



Ministry of
JUSTICE

Swift and Sure: The Government's Plans for Reform of the Criminal Justice System

Equality Impact Assessment

July 2012

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Contents

Introduction and engagement	2
Equality Duties	4
Summary	6
Methodology and Evidence Sources	9
Flexible criminal justice system	10
Streamlined forensic reporting	16
Justice Test and oversight of out-of-court sanctions	18
Reconnecting justice with communities	20
Re-conceiving summary justice	24
Retaining more cases in the magistrates' courts	28
Video	30
Publishing information about criminal justice performance	32
Broadcasting in court proceedings	35
Working in partnership	36
Annex A - Profile of victims	37
Annex B - Profile of defendants and offenders	43
Annex C - Profile of magistrates	58
Annex D - Confidence in the CJS	62
Annex E – Evidence sources	67

Introduction and engagement

This equality impact assessment (EIA) accompanies the government's White Paper "*Swift and Sure: The Government's Plans for Reform of the Criminal Justice System*". This is an assessment of the potential impacts of the policy proposals in that White Paper in relation to equality, based on current available evidence.

The White Paper sets out the Government's programme of reforms to the criminal justice system in England and Wales. It forms part of the Government's much wider programme of reform across crime and justice.

The reforms in this White Paper are focused on the points where work passes between the agencies and are designed to enable them to work together more efficiently and effectively, ensuring offenders are quickly brought to justice and that their punishment fits the crime.

Taken alongside wider reforms to crime and justice, the programme aims to ensure that the criminal justice system:

- **prevents crime and protects victims:** providing an effective deterrent to crime;
- **is responsive:** responds swiftly and effectively when crime does take place, so that offenders are quickly made to face the consequences of their actions; and
- **punishes and reforms:** ensures that offenders are punished, and supported to reform.

This EIA should be read alongside the White Paper and the impact assessment (IA). The EIA follows the structure of the White Paper. The White Paper contains policy proposals:

- 1) which are at an early stage of development and so the White Paper sets out how thinking has developed so far. There are four areas where we will continue to develop plans and may announce further reforms in due course and we welcome your views and suggestions on these proposals:
 - Reconceiving summary justice (page 24) - empower single magistrates to deal with certain uncontested, low level cases on their own.
 - Retaining more cases in the magistrates' court (page 28) - introduce a monetary threshold for the either way offences of theft and handling stolen goods below which magistrates would not have the power to commit the case for trial at the Crown Court, but the defendant's right to elect for trial by jury would remain unchanged.

- Video (page 30) – consider reform of the legislation relating to the use of video links in criminal proceedings.

For these proposals, the assessment of potential impacts in this EIA is initial and we welcome your views. Work to develop and implement these policies will be informed by ongoing engagement. In the event of a formal consultation, there will be a further opportunity to address equality issues in responses.

- 2) which are in the process of being taken forward on an administrative basis. Despite the fact that these proposals are being taken forward, we would welcome your views on the accuracy and extent of effects identified in the EIA and any views on the equality impacts. In particular, some of the proposals are presently being piloted or tested and final decisions on these proposals are yet to be made. In those cases, equality issues identified as part of the piloting or testing and responses to this EIA will inform those final decisions.

The precise use of further equality information is discussed in the sections on the individual policy proposals (pages 10-36).

To share your comments with us on this EIA, please contact

email: criminaljusticereformprogramme@justice.gsi.gov.uk

or by post to:

Criminal Justice Reform
White Paper team
Post Point 8.02, Ministry of Justice
102 Petty France
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Equality Duties

Section 149 of the Equality Act 2010 requires Ministers and departments, when exercising their functions, to have 'due regard' to the need to:

- eliminate discrimination, harassment and victimisation and other prohibited conduct under the Equality Act 2010;
- advance equality of opportunity between different groups (those who share a "relevant protected characteristic" and those who do not); and
- foster good relations between different groups (those who share a "relevant protected characteristic" and those who do not).

The eight relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion and belief; sex; and sexual orientation. In having due regard to matters in the first bullet point above, it is also necessary to consider equality impacts in terms of a ninth protected characteristic: marriage and civil partnership.

Discrimination contrary to the Equality Act 2010 may occur if there is direct or indirect discrimination. Direct discrimination is defined in section 13(1) of the Equality Act 2010, as follows:

A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

Indirect discrimination is defined in section 19 of the Equality Act 2010, which reads relevantly as follows:

(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.

(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—

(a) A applies, or would apply, it to persons with whom B does not share the characteristic,

(b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,

(c) it puts, or would put, B at that disadvantage, and

(d) A cannot show it to be a proportionate means of achieving a legitimate aim.

In relation to discrimination arising from disability, section 15 of the Equality Act 2010 states:

A person (A) discriminates against a disabled person (B) if—

(a) A treats B unfavourably because of something arising in consequence of B's disability, and

(b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.

Sections 20 and 21 of the Equality Act 2010 also impose a duty to make reasonable adjustments where a disabled person is placed at a substantial disadvantage in comparison with a non-disabled person.

Harassment and victimisation are defined in sections 26 and 27 of the Equality Act 2010 as, respectively, certain forms of unwanted conduct related to relevant protected characteristics and subjecting a person to a detriment in certain circumstances.

Summary

This equality impact assessment (EIA) relates to the government's White Paper *"Swift and Sure: The Government's Plans for Reform of the Criminal Justice System"*.

The EIA covers the following policy areas:

- Flexible criminal justice system. Ensuring more flexibility in the availability and ways of working of the courts and criminal justice agencies involved.
- Streamlined forensic reporting. Producing forensic evidence proportionate to the needs of the case.
- Justice Test and oversight of out-of-court sanctions. Introducing a Justice Test to help police officers decide the appropriateness of using out-of-court sanctions, and which ones to use.
- Reconnecting justice with communities. Using Neighbourhood Justice Panels to involve community representatives in finding restorative solutions to anti-social behaviours and low level offending.
- Re-conceiving summary justice. Explore the potential to introduce new powers for magistrates to act alone in uncontested cases, potentially in locations away from traditional courts.
- Retaining more cases in the magistrates' courts. Proposals to ensure that, where appropriate, less serious cases are determined in the magistrates' courts.
- Video. Explore the potential and case for simplifying existing legislation to permit video evidence to be used routinely for victims and witness in criminal proceedings including trials.
- Publishing information about criminal justice performance. Increasing availability and accessibility of justice system data to improve transparency and accountability.
- Broadcasting in court proceedings. Proposals to extend broadcasting of judges' sentencing remarks to proceedings in the Crown Court.
- Working in partnership. All local criminal justice agencies to establish simple, streamlined arrangements for working together, and with other local partners.

We have considered the policy proposals in accordance with the statutory obligations under the Equality Act 2010. The following is a summary of our

overall assessment. More detail of the impacts is given in the analysis in the individual policy areas below.

Direct discrimination: We have not identified any evidence that suggests that any of the policies would be directly discriminatory within the meaning of the Equality Act 2010. None of the policy proposals would involve someone being treated less favourably than others because of a protected characteristic.

Indirect discrimination: We do not consider that any of the proposals will be indirectly discriminatory within the meaning of the Equality Act 2010. The proposals will apply to those who share a protected characteristic and those who do not. Our initial assessment of the evidence shows that some proposals may have a differentially positive and/or differentially negative impact on groups or individuals who share certain protected characteristics when compared to those who do not share the protected characteristic. For the likely possible differentially negative impacts (e.g. Neighbourhood Justice Panel potential under-representation from people with protected characteristics) we do not consider these to be indirectly discriminatory as mentioned above and indicated in the analysis below.

We set out our analysis of differential impacts and relevant evidence concerning the potential impacts arising from each policy proposal within the EIA. Where necessary, we have also sought to justify any potential discrimination by showing that it is a proportionate means of achieving a legitimate aim. We have also sought to mitigate any adverse equality impacts where possible.

Discrimination arising from disability and the duty to make reasonable adjustments: We have not identified evidence to suggest that the policy proposals give rise to discrimination concerning disability. There may be disability impacts to consider, for example, concerning the development of the policy on reconnecting justice with communities and re-conceiving summary justice where processes may occur in buildings outside of traditional courts. However, we think that some proposals, especially around greater flexibility for criminal justice system operating hours and increased use of video technology may impact positively on those with physical disabilities or mobility difficulties. We think that these policies may have a positive impact as they should mean that criminal justice system is able to be more flexible to individual needs. Further details can be found in the rest of this EIA.

Harassment and victimisation: We do not consider that any of these proposals will result in harassment or victimisation within the meaning of the Equality Act 2010.

Advancing equality of opportunity: We have considered how these proposals impact on the duty to have due regard to the need to advance equality of opportunity. For example, we think that more flexible sittings and increased use of video technology in court will be likely to impact positively on some disabled court users as well as carers (who are more likely to be

women) and some religious groups who may benefit from non-weekday sittings. We think that flexible sittings will support an increasingly diverse magistracy by providing a greater range of hours in which courts are open. On the other hand, there is a possibility that, without further mitigation, people of particular ages, races and religions may be under-represented on Neighbourhood Justice Panels thereby impacting on the duty to advance equality of opportunity. We will consider how we can promote equal representation on these local panels and how we can support people with these protected characteristics to participate more in this aspect of public life.

Fostering good relations: We have considered this objective and think that proposals around increasing transparency, improving accountability and community engagement may impact positively by improving relations between different groups of people.

We propose to run a series of engagement events covering both the White Paper and the development of the next phase of CJS reform. The engagement would cover the most forward-thinking of the proposals, and those where there is scope for development as part of the next phase of reform, including reconnecting justice with communities and re-conceiving summary justice.

In the event of any further consultations on these areas, we will undertake further proportionate EIAs to help inform policy development. Having had due regard to the potential differential impacts identified in this EIA, the government is satisfied that it is right to pursue these CJS proposals. To this extent the proposals are considered to be a proportionate means of achieving a legitimate aim in the reform of the Criminal Justice System.

We acknowledge there are a number of gaps in the research and statistical evidence we have been able to source regarding the potential impact of our proposals on a number of protected characteristics. We welcome provision of information, evidence and comment which may help to address some of these gaps in any further assessment.

Methodology and Evidence Sources

This EIA draws upon a number of evidence sources. We have used the best quality evidence available, which is mainly national or official statistics, Ministry of Justice research reports or internal criminal justice system management information, but have also drawn on other sources where appropriate. A full list of data sources and tables can be found in the Annexes of this document.

Our methodology, in accordance with our equality duties, has been to consider the effects of each of our proposed policies against each protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation). We explore the potential for proposals to both adversely or positively impact on certain groups due to their protected characteristics. Consideration is also given to how any potential adverse equality impacts might be (a) mitigated or (b) justified, and how any potential positive equality impacts might be maximised.

On pages 37-66, we analyse the available data on victims of crime, defendants, magistrates and confidence in the CJS. The primary reason for this is to provide the overall context for the policy proposals. The second reason is that a number of different policy proposals will have equality impacts more or less on these groups and presenting the comprehensive information as stand-alone sections reduces repetition. These profiles are referred to in the analysis section of each policy proposal where appropriate.

Due to limitations in the available evidence, or because no such impact exists, we have been unable to identify a potential impact of every policy proposal on each protected characteristic.

Where data relating to certain protected characteristics is not available, we will, for certain policy areas, seek to gather information from engagement with relevant stakeholders (see 'Introduction and Engagement' section on pages 2-3).

We note that there is a lack of research or statistical evidence relating to a number of protected characteristics. As part of a wider programme of work, the Ministry of Justice is looking at how best (and most appropriately) the data gaps that exist might be filled, taking into account cost considerations.

Many of the proposals outlined in this document describe new processes to be trialled in the CJS. Therefore there are limitations to the evidence available for some of the proposed options. For example, the evaluation of Neighbourhood Justice Panels plans to collect equality data for all users of the panels (both victims and offenders) and we will explore collecting similar data as part of the evaluation of Flexible CJS reforms. Such information will be used to explore equality impacts once reforms are implemented.

Flexible criminal justice system

Aims and outcomes of the proposals

Pilot changes to criminal justice system operating hours. We will test changes to criminal justice system operating hours to better support the operation of the system and the needs of its users. Magistrates' court cases and, in general, youth cases are in scope. Youths have been excluded from Virtual Courts and we are reviewing whether this should remain the case.

