Just satisfaction?
What drives public and participant satisfaction with courts and tribunals

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What drives public and participant satisfaction with courts and tribunals:

a review of recent evidence

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The views expressed in this report are those of the authors and are not necessarily shared by the Ministry of Justice (nor do they represent Government policy).
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Summary

This document reports a review of recent evidence (published from 2000 onwards) on what factors may be related to public and participant (non-professional users, witnesses and jurors) satisfaction with courts and tribunals. It only includes evidence based on studies which meet particular standards of method and reporting. Most of the studies reviewed relate to England and Wales, but relevant evidence from other jurisdictions is also included. The review reveals:

1. The evidence base is dominated by studies either wholly in the criminal sphere or which fail to disaggregate civil and criminal contexts.

2. There is a distinct scarcity of robust, well-analysed data on what the general public thinks about civil and family courts and tribunals and what underlies those perceptions.

3. Similarly, there is little data on what businesses think of courts and tribunals.

4. Data on participants, outside of the criminal context in particular, also lacks depth. Consideration should be given to how the resource expended on user surveys in the courts and tribunals services is most effectively used to provide a more robust evidence base.

5. As a result of weaknesses in the evidence base, we cannot say with authority whether the public, or indeed those who have participated in civil or family cases, are generally satisfied with those courts and tribunals, and why they are satisfied (or not). Lack of such data about a key public institution is concerning.

6. The evidence that exists suggests that outcomes, and the perceived fairness of those outcomes; attitudes and contextual issues (such as attitudes to crime and the quality of the court environment and support); and participant judgments about the fairness of court or tribunal process all have an independent relationship with (and so may ‘drive’) public and participant satisfaction with courts and tribunals. The evidence on whether demographic characteristics have an independent influence is more mixed.

7. On the whole, and whilst acknowledging the weaknesses in the evidence base highlighted above, the weight of the evidence suggests that it is
participant judgments about the fairness of the process not the outcomes that participants receive which are most important in influencing the levels of their satisfaction.

8. There is a lack of evidence comparing consumer perspectives with professional evaluations of underlying systems and behaviours. An adversarial justice system may inevitably lead to some dissatisfaction, amongst some participants, as it seeks to balance competing interests. Meaningful research on ‘just’ satisfaction needs to scrutinise that balance.
Introduction: ‘just’ satisfaction

The title of this report is based on a not very subtle play on words. When placed against the weighty value of justice, the concept of satisfaction seems somewhat flimsy, consumerist, even superficial. To ‘just’ focus on satisfaction demeans the value of justice itself. At a macro level, judicial decision-making, whilst dependent on public trust for its legitimacy, must be distanced from the baying of the Shakespearean mob. Judges cannot simply seek to satisfy the public or the parties. Higher values are at stake. Indeed, this is partly because, at the micro level, satisfaction of all adversaries in legal proceedings seems impossible. One side must win and one side must lose. Superficially, one side will be satisfied and one side will not.

Whilst the value of justice should not be subverted to satisfaction, the suggestion that satisfaction is simply dependent upon outcome, driven solely by the self-interest of each participant, and somehow an anathema to justice, is challenged by the evidence. Even losing parties may gain some satisfaction from a process which is palpably just. Parties and society have a legitimate and strong interest in procedures which are just: satisfaction, properly interpreted and measured, is one close proxy for the value of that process. Winners and losers can be (and are) often given just satisfaction through a process that properly takes into account the competing perspectives on a dispute.

The evidence suggests the importance of procedural justice somewhat more strongly than that. Our final play on those two little words is in seeking to echo evidence that suggests that satisfaction with the process of justice systems has a measurable effect on broader society. It contributes to the perceived legitimacy of the justice system and there is some evidence it affects the behaviour of citizens, increasing their lawfulness (Tyler, 1990) and assisting in the development of a view of society’s institutions as legitimate and trustworthy (Tyler and Huo, 2002, pp. 132-133). In that sense, and it should be emphasised immediately that the effect appears to be modest, more lawfulness is the reward for just satisfaction. Indeed, Tyler and Huo emphasise the civilising and legitimising impact of judges treating all litigants, even those often labelled as hostile to society, fairly (2002, p. 91). Cascardi et al. (2000, pp. 190-191) have suggested that more procedurally just mental health hearings have therapeutic benefits for patients.¹

¹ They use simulated detention hearings with mental health detainees in the US.
In thinking about satisfaction and in applying policies designed to promote it, it is important to bear these three broad ideas in mind. Satisfaction with courts and tribunals is important to society’s stability and legitimacy. Satisfaction with the process is an important part of justice itself. But satisfaction is only one of several values which are important to a properly functioning court and tribunal system. An intelligently consumerist approach must be found; one that properly balances the pursuit of satisfaction with the other desirable needs of the justice system such as predictability, efficiency and the delivery of just outcomes.

