul style="list-style-type: none"> • Feedback on workshop 1 • What we learned (recap of key points to remember) • Things that were surprising to participants • Key reactions to case studies and summarising views • Workshop 2 focus • Last week we looked at some example use cases, but as you can imagine there are many ways bulk access to judgments could be used. • Today we will think more broadly than those three examples and discuss what are acceptable uses, how that should be decided in the future, and what safeguards are needed to use this data in an acceptable way. • Show agenda and confirm end time Presentation from LEF (10 mins) <ul style="list-style-type: none"> • Outlining some of the key use cases we included in the survey – but with careful nuance included: <ul style="list-style-type: none"> ○ <i>To help improve the way courts are run (for example by improving decision making or showing how to reduce costs)</i> ○ <i>To help people on lower incomes to reach quick resolutions of their disputes without embarking on lengthy legal proceedings which may be unaffordable to them</i>

		<ul style="list-style-type: none"> ○ <i>To understand more about which type of people or which communities are involved in court cases</i> <p><i>NOTE (either from LEF or Chair) – also has been embedded into the presentation:</i></p> <ul style="list-style-type: none"> - "improving how courts are run" could mean automating outcomes for some cases - any tool that helps one group reach quick resolutions could also be used to help more powerful groups to do the same - any tool used to understand the use of the court system could be used to discriminate as well as to target support <p>Going to breakout rooms now.</p>
18:25-19:05	<p>Breakout 1</p> <p>Possible benefits and drawbacks</p> <p>40 mins</p>	<p>Opening discussion of benefits and drawbacks (25 mins)</p> <p>Listening back to that recap, and thinking about your discussions last week, what do you think are the ways in which this sort of access to court data could be beneficial:</p> <ul style="list-style-type: none"> • Who would it be beneficial to? • How meaningful would those benefits be? (Probe: to individuals, to society, to organisations) • What else would be needed to make sure those benefits were delivered well? <p>Now, what drawbacks might this sort of access to court data have?</p> <ul style="list-style-type: none"> • Who might be affected negatively and how? • How significant would that impact be? (Probe: to individuals, to society, to organisations) • What might need to be in place to prevent or limit these drawbacks? <p>With all of this in mind, how do you feel the benefits and drawbacks balance out at the moment?</p> <p>Deciding appropriate use cases (15 mins)</p> <p>Thinking about the ways in which this data could be used, what do you feel are the characteristics of an <u>acceptable</u> purpose?</p> <p><i>If helpful start of by feeding back a theme <u>they have already raised themselves</u>, e.g. 'If it provides public good'</i></p> <ul style="list-style-type: none"> • Why is that important to you? • Who do you think may seek to use the data in this way? <p>And what do you think makes an <u>unacceptable</u> purpose?</p> <ul style="list-style-type: none"> • Why is this unacceptable? • If this is unacceptable – who do you think may pursue it and why? <p>Who do you think should decide on which use cases are acceptable or unacceptable in the future?</p> <ul style="list-style-type: none"> • Should this be a strict definition, or should it be assessed on a case-by-case basis? <ul style="list-style-type: none"> ○ Who should write that definition/judge those cases?
19:05-19:15	BREAK	
19:15-20:00	<p>Breakout 2</p> <p>Organisations involved</p> <p>45 mins</p>	<p>Now that we have discussed the ways in which bulk court data may be used, we are going to discuss in more detail who may be the ones using it.</p> <p><i>Moderators will follow a rotation guide, so each breakout room discusses the purposes in a different order. This avoids order bias and makes sure that all are discussed in case some groups run short of time.</i></p>