Specific reforms

We have invited local criminal justice partnerships to work together to put forward proposals to test a variety of new flexible approaches in their regions. Their proposals will form part of a series of pilots we will undertake during the course of this year. These include:

- magistrates' courts sitting from 8:30 am for Prison Court Video Link hearings, reducing the number of defendants requiring transport to court;
- trials being conducted in the magistrates' court on a weekend; and
- later evening sittings in magistrates' courts to deal with those who might otherwise be detained in police custody overnight, including through the use of video link technology.

Analysis

Direct discrimination

We do not consider that any of these proposals discriminates on the basis of a protected characteristic and so we do not consider that it will lead to direct discrimination within the meaning of the Equality Act 2010 against any person subject to a particular protected characteristic.

Indirect discrimination

All of the proposals will equally apply to individuals with and without a protected characteristic, however we have identified potential negative differential effects in respect of religion. These are set out below.

Potential impacts on victims and witnesses

Cases where the defendant is held in custody may in some instances be dealt with on the day of charge rather than overnight. Cases where the defendant is on bail but is ready to plead guilty may also be dealt with on the day of charge, rather than a week or two later as is the current practice. This increase in

speed is assumed to benefit victims of crime. Speed may also be increased through a reduction in the Failure to Appear rate. Another potential benefit to victims of and witnesses to crime is that opening hours may be more convenient for them.

These proposals may have a greater impact on those groups that are currently at greatest risk of experiencing crime. The results from the Crime Survey for England and Wales (CSEW)¹ are presented in Tables A1-A5 (Annex A) and we have identified the potential for positive differential effects in respect of age, religion and sexual orientation.

We have identified the following issues in relation to the protected characteristics.

Disability: The more flexible operation of traditional magistrates' courts may be beneficial to victims and witnesses with disabilities attending trials. If the courts are operating at weekends, victims and witnesses may be able to use public transport more easily outside busy weekday rush hours. Travel by private vehicle may be easier as parking is likely to be more readily available earlier and later on weekdays and on the weekend.

Where victims and witnesses with disabilities may need someone to accompany them to provide assistance, more flexible court hours may also be beneficial. Extended sitting hours and weekend sittings may mean that those accompanying victims and witnesses to court will not have to take time off work.

The technology made available as a result of virtual courts and prisoner to court video link may allow a greater number² of victims with physical disabilities to be more involved in court proceedings. For example, where the same equipment can be used to enable them to give evidence during a trial from a remote location rather than court, this may help with access issues³.

Pregnancy and maternity: The availability of courts that are able to operate outside normal hours may benefit those with caring responsibilities as it may enable carers to make alternative arrangements more easily. The use of video technology might mean that courts are able to be more flexible to

¹ The British Crime Survey (BCS) is now known as the Crime Survey for England and Wales to better reflect its geographical coverage. While the survey did previously cover the whole of Great Britain it ceased to include Scotland in its sample in the late 1980s. There is a separate survey – the Scottish Crime and Justice Survey – covering Scotland. Given the transfer of responsibility for the survey to ONS, it was decided that the name change would take effect from 1 April 2012.

² Witnesses suffering from a physical disability may already give evidence by video link under the special measures regime provided under the Youth Justice and Criminal Evidence Act 1999.

³ The nature of the current court estate, which includes a number of listed and historic courts, is such that we will never be in a position to say that all HMCTS buildings have full physical accessibility. HMCTS has taken all reasonable steps to satisfy the duties and obligations imposed by the Disability Discrimination Act (DDA) 1995 and subsequent Act of 2005, and the recently introduced Equality Act 2010. This has been achieved by an extensive programme of works, augmented by the introduction of local managed solutions where such works were either unreasonable or impractical. To date, HMCTS has spent in excess of £20m on making the former Court Service estate accessible. In 2005, access audits were undertaken on all of the magistrates' courts to establish any areas of weakness. The audits identified a substantial body of works which were costed at £14.47m. It was subsequently decided to spread these works over a three year programme which was commenced in 2008-2009 and completed in March 2011.

individual needs. For example, a police station might be nearer than the nearest magistrates' court is and therefore travel time and absence can be minimised.

Religion: With the possibility of weekend sittings, consideration will need to be given to the observance of different religious holidays e.g. Shabbat, Sunday Mass, and appropriate arrangements made.

Potential impact of the proposals on defendants or offenders

Overall people in the younger age groups, those who disclose as having a Black background and men are overrepresented in the criminal justice system. In addition, we have identified the following specific issues:

Age: Youths are currently excluded from Virtual Courts and we will keep this under review. It has been suggested that young people under the age of 18 might not be able to understand the court process or the seriousness of proceedings if they are not present in court. We have not been able to establish from the available evidence that this is, or is not, the case.

Extended court sitting times may also benefit youths in relation to appropriate adults being able to attend court with them as the court will be sitting outside of traditional working hours.

Disability: The pilots relating to more flexible sitting hours may have some advantages for those with physical disabilities as attending court outside of normal working hours may mean that public transport will be less busy and there may be more choice of parking facilities.

Where defendants with disabilities may need someone to accompany them to provide assistance more flexible court hours may be a benefit. Extended sitting hours and courts sitting on weekends may mean that those accompanying to court will not have to take time off work.

Pregnancy and Maternity: The availability of courts that are able to operate outside normal hours may benefit those with caring responsibilities. The use of video technology might mean that courts are able to be more flexible to individual needs. For example, a police station might be nearer to a defendant attending a preliminary hearing than the nearest magistrates' court is and therefore travel time and absence can be minimised.

Race: An initial assessment of equality impacts for the Virtual Court tests raised the possibility that Black and Minority Ethnic (BME) defendants might have less familiarity with videoconferencing technology, have less knowledge of how to present over this medium, and that there was a possibility that non-verbal communication operates differently for BME defendants. However, the evaluation of the Virtual Court pilots⁴ did not identify significant equality impacts for defendants based on race. There was anecdotal evidence

⁴ Virtual courts pilot: outcome evaluation report, 20 December 2010
www.justice.gov.uk/publications/research-and-analysis/moj/2010/virtual-courts-pilot-outcome

suggesting that language barriers are more acute when a video link is used and that there may be an issue around access to interpreters where flexible courts are in use⁵.

We do not expect the increase in the flexibility of court hours or our proposals on Virtual Courts and police to court video links to have a differential impact on BME defendants.

Religion: There is the possibility that individuals belonging to religious groups who are opposed to interaction with technology might be disadvantaged because of these proposals. With the possibility of weekend sittings as part of the Flexible Court Framework, courts will need to consider observance of different religious holidays e.g. Shabbat, Sunday mass, and make appropriate arrangements.

Potential impacts on magistrates

This policy might provide an opportunity for other volunteers to become magistrates who are currently not available during traditional court opening times. This may promote the diversity of the magistracy through offering a wider range of hours at which to attend court, therefore enabling a more diverse group of people to volunteer as magistrates. The evidence presented in Tables C1-C4 (Annex C) suggests that younger people and disabled people are under-represented amongst magistrates compared to the general population.

We have also identified the following specific issues.

Disability: The models relating to more flexible sitting hours may have some advantages for those with physical disabilities as it may enable them to attend courts outside of normal working hours when public transport would be less busy and there may be more choice of parking facilities.

The availability of video link technology may open up the possibility of a future role in virtual advocacy to those with physical disabilities and help with access issues.

Religion: With the possibility of weekend sittings, we will need to consider observance of different religious holidays e.g. Shabbat, Sunday mass and make arrangements accordingly.

Potential impact of the proposals on legal practitioners

This policy will require a change in the working practice of legal practitioners representing clients in cases which are heard outside of traditional court hours or using video technology in Virtual Court models and the Prison to Court video links. Both Virtual Courts and Prison to Court video links are operational and legal practitioners will be familiar with them. The extension of court sitting hours will however involve a change to working practices as practitioners may

⁵ Terry, M, Johnson, S and Thompson, P. (2010) Virtual Court Evaluation Ministry of Justice 21/10

need to be available earlier and later on weekdays and on the weekends if their trial is listed. However it may be that more flexible working patterns may suit some legal practitioners to work better with their other commitments. It may also be beneficial to them in potentially saving time on a Monday morning where otherwise trials could be delayed as a result of a higher volume of remand cases from the weekend than may have been anticipated. In addition we have identified the following issues:

Disability: The models relating to more flexible sitting hours may have some advantages for those with physical disabilities as it may enable them to attend courts outside of normal working hours when public transport would be less busy and there may be more choice of parking facilities.

We do not anticipate that increased use of video technology will have a significant impact on legal practitioners with disabilities.

Pregnancy and Maternity: The availability of courts that are able to operate outside normal hours may be beneficial to those with caring responsibilities as it may enable carers to more easily make alternative arrangements.

Religion: With the possibility of weekend sittings, we will need to consider observance of different religious holidays e.g. Shabbat, Sunday mass and make arrangements accordingly. We have not been able to find data on religion or belief of the legal profession.

Mitigation, justification and further equalities analysis

We have no evidence to suggest that this package of proposals for a Flexible Criminal Justice System would lead to those subject to protected characteristics being treated less favourably, resulting in discrimination, harassment, victimisation or any other conduct prohibited by the Equality Act 2010. Nor do we have any evidence to suggest that these proposals would adversely affect either the advancement of equality of opportunity or the fostering of good relations between different groups.

But in the event that it were established that any of these proposals gave rise to a particular disadvantage to persons subject to a protected characteristic, we consider any such impact to be justified on the basis of the benefits accruing to society as a whole from a flexible and efficient criminal justice system.

There are safeguards built into Flexible CJS models (and the justice system more generally) to mitigate against potential adverse equality impacts namely:

For video technology related models:

- the court must determine whether a particular case is suitable for being dealt with by way of the Virtual Court. Virtual Court hearings will only take place where the court is satisfied that it is not contrary to the

interests of justice to proceed in that way. Custody officers also assess the suitability of defendants for the Virtual Court process;

- interpreters of all types, can be supplied in custody and at court. Those who require an interpreter would only be found suitable for Virtual Court attendance if an interpreter could also be found to attend in the three hour window when a virtual court appearance takes place after the initial charge, otherwise they would appear in court in person following usual processes;
- defendants who are considered vulnerable⁶ are unsuitable for Virtual Court if they have not received face to face legal advice, and in particular people with learning and/or communication difficulties would only use video facilities if adequate support was provided (for example, sign translators for those who are hard of hearing); and
- our current policy is that young people under 18 are excluded from virtual court appearances.

No specific mitigations have been identified for extended hours models as we expect the usual interest of justice tests to be applied. Mitigations may need to be considered further as the models are developed and delivered locally.

We will collect equality-related data during pilots of these proposals, most of which will begin later this year (one of the pilots began in May 2012, and will run for a minimum of six months). This data will ultimately enable us to take decisions on the implementation of those options with as much data on their likely equality impacts as possible. This opportunity to collect data will also enable us to address the evidence gaps we have identified. This information – and any information that we receive in response to this EIA – will be used to monitor equality impacts and, if necessary, to modify the way in which the proposals are eventually implemented.

⁶ Defined in section 16 of the Youth Justice and Criminal Evidence Act 1999

Streamlined forensic reporting

Aims and outcomes of the proposals

SFR is a new way of producing forensic evidence for the Court which aims to avoid the need for full forensic evidence to be produced when it is unlikely to be in dispute so that case files are prepared more proportionately, reducing unnecessary work, delay and cost associated with forensic evidence. Partial forensic reporting is undertaken during the investigative stage of a case, limited to the material necessary for identifying suspects and determining the appropriate charge. Full reports are only commissioned once proceedings have been commenced, and the defendant indicates that he intends to contest the charges.

Specific reforms

Support wider, national implementation based on the London pilot of Streamlined Forensic Reporting processes across England and Wales.

Analysis

We have considered whether the process used in SFR may give rise to the possibility of someone being treated less favourably by reason of a protected characteristic. The application of SFR does not discriminate on the basis of a protected characteristic and so we do not consider that it will lead to direct discrimination in favour of or against any particular protected characteristic. During the implementation of SFR across London, no data was collected on the types of cases where forensic reporting was subject to SFR compared to the traditional process of forensic reporting. Accordingly, we have no specific data on whether those with protected characteristics may be over or under represented in those affected by SFR.

We have data on the make-up by protected characteristic of the following groups who will be affected by SFR. These data are contained in Annexes A to B and the impact on those groups, based on data from the pilot in London, is explained below.

The speed at which a case was brought to trial in the pilot increased as a result of the improvement in early guilty plea rates. This is likely to have a positive impact on both victims and witnesses, including police officers in terms of time spent awaiting a case coming to trial.