1.1 Context and aims
This review was commissioned at a time when the then DCA was placing increasing emphasis on consumer strategy. The strategy relates public satisfaction to a variety of policy agendas including reducing crime; victim support; speed, quality and perception of asylum decision-making processes; proportionality and appropriateness of family law procedures; and the modernisation of courts and tribunal processes, including the rise of alternative dispute resolution (ADR).

The aim of the study was to provide a review of robust evidence on public and participant satisfaction with courts and tribunals available both domestically and internationally. It seeks to review that evidence and form a judgment on the areas where the evidence base is weak.

More specifically, the second central aim was to explore the factors that drive satisfaction. Ideally, this would mean identifying what factors could be evidenced as having a causal impact on overall levels of satisfaction with courts and tribunals.

1.2 A note on the nature of evidence
It follows that to identify drivers is to identify causes. However, causation is extremely difficult to establish, requiring complex research design and analysis. The nature of the evidence base is such that we must largely confine ourselves to reporting on factors that have been identified as having a relationship with satisfaction. This is not the same as identifying a causal link. At best this means establishing factors which have been identified as having an independent relationship with satisfaction. Even then, this may not indicate causation, other (unidentified) factors may in fact make the link between A and B; and an independent relationship does not, of itself establish whether A caused B or B caused A.

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In any event, such a research question necessarily emphasises quantitative data. Quantitative evidence is recorded in this report with three basic levels of robustness:

1. Ideally, where a study identifies a number of factors as potentially impacting on satisfaction, that study will conduct **multivariate analysis** to evaluate which, if any, of those factors have an independent association with satisfaction. To give an example, such studies typically evaluate the impact on satisfaction (the dependent variable) of some demographic characteristics of the respondent (gender and ethnicity for example); the respondents’ evaluations of process; and the outcomes they received (the independent variables). Multivariate analysis seeks to control for variation in each of those factors. It identifies whether, taking account of variation in each independent variable, each and any of those independent variables has an independent association with satisfaction. In other words, multivariate analysis seeks to isolate the impact specific to each independent variable and identify whether it is statistically significant. We identify such factors by emphasising that they are **independently associated** with satisfaction. It should be emphasized however, that whilst such a level of analysis is more sophisticated than bivariate analysis (see below) the quality of a finding of independent association is contingent on the quality of the multivariate analysis conducted and the broader quality of the study methods.

2. Often studies test for simpler associations between satisfaction and a particular variable without explicitly testing for the impact of other variables. We refer to this in the report either as **bivariate analysis** or by indicating that differences in satisfaction levels between groups defined by a particular variable were **significantly different**. The studies we have considered usually rely on the convention that statistical tests must indicate that a result would have occurred by chance fewer than 1 time in 20 (a 5% chance, \( p \) [probability] < .05). Statistical significance therefore means that the finding is unlikely to be a result of chance. Thus where a study finds, for example, that the satisfaction level among White respondents is significantly different from that for Black respondents it suggests that a comparison of satisfaction rates for those two groups is sufficiently different for it to be unlikely to occur by chance (i.e. a less than one in 20 chance). Bivariate analysis does not seek to control for other factors (so satisfaction levels might be explained by

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3 The multivariate analyses also rely on this conventional level of probability testing.
other factors independently of ethnicity, but such an analysis will not take account of those effects).

3. Sometimes studies report only differences in satisfaction in bare percentage terms without testing for the statistical significance of findings. We have tended to avoid the reporting of such findings save where we view them as important to the analysis (e.g. because they present a new variable for analysis which has not been considered in other studies as a possible driver of satisfaction).

Although the research question lends itself to quantitative analysis, qualitative findings remain important. Quantitative analysis often focuses on generalised concepts such as ‘fairness of processes’. Qualitative data can help explain what lies behind such concepts. It may also lead to new ideas about what might drive satisfaction beyond the generalised concepts habitually employed by researchers in the field. This capacity for theory generation is important and should not be ignored.