		<p>Organisations involved: Purpose 1 (15 mins) Thinking about one of the purposes Natalie told us about earlier ‘<i>To help improve the way courts are run (for example by improving decision making or showing how to reduce costs)</i>’</p> <ul style="list-style-type: none"> • What did you think about court data being used in that way? • How important is this goal? (If needed remind that justice system is facing huge cost challenges) • What types of organisations or individuals do you think would be involved in delivering that project? <ul style="list-style-type: none"> ○ How might these be involved? What role would they play? • How comfortable do you feel about each of these organisations using bulk court records for this reason? Why? • What conditions would need to be in place to help you feel comfortable about this? <p>Organisations involved: Purpose 2 (15 mins) Thinking about another one of the purposes Natalie told us about earlier ‘<i>To help people on lower incomes to reach quick resolutions of their disputes without embarking on lengthy legal proceedings which may be unaffordable to them</i>’</p> <ul style="list-style-type: none"> • What did you think about court data being used in that way? • How important is this goal? • What types of organisations or individuals do you think would be involved in delivering that project? <ul style="list-style-type: none"> ○ How might these be involved? What role would they play? • How comfortable do you feel about each of these organisations using bulk court records for this reason? Why? • What conditions would need to be in place to help you feel comfortable about this? <p>Organisations involved: Purpose 3 (15 mins) And onto another one of the purposes Natalie told us about: ‘<i>To understand more about which type of people or which communities are involved in court cases. E.g., ethnic minorities, single parents or those on lower incomes</i>’</p> <ul style="list-style-type: none"> • What did you think about court data being used in that way? • How important is this goal? • What types of organisations or individuals do you think would be involved in delivering that project? <ul style="list-style-type: none"> ○ How might these be involved? What role would they play? • How comfortable do you feel about each of these organisations using bulk court records for this reason? Why? • What conditions would need to be in place to help you feel comfortable about this?
<p>20:00-20:15</p>	<p>Conditions for trust</p> <p>15 mins</p>	<p>Conditions for a trustworthy context (15 mins) Now that we’ve thoughts about how these purposes might be managed, and what type of organisations may be involved, let’s think about what needs to be in place for this to be done in a way that the public would trust.</p> <ul style="list-style-type: none"> • <i>Feedback some of the conditions they shared in the previous exercise – Type onto slide.</i> • Anything you would change about these conditions? • What other conditions would you add? • Probe on: <ul style="list-style-type: none"> ○ transparency ○ applications to use data (and the criteria for approval) ○ charges for use (and who would those apply to?)

		<ul style="list-style-type: none"> ○ limits on data sets (e.g., should be a big/small enough sample) ● <i>IF</i> <i>anonymity/anonymised data is important to them, show slide outlining the limitations/impacts on open justice that anonymity raises)</i> <ul style="list-style-type: none"> ○ How do you feel about anonymising court data with these points in mind?
20:15-20:25	BREAK	
20:25-20:40	Conditions for trust (cont.) 15 mins	<p>I hope you all had a good break – we are in our last session now, thanks for all of your hard work so far!</p> <p>Conditions for a trustworthy context (cont.) (15 mins)</p> <p><i>Moderator quickly recap on the conditions agreed so far (show on screen)</i></p> <p>Remember conditions can be to help <u>avoid negative impacts</u> or to help <u>make sure benefits are delivered</u> properly...</p> <p>Revisit the following earlier probes and ask if these should be added to conditions:</p> <ul style="list-style-type: none"> ● What else would be needed to make sure benefits are delivered well? ● What might need to be in place to prevent or limit these drawbacks? ● What conditions would need to be in place to help you feel comfortable about data being used: <ul style="list-style-type: none"> ○ <i>To help improve the way courts are run (for example by improving decision making or showing how to reduce costs)</i> ○ <i>To help people on lower incomes to reach quick resolutions of their disputes without embarking on lengthy legal proceedings which may be unaffordable to them</i> ○ <i>To understand more about which type of people or which communities are involved in court cases</i> <p>Thinking about the different types of organisations we've discussed, are there any conditions you think should apply to them?</p> <ul style="list-style-type: none"> ● Probe: <ul style="list-style-type: none"> ○ Academic research organisations ○ Ministry of Justice ○ HM Courts and Tribunals ○ People who are involved in a court case ○ Law firms ○ Commercial organisations (<i>If they mention profit/value sharing e.g., contributing some portion of profits made back to public causes – please probe to embellish on what they think about this – potential future research subject</i>) <p>IF there is time – There are different types of court cases (civil, family, criminal and employment)</p> <p>Does how you feel about data sharing and access change depending on the type of court case? Do you feel more strongly about some types of court cases than others? Why/why not?</p>
20:40-20:55	Capture summarising thoughts on video	<p>Thanks everyone – this has been really interesting!</p> <p>Explaining the video process (5 mins)</p>

	<p>(15 mins)</p>	<p>You have shared so many important points. To help this research have lots of impact and bring the public views to life, we are keen to capture some participants sharing their views on video:</p> <ul style="list-style-type: none"> • This is completely optional! • I will explain how this will work now, and please have a think if you would be happy to say a few words in a moment... • It could be that you pick one of the conditions we agreed that is really important to you, read it out and say why it's important OR it could be a quick sentence on your overall views about this change to court records access. • If you really would not like to be on camera, you can turn your video off (but please stay in the meeting) • I will start screen recording, and we can go around the room to get your summarising thoughts • If you are not sure, you can give it a go and retract your permission to use it after the workshop <p>Before we start, how do you all feel about this? <i>If there is hesitancy, take a moment to ask about that and see if they can be encouraged.</i></p> <p>Record summarising thoughts (10 mins)</p> <ul style="list-style-type: none"> • Click record video on Zoom and go around the group for those who are happy to take part • Make an effort to help them feel comfortable if needed, remind the video can be cropped and trimmed
<p>20:55-21:00</p>	<p>Plenary</p>	<p>Chair - Thank and close</p> <p>Next steps:</p> <ul style="list-style-type: none"> • Confirm thank you payments coming from the recruiter in next few working days. • We will write a report that will be published and start a wider conversation with the public and with decision makers about justice data

7.2.4 Workshop 2: Slide deck (including case studies)



Welcome back for Workshop 2!