Defendants have also benefited from SFR implementation as the defence is informed of forensic evidence at a much earlier stage of the case, therefore allowing them to assess and advise the defendant appropriately.

The data in Annex B indicates that more defendants with the protected characteristics of race, gender and age will be affected by the change in policy because there are a higher proportion of young male BME offenders in the CJS than in the population as a whole. However, for the reasons set out above we believe the change in policy will not negatively impact on anyone affected and to the extent there is a differential impact on particular groups we have no evidence to suggest it is for a reason, directly or indirectly related to that protected characteristic.

Accordingly, we have no evidence to suggest that SFR would lead to those with protected characteristics being treated less favourably, resulting in discrimination, harassment, victimisation or any other conduct prohibited by the Equality Act 2010. Nor do we have any evidence to suggest that the proposal would adversely affect the advancement of equality of opportunity or the fostering of good relations between different groups.

Mitigation, justification and further equalities analysis

During 2012/13 as we begin national implementation of SFR, consideration will be given as to whether the database currently used by the Metropolitan Police Service (MPS) to collect performance data could be developed further to allow information about case mix and those affected by SFR to be captured. This information – and any information that we receive in response to this EIA – will be used to ensure that as local police forces roll out SFR they monitor equality impacts and, if necessary, modify the way in which SFR is applied.

Justice Test and oversight of out-of-court sanctions

Aims and outcomes of the proposals

Develop a national framework for out-of-court sanctions and a "Justice Test" to help police officers exercise their discretion in dealing with offenders.

Specific proposals

- the Crown Prosecution Service will develop detailed proposals for a 'Justice Test' to articulate criteria to assist police officers to determine whether a particular matter could be dealt with outside of court and what the most appropriate resolution might be; and
- promote local arrangements for oversight of the use of out-of court sanctions.

Analysis

Direct discrimination

The Justice Test will apply equally to any situation where police officers are considering how best to deal with a matter before them. We do not consider that this proposal discriminates on the basis of a protected characteristic and we do not consider that it will lead to direct discrimination within the meaning of the Equality Act 2010 against any person subject to a particular protected characteristic.

Indirect discrimination

We think there may be particular potential differential effects in respect of age, race and sex of defendants.

Potential impact of the proposals on the general public

It is proposed that the Framework and Justice Test will enable more consistent application of out of court sanctions. As suggested above, in light of the transparency agenda, it is important that the community feel the usage of such options are fairly applied. Perceptions of fairness are linked to public confidence in the criminal justice system. Demographic data from the 2010/11 CSEW is shown at Tables D1-D2 in Annex D. This demonstrates confidence levels vary by age, disability and race.

Potential impact of the proposals on victims

The Justice Test is intended to give victims a better understanding of the reasons behind police action. It will also encourage the police to take account of the victim's circumstances when deciding how best to deal with low-level crime, and when considering whether, for example, a restorative solution would be appropriate.

Using the CSEW, we have assumed there may be a greater impact on those groups that are currently at greatest risk of experiencing crime. The results are presented in Tables A1-A5 (Annex A) and we have identified the potential for positive differential effects in respect of age, religion and sexual orientation.

Potential impact of the proposals on defendants

The aim of the framework is not to remove particular cases from the courts but rather to improve decision making and effective use of out-of-court sanctions. If there is an impact on the number of cases that are disposed of in, or out of, court this would affect defendants.

We will monitor the impact on defendants once the Justice Test is in place, and will look to local areas to ensure they have appropriate oversight arrangements in place.

Currently we know that out-of-court sanctions are administered differently between and within groups and that there may be a differential impact on individuals according to age, race and sex. Data in Annex B shows that more young people are given cautions and Penalty Notices for Disorder (PNDs), and men receive more cautions and PNDs than women.

Mitigation, justification and further equalities analysis

A simplified, national framework for out-of-court sanctions, together with the Justice Test, will provide clarity on the use of such sanctions and place greater emphasis on outcomes. The risk of misuse should be further mitigated because the system will be more transparent and will involve some form of oversight.

Reconnecting justice with communities

Aims and outcomes of the proposals

Involve local communities in solving problems of anti-social behaviour and low level crime. Neighbourhood Justice Panels are a means of using restorative justice, facilitated by local volunteers, working within their community to address any problem behaviours and low level offending affecting them. Panels are consistent with the government's vision for the Big Society: local communities will take responsibility for ensuring that NJPs take account of and respond to local needs.

Specific proposal

Test neighbourhood justice panels – we will evaluate the effectiveness of panels through measuring the compliance of perpetrators with the decisions of the panels, and rates of any subsequent offending. We will measure victim satisfaction with the Panel process and outcome, as well as the satisfaction and confidence of the wider community. And we will measure how panels reflect the diversity of the communities they serve.

Analysis

Direct discrimination

The Neighbourhood Justice Panels being tested do not discriminate on the basis of a protected characteristic and so we do not consider that they will lead to direct discrimination in favour of or against any particular protected characteristic.

Indirect discrimination

Although the proposals as a whole will apply equally to those who share a protected characteristic and those who do not, we have in this analysis identified how certain people who share a certain characteristic are more likely to be affected by these proposals.

Potential impacts of proposals on victims and witnesses and the general public

We will be measuring victim satisfaction and community confidence. We will explore the extent to which we are able to measure any impact on re-offending. We are also evaluating the processes involved in setting up and running the panels. We will use our findings to inform decisions on whether, and how, this approach should be applied more widely.

If there is an impact on victims then there may be a greater impact on those groups of victims that are currently at greatest risk of experiencing crime. The results are presented in Tables A1-A5 (Annex A), and we have identified differential impacts in relation to age, religion and sexual orientation.

Based on data from CSEW, there may be a differential impact on those groups that currently have a differential level of confidence in the CJS. The results are presented in Tables D1-D2 (Annex D) and we have identified the potential for positive differential effects in respect of age, disability and race.

When testing the panels we will look at potential impacts in relation to all protected characteristics and especially the following:

Age: We will consider carefully how we ensure equal representation on the panels and how we can support young people to participate. Panel accessibility for older victims will need to be considered in terms of geography and ability to easily get in and around the building.

Disability: We will consider how the increased flexibility around where a panel can be convened affects accessibility for disabled users. For example, modern, public buildings may be used which may be more accessible than traditional (especially listed) court buildings. Conversely, if those convening panels are not alive to disability requirements, moving away from traditional court venues with adjustments for those with disabilities could have a negative impact.

Pregnancy & maternity: We will consider how panel timings and venues impact on parents both in terms of childcare and travel distance/ease for pregnant mothers.

Race: We will monitor the potential impact on the protected characteristic of race, as it is important that the benefits of the panel process are equally available to victims from all racial backgrounds.

Religion: It will be important to monitor the impact of religious beliefs on membership of the panels and equality of access to victims and those responsible for anti-social behaviour. For example knowledge of religious beliefs will help panels to formulate appropriate resolutions. Panel facilitators will need to be aware of what is and what is not appropriate for individuals who identify with certain characteristics.

Sex: We will look at the potential impact on the protected characteristic of sex.

Potential impacts of the proposals on those wishing to facilitate Panels

Concerns were raised at a consultation event for a policy proposal with a similar theme (community panels – known as Citizens Panels⁷) that

⁷ Discovered as part of the “Engaging Communities in Criminal Justice” EIA event as part of our engagement process on “Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders” December 2010

individuals with a range of protected characteristics were potentially at risk of not having the opportunity to play a role on the Panels. It was thought that this would depend on how opportunities were advertised and applicants selected and that venues and panel timings might prove difficult for individuals with certain protected characteristics.

We have identified that advertising methods promoting involvement need to be accessible to elderly, those with a disability, pregnant women or those with small children, different racial and religious groups and different sexual communities. This should ensure that these groups have the opportunity to be represented on panels.

Potential impact of proposals on perpetrators

We have identified the following issues, which are potential impacts which we will monitor as part of the testing process (and consider providing guidance on):

Age and pregnancy and maternity: Referring agencies might not refer older or pregnant people to panels if there is a local misunderstanding that panels only prescribe physical resolutions.

Disability: Moving away from traditional court venues with more adjustments for those with disabilities may have an impact depending on their location and accessibility. Concerns were raised at the earlier consultation event that venues may not have adequate disability access and that referring agencies may not refer disabled people to panels if there is a misunderstanding that panels only prescribe very physical work. However, modern, public buildings may be used which may be more accessible than traditional (especially listed) court buildings.

Race: Individuals from certain ethnic groups may not be referred to panels on language grounds i.e. the referring agency thinks that the panels will not have the translator facilities of a court. The location of NJPs may be relevant to this protected characteristic. NJPs will need to be located in buildings and areas accessible to all racial groups. Panel members will need to understand the cultural aspects necessary when brokering community resolutions.

Religion: The location of NJPs may be relevant to this protected characteristic. NJPs will need to be located in buildings and areas accessible to all religions. Knowledge of religious beliefs will, where appropriate, help panels to formulate appropriate resolutions. Panel members will need to understand the cultural aspects necessary when brokering community resolutions.

Mitigation, justification and further equalities analysis

Neighbourhood Justice Panels are not being nationally rolled out across the country; following an expressions-of-interest exercise we are working with a selected number of local areas to test the approach. As part of this work we aim to find out what the benefits are and how to address any issues that arise.

We have worked with test areas to explain our evaluation and make clear that we will be looking for evidence of diversity of volunteers and representation of local communities. We are promoting and supporting the exchange of good practice between areas. Areas are deploying a wide range of techniques to engage communities across all groups including traditionally hard to reach groups. We have encouraged areas to think about equality impacts and how to overcome them. They are aware that we will be monitoring their work in terms of impacts but as the initiatives will be locally implemented and operating models will differ we will not be prescriptive in our approach.

Once panels are up and running and we have more information we will produce a further NJP EIA and a practice document which will include a section on equality issues and how to overcome them. In the meantime areas will be encouraged to share case studies and we will monitor the information that is submitted on a quarterly basis.

We are monitoring the implementation of the Neighbourhood Justice Panel approach for positive, negative, and mixed equality impacts. We expect to be collecting equality and diversity information on representation of panel volunteers, which offenders and victims are offered the opportunity of the panel route, venue accessibility, understanding of the panels, processes and the types of resolutions brokered. The evaluation will capture data on the protected characteristics and will explore via the process evaluation issues on accessibility – publicising the panels – the role of the oversight board etc. As part of the evaluation process we will be exploring users' perceptions of the process, including access.

Re-conceiving summary justice

Aims and outcomes of the proposals

Enabling a single magistrate to deal with certain low-level uncontested cases (rather than a full bench of two or three). The White Paper sets out high level proposals to reform the way that certain uncontested, low level cases are dealt with.

Analysis

Direct and indirect discrimination

We do not consider that re-conceiving summary justice will lead to direct discrimination in favour of or against any particular protected characteristic. This policy will apply to certain types of offences and in certain circumstances. We are aware that there is over representation of certain groups in certain offence types and over representation amongst such groups in the criminal justice system generally; therefore this policy might have a differential impact on those groups. The potential differential impact because of overrepresentation of certain groups with protected characteristics in the criminal justice system is discussed below. To the extent that there is a differential impact because of the policy we know of nothing to suggest that it would be for a reason, directly or indirectly, related to that protected characteristic.

Potential impact on particular groups in the general population

If single magistrates are able to sit in greater proximity to the local communities affected by crime and provide information about this process, this may have an impact on public confidence. There is a link between confidence and the public perceiving that the agencies are addressing crime and disorder issues that affect them. Demographic data from the 2010/11 CSEW is shown at Tables D1-D2 in Annex D. This demonstrates confidence levels vary by age, disability and race.

Potential impact of proposals on victims

We do not envisage that the types of proceedings which will be affected by this policy will require the attendance of victims or witnesses. This work is focussed on uncontested cases and the CJS usually only requires witnesses or the victim to attend court if their evidence is required at trial.

For low level charged cases, it is currently possible for a victim to choose to attend and observe proceedings for uncontested cases. In developing this policy further we will need to consider how proposed changes may impact on the ability for victims to observe proceedings.

Using the CSEW, we have assumed there may be a differential impact on those groups that are currently at greatest risk of experiencing crime. The results are presented in Tables A1-A5 (Annex A) and we have identified the potential for differential effects in respect of age, religion and sexual orientation.

Disability: Moving away from traditional court venues with more adjustments for those with disabilities may have an impact depending on their location and accessibility. This is something which we will continue to consider in developing the policy further.