1.3 What is satisfaction?

Our evidence search has concentrated on identifying studies which look at satisfaction with courts and tribunals and the factors that underlie that satisfaction. Satisfaction is a term which itself begs a lot of questions. If the public are ‘satisfied with courts’, what does that mean? It is clearly an evaluative statement which in some way judges the performance of (in this case) courts and tribunals, but ‘satisfaction’ is rarely defined with any specificity. We return to this issue of specificity below. Furthermore, some studies do not measure satisfaction but do use analogous concepts such as ‘public confidence’ (the British Crime Survey (BCS) studies in particular), or ‘trust’ (the Home Office ‘citizenship surveys’) as the basis of the evaluation. Intuitively these concepts are similar but different. This presents us with two problems. At the mundane level, should we include such studies within this review? At the higher level, there is a debate to be had as to what the relationships are between concepts such as trust, satisfaction and confidence and what policy-makers should be most interested in promoting.

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4 The BCS has since 1992 covered England and Wales only.
5 Allen et al., 2005; Edmonds and Smith, 2006; Mattinson and Mirrlees-Black, 2000; Mirrlees-Black, 2001; Patterson and Thorpe, 2006; Pepper et al., 2004; Whitehead and Taylor, 2003.
6 Conducted among the general public in England and Wales. See Attwood et al., 2003; Home Office, 2004; Kitchen et al., 2006a; Kitchen et al., 2006b.
We cannot address the higher level debate here, but we can address the issue of inclusion. We include data from studies using these analogous concepts. Sometimes there is very concrete evidence in support of doing so. Bivariate analysis (Whitehead, 2001, p. 51) and multivariate analysis (Hamlyn et al., 2004, pp. 106-107) suggests that the dimensions used to measure confidence in the criminal justice system have a relationship with satisfaction. Beyond that, we include studies where the concepts used are sufficiently similar to be informative. So we include trust because, as Attwood et al. (2003, p. 22) put it: “If a particular group of people are found to have particularly low levels of political-institutional trust this could signify political alienation and dissatisfaction with the treatment they receive from those in positions of power”. Similarly, many of the qualitative studies in particular do not necessarily relate their findings back to ‘satisfaction’ (which in qualitative studies would not be ‘measured’ in any event). Nevertheless, such studies contain references to negative experience such as stress, fear and the like. Whilst the research does not establish a definite link they are likely to be relevant to levels of dissatisfaction.

Conversely, surveys on trust and confidence typically have a wider remit than the courts, looking additionally at the police and/or the criminal justice system as a whole. Smith suggests (based on focus group and omnibus survey data) that in the context of the BCS questions on confidence, the public mostly thinks of the criminal justice system as comprising the police and the courts, and that factors taken into account when people decide how confident they are in the CJS most often relate to these two elements of the system (2007, pp. 12-15). We focus only on data which can be sensibly tied back to courts and the judiciary.

To return to the issue of specificity, satisfaction with the courts itself can be an ill-defined and complex variable. This draws us towards the issue of whether we should think of satisfaction as one general concept or as a series of concepts for evaluating specific elements of service. The BCS studies provide an important example in the context of confidence, which they measure along seven dimensions. These are confidence in the capacity of the system to:

- bring people who commit crimes to justice;
- meet the needs of victims of crime;
- respect the rights of people accused of committing a crime and treat them fairly;

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7 Smith acknowledges methodological limitations to this study (the omnibus survey relied on random location quota sampling) and no response rates are reported. However, we note these findings as data shedding light on which agencies the public think of when asked about confidence in ‘the criminal justice system’ is hard to come by.

8 See footnote 5 above for references.
• deal with cases promptly and efficiently;
• treat witnesses well;
• reduce crime; and
• deal with young people accused of crime.

These dimensions are sometimes in opposition, and public confidence varies accordingly. Generally,\(^9\) confidence that the system respects the rights of the accused and treats witnesses well, for example, is high. Confidence that the system is effective in bringing people who commit crimes to justice, meets the needs of victims, is prompt and efficient, helps reduce crime and deals well with young people accused of crime is low.\(^10\)

Thus it is important to bear in mind that when a study asks whether the public is satisfied with a court or tribunal, a further question should be borne in mind: what dimensions of performance are actually evaluated? Unfortunately, studies rarely explore different dimensions of satisfaction in any comprehensive sense. Often the qualities that satisfaction is being used to evaluate are implicit.

