



Transparency and Open Justice Board

Stakeholder Committee Forum Q&A

31 July 2024

Topic

Transparency and Open Justice Board	1
Stakeholder Committee Forum Q&A	1
Topic.....	2
Stakeholder Forum & Engagement	3
Remit of the Transparency and Open Justice Board	4
Access to Court Documents & Materials.....	5
Access to Hearings.....	8
Reporting Restrictions.....	9
Access to historic proceedings	10
Diversity and Inclusion.....	11

Stakeholder Forum & Engagement

Question	Submitted by	Response
"Will this forum be open for others to join as we go?"	Sian Harrison	Yes, this forum will be open for others to join.
"How best can the stakeholder group help the board in looking at the various issues it's going to be examining?"	John Sorabji	This forum can help identify the implications of any proposed changes at various stages. We will be engaging you regarding the key objectives which are crucial to shaping the way forward. We expect more significant engagement in the implementation stage.
"To what extent does the Board intend to use the stakeholder committee forum to consider the implications of the changes being proposed?"	Simon Berney-Edwards	

Remit of the Transparency and Open Justice Board

Question	Submitted by	Response
"I would be interested to know if the board is also going to consider transparency and open justice issues in the Coroners' Courts."	Sarah McColl	The Board will consider exploring transparency and open justice issues in the Coroner's Courts.
"Is the Board considering, as part of its work, the responses to the Ministry of Justice's Call for Evidence on Open Justice that ran last year?"	Maura McIntosh	The MoJ's Call for Evidence on Open Justice will be important to the Board's work. There is a great deal of commonality in terms of where we think we ought to be between the judiciary, HMCTS and the MoJ.

Access to Court Documents & Materials

Question	Submitted by	Response
<p>"The Court of Appeal has this week sent letters to members of the public from Master Bancroft-Rimmer saying that formal applications must be submitted for skeleton arguments at a cost of £626 per application. What does the Open Justice and Transparency Board plan to do about this?"</p>	<p>Celia Kitzinger</p>	<p>Historically fees were meant to reflect the administrative costs, including photocopying charges of fulfilling requests. I can see there is an argument that the provision of an electronic copy of a document by email no longer involves such an administrative burden. That might suggest that the current scale of fees ought to be reconsidered. This is a policy matter and is an example of an area where the judiciary can only act in partnership with MoJ and HMCTS.</p>
<p>"Could the Board look at ways of reforming the system, to give reporters greater – and automatic - access to digital documents when they have been relied on in open court? Will the Board to look at open justice and transparency arrangements for the Single Justice Procedure, as well as proposed arrangements for the Online Plea and Allocation system and the Automatic Guilty Plea system – both yet to be introduced, but pending."</p>	<p>Tristan Kirk</p>	<p>We are going to look at the whole aspect of what records the courts hold at the moment. We want to look at what else falls into the essential categories of documents to ensure that the court has control of those documents and that there is a clear regime prescribed for how and when these documents are to be provided and if any applications are needed, what the procedure is.</p>
<p>"Could the Board look at the way material is provided to media in the course of criminal trials? Particularly videos which are played in evidence. At the moment, the protocol is for journalists to request videos from the prosecution/police, and it</p>	<p>Tristan Kirk</p>	

<p>often leads to days of delay in the actual provision of the material. This is an active block on open justice, and could be solved by the court itself taking control of the decision whether media should receive material, and when."</p>		
<p>"This is also a good recent example of the how the current rules can have a chilling effect on media applications for court documents - a potential £60,000 bill is unlikely to be signed off by an editor: https://www.ft.com/content/0c7063c5-04d0-474e-b353-017d610872c7</p>	<p>Sam Tobin</p>	<p>Where there are proposed changes to procedural rules, these will be subject to the usual consultation process. Procedural rule changes are not something that the board or the judiciary can achieve on its own, there is a statutory procedure that governs the establishment of the rule committees for each jurisdiction and their procedures for changing the rules which can include a process of consultation.</p>
<p>"Agree with Sam. Proper change in the criminal courts cannot be left to judges changing their attitude, and will likely only be achieved by a shift in the rules and arrangements for media access. For example, automatic access to prosecution case summary and skeleton arguments by access to the Digital System, and a presumption set in the CPRs that documents/videos etc should be released to the media unless an objection is raised with the court."</p>	<p>Tristan Kirk</p>	<p>It will be for each committee to determine what changes should be made following their own procedures. The Board would hope to be engaged fully in that process to achieve common outcomes for open justice and transparency for all Courts and Tribunals.</p>
<p>"Thank you for the response to my question. My concern is that the CPR consultation you noted highlighted for us some fundamental issues about the release (and the timing of the release) of</p>	<p>Simon Berney-Edwards</p>	