Potential impact of proposals on defendants

This policy is intended to result in some offence types proceeding through court more quickly and this will have an indirect, differential impact on those groups which might be over-represented in those offence types. More work will be required as we develop this policy to understand how these groups might be affected in order to monitor equalities impacts.

Disability: It has been suggested that the single magistrate process might provide less opportunity to screen people who are vulnerable due to mental health issues. Safeguards will be required to ensure that all defendants with mental health issues continue to get appropriate support. For example, many magistrates' courts have access to mental health assessment and liaison schemes and magistrates can already address mental health treatment as part of a community order. In addition, the Department of Health is leading a cross government programme of work, to be rolled out by 2014, to better define the range of services available to people in the criminal justice system who may be vulnerable due to mental health and disability issues. The disability issues concerning accessibility of buildings outlined for victims above may also be relevant for defendants.

Race: Differences between ethnic groups may occur for a number of reasons including: the mix of crimes committed; the seriousness of the offence; the presence of mitigating or aggravating factors; whether a defendant pleads guilty; or whether the defendant was represented or not. BME groups are overrepresented in certain offence types, and in the criminal justice system generally, therefore it is likely that these proposals will have an indirect differential impact on that group, however this will depend on the particular offence types which are covered by this policy.

Research by Thomas (2010)⁸ for the Ministry of Justice indicated that people from BME backgrounds were more likely to plead not guilty and be tried. This could indicate that a new process which is only applicable where there is a guilty plea would differentially impact on people from BME backgrounds.

⁸ This research relates to Crown Court trials. We do not have information on guilty plea rates by racial background in relation to summary justice. Differences in pleas referred are in relation to the Crown Court and differences may exist for summary justice.

Sex: Overall, 73 per cent of persons prosecuted for summary offences are male, and the figure is higher for indictable offences⁹. It is therefore likely that men will be differentially affected by this policy. However for certain offences of a regulatory nature referred to as examples in the White Paper, the proportion reverses e.g. for TV Licensing cases 67 per cent are female.

Potential impact of proposals on legal professionals and the magistracy

If implemented, this policy will change the way in which magistrates sit and this is likely to have a differential impact on demographic groups who are prevalent within the magistracy, for example, 52 per cent of magistrates are 60 and over, whereas in the general population 17 per cent are 60 and over.

It is not envisaged that these cases will have a substantial impact upon legal professionals in private practice as the policy is not designed to impact on those cases where defendants are routinely represented, however it might have an impact on justices' clerks and legal advisers. In August 2011, 71 per cent of Legal Advisers in HMCTS were female¹⁰, whereas the equivalent figures for other legal professions are 35 per cent of the bar and 43 per cent of solicitors are female; therefore this policy might have a differential impact on female legal advisers. The disability issues concerning accessibility of buildings outlined for victims above may also be relevant for magistrates and legal professionals.

Mitigation, justification and further equalities analysis

The changes which this policy will bring about will be in relation to the level of preparation and support required for this type of case. We do not anticipate that a single magistrate will impose a manifestly different sentence to a full bench in relation to the cases which would be before them. Therefore whilst the differentials listed above have been found to exist in the criminal justice system already, this work is not intended to address those differentials, nor is it anticipated that they will be made worse by the change of approach.

To the extent that there are differential impacts which, without justification, would be indirectly discriminatory, the proposals would pursue the aim of ensuring that the best use is made of limited resources in hearing and determining sentences for a low level of offending.

Policy development will consider a range of accessibility and equality factors when identifying appropriate premises for the single magistrate to sit in, amongst other considerations. We will consider these and other equality issues further as the policy is developed.

Accordingly, we have no evidence at this stage to suggest that the development of this policy would lead to those with relevant protected characteristics being treated less favourably, resulting in discrimination, harassment, victimisation or any other conduct prohibited by the Equality Act

⁹ Ministry of Justice (2012), *Criminal Justice Statistics, Quarterly Update to December 2011*

¹⁰ HMCTS Human Resources statistics, August 2011

2010. Nor do we have any evidence to suggest that the proposal would adversely effect the advancement of opportunity or the fostering of good relations between different groups.

Retaining more cases in the magistrates' courts

Aims and outcomes of the proposals

Consider ways of removing from the Crown Court some of the cases that go there but receive sentences that could have been given by a magistrates' court. The defendant's right to elect for trial by jury would remain unchanged.

Specific proposal

The White Paper outlines a proposal to introduce a monetary threshold for the either-way offences of theft and handling stolen goods below which magistrates would not have the power to commit the case for trial at the Crown Court. The result would be that a magistrates' court would no longer be able to commit these offences to the Crown Court where the value fell below a certain sum. The defendant, on the other hand, would retain the right to elect Crown Court trial.

Analysis

Direct and indirect discrimination

We do not consider that retaining more cases in the magistrates' courts will lead to direct discrimination in favour of or against any particular protected characteristic. We are aware that there is over representation of certain racial groups sentenced in the Crown Court for either-way offences and over representation amongst such groups in the criminal justice system generally; therefore this policy might have a differential impact on those groups. This is discussed further below. To the extent that there is a differential impact because of the policy we know of nothing to suggest that it would be for a reason, directly or indirectly, related to that protected characteristic.

Potential impact of proposals on victims

It takes longer to deal with cases in the Crown Court; ensuring that more cases are dealt with by the magistrates' court is likely to benefit victims who will have their cases resolved more quickly. Please see Annex A for more detail on victim profiles.

Potential impact of proposals on defendants

The impact of this proposal on defendants is minor. It is not intended to affect the *level* of sentences in cases falling below the threshold, but rather to provide that these cases should be tried in a magistrates' court – and then only if the defendant is content to be tried there.

Overall for all offences our analysis indicates that women, people from a White ethnic group and those aged 18-20 and 50-59 may be the most likely to be impacted by proposals to retain more cases in the magistrates' courts. (See Annex B for further details).

Mitigation, justification and further equalities analysis

We have not identified any evidence to suggest that preventing magistrates from committing low-value theft cases to the Crown Court would disproportionately negatively affect any particular groups. We have no evidence at this stage to suggest that the development of this policy would lead to those with relevant protected characteristics being treated less favourably, resulting in discrimination, harassment, victimisation or any other conduct prohibited by the Equality Act 2010. Nor do we have any evidence to suggest that the proposal would adversely affect either the advancement of opportunity or the fostering of good relations between different groups.

Video

Aims and outcomes of the proposals

We will increase the use of video technology across the criminal justice system.

Specific proposed reforms

Extend the use of criminal justice system video technology to applications for search warrants, interviews between prison and police station and applications for warrants of further detention.

Consider simplifying existing legislation to permit video evidence to be used routinely for victims and witness in criminal proceedings including trials.

Analysis

Direct and indirect discrimination

At this stage, the various policy strands are not sufficiently developed to enable a detailed analysis of potential equality impacts. However, we have initially identified that the proposals to extend the use of video in the policy context will impact on, amongst others, police officers, suspects, whether held in police detention or in prisons, and magistrates.

The wider proposals to consider whether the existing legislative framework enabling use of video links could be enhanced may potentially affect all of those involved in the criminal justice system, particularly defendants, and victims and witnesses. However, the policy proposals are currently such that we are unable to determine what the nature of the impacts will be.

On the basis of our initial analysis, we do not believe that these proposals taken as a whole will discriminate on the basis of a protected characteristic and so we do not consider that they will lead to direct discrimination in favour of or against any particular protected characteristic. We reach this conclusion on the basis that, subject to specific safeguards, the proposals would potentially affect all participants in the criminal justice system equally.

We have also drawn on analysis from the Virtual Courts pilots¹¹ which indicates that we have not been able to establish that the use of video indirectly disadvantages any particular group. From what we know about virtual courts and the use of video links more generally, we expect that these proposals are likely to have a positive impact on all participants in the criminal

¹¹ Terry, M, Johnson, S and Thompson, P. (2010) Virtual Court Evaluation Ministry of Justice 21/10

justice system, in relation to the greater speed of court proceedings, flexibility to individual needs and increasing accessibility to those with disabilities. As video technology becomes more commonplace throughout the criminal justice system, we believe this positive impact may increase. For example, a police station equipped with the necessary video technology might be nearer to a victim or witness than the nearest court is and therefore travel time, absence and disruption for them can be minimalised. This may be particularly beneficial to certain people subject to protected characteristics including age and disability.

We also think that video link technology may allow defendants with physical disabilities to be more involved in court proceedings as it may help with access issues.

We acknowledge that there may also be some groups who may find it difficult to engage with proceedings by video and whilst we will try to maximise their ability to engage where this is not possible we will seek to continue (and to encourage criminal justice practitioners) to make other arrangements. See "Flexible criminal justice system" page 10.

Mitigation, justification and further equalities analysis

As we develop the proposals further, we will consider how those proposals are likely to impact on particular people subject to protected characteristics. We will use that analysis to inform our policy proposals, and will consider how to mitigate any potential disadvantage identified. In particular, we will consider what, if any, further safeguards we can use to minimise any identified disadvantage. In developing the proposals, we will seek to ensure that video is used appropriately and only when in the interests of justice.

Publishing information about criminal justice performance

Aims and outcomes of the proposals

Over the course of 2011-2012 we have moved a long way forward in making the justice system more transparent and accessible. We have done this through:

- the introduction of street-level crime maps on police.uk;
- publication of anonymised individual-level re-offending, sentencing data and sentencing data by court;
- publication of court-level timeliness data;
- the establishment of the Crime and Justice Transparency Sector Panel; and
- providing justice outcome information alongside street-level crime data on the police.uk website (www.police.uk/), to enable the public to see what happens next after a crime is reported.

We are discussing further possibilities for greater transparency over 2012/13 and 2013/14 as part of business planning and the update to MoJ's Open Data Strategy, which will be published on 28 June alongside the Cabinet Office's Right to Data White Paper. The main format in which data is released, and which the future strategy will continue, is electronically on the Internet ('Digital by Default').

Analysis

Direct discrimination

We do not consider that any of these proposals discriminates on the basis of a protected characteristic and so we do not consider that it will lead to direct discrimination within the meaning of the Equality Act 2010 against any person subject to a particular protected characteristic.

Indirect discrimination

We have identified in particular potential negative differential effects in respect of age and disability. We set out all identified potential differential effects below.

Potential impact of proposals on the general population

These policies may lead to increased engagement with the criminal justice system, which could in turn increase its effectiveness. This could lower crime and increase detection rates and offences brought to justice.

Few people have direct experience of court proceedings and overall the public understanding of the criminal justice system is poor. There is some evidence that low levels of confidence in the criminal justice system have been attributed to a 'knowledge gap' among the general public regarding the criminal justice system. There is the possibility of an increase in public confidence in the criminal justice system due to greater availability of information and an improved understanding of the justice system. Demographic data from the 2010/11 CSEW is shown at Tables D1-D2 in Annex D. This demonstrates confidence levels vary by age, disability and race.

2002 research by the Home Office¹² found little systematic variation in knowledge by demographic characteristics, although men and people of working age tended to be slightly more knowledgeable. Providing simple factual information improved knowledge about crime and sentencing, and also had an impact on attitudes to and confidence in the CJS. Women improved slightly more than men, the young more than the older age groups. In conclusion, the research found that levels of knowledge were generally poor, and this held true across all socio-demographic groups.

Recent research suggests that processes are associated with satisfaction with the CJS¹³. For example, being kept informed both of the progress of the case and what to expect during the case, being treated fairly and with respect by staff and feeling appreciated were associated with satisfaction, and feeling intimidated (both by the process and by individuals), inconvenient court dates and long waiting times were associated with dissatisfaction.

We have also identified the following issue in terms of the format that data is released, i.e. electronically, on the Internet.

Age: Internet usage is significantly lower for people aged 65 and over (35 per cent) therefore there may be less benefit for older age groups in releasing data in this format.

¹² Improving public attitudes to the Criminal Justice System: The impact of information

¹³ See Whitehead, 2001; Angle et al, 2003; Hamlyn et al, 2004.

Disability: Similarly, in 2006, disabled people used the internet less than people without a disability and 62 per cent of the UK population had access to a computer compared with 50 per cent of disabled people. At this time, three-quarters of disabled users visited websites to find out news. Therefore people with disabilities may get less benefit from releasing data in this format.¹⁴

Race: In 2008, people from ethnic minority groups were more likely to live in homes with access to the Internet; 70 per cent compared with 62 per cent for the total UK population. In particular, 76 per cent of Indians and 72 per cent of Pakistanis had home internet access¹⁵. In addition, perceptions of racial discrimination by key public service organisations have been declining since 2003. Between 2003 and 2009-10, the proportion of people who felt that public service organisations would treat them differently to other races (either better or worse) fell from 55 per cent to 35 per cent. Social housing services and criminal justice organisations (especially the police) were regarded as the public service organisations most likely to be discriminatory¹⁶.