A further point is that the importance of each dimension to the respondent has to be understood if satisfaction findings are to be interpreted appropriately. Furthermore, when satisfaction is measured across a number of dimensions (e.g. satisfaction with speed, service and outcome) studies relatively rarely (if ever) indicate which of those dimensions are priorities to the public or participants. So it is unusual to ask, as Edmonds and Smith, 2006, pp. 11-12) did of respondents to the British Crime Survey, that they prioritise the different aspects of confidence in the criminal justice system that they are asked about. Bringing offenders to justice stands out as the public’s priority (selected by 51%); then reducing crime (25%) and dealing with cases promptly and efficiently (11%). In another BCS study (Allen et al., 2005, p. 6), respecting rights of the accused was placed joint last on 2% (with reducing worry about crime). This last issue, about which respondents are consistently most confident, is the one they appear to care least about. This underlines the importance of understanding how the public and users prioritise the dimensions on which they are asked to evaluate satisfaction (or confidence) with a service. Satisfaction on one issue should not be equated with satisfaction with the whole: it may be quite the opposite.

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\(^9\) There is some variation in the figures for different demographic groups.

\(^10\) A similar pattern emerges from surveys of the general public in Canada, see Gannon, 2005, pp. 11-12, p. 24; Tufts, 2000, p. 3, p. 15.
A further complication is that ‘satisfaction’ findings have to be properly weighted. Say a study uses a four point scale: ‘very’, ‘fairly’, ‘not very’, and ‘not at all satisfied’. Reporting often then takes ‘very’ and ‘fairly’ as indicating ‘satisfaction’ even though those categorised as ‘confident’ are most often ‘fairly’ rather than ‘very’ confident (see e.g. Edmonds and Smith, 2006, pp. 3-4). Under those studies satisfaction is soft: respondents may be less firmly satisfied than simplified reporting of results might suggest.

1.4 Methods

We have sought to collate and analyse all relevant sources of substantial evidence on public and participant satisfaction with courts and tribunals available domestically and internationally and published from 2000 onwards. As a structured literature review, methodological rigour was the primary element of our sifting mechanism. We agreed fairly strict tests with the (then) DCA as to which studies would be included in the review:

1. was public or participant satisfaction a significant part of the study?;
2. were views obtained directly from the public/users rather than through intermediaries?;
3. where studies were quantitative in nature, were sample sizes in excess of 100?;
4. where studies were qualitative in nature, were sample sizes in excess of 30?;
5. was there clear reporting of results, methods, biases (in sampling) and limitations in relation to the methods?;
6. were response rates in excess of 30% or otherwise satisfactorily robust?;
7. as far as possibly consistent with good research design, were samples randomly drawn?;
8. were studies geographically diverse (conducted in at least three locations)?

A list of studies excluded under these tests is available from the authors on request. We did however relax these controls somewhat for studies in areas where the literature was scant or participants might be described as hard to reach: studies dealing with diversity, business users, mental health patients and children. Where studies were multi-constituency (e.g. speaking to judges as well as users), we concentrate only on those parts of the study which focused on user/public perceptions. Where studies were multi-method, but one or other element of the methodology appeared to lack robustness, we concentrate only on the data from the elements that met the criteria.
We searched a variety of academic, governmental and non-governmental websites and databases; we manually searched key journals and government research programme databases; and we (largely unsuccessfully) sought ‘grey’ literature produced by law firms and market research companies. Appendix 1 sets out a fuller description of our approach.

Websites were searched using Google Advanced search, after a variety of search methods were tested. A common list of search terms were used to identify studies where public and user satisfaction with courts and tribunals was likely to be involved. Academic databases had search tools specific to each database. This was more efficient: it provided greater scope to focus the searches, for example, the capacity to adhere to date restrictions, but the combinations of keywords had to be adapted to meet the configuration of each database search facility, which makes it harder to make generalisations about the way we searched academic sources.

1.5 Structure of the Report

Chapter 2 overviews general findings about satisfaction with courts and tribunals. It outlines the various perspectives of the general public and different participants in the courts. This provides a general context against which we can understand whether there should be concern about the general esteem in which courts and tribunals are held. It then overviews findings on what factors are most strongly linked as potential drivers of satisfaction. These are split into four categories which are considered in turn in subsequent chapters:

- chapter 3 discusses the impact of outcomes on participants (be they litigants, witnesses or jurors);
- chapter 4 discusses attitudinal and contextual factors (such as the role of experience and understanding about the courts);
- chapter 5 discusses procedural justice factors (the way participants participate in and are treated by the courts and public perceptions of such matters); and
- chapter 6 discusses the influence of demographics (ethnicity, gender and the like).