Why are we here?

This is a public engagement research project about how court records are managed and accessed. Don't worry if that sounds unfamiliar – we will learn lots as we go! (Feel free to grab a pen and paper)

Who is here?

- **Ipsos:** Independent specialists in deliberative engagement and researchers, will be guiding you through the discussions today
- **The Legal Education Foundation (LEF):** An independent charity helping people to understand and access the justice system. Natalie from the LEF will be sharing some information to help us with our discussions
- **Observers:** Some colleagues who are interested to see what you have to say
- **Notetakers:** They will be in each breakout room to capture the discussions
- **YOU (30 members of the public):** You are the real experts, as we are researching what is important to you!



Housekeeping....

- A lot of information will be provided - note down any questions and ask for clarification in breakout rooms when needed
- Please don't multitask! You may miss important information
- What you say is confidential We are interested in what you say, not who said what
- Recording audio only
- If we lose connection to you at any point in the session Jess P will call you to see if we can help bring you back in again
- You may want to write down Jess P's contact details just in case you need it later: Jessica.Pace@ipsos.com
- We will be going into breakout rooms often – you don't need to do anything

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Rules of engagement

1. Listen **respectfully**, without interrupting.
2. Listen actively and with an ear to **understanding others'** views. (Don't just think about what you are going to say while someone else is talking.)
3. **Any question is a good** question.
4. Criticise ideas, **not individuals**.
5. Commit **to learning**, not debating. Comment in order to share information, not to persuade.
6. Stay on topic and **try to be concise**.
7. **Avoid** blame, speculation, and inflammatory language.
8. Allow everyone the **chance to speak**.
9. **Avoid assumptions** about any member of the group or generalisations about social groups. Do not ask individuals to speak for their (perceived) social group.
10. **Be patient** with other participants and the team – we have a lot of information to get through.
11. Feel free to share your thoughts about this event with **friends and family**.
12. If posting **about this event on social media** please do not share any detail of the discussions.
13. Think and act as **citizens**

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Workshop 1 – What did you say?

- Some surprise that so much information is in the public domain
- Some surprise about the judge's opinions about the trustworthiness of witnesses included
- Some of you agree that transparency is needed to hold judges accountable
- Can see how employers or landlords would benefit—especially for people with consistent patterns of employment issues or evictions
- There were strong concerns about widening inequalities, and the risk of prejudice with info on age wealth ethnicity
- Some distrust in a genuine justice system and worries about data being sold on
- Questions about 'Is justice actually open at the moment': With private publishers having their own data sets that are not transparent?
- Lot's of you said there should be timeframes on accessible records: repeat offenders vs people trying to move on from a past mistake
- It was frightening to think of computers automatically scanning lots of records... Computers can be faulty and we must be able to challenge accuracy of data about you. Organisations must be able to show that their insights and data are correct!
- Some worries about lack of nuance in big data: *"Everything isn't about data. There are reasons why things happened. Decisions are going to be made coldheartedly"*

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Workshop 2 – What are we talking about today?

- Last week we looked at some example use cases, but as you can imagine there are many ways that bulk access to court records could be used.
- Today we will think more broadly than those three examples and discuss:
 - What are acceptable uses?
 - What are unacceptable uses?
 - How that should be decided in the future?
 - What safeguards are needed to use this data in an acceptable way ?

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Agenda

18:00–18:25 (25 mins)	Recap, and outline for this evening	Plenary
18:25-19:05 (40 mins)	Benefits and drawbacks	Breakout rooms
19:05-19:15 (10 mins)	Comfort break	
19:15-20:00 (45 mins)	Organisations involved	
20:00-20:15 (15 mins)	Conditions for trust	
20:15-20:25 (10 mins)	Comfort break	
20:25:20:40 (15 mins)	Conditions for trust	
20:40:20:55 (15 mins)	Summarising thoughts	
20:55-21:00 (5 mins)	Wrap up and thank you!	Plenary

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Key ways UK court data will be used (following access change)

To help improve the way courts are run (for example by improving decision making or showing how to reduce costs)