Mitigation, justification and further equalities analysis

The main format that data will be released is electronically, on the Internet. It is provided in an accessible format online at the Open Justice website. It is not currently available in other formats but we are considering whether, and how to release data in alternative formats.

¹⁴ Ofcom, Media Literacy Audit: Report on media literacy of disabled people, April 2006

¹⁵ Ofcom, Media Literacy Audit: Media literacy of UK adults from ethnic minority groups, September 2008

¹⁶ Communities and Local Government. Race, Religion and Equalities: A report on the 2009–10 Citizenship Survey

Broadcasting in court proceedings

Increase the transparency of the justice system through the introduction of broadcasting of judgments and advocates' arguments from the Court of Appeal initially, followed by an extension to sentencing remarks in the Crown Court.

Specific reforms

We have introduced legislation to allow judgments and advocates' arguments in cases before the Court of Appeal (Criminal and Civil Divisions) to be broadcast. Cases in the Court of Appeal normally deal with complex issues of law or evidence, and victims and witnesses rarely appear in order to provide new evidence.

An EIA on the broadcasting of judgments in cases before the Court of Appeal (Criminal and Civil Divisions) is available. A separate EIA will be published before any extension of broadcasting to the Crown Courts.

Working in partnership

Aims and outcomes of the proposals

The White Paper makes proposals to improve the way local criminal justice partnerships work, and how they are held to account by the public.

Specific proposals

- local criminal justice agencies should work in partnership to consult the community about what is important to them, define and make public how they will improve the local system, review their performance and report back to the public on what they achieved;
- explore how the local criminal justice system can respond to any member of the public dissatisfied with its performance;
- explore what role the criminal justice inspectorates could play in reviewing the effectiveness of the local criminal justice system in meeting its objectives; and
- remove barriers to joint criminal justice working, such as conflicting agency performance measures.

Analysis

Our initial assessment suggests that those likely to be impacted by these proposals are criminal justice system staff and practitioners, local communities and members of the general public.

A central tenet of these proposals is engagement and connection with the community by local CJS agencies. When engaging with each other and the public, criminal justice agencies will need to ensure engagement is made with the community, and groups within the community, in a way which acknowledges equality issues. In particular, consideration will need to be given as to how specific groups need to be engaged with and wherever possible the approach tailored to meet the needs of groups with particular protected characteristics.

Mitigation, justification and further equalities analysis

These proposals are at a relatively early stage of development and it will be important that, as an outcome framework and performance measures are developed, and the role of inspection is reviewed, equality impacts are actively considered and any negative impacts mitigated against. Our expectation is that improvements to ways of working, accountability, and transparency should have a positive impact on members of the public and those working in the criminal justice system.

Annex A - Profile of victims

Many of the proposals in the White Paper have the potential to impact upon victims and some may have a particularly positive impact on victims. For example:

- Flexible criminal justice system (pages 10-15)
- Reconnecting justice with communities and Justice Test and oversight of out-of-court sanctions (pages 18-23)
- Publishing information about criminal justice performance and broadcasting in court proceedings (pages 31-34)

Information is not available on the profile of witnesses. This section presents information on victims by demographic characteristics. Using the Crime Survey for England and Wales, we have considered information on the risk of becoming a victim of crime by demographic characteristics to help us understand the potential equality impacts of our proposals. The results are presented in Tables A1-A5. The analysis presented assumes our proposals may have a greater impact on those groups that are currently at greatest risk of being victims of crime.

Age

Table A1 shows that younger adults are at greatest risk of being a victim of overall CSEW crime. Those aged 16 to 24 have a higher risk than older age groups of being a victim of overall crime.

Tables A2 and A3 present experimental statistics on crime against children aged 10 to 15. These are not directly comparable to the adult statistics because of differences in methods of data collection and definitions used. Comparing the year ending December 2009, CSEW data across the two age groups provided, though, suggests that the likelihood of being a victim of crime is similar for younger children (aged 10 to 12) and older children (aged 13 to 15).

Disability

Table A1 shows that the risk of being a victim of overall crime is slightly lower for people with a longstanding illness or disability than it is for those with no longstanding illness or disability; 19.4 per cent of adults with a limiting longstanding illness or disability had been a victim of all CSEW crime in 2010/11 compared with 22.0 per cent of those with no longstanding illness or disability.

Gender Reassignment

Information is not available on the risk of being a victim by gender reassignment.

Marriage and Civil Partnership

Table A1 shows that single people have the highest risk of being a victim of overall crime (27.9 per cent). This is likely to reflect the younger age profile of this group.

Pregnancy and Maternity

Information is not available on the risk of being a victim by pregnancy and maternity.

Race

Table A1 shows that there are small differences in the risk of being a victim of overall crime by ethnic group, with 24.9 per cent of the Black and Minority Ethnic (BME) group reporting victimisation, compared to 21.1 per cent of the White ethnic group.

Religion or Belief

Due to the relatively small number of respondents to the CSEW who identify as being from certain religious groups data from the 2009/10 and 2010/11 CSEW have been combined for the purposes of analysis. This data is presented in Table A4. There is little difference in the risk of being a victim across religious groups, although Christians were less likely to be a victim of all CSEW crime than those from other groups (with the exception of Hindus), and they were less likely to be victims of personal crime than people who said they had no religion or people from the 'other' religion group.

Sex

Table A1 shows that men are slightly more likely to be a victim of overall crime than women (22.6 per cent compared to 20.5 per cent).

Sexual Orientation

Due to the relatively small number of respondents to the CSEW who identify as gay, lesbian or bisexual, data from the 2009/10 and 2010/11 CSEW have been combined for the purposes of analysis, which is presented in Table A5. This shows that people who were gay or lesbian were more likely to be victims of all CSEW crime, personal crime, or violent crime than heterosexual people. A similar pattern was found for bisexual people, when compared with heterosexual people.

The higher level of victimisation amongst gay, lesbian and bisexual people may be due, at least in part, to the younger age profile of individuals identifying themselves as in this group; 30 per cent of those reporting to be lesbian, gay or bisexual were aged 16 to 24 compared to 21 per cent who identified as heterosexual or straight.

Swift and Sure: The Government's Plans for Reform of the Criminal Justice System

Table A1 Proportion of adults who were victims of all CSEW crime and personal crime by personal characteristics¹

Percentages	England and Wales, 2010/11 CSEW ¹		
	All CSEW crime	Personal crime	Unweighted base
<i>% victims once or more:</i>			
ALL ADULTS	21.5	5.9	46,754
16-24	31.8	14.0	3,885
25-34	26.6	8.1	6,464
35-44	24.7	5.4	7,976
45-54	22.1	4.3	7,805
55-64	17.3	3.1	8,139
65-74	11.0	2.1	6,577
75+	7.8	1.4	5,908
Men	22.6	6.5	21,076
16-24	33.1	15.7	1,805
25-34	27.5	8.8	2,835
35-44	25.8	5.9	3,599
45-54	21.5	4.5	3,629
55-64	18.2	3.2	3,782
65-74	11.9	1.9	3,041
75+	8.6	0.8	2,385
Women	20.5	5.3	25,678
16-24	30.4	12.2	2,080
25-34	25.6	7.3	3,629
35-44	23.6	4.8	4,377
45-54	22.7	4.1	4,176
55-64	16.5	3.1	4,357
65-74	10.1	2.3	3,536
75+	7.2	1.9	3,523
Ethnic group			
White	21.1	5.6	42,991
Non-White	24.9	7.5	3,687
<i>Mixed</i>	29.5	10.8	350
<i>Asian or Asian British</i>	25.6	7.0	1,676
<i>Black or Black British</i>	22.7	6.9	1,006
<i>Chinese or other</i>	23.5	8.5	655
Marital status			
Married	18.8	3.3	21,755
Cohabiting	26.5	6.4	4,176
Single	27.9	11.6	9,828
Separated	24.4	7.7	1,560
Divorced	21.1	5.9	4,244
Widowed	9.2	2.5	5,173
Long-standing illness or disability			
Long-standing illness or disability	20.1	5.5	13,793
<i>Limits activities</i>	19.4	5.3	9,879
<i>Does not limit activities</i>	21.7	5.7	3,909
No long-standing illness or disability	22.0	6.0	32,883

1. The British Crime Survey (BCS) is now known as the Crime Survey for England and Wales to better reflect its geographical coverage. While the survey did previously cover the whole of Great Britain it ceased to include Scotland in its sample in the late 1980s. There is a separate survey – the Scottish Crime and Justice Survey – covering Scotland. Given the transfer of responsibility for the survey to ONS, it was decided that the name change would take effect from 1 April 2012.

Source:

Crime in England and Wales 2010/11

Swift and Sure: The Government's Plans for Reform of the Criminal Justice System

Table A2 Proportion of children aged 10 to 15 who were victims of CSEW personal crime once or more in the last year¹

Percentages	England and Wales, 2010/11 CSEW	
	Preferred measure ²	Broad measure ²
All violence	7	12
Personal theft	5	6
Vandalism to personal property ³	0	2
All crime experienced by children aged 10-15	12	17
<i>Unweighted base</i>	<i>3,849</i>	<i>3,849</i>

1. The British Crime Survey (BCS) is now known as the Crime Survey for England and Wales to better reflect its geographical coverage. While the survey did previously cover the whole of Great Britain it ceased to include Scotland in its sample in the late 1980s. There is a separate survey – the Scottish Crime and Justice Survey – covering Scotland. Given the transfer of responsibility for the survey to ONS, it was decided that the name change would take effect from 1 April 2012.

2. The 'Preferred measure' takes into account factors identified as important in determining the severity of an incident (such as level of injury, value of item stolen or damaged, relationship with the perpetrator) while the 'Broad measure' counts all incidents which would be legally defined as crimes and therefore may include low-level incidents between children.

3. These offences are designated as 'household' offences for adults on the BCS (respondents reply on behalf of the household) but are presented here as 'personal' offences when the property stolen or damaged solely belonged to the child respondent. This broadens the scope of personal victimisation but may also result in double-counting of offences on the adult survey; the extent to which this happens will be evaluated in the future.

Source: Home Office Statistical Bulletin 10/11: Crime in England and Wales 2010/11: Findings from the British Crime Survey and Police Recorded Crime

Table A3 Proportion of children aged 10 to 15 who were victims of CSEW personal crime once or more in the last year, by age group¹

Percentages	England and Wales, January to December 2009 CSEW			
	All incidents that would be a crime in law		Incidents the victim perceived as a crime	
	Age 10 to 12	Age 13 to 15	Age 10 to 12	Age 13 to 15
Theft from the person	1	2	0	1
Other theft of personal property	5	5	2	3
All violence	21	19	3	4
All personal crime	18	17	5	7
<i>Unweighted base</i>	<i>1,733</i>	<i>1,928</i>	<i>1,733</i>	<i>1,928</i>

1. The British Crime Survey (BCS) is now known as the Crime Survey for England and Wales to better reflect its geographical coverage. While the survey did previously cover the whole of Great Britain it ceased to include Scotland in its sample in the late 1980s. There is a separate survey – the Scottish Crime and Justice Survey – covering Scotland. Given the transfer of responsibility for the survey to ONS, it was decided that the name change would take effect from 1 April 2012.

Source: Home office Statistical Bulletin 11/10: Experimental statistics on victimisation in children aged 10 to 15: Findings from the British Crime Survey for the year ending December 2009

Table A4 Proportion of adults who were victims by type of crime and religion

Percentages	England and Wales, adults aged 16 and over, 2009/10 and 2010/11 CSEW					<i>Unweighted base</i>
	Personal hate crime ¹	All hate crime ^{1,2}	All violence	All CSEW personal crime	All CSEW crime	
Religion						
Christian	0	0	3	4	20	69,854
Buddhist	1	1	2	5	26	408
Hindu	1	2	2	4	21	897
Muslim	1	2	3	6	23	2,167
Other	1	1	5	7	27	1,142
No religion	0	0	5	7	27	16,596

1. Excludes gender identity as questions on this strand were not included until 2011/12.

2. This percentage is calculated treating a household crime as a personal crime. It is the estimated percentage of adults who have been a victim of at least one personal crime or have been resident in a household that was a victim of at least one household crime.