Chapter 7 concludes the report by discussing the main weaknesses in the evidence base.
2. An overview of levels of satisfaction and their drivers

This chapter overviews general findings about satisfaction with courts and tribunals. It outlines the various perspectives of different participants in the courts and the general public and seeks to provide a general context against which we can understand whether there should be concern about the general esteem in which courts and tribunals are held. It then overviews findings on what factors are most strongly linked as potential drivers of satisfaction.

2.1 General findings on levels of satisfaction

Before considering what might drive satisfaction, it is important to consider whether we should be concerned about the levels of satisfaction with courts and tribunals. What do the public and participants in the system think about these institutions? This chapter reviews the evidence on that question before turning to a general overview of the key factors apparently influencing those levels of satisfaction.

In terms of general public attitudes, the British Crime Surveys provide the main regular and specific overall ratings for how well particular elements within the criminal justice system in England and Wales, including courts, are doing. They consistently show much more positive ratings for the police than the courts, and much lower ratings for juvenile/youth courts, than other elements.¹¹ Between 2000 and 2005, the proportion of the general public surveyed indicating that each element does an excellent or good job was as follows.¹²

Table 2.1: BCS data on public views on institutions doing an excellent or good job (2000-2005)

<table>
<thead>
<tr>
<th>Institution</th>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police</td>
<td>47 – 53%</td>
</tr>
<tr>
<td>Prisons</td>
<td>25 – 30%</td>
</tr>
<tr>
<td>Magistrates</td>
<td>26 – 29%</td>
</tr>
<tr>
<td>CPS</td>
<td>21 – 29%</td>
</tr>
<tr>
<td>Judges</td>
<td>21 – 29%</td>
</tr>
<tr>
<td>Probation service</td>
<td>23 – 28%</td>
</tr>
<tr>
<td>Juvenile courts</td>
<td>12 – 17%</td>
</tr>
</tbody>
</table>

¹¹ Roberts and Hough (2005, p. 214) corroborate the low ratings accorded to youth courts.

¹² Sources: Allen et al. (2005, p. 5); Edmonds and Smith (2006, p. 9); Mirrlees-Black (2001, p. 3); Pepper et al. (2004, p. 6); Whitehead and Taylor (2003, p. 123).
Mattinson and Mirrlees-Black, reporting on the 1998 BCS, focus on ratings of performances as ‘poor’ or ‘very poor’ rather than ‘excellent’ or ‘good’. They found that 26% of the public rated judges as doing a poor or very poor job. The comparable figure for juvenile courts was 47%. Only 6% thought the police to be doing a poor or very poor job (2000, p. 6, pp. 17-18). 45% of the public said judges were very out of touch with what ordinary people think and 36% that they were a bit out of touch. Magistrates fared somewhat better. 20% of respondents said magistrates were very out of touch and 41% a bit out of touch (2000, p. 7).

Conversely, whilst citizenship surveys covering England and Wales report greater levels of public ‘trust’ in the police than in the criminal courts, between 70% and 73% of those surveyed said they trusted the criminal courts ‘a lot’ or ‘a fair amount’. As with other measures, approval here was more often soft than firm, i.e. beyond the headline figures, respondents were more likely to say they trusted the courts ‘a fair amount’ than ‘a lot’. For example, in the 2005 survey, 55% said they had a ‘fair amount’ of trust, and 15% said they had ‘a lot’ (Attwood et al., 2003, p. 22; Home Office, 2004, pp. 41-42; Kitchen et al., 2006b, p. 35).

Outside of the criminal justice context there is very little evidence on general public perspectives. Genn and Paterson’s Scottish Paths to Justice Survey contains some data on public perceptions of judges and courts (2001, pp. 221-223, pp. 227-228, pp. 233-234). About a quarter of their respondents were not confident they would get a fair hearing if they went to court; a significant majority (about 70%) felt judges were out of touch with ordinary people’s lives; and 70% felt the legal system works better for rich people than for poor people. Unusually high levels (37%) agreed strongly with this last statement.

There is very little data on the general perceptions of businesses. What there is suggests that businesses generally rate courts quite poorly when compared with other public institutions and service providers. In one survey, 42% of businesses in Organisation of Economic Co-operation and Development (OECD) countries (which of course include the UK) rated the overall quality and efficiency of courts/judiciary as slightly bad, bad, or very bad (Batra et al., 2002, pp. 35-36, p. 38).