<p>Expert Evidence and therefore we would hope that these can be considered as a key principle/objective to avoid unintended consequences rather than be dealt with in every individual jurisdiction rule change consultation."</p>		
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Access to Hearings

Question	Submitted by	Response
<p>"I would like to know whether the board will define the principles of open justice in detail. If you go into an art gallery as a member of the public your bag is checked but you are not asked why you are there. Will the board consider whether asking the public why they are there is in the spirit of open justice?"</p>	<p>Penelope Gibbs</p>	<p>In certain courts there are obvious security implications, so security arrangement we have in courts are necessary. Once you have cleared security, we should welcome people to the courts. There may be particular reasons where it is necessary to establish who people are because the rules in Crown Court trials mean that people who are giving evidence in criminal cases cannot be admitted to the courtroom in advance of their giving evidence. In those unusual circumstances it will be necessary for the usher to establish who some people are. In other circumstances there is no requirement for people to explain why they have come to court. Everybody is welcome in open courts to come in, we will try and improve the welcome we provide.</p>
<p>"Is the board considering additional training for court staff as part of this process? Open justice and transparency is an issue from security at the front entrance to the courtroom itself. My journalism students have sometimes encountered issues when going to court (e.g. attempts to throw them out of adult courts when a juvenile was giving evidence; restriction on note taking)"</p>	<p>Paul Foster</p>	<p>The Board is exploring with HMCTS the feasibility of appointing 'Open Justice Champions', with the hope that this person could be an advertised contact point for people who have, for example, issues with accessing a remote hearing.</p>
<p>A plea that regard is given to the actual practical experience of the public and the barriers (unintended or otherwise) which impede the achievement of the principle of Open Justice, starting with who you speak to / email at a particular Court.</p>	<p>Peter Charles Bell</p>	<p>The Board is exploring with HMCTS the feasibility of appointing 'Open Justice Champions', with the hope that this person could be an advertised contact point for people who have, for example, issues with accessing a remote hearing.</p>

Reporting Restrictions

Question	Submitted by	Response
<p>"Reporting Restrictions in the criminal courts: There is currently no effective system in place for the media to be notified about applications for reporting restrictions in the magistrates and crown courts, and there is equally no system in place for media to be properly informed that an order has been imposed. Can the Board consider how to fix this?"</p>	Tristan Kirk	<p>Open justice has four fundamental components, one of which is open reporting. Any restrictions imposed by the court preventing or postponing reports of proceedings, including anonymity orders, must have a statutory basis, fulfil a legitimate aim, be necessary, proportionate, and convincing. The systems in place, <u>or lack of systems, will be considered by the Board.</u></p>

Access to historic proceedings

Question	Submitted by	Response
<p>"In terms of getting access to past proceedings (particularly at UKSC or UKHL) is that something that the board has considered? At the moment, we do not have access to Supreme Court hearings pre-2021 (I think). Additionally, the National Archives only has uploaded videos of hearings from 2009-2010 at the UKSC. Would the board consider taking this matter into consideration, and making accessible these crucial pieces of advocacy at the highest court?"</p>	<p>Parvez Anwar Pantho</p>	<p>The Supreme Court falls out of the scope of the Board. The following websites may have the information that you require:</p> <p>BAILII - United Kingdom House of Lords Decisions</p> <p>Decided cases - The Supreme Court</p>

Diversity and Inclusion

Question	Submitted by	Response
<p>“Are there thoughts around inclusion e.g. open justice for people from diverse cultural backgrounds as a theme? No need, in light of time to answer, but important to ensure the justice system also reflects the needs of the diverse people using the court system.”</p>	<p>Liz Curran</p>	<p>The <u>Equal Treatment Bench Book</u> published in July this year aims to increase awareness and understanding of different circumstances of people appearing in courts and tribunals. It contains practical guidance and aids effective communication to help make the court experience fair for all, and accessible for parties and witnesses who might be uncertain, fearful or feel unable to participate.</p>