Source: Hate crime, cyber security and the experience of crime among children: Findings from the 2010/11 British Crime Survey Supplementary Volume 3 to Crime in England and Wales 2010/11

Table A5: Proportion of adults who were victims by type of crime and sexual identity (2009/10 and 2010/11 CSEW)^{1,2}

Percentages ³	All			<i>Unweighted</i>
	Personal	All violence		
Sexual identity⁴				
Heterosexual or straight	26	7	4	47,677
Gay or lesbian	35	15	9	733
Bisexual	30	12	5	389
Other ⁵	26	8	4	1,694
Total for those aged 16-59⁶	26	7	4	50,493

1. The British Crime Survey (BCS) is now known as the Crime Survey for England and Wales to better reflect its geographical coverage.

While the survey did previously cover the whole of Great Britain it ceased to include Scotland in its sample in the late 1980s. There is a separate survey – the Scottish Crime and Justice Survey – covering Scotland. Given the transfer of responsibility for the survey to ONS, it was decided that the name change would take effect from 1 April 2012.

2. Based on a combined 2009/10 and 2010/11 dataset.

3. Percentage of respondents.

4. The question on the sexual identity of the respondent is asked in the self-completion module of the questionnaire. This module is only asked of those respondents aged 16-59.

5. The 'Other' category includes those who responded 'Other', those who responded 'Don't know' and those that did not wish to answer the question.

6. These are higher than the proportions for the overall CSEW as they exclude respondents aged 60 and over.

Annex B - Profile of defendants and offenders

Many of the proposals in the White Paper have the potential for an impact on defendants and offenders, and a summary of these are provided under each policy proposal where relevant. For example:

- Flexible criminal justice system (page 10)
- Reconnecting justice with communities (page 20)
- Re-conceiving summary justice (page 24)
- Retaining more cases in the magistrates' courts (page 27)

This section presents over-arching information on the protected characteristics of defendants and offenders based on the evidence we have available. The analysis assumes our proposals may have a greater impact on those groups that are over-represented compared to the general population. Relevant tables presenting the defendant and offenders data are at the end of this Annex.

Age

All defendants prosecuted

Information on age is presented for indictable offences only. Of those prosecuted for indictable offences, persons aged 18-39 account for 69 per cent of the total compared to 33 per cent of the general population (Table B1).

Out-of-court sanctions

Table B2 shows that the proportion of people issued with Penalty Notices for Disorder (PNDs) who are aged 18-39 is higher than the proportion in the general population.

Table B3 shows that people cautioned in the younger age groups (29 and under) are over-represented compared to the general population, whilst the proportion given cautions who are aged 40 and over are under-represented.

Either-way offences¹⁷

Table B4 provides an illustration of the potential pool of people that could be affected by proposals to retain more either-way offences in magistrates' courts – where some groups have a smaller proportion sentenced whose sentences could only be given at the Crown Court we suggest that they may be more likely to be affected by the proposals to retain more cases in magistrates' courts. Table B4 shows that for people sentenced in the Crown Court for

¹⁷ Offences which can be dealt with by either a magistrates' court or a Crown Court.

either-way offences, 18-20 year olds and 50-59 year olds have the lowest proportion whose sentences could only have been given at the Crown Court (43 and 42 per cent respectively). All other age-groups are higher (over 45 per cent). This indicates that, although there are not large differences by age, young adults and those aged 50-59 are the most likely to be affected by proposals to retain more cases in the magistrates' courts, when compared to other age groups.

Disability

Information is not available on the proportion of defendants who have a disability. However, we do have information on the proportion of adult offenders starting community orders, and adult offenders received into prison, identifying as having a disability.

The evidence suggests that a large proportion of offenders on community orders identify as having a long standing illness or disability.

51 per cent of sample of 2,595 people starting community orders stated that they had a longstanding illness, disability, or infirmity of some kind¹⁸ (Table B6). It is a reasonable assumption that at least some of these people will be disabled as that term is defined in the Equality Act 2010¹⁹. 33 per cent of the total OMCCS sample stated that they had a health condition or disability that limits their ability to carry out everyday activities a great deal or to some extent (Table B5), and 14 per cent of the total OMCCS sample stated that they needed help with a physical health condition or disability (Table B6).

Data from the Surveying Prisoner Crime Reduction prisoner survey suggests that around a third of prisoners aged 18 and over serving custodial sentences of less than 4 years classified themselves as having a '*longstanding illness, disability, or infirmity of any kind*' .

Gender Reassignment

Information is not available on defendants or offenders by gender reassignment.

Marriage and Civil Partnership

Information is not available on the marital status of defendants. However, information is available on the marital status of adult offenders starting community orders and adult offenders received into prison.

¹⁸ A wide range of disabilities and illness were included in the definition used at interview, including: problem with arms, legs, hands, feet, back or neck (including arthritis or rheumatism); difficulty in seeing; difficulty in hearing; skin conditions, allergies; chest, breathing problem, asthma, bronchitis; heart, blood pressure or blood circulation problems; stomach, liver, kidney or digestive problems; diabetes; depression, bad nerves; mental illness or suffer from phobia, panics or other nervous disorders; learning difficulties; epilepsy; other health problems or disabilities.

¹⁹ The Equality Act 2010 definition is that a person (P) has a disability if (a) P has a physical or mental impairment, and (b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.

Evidence suggests that a small proportion of offenders on community orders are married, with 8 per cent of the OMCCS sample stating that they were married (Table B7). Data from the Surveying Prisoner Crime Reduction prisoner survey suggests that 8 per cent of defendants sentenced to custodial sentences of one month to 4 years are married.

Pregnancy and Maternity

Information is not available on defendants or offenders by pregnancy and maternity.

Race

All defendants prosecuted

Those with a Black background are overrepresented among persons prosecuted in comparison to the general population - 11 per cent of persons prosecuted for indictable offences are from the Black ethnic group compared to 3 per cent of the general population (Table B8).

Out-of-court sanctions

Table B9 compares those issued with PNDs with the general population by ethnic group. A slightly lower proportion of people with a White background are issued with PNDs than their proportion in the general population (86 per cent compared to 89 per cent) and slightly more from the 'Other' group (5 per cent compared to 2 per cent).

Table B10 compares people given cautions by race compared to the general population. A slightly lower proportion of people with a White background are given cautions than their proportion in the general population (86 per cent compared to 89 per cent), while for Black people the proportion receiving cautions is 8 per cent compared to 3 per cent of the general population.

Either-way offences

Table B11 provides an illustration of the potential pool of people that could be affected by proposals to retain more either-way offences in magistrates' courts – where some groups have a smaller proportion sentenced whose sentences could only be given at the Crown Court we suggest that they may be more likely to be affected by the proposals to retain more cases in magistrates' courts. Table B11 shows that for those sentenced in the Crown Court for either-way offences, people from the White ethnic group have the lowest proportion whose sentences could only have been given at the Crown Court (45 per cent). All other ethnic groups are higher (50-52 per cent). This indicates that persons from the White ethnic group may be the most likely to be affected by proposals to retain more cases in the magistrates' courts, when compared to other ethnic groups.

Religion or Belief

Information is not available on the religious affiliation of defendants. However, information is available on the religious affiliation of offenders received into prison.

Table B12 shows that 46 per cent of sentenced prison receptions were Christian and 42 per cent had no religion. People with no religion are over represented, as 22 per cent of the general population in England had no religion.

Sex

All defendants prosecuted

A higher proportion of defendants are men compared to their proportion in the general population. They are 73 per cent of those prosecuted for summary offences and 86 per cent of those prosecuted for indictable offences compared to 49 per cent of the general population (Table B13).

Out-of-court sanctions

Table B14 shows that of those issued with PNDs, 76 per cent are men compared to 49 per cent of the general population.

Table B15 shows that of those who are given cautions, 76 per cent are men compared to 49 per cent of the general population.

Either-way offences

Table B16 provides an illustration of the potential pool of people that could be affected by proposals to retain more either-way offences in magistrates' courts – where some groups have a smaller proportion sentenced whose sentences could only be given at the Crown Court we suggest that they may be more likely to be affected by the proposals to retain more cases in magistrates' courts. Table B16 shows that for those sentenced in the Crown Court for either-way offences, women have the lowest proportion whose sentences could only have be given at the Crown Court (28 per cent) whilst the proportion for men is 49 per cent. This indicates that women may be the most likely to be affected by proposals to retain more cases in the magistrates' courts, when compared to men.

TV licence (TVL) and certain vehicle excise duty (VED) offences

Table B17 shows that of those prosecuted for TVL evasion offences, a higher proportion are women (67 per cent).

Of those prosecuted for VED 24 per cent are women (Table B17).

Sexual Orientation

Information is not available on defendants or offenders by sexual orientation.

Table B1 - Persons⁽¹⁾ proceeded against at magistrates courts, 2011⁽²⁾

Age Band	Per cent	<i>n</i>	General population
Indictable offences			
Under 18	12%	47,660	11%
18-20	13%	53,001	5%
21-24	16%	65,825	6%
25-29	17%	69,246	8%
30-39	23%	97,015	15%
40-49	14%	55,923	17%
50-59	4%	18,121	14%
60+	2%	6,205	26%
All Ages	100%	412,996	100%

(1) Does not include 'others', e.g. public or corporate bodies.

(2) Further analysis of Criminal Justice Statistics, 2011.

Table B2 - Number of Penalty Notices for Disorder issued to offenders age 16 and over by age, 2011⁽¹⁾

Age Band	<i>n</i>	Proportion	General population
16-17	6,229	5%	3%
18-20	27,020	21%	5%
20-24	26,901	21%	7%
25-29	20,365	16%	8%
30-39	22,315	17%	16%
40-49	15,057	12%	18%
50-59	6,433	5%	15%
60+	3,210	3%	28%
Total	127,530	100%	100%

(1) Further analysis of Criminal Justice Statistics, 2011.

Table B3 - Number of persons cautioned by age for all offences, 2011⁽¹⁾⁽²⁾⁽³⁾

Age	<i>n</i>	Proportion	General population
Under 18	43,993	19%	11%
18-20	36,721	16%	5%
21-24	36,415	16%	6%
25-29	31,021	13%	8%
30-39	40,083	17%	15%
40-49	28,065	12%	17%
50-59	10,730	5%	14%
60+	4,455	2%	26%
Total	231,483	100%	100%

(1) Further analysis of Criminal Justice Statistics, 2011.

(2) The total relates only to persons and does not include those whose gender is 'Not stated'.

(3) All 2011 cautions data is sourced from the Police National Computer (PNC).

Table B4 - Persons⁽¹⁾ sentenced⁽²⁾ at the Crown Court for triable either way (TEW) offences by age, 2011⁽³⁾

Age Band	Percentage offenders whose sentence could only be given in CC	Percentage of offenders whose sentence could have been given in MC⁽⁴⁾	Offenders sentenced
18-20	43%	57%	100%
21-24	46%	54%	100%
25-29	49%	51%	100%
30-39	50%	50%	100%
40-49	46%	54%	100%
50-59	42%	58%	100%
60+	46%	54%	100%
Total	47%	53%	100%
<i>n</i>	28,123	32,310	60,433

(1) Excludes those whose gender is recorded as 'other' e.g. companies and public bodies.

(2) Excludes offenders committed for sentence from the magistrates' court, offenders committed for trial

(3) Further analysis of Criminal Justice Statistics, 2011.

(4) This includes offenders given a Suspended Sentence Order where the length of the custodial period is recorded as less than 6 months. There are known issues with the recording of custodial periods with SSO's so this figure should be treated as an estimate.

Table B5: The extent, if any, an offender's health condition or disability limits their ability to carry out everyday activities

	Per cent
A great deal	14.0
To some extent	18.5
A little	10.6
Not at all	7.7
Total with a longstanding illness, disability, or infirmity of any kind	51.0
Don't Know	.0
Item not applicable	49.0
Total without a longstanding illness, disability, or infirmity of any kind	49.0
Total	100.0
<i>Unweighted base</i>	<i>2,595</i>

Source: Interim dataset for the first wave of the Offender Management Community Cohort Study
The figures may change when the data is finalised.