It is worth noting that it may be harder for the public to be satisfied with courts because their role is more complex and less familiar than those of front-line agencies. The role of the police is more in keeping with a straightforward desire for crime-control (Hough and Roberts,

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13 The 2003 survey figures were similar: 56% and 17%. No breakdown is given for the 2001 survey.
Furthermore, there is evidence (see below) that public misconceptions about crime and criminal courts may influence satisfaction and confidence.

Are participants satisfied with the courts?

The general population, surveyed in the studies outlined above, has varied, and often very limited, experience of the justice system. Data on the satisfaction of court and tribunal participants paints a rather different picture from that of general population surveys. Unless otherwise indicated, studies cited in this section relate to England and Wales.

Participant data concentrates primarily on four groups. There is a reasonable body of work on witnesses in criminal cases. In the main, this deals with the perspectives of adults who were crime victims and other prosecution witnesses, but one of the surveys included a substantial proportion of children. There is also some work on the parties to disputes (including defendants in criminal cases), jurors, and children in family proceedings (who are not usually treated as parties to disputes about them and in so far as they are witnesses are usually distanced from the proceedings themselves). Each participant has a very different role in proceedings and the level and nature of their experience differs. Generally, as we shall see, their perspectives appear more positive than those of the public as a whole.

In Scotland, two customer satisfaction surveys have found fairly high levels of satisfaction with what might be categorised as ‘customer service’ elements of the court experience (physical environment, general service and information provided by court staff, waiting times, catering and other facilities). Around three-quarters of non-professional court users were very or fairly satisfied with the overall service provided (MVA, 2005, p. 15; 2006, p. 17). Raine and Dunstan (2005, pp. 22-25) found high levels of satisfaction (upwards of 80%) among appellants to the National Parking Adjudication Service (NPAS) in respect of largely similar customer service matters. They also report that almost all appellants were ‘very positive’ about adjudicators’ handling of hearings.

14 The tendency for the public to favour the police in its assessments is replicated in surveys from other countries (for example, New Zealand (Mayhew and Reilly, 2007, pp. 77-78; Paulin et al., 2003, p. 24); and Canada (Gannon, 2005, pp. 11-12, p. 24; Tufts, 2000, p. 3, p. 15)).

15 In Whitehead (2001) and Angle et al. (2003) respectively, 87% and 91% of survey respondents were victims or other prosecution witnesses. 7% and 6% of the respective samples were child witnesses (i.e. under 17). Hamlyn et al. (2004) was a before and after study designed primarily to assess the impact of special measures for vulnerable and intimidated witnesses (which we mostly refer to for simplicity’s sake as ‘vulnerable witnesses’). 99% of the ‘after’ sample were victims or other prosecution witnesses. 42% were child witnesses. ‘Vulnerable and intimidated’ has a specific meaning, which is explained below, and this should be borne in mind when reading references to ‘vulnerable witnesses’.

16 Both these studies surveyed users of civil and criminal courts in Scotland. However, around two-thirds of respondents in 2005, and around three-quarters in 2006, were attending in respect of a criminal case in one capacity or another. This included ‘supporters’ either of the accused or (less frequently) of victims.
Surveys of lay witnesses in crown and magistrates’ courts have found high levels of satisfaction with experience of the criminal justice system (76-78%). Satisfaction with treatment by court staff, the Witness Service, judges/magistrates and prosecution lawyers was even higher (often over 90%) (Angle et al., 2003; Whitehead, 2001). In Matthews et al. (2004) 97% of jurors said they found court staff to be “professional, approachable and helpful”. Both Gosling (2006) and Baldwin (2002, pp. 23-27) have found high overall levels of satisfaction amongst small claims litigants (which included significant proportions of business litigants). Hayward et al. (2004, pp. 49-50) show satisfaction with “workings of the employment tribunal system” was also generally high overall (at 72% for applicants and 65% for employers). In Hamlyn et al. vulnerable and intimidated witnesses were asked if they were satisfied with their experience overall as a witness in criminal cases. Child witnesses had a significantly higher level of satisfaction with their overall experience, with 76% reporting being satisfied, compared with 64% of adult witnesses (Hamlyn et al., 2004, p. 95). Child witnesses interviewed about criminal cases reported satisfaction levels with judges and magistrates of higher than 90% (Angle et al., 2003, p. 30; Whitehead, 2001, p. 31).

An exception to the largely positive picture outlined above is suggested by Smart et al.’s qualitative data from interviews with parents involved in highly-conflicted private-law cases regarding children (predominantly contact disputes). Amongst this particular group of litigants with difficult cases, they found “a general sense of discontent” with both court processes and outcomes, and “a high level of dissatisfaction” among parents with residence and among those seeking contact (2005, pp. 27-42).