- **The UK Courts are under a lot of pressure: Financial pressure, and huge backlogs of cases to work through**
- **Bulk court data could be used to find ways that courts are inefficient at the moment:**
 - Could see which approaches are better for clearing backlogs (e.g. hearings online, new temporary courts such as in theatres)
 - Managing staff time better, seeing how much judge time is used
- **What changes might this insight lead to?**
 - Could be fewer hearings (May have to submit your evidence online, or plead guilty/not -guilty via an online portal, with no live discussion)
 - Could close particularly inefficient court buildings

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Key ways UK court data will be used (following access change)

To help people on lower incomes to reach quick resolutions of their disputes without embarking on lengthy legal proceedings which may be unaffordable to them

- **People who may struggle with the costs of a court case could be advised on what the best options are for them, based on similar cases**
- **They may be advised to settle rather than go to court:**
 - This could save them money compared to the costs of court
 - May also mean that a segment of society are discouraged from seeking justice
 - They may not be well informed on the size of settlement they should agree too - and get less than their case is worth.
- **They may be advised to enter mediation instead of going to court:**
 - This can be less adversary, potentially salvaging relationships with those they are against
 - Can be less intimidating than a court case
 - Mediation is done privately, so could avoid the public records of a court case (although it is less transparent)
 - Mediation isn't always good quality: Could be a telephone process, with little advice to prepare.

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Key ways UK court data will be used (following access change)

To understand more about which type of people or which communities are involved in court cases

- **Looking for trends for specific groups of people or communities can help identify where and how discrimination (racism, sexism, classism) takes place in courts**
 - This transparency and ability to hold courts/Judges accountable is part of open justice
- **This insight could help courts and charities provide legal aid and support services in a targeted way**
- **However, it could also fuel discrimination rather than just identify it:**
 - Could be used by media to vilify certain groups
 - Could lead targeted over surveillance and over policing for some communities
 - Could affect credit opportunities: Even if your individual record is good, if you are part of X group you are automatically considered riskier
 - *Example: An advocacy group once campaigned to stop employers running criminal background checks for potential employees, but in practice this led to employers discriminating against specific groups, such as Black men.*

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Break-out rooms

You should be moved
automatically any moment

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Comfort break!

Please be back by 7.15pm

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Comfort break!

Please be back by 8.25pm

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Conditions | Priorities | safeguards

What matters to us?

Type conditions below... (cont. on next page just in case)

- XXX

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Conditions | Priorities | safeguards

What matters to us?

Type conditions below... (cont. on next page just in case)

- xxx

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Thank you!

This is the end of Workshop 2.

What's Next?

- Your thank you payments will be paid over the next few working days
- We will write a report about the discussions we've had. This will be published and help drive an important conversation with decision makers!

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Our standards and accreditations

Ipsos' standards and accreditations provide our clients with the peace of mind that they can always depend on us to deliver reliable, sustainable findings. Our focus on quality and continuous improvement means we have embedded a "right first time" approach throughout our organisation.



ISO 20252

This is the international market research specific standard that supersedes BS 7911/MRQSA and incorporates IQCS (Interviewer Quality Control Scheme). It covers the five stages of a Market Research project. Ipsos was the first company in the world to gain this accreditation.



Market Research Society (MRS) Company Partnership

By being an MRS Company Partner, Ipsos endorses and supports the core MRS brand values of professionalism, research excellence and business effectiveness, and commits to comply with the MRS Code of Conduct throughout the organisation. We were the first company to sign up to the requirements and self-regulation of the MRS Code. More than 350 companies have followed our lead.



ISO 9001

This is the international general company standard with a focus on continual improvement through quality management systems. In 1994, we became one of the early adopters of the ISO 9001 business standard.



ISO 27001

This is the international standard for information security, designed to ensure the selection of adequate and proportionate security controls. Ipsos was the first research company in the UK to be awarded this in August 2008.



The UK General Data Protection Regulation (GDPR) and the UK Data Protection Act (DPA) 2018

Ipsos is required to comply with the UK GDPR and the UK DPA. It covers the processing of personal data and the protection of privacy.



HMG Cyber Essentials

This is a government-backed scheme and a key deliverable of the UK's National Cyber Security Programme. Ipsos was assessment-validated for Cyber Essentials certification in 2016. Cyber Essentials defines a set of controls which, when properly implemented, provide organisations with basic protection from the most prevalent forms of threat coming from the internet.



Fair Data

Ipsos is signed up as a "Fair Data" company, agreeing to adhere to 10 core principles. The principles support and complement other standards such as ISOs, and the requirements of Data Protection legislation.

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