Due to weighting there may be rounding errors in the data

Note: this question is not based on the Equality Act 2010 definition of disability. There are a wide range of disabilities and illness included in the definition used at interview, including: problem with arms; legs; hands; feet; back or neck (including arthritis or rheumatism); difficulty in seeing; difficulty in hearing; skin conditions, allergies; chest; breathing problem, asthma, bronchitis; Heart, blood pressure or blood circulation problems; stomach; liver; kidney or digestive problems; diabetes; depression, bad nerves; mental illness or suffer from phobia; panics or other nervous disorders; learning difficulties; epilepsy; other health problems or disabilities.

Table B6: The proportion of offenders who feel they need help with a physical health condition or disability

	Per cent
No	85.6
Yes	14.3
Missing	0.1
Total	100.0
<i>Unweighted base</i>	<i>2,595</i>

Source: Interim dataset for the first wave of the Offender Management Community Cohort Study
The figures may change when the data is finalised.

Due to weighting there may be rounding errors in the data

Table B7: Marital status of offenders

Marital status	Per cent
Married	7.7
Living with a partner	17.5
Single, never married	59.0
Divorced	7.5
Separated	7.3
Widowed	.4
Other Specific	.6
Refusal	.0
Total	100.0
<i>Unweighted base</i>	<i>2,595</i>

Source: Interim dataset for the first wave of the Offender Management Community Cohort Study
The figures may change when the data is finalised.

Due to weighting there may be rounding errors in the data

Table B8 - Persons⁽¹⁾ proceeded against at magistrates courts by ethnicity, 2011⁽²⁾

	White	Mixed	Black	Asian	Other	Total⁽³⁾
Indictable						
n	302,670	n/a	41,673	20,713	5,184	370,240
%	82%	n/a	11%	6%	1%	100%
General population⁽⁴⁾	89%	1%	3%	6%	2%	100%

(1) Excludes those whose gender is recorded as 'other' e.g. companies and public bodies.

(2) Further analysis of Criminal Justice Statistics, 2011.

(3) Excluding 'unknown' ethnicity which accounted for 10 per cent for indictable offences.

(4) General population figures from mid-year estimates, 2009 (aged 10 years and older), Office for National Statistics
As experimental estimates, work on the quality of the ethnicity general population statistics is ongoing; these figures are indicative only.

Swift and Sure: The Government's Plans for Reform of the Criminal Justice System

Table B9 - Penalty Notices for Disorder (PNDs) by tier^(1,4) issued to offenders age 16 and over by ethnicity, 2011

England and Wales

Offence	White	Mixed	Black	Asian	Other	Total
Total Higher Tier Offences	86%	n/a	2%	6%	5%	100%
<i>n</i>	87,530	n/a	2,386	6,488	5,233	101,637
Total Lower Tier Offences	86%	n/a	5%	5%	4%	100%
<i>n</i>	2,731	n/a	160	158	117	3,166
Total PNDs⁽²⁾	86%	n/a	2%	6%	5%	100%
<i>n</i>	90,261	n/a	2,546	6,646	5,350	104,803
General population⁽³⁾	89%	1%	3%	6%	2%	100%

(1) Higher tier offences have a penalty of £80 and lower tier have a penalty of £50.

(2) Excluding cases where ethnicity is 'unknown' (18 per cent of all offences).

(3) General population figures from mid-year estimates, 2009 (aged 16 years and older), Office for National Statistics. As experimental estimates, work on the quality of the ethnicity general population statistics is ongoing; these figures are indicative only.

(4) Further analysis of Criminal Justice Statistics, 2011.

Table B10 - Number of persons cautioned by ethnicity for all offences, 2011⁽¹⁾

	White	Mixed	Black	Asian	Other	Total
%	86%	n/a	8%	5%	1%	100%
<i>n</i>⁽²⁾	193,975	n/a	16,971	11,738	3,307	225,991
General population⁽³⁾	89%	1%	3%	6%	2%	100%

(1) Further analysis of Criminal Justice Statistics, 2011.

(2) Excludes unknown which are 2 per cent of total.

(3) General population figures from mid-year estimates, 2009 (aged 10 years and older), Office for National Statistics. As experimental estimates, work on the quality of the ethnicity general population statistics is ongoing; these figures are indicative only.

Table B11 - Persons⁽¹⁾ sentenced⁽²⁾ in the Crown Court for triable either way (TEW) offences by ethnicity, 2011

Ethnicity	Percentage offenders whose sentence could only be given in CC	Number of offenders whose sentence could have been given in MC⁽³⁾	Offenders sentenced
White	45%	55%	100%
Black	52%	48%	100%
Asian	50%	50%	100%
Other	51%	49%	100%
Total ⁽⁴⁾	46%	54%	100%
<i>n</i>	25,914	29,836	55,750

(1) Excludes those whose gender is recorded as 'other' e.g. companies and public bodies.

(2) Excludes offenders committed for sentence from the magistrates' court and offenders committed for trial for indictable only offences.

(3) This includes offenders given a Suspended Sentence Order where the length of the

(4) Excluding 'unknown' ethnicity which accounted for 9 per cent for all columns.

Table B12: Sentenced prison receptions by religion, 2008, England and Wales

	Sentenced prison receptions	General population (2010/11)	
		England	Wales
Christian	46.3%	68.5%	66.1%
Buddhist	0.9%	0.4%	0.3%
Hindu	0.5%	1.5%	0.5%
Jewish	0.1%	0.5%	0.1%
Muslim	8.2%	4.9%	1.2%
Sikh	0.8%	0.8%	0.1%
Other religion	0.1%	1.1%	1.2%
Non-recognised	0.9%	n/a	n/a
No religion	42.1%	22.4%	30.6%
Total	100.0%	100.0%	100.0%

Source: Further analysis of Offender Management Statistics

General population figures are for all ages and are from the Integrated Household Survey, Office for National Statistics.

Respondents were asked the question 'What is your religion, even if you are not currently practising?'

Table B13 - Persons⁽¹⁾ proceeded against at magistrates courts by sex, 2011⁽²⁾⁽³⁾

Summary Offences			
	Male	Female	Total
n	788,996	292,211	1,081,207
%	73%	27%	100%
Indictable			
	Male	Female	Total
n	350,139	58,939	409,078
%	86%	14%	100%
All Offences			
	Male	Female	Total
n	1,139,135	351,150	1,490,285
%	76%	24%	100%
Gen Pop	49%	51%	100%

(1) Excludes those whose gender is recorded as 'other' e.g. companies and public bodies.

(2) Excludes those with gender 'not stated'. The percentage of those with gender 'not stated' are 5 per cent for summary offences, 1 per cent for indictable offences and 4 per cent for all offence types

(3) Further analysis of Criminal Justice Statistics, 2011.

Table B14 - Penalty Notices for Disorder (PNDs) issued to offenders age 16 and over by sex, 2011⁽¹⁾⁽²⁾

	Men	Women	Total
Proportion	76%	24%	100%
n	97,258	30,272	127,530
Gen Pop	49%	51%	100%

(1) PNDs were rolled out nationally on 1 April 2004.

(2) Further analysis of Criminal Justice Statistics, 2011.

Table B15 - Persons cautioned by gender for all offences 2011^(1,2)

	Men	Women	Total
Proportion	76%	24%	100%
<i>n</i>	176,674	54,809	231,483
Gen Pop	49%	51%	100%

(1) Further analysis of Criminal Justice Statistics, 2010.

(2) Excludes those whose gender is 'not stated'.

Table B16 - Persons⁽¹⁾ sentenced⁽²⁾ in the Crown Court for triable either way (TEW) offences by gender, 2011⁽³⁾

Sex	Percentage offenders whose sentence could only be given in CC	Number of offenders whose sentence could have been given in MC ⁽⁴⁾	Offenders sentenced
For all TEW offences			
Male	49%	51%	100%
Female	28%	72%	100%
Total	46%	54%	100%
<i>n</i>	28,479	32,959	61,438

(1) Excludes those whose gender is recorded as 'other' e.g. companies and public bodies.

(2) Excludes offenders committed for sentence from the magistrates' court and offenders committed for

(3) Further analysis of Criminal Justice Statistics, 2011.

(4) This includes offenders given a Suspended Sentence Order where the length of the custodial period is

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Table B17 - Persons⁽¹⁾ proceeded against and found guilty by sex at all courts, 2011⁽²⁾⁽³⁾⁽⁴⁾

		Male		Female		Total	
		Proceeded against	Convicted	Proceeded against	Convicted	Proceeded against	Convicted
Summary Motoring	n	421,353	366,394	96,464	84,351	517,817	450,745
	%	81%	81%	19%	19%	100%	100%
TV License Evasion	n	55,908	47,456	114,220	101,484	170,128	148,940
	%	33%	32%	67%	68%	100%	100%
Vehicle Excise Duty	n	27,691	23,548	8,805	7,388	36,496	30,936
	%	76%	76%	24%	24%	100%	100%

(1) Excludes those whose gender is recorded as 'other' e.g. companies and public bodies.

(2) Data includes the following offence descriptions and corresponding statutes:
 TV Licence Evasion - Communications Act 2003.
 Vehicle Excise Duty - Vehicle Excise and Registration Act 1994.

(3) Excluded those with gender 'not stated' (Summary motoring = 4 per cent; TV licence evasion = 0.2 per cent and Vehicle Excise Duty = 21 per cent).

(4) Further analysis of Criminal Justice Statistics, 2011.

Annex C - Profile of magistrates

Many of the proposals in the White Paper have the potential for an impact on magistrates, and a summary of these are provided under each policy proposal where relevant. For example:

- Flexible criminal justice system (page 10)
- Re-conceiving summary justice (page 24)

This section presents over-arching information on the protected characteristics of magistrates based on the evidence we have available. The analysis is presented because we assume there may be a greater impact of our proposals on those groups that are over-represented compared to the general population.

Age

Table C1 shows that younger magistrates are under-represented compared to the general population from which magistrates are drawn. 18 per cent of serving magistrates are 49 or under, 30 per cent are aged 50-59 and 52 per cent are 60 and over. Figures for the general population are 65 per cent, 19 per cent and 17 per cent respectively.

Disability

Table C2 shows that disabled magistrates are under-represented compared to the general population. 5 per cent of serving magistrates in England and Wales consider themselves to have a disability, compared to 22 per cent of adults in the general population (Great Britain).

Marriage and Civil Partnership

Information is not available by marriage and civil partnership.

Pregnancy and Maternity

Information is not available by pregnancy and maternity.

Race

Table C3 shows that 8 per cent of serving magistrates in England and Wales declared themselves to be from a Black, Asian and Minority Ethnic (BAME) background. This compares with the most recent estimate that BAME groups represent 12 per cent of the population.

Religion or Belief

Information is not available by religion or belief.

Sex

Table C4, shows that 51 per cent of serving magistrates in England and Wales are female, in line with the general population.

Sexual Orientation

Information is not available by sexual orientation.

Table C1 Age: Serving magistrates, 2011 and population comparison

Age group	Numbers	Per cent of serving magistrates	Mid year population estimate 2009 (England and Wales 20-69)
Under 40	1,022	4%	42%
40-49	3,769	14%	23%
50-59	8,054	30%	19%
60 and Over	14,121	52%	17%
Total	26,966	100%	100%

Source: Central database at the Ministry of Justice.

Table C2 Disability: Serving magistrates, 2011 and population comparison

Gender	Numbers	Per cent of serving magistrates	General adult population (Great Britain)
Disabled	1,262	5%	22%
Not Disabled	25,704	95%	78%
Total	26,966	100%	100%

Source: Central database at the Ministry of Justice.

Table C3 Race: Serving magistrates, 2011 and population comparison

Ethnicity	Serving magistrates	Mid year population estimate 2009 (England and Wales 20-69)
White	92%	88%
Mixed	1%	1%
Black	4%	3%
Asian	3%	6%
Chinese	0%	1%
Any Other	1%	1%
Numbers	26,966	35,233,000

Source: Central database at the Ministry of Justice.

Table C4 Sex: Serving magistrates, 2011 and population comparison

Gender	Numbers	Per cent of serving magistrates	Mid year population estimate 2010 (England and Wales)
Female	13186	49%	51%
Male	13780	51%	49%
Total	26966	100%	100%

Source: Central database at the Ministry of Justice.

Annex D - Confidence in the CJS

Many of the proposals in the White Paper have the potential for a positive impact on confidence, and a summary of these are provided under each policy proposal. For example:

- Neighbourhood Justice, the Justice Test and national out-of-court sanction framework (pages 18-23)
- Reconceiving summary justice (pages 24-26)
- Publishing information about criminal justice performance and broadcasting in court proceedings (pages 31-34)

This section presents information on confidence in the CJS by demographic characteristics based on the evidence we have available. The analysis presented assumes there may be a differential impact of our proposals on those groups that currently have different levels of confidence in the CJS. The results are presented in Tables D1 and D2. Using the Crime Survey for England and Wales, we have considered the following information on confidence in the CJS:

- confidence that the CJS is fair;
- confidence that the CJS is effective; and
- confidence that the courts are effective at dealing with cases promptly.