One group for whom more concern has been shown by researchers is children involved in family disputes about care, residence and contact. Fortin et al. (reporting on family law proceedings) suggest that the court process is stressful for children and may contribute to negative longer term outcomes (e.g. self-blame for their parents’ separation, depression and suicidal thoughts, negative impact on school and social life, and a longer period of adjustment to divorce (2006, p. 219)). Conversely, several studies have examined children’s satisfaction with personnel who are appointed by the family court to prepare welfare reports or act as guardians. These studies find children’s overall satisfaction with these professionals is high (see Buchanan et al., 2001, pp. 65-66; Katz, 2006, pp. 17-20; Ruegger, 2001, p. 139).

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17 30% of Gosling’s sample of small claim participants were attending on behalf of a business, though findings for businesses are not separately analysed (2006, p. 57, p. 62). Similarly Baldwin’s 2002 study contained two-thirds business litigants (2002, p. 28).
18 The jurisdiction here is Great Britain.
19 Smart et al. stress that their sample comprised parents at the highly-conflicted end of the spectrum, and thus was not wholly representative of cases generally, and this needs to be borne in mind.
In relation to young offenders, focus group data shows that many were angry at the treatment they had received from the courts (Lyon et al., 2000, pp. 23-24). Whilst this might be expected, in a study from the USA Tyler and Huo evidence the importance of attempts to treat this group with levels of fairness and respect if they are to be encouraged towards lawful integration in society (Tyler and Huo, 2002, p. 91).

The data on overall levels of satisfaction is thus contradictory. General indicators suggest that public esteem for courts is low, both in absolute terms and when compared with other institutions such as the police. Whilst within these general public perception surveys, those with some experience of the justice system often are more critical of the courts; those in participant surveys generally seem to have higher (and sometimes very high) levels of satisfaction. Precisely what kind of experience participants in public perceptions surveys have had often remains fairly opaque.

**Overview of the main drivers of satisfaction**

A number of studies contain multivariate analysis of factors which are found to be independently associated with satisfaction with courts (and analogues to satisfaction). We have conducted an analysis of these models to provide some indication of the factors most commonly found to have an independent association with satisfaction.

This analysis provides a useful overview of the evidence on drivers, but it is limited in a number of important respects. In particular, different studies control for different variables in each of their models: the results are thus not usually easily comparable across studies. Secondly, many of the studies report multivariate analysis somewhat sparingly (no doubt to make the results more digestible to non-expert audiences). In particular, several studies do not record fully which factors were included in any analysis and then found to have no effect. Thus the fact that a study is apparently silent on the importance of a particular variable in predicting satisfaction is not indicative of that variable having no independent relationship with satisfaction, it may be that the study simply did not test for such a relationship. Conversely, the fact that a variable appears more often than others in the following results may simply reflect that it was tested more often and found to be significant and independently associated with satisfaction (or an analogous concept) in that particular piece of research.

The studies included where we have reviewed and included multivariate data are Angle et al., 2003; Beck et al., 2002; BMRB, 2004; Edmonds and Smith, 2006; Genn et al., 2006; Gosling, 2006; Hamlyn et al., 2004; Mattinson and Mirrlees-Black, 2000; Mirrlees-Black; MVA, 2005, 2006; Overby et al., 2004; Rottman, 2005; Rottman et al., 2003; Trinder et al.,
Many of these derived from outside the UK. Where a study uses a number of multivariate analyses we take all of these into account but generally concentrate on the effects shown in the main model. They look at a variety of dependent variables sufficiently analogous to satisfaction to be of interest. The following overviews variables found to be independently associated with satisfaction (or an analogue) when other factors were taken into account. It therefore highlights the ‘drivers’ in respect of which available quantitative evidence is at the highest level of robustness. For a fuller picture, reference should be made to chapters 3 to 6.

Outcomes
Seven studies demonstrated that outcome had an independent relationship with satisfaction; with participants assessing outcomes positively being more likely to be satisfied. This includes studies which looked at the outcome in simple terms (did the respondent win or lose) as well as composite evaluations of outcome which included the perceived fairness of the outcome. In addition to those seven studies, another study found efficiency was independently associated with satisfaction (efficiency in this study being measured as a composite measure of two types of outcome: cost and delay). The implication being that lower cost and delay would be more likely to lead to satisfaction.