Age

Adults aged 16-24 and 75 and over were more likely to be confident that the CJS is fair than other age groups. In comparison, adults aged 16-24, 25-34 and 75 and over were more likely to be confident that the CJS is effective (56 per cent, 47 per cent and 47 per cent respectively) than adults in other age groups.

Those aged 16-24 were more likely to be confident that the courts are effective at dealing with cases promptly (46 per cent) than those aged 65-74 and those aged 75 and over (26 per cent and 29 per cent respectively).

Disability

Disabled people were less confident that the CJS is fair and that it is effective (57 per cent and 38 per cent respectively) than those people who had no long-standing illness or disability (63 per cent and 44 per cent respectively). This

compares to 61 per cent of adults overall who were confident that the CJS is fair and 43 per cent who were confident that the CJS is effective.

Those people who had a long-standing disability or illness were less likely to be confident that the courts are effective at dealing with cases promptly (32 per cent) than those who did not have a long-standing disability or illness (39 per cent).

Gender Reassignment

Information is not available by gender reassignment.

Marriage and Civil Partnership

Single people were more likely to be confident that the CJS is fair and that it is effective (65 per cent and 51 per cent) than those who had a different marital status (for example, 60 and 40 per cent respectively for married people).

Single people were more likely to be confident that the courts are effective at dealing with cases promptly (44 per cent) than those who had a different marital status (for example, 32 per cent of those who were widowed).

Pregnancy and Maternity

Information is not available by pregnancy and maternity.

Race

Non-white adults were more likely to be confident that the CJS is fair and that it is effective (68 per cent and 59 per cent respectively) than White adults (60 per cent and 41 per cent respectively). However, Chinese and Asian adults were most likely to think that the CJS is fair (77 per cent and 72 per cent respectively) and to think that it is effective (61 per cent and 63 per cent respectively).

Those who were from a Mixed or White ethnic background were less likely to be confident that the courts are effective at dealing with cases promptly (36 per cent) than those from other ethnic backgrounds (for example 50 per cent of those from an Asian ethnic background and 50 per cent of those from a Black ethnic background).

Religion or Belief

We will produce information on confidence in the CJS by religion in due course.

Sex

There was little difference in the proportion of people who were confident that the CJS is fair and that it is effective between men (63 per cent and 42 per cent respectively) and women (60 per cent and 43 per cent respectively).

The difference between men and women who were confident that the courts are effective at dealing with cases promptly (38 per cent and 37 per cent) was not statistically significant at the five per cent level.

Sexual Orientation

The Ministry of Justice will produce information on confidence in the CJS by sexual orientation in due course.

Table D1: Public confidence in the criminal justice system by personal characteristic

Percentages	England and Wales, 2010/11 CSEW ¹		
	Confident that the CJS is fair	Confident that the CJS is effective	Unweighted base ²
ALL ADULTS	61	43	44,883
Age			
16–24	68	56	3,717
25–34	64	47	6,161
35–44	60	41	7,631
45–54	58	37	7,528
55–64	56	35	7,893
65–74	57	35	6,354
75+	68	47	5,599
Sex			
Men	63	42	20,424
Women	60	43	24,459
Ethnic group			
White	60	41	41,420
Non-White	68	59	3,411
Mixed	56	43	328
Asian or Asian British	72	63	1,544
Black or Black British	59	52	937
Chinese or Other	77	61	602
Marital status			
Married	60	40	21,004
Cohabiting	57	38	4,027
Single	65	51	9,399
Separated	58	42	1,493
Divorced	55	38	4,066
Widowed	68	47	4,876
Long-standing illness or disability			
Long-standing illness or disability	57	38	13,221
Limits activities	56	38	9,450
Does not limit activities	59	39	3,767
No long-standing illness or disability	63	44	31,605

1. The British Crime Survey (BCS) is now known as the Crime Survey for England and Wales to better reflect its geographical coverage. While the survey did previously cover the whole of Great Britain it ceased to include Scotland in its sample in the late 1980s. There is a separate survey – the Scottish Crime and Justice Survey – covering Scotland. Given the transfer of responsibility for the survey to ONS, it was decided that the name change would take effect from 1 April 2012.

2. Unweighted base refers to confidence that the CJS is fair. Base for CJS is effective will be similar.

Table D2: Public confidence that the courts are effective at dealing with cases promptly by personal characteristics (2010/11 CSEW)¹

Percentages	Very or fairly confident	<i>Unweighted base</i>
Age		
16-24	46	3,885
25-44	42	14,434
45-64	34	15,943
65-74	26	6,577
75+	29	5,907
Sex		
Men	38	21,071
Women	37	25,675
Ethnic group		
White	36	42,990
Mixed	36	350
Asian or Asian British	50	1,676
Black or Black British	50	1,006
Chinese or other	47	655
Marital status		
Married	35	21,752
Cohabiting	39	4,176
Single	44	9,828
Widowed	32	5,172
Divorced	35	4,241
Separated	38	1,559
Long-standing illness or disability		
Long-standing illness or disability	32	13,792
No long-standing illness or disability	39	32,883

1. The British Crime Survey (BCS) is now known as the Crime Survey for England and Wales to better reflect its geographical coverage. While the survey did previously cover the whole of Great Britain it ceased to include Scotland in its sample in the late 1980s. There is a separate survey – the Scottish Crime and Justice Survey – covering Scotland. Given the transfer of responsibility for the survey to ONS, it was decided that the name change would take effect from 1 April 2012.

Annex E – Evidence sources

Data on the risk of becoming a victim of crime and confidence in the criminal justice system (CJS) by demographic characteristics are from the Crime Survey for England and Wales (CSEW)²⁰. The CSEW includes data on race, disability, gender, age and marital status for victims of crime. There is limited information on religion and sexual orientation. The CSEW does not include data on: gender reassignment, civil partnership or pregnancy and maternity. Therefore we do not have data relating to these characteristics for victims of crime.

Data on court disposals are from the Court Proceedings Database. This holds information on defendants proceeded against, found guilty and sentenced for criminal offences in England and Wales. It includes information on the age of the defendant, their gender, ethnicity, the police force area and court where proceedings took place as well as the offence and statute for the offence. Information on gender reassignment, disability, pregnancy and maternity, sexual orientation, religion or belief or marriage and civil partnership for criminal offences may be held by the courts on individual case files. However, it has not been possible to collate these data for this EIA because of the associated cost and resource implications.

Data on the disability and marital status of offenders starting community orders are drawn from the Offender Management Community Cohort Study (OMCCS), which tracked a cohort of adult offenders who commenced a community order between October 2009 and December 2010. The data presented is based on an interim dataset, including a total of 2,595 interviews, representing a response rate of 39 per cent. Data on the mental and physical health, and marital status, of adult offenders in custody are from the Surveying Prisoner Crime Reduction prisoner survey. This was a study in 2005/6 of 1,435 newly sentenced adult prisoners, sentenced to less than 4 years in custody, in England and Wales.

Data on the religious affiliation of prisoners are based on further analysis of Offender Management Caseload Statistics.

Information on changes to the HMCTS estate comes from work plans agreed and completed following access audits that took place in 2005 following the introduction of the Disability Discrimination Act 1995 and subsequent Act of 2005.

²⁰ The British Crime Survey (BCS) is now known as the Crime Survey for England and Wales to better reflect its geographical coverage. While the survey did previously cover the whole of Great Britain it ceased to include Scotland in its sample in the late 1980s. There is a separate survey – the Scottish Crime and Justice Survey – covering Scotland. Given the transfer of responsibility for the survey to ONS, it was decided that the name change would take effect from 1 April 2012.

In addition to official statistics and administrative data, evidence has been drawn from reports on research and evaluations commissioned by the MoJ or other organisations working in criminal justice.

Evidence on the potential impacts of introducing more flexibility into the criminal justice system draws on two reports produced in 2010 from the virtual courts evaluation, one focusing on outcomes and the other on the full evaluation.

Evidence on the likely impact of publishing information about criminal justice system performance on the general population uses research commissioned by the Home Office and published in 2002 in a report called, "*Improving public attitudes to the criminal justice system: the impact of information*".

Other research cited includes reports on the first two sweeps of the witness satisfaction survey and Phase 2 of the vulnerable and intimidated witnesses (VIWs) survey. The first sweep of the witness satisfaction survey was reported on in the HORS 230 called *Witness satisfaction: findings from the Witness Satisfaction Survey 2000*²¹. The main aim was to obtain a broad indication of the level of satisfaction of witnesses generally and with their treatment by the different key agencies within the CJS. For the purposes of the survey these were defined as: the police; the CPS/prosecution lawyers; defence lawyers; court staff; judges and magistrates; Victim Support (VS); and the Witness Service (WS). A witness was defined as 'someone who is involved in a case listed for trial and who has been asked to attend court as a witness'.

The second sweep of the witness survey was reported in HOOR 19/30 and called, *Witness Satisfaction: findings from the Witness Satisfaction Survey 2002*²². The survey covered both prosecution and defence witnesses. Expert witnesses, police witnesses and others giving evidence in a professional capacity were excluded from the survey.

Views of vulnerable and intimidated witnesses (VIWs) within the Criminal Justice System (CJS) were surveyed in two phases. The findings of phase 2 were reported in HORS 283 called, '*Are special measures working? Evidence from surveys of vulnerable and intimidated witnesses*'.²³

Evidence on the likely impact of publishing information about the criminal justice performance on the general population in terms of race used information published by Ofcom in their Media Literacy Audit published in

²¹ Whitehead, E. (2001) *Witness satisfaction: findings from the Witness Satisfaction Survey 2000*. Home Office Research Study 230. London: Crown.
<http://webarchive.nationalarchives.gov.uk/20100418065544/http://rds.homeoffice.gov.uk/rds/hors2001.html>

²² Angle, H., Malam, S. and Carey, C. (2003) *Witness Satisfaction: findings from the Witness Satisfaction Survey 2002*. Home Office Online Report 19/03. London: Crown.
<http://webarchive.nationalarchives.gov.uk/20100418065544/http://rds.homeoffice.gov.uk/rds/onlinepubs1.html>

²³ Hamlyn, B., Phelps, A., Turtle, J. and Sattar, G. (2004) *Are special measures working? Evidence from surveys of vulnerable and intimidated witnesses*. Home Office Research Study 283. London: Crown.
<http://webarchive.nationalarchives.gov.uk/20100418065544/http://rds.homeoffice.gov.uk/rds/hors2004.html>

2008 which focused on the media literacy of UK adults from ethnic minority groups in the UK and findings from the 2009-10 Citizenship Survey, Race, Religion and Equalities. We also used information published by Ofcom in their Media Literacy Audit published in 2006 which focused on the media literacy of UK adults with a disability to consider potential differential impacts of data publication on disabled people.

Evidence on the possible impacts on those facilitating Neighbourhood Justice Panels in the Reconnecting Justice with Communities section refers to evidence discovered as part of the Engaging Communities in the Criminal Justice EIA event as part of the public engagement on "*Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*" held in December 2010.

Evidence on the potential impacts on defendants on proposals set out in the Re-conceiving summary justice section of enabling magistrates' to deal with certain low level uncontested cases, refers to MoJ commissioned research published in 2010 called '*Are Juries fair?*²⁴'. This research asks: How fair is the jury decision-making process? It explores a number of aspects of jury fairness for the first time in this country, and relevant to this EIA asks specifically: Do all-White juries discriminate against BME defendants? The research used a multi-method approach to examine these issues: case simulation with real juries at Crown Courts (involving 797 jurors on 68 juries); large-scale analysis of all actual jury verdicts in 2006–08 (over 68,000 verdicts); post-verdict survey of jurors (668 jurors in 62 cases). As part of this research some differences in behaviour between White and BME defendants was noted. This research relates to Crown Court trials. We do not have information on guilty plea rates by racial background in relation to summary justice. Differences may exist for summary justice.

Evidence on the potential impacts on legal professionals and the magistracy of proposals set out in the re-conceiving summary justice section refers to HMCTS HR statistics.

²⁴ Thomas, Cheryl. (2010). MoJ Research Series 1/10, 'Are juries fair?'. MoJ.