Process judgments
A large body of work establishes the importance of participant assessments of court process in satisfaction. Tyler, in particular, has developed the importance of process assessments, suggesting with Huo that they are based on four interrelated judgments about: quality of decision-making; quality of treatment; procedural justice; and motive-based trust (these concepts are discussed below). Positive judgments by participants on each of these were found to be independently associated with higher satisfaction (Tyler and Huo, 2002, pp. 86-88).

20 Beck et al. relates to a worldwide survey. Other jurisdictions involved are: the USA (Overby et al., 2004; Rottman, 2005; Rottman et al., 2003, Tyler, 2001; Tyler and Huo, 2002); Scotland (MVA, 2005, 2006). The remaining studies noted here all relate to England and Wales.

21 As Tyler and Rottman et al. are based on the same data we do not double count factors identified.

22 Angle et al. considers witness satisfaction; Beck et al. considers the legal system as an impediment to business; BMRB considers satisfaction with CAFCASS; Edmonds and Smith considers the effectiveness of CJS; Genn et al. considers fairness of decisions; Gosling adopted more than one measure of satisfaction but in the regressions considers overall satisfaction with small claims with users asked to ignore the outcome of the hearing; Hamlyn et al. considers witness satisfaction; Mattinson and Mirrlees-Black considers effectiveness of CJS; Mirrlees-Black considers effectiveness of CJS; MVA Studies (2005, 2006) consider satisfaction with ‘customer service’; Overby et al. (2004) considers overall approval; Rottman (2005) considers overall approval of courts; Rottman et al. (2003) considers overall evaluation of courts; Trinder et al. considers satisfaction with outcome of conciliation and court process; Tyler and Huo (2002) considers satisfaction with courts; and Whitehead considers witness satisfaction.

23 Efficiency is included as an outcome on the assumption that clients would regard the result, the cost and the time taken as outcomes which are, to a degree, separable from the actual experience of the process.
In another study Tyler emphasises three types of judgment, two of which are similar: quality of treatment (based on a composite measure combining questions about trust, neutrality, respect and participation/voice) and quality of performance by the court (whether courts were felt to be affordable, to resolve cases in a timely manner, to base decisions on facts and were neutral) (2001, pp. 228-232). Positive assessments of both, particularly quality of treatment, were independently associated with higher satisfaction. A third factor, higher levels of perceived discrimination (whether survey respondents thought African-Americans, Latinos, non-English speakers and people with low incomes were treated worse than other groups by the courts) was independently associated with greater dissatisfaction but not once demographic characteristics were taken into account.

The importance of general process judgments is emphasised by three further studies which found that participants’ assessments of the fairness of procedures were independently associated with satisfaction (although this was found to be not significant in one further study). Three studies link this more concretely to the ability of the respondent to participate in the case and two to a feeling (on the part of participants) that the judge understood the respondent’s case. Accessibility of court documents/procedures have also been shown to have an independent relationship. Positive assessments on each of these areas were linked to higher satisfaction.

Studies of witnesses in criminal cases tend to focus in part on the role of the prosecution and defence lawyers. Three point to dissatisfaction with the prosecution (the results suggest it is both their preparatory work and conduct in court that may influence judgments) and one points to treatment by defence lawyers, as being important. At least two studies also identify courtesy shown to witnesses as being independently associated with satisfaction and other work discussed below suggests that treatment during cross-examination may impact here. One study points to positively rated treatment of witnesses by the police, in keeping them informed and so on, as having an independent positive impact on satisfaction.

Three studies identify the occurrence of intimidation or suffering stress/anxiety as independently associated with witnesses’ dissatisfaction. As we shall see this is bound up in the layout of court buildings (where witnesses and antagonists might confront each other accidentally or deliberately); the adversarial process; and the ways in which witnesses (especially victims and vulnerable witnesses) are treated by the courts and other participants in the process.
More prosaically, greater time spent waiting at court (three studies); finding the timing of court hearings inconvenient (two studies); and multiple attendances being required at court (one study) have also been shown to have an independent relationship with higher levels of dissatisfaction.

**Contextual and attitudinal factors**

Two studies identify perceptions of crime and the criminal justice system generally as impacting on assessments of the courts. More concerns about crime and poorer perceptions of the criminal justice system generally were linked with higher levels of dissatisfaction with courts. One further study finds general approval of state institutions independently associated with higher satisfaction.

The receipt of prior information about what to expect at court hearings has been shown to be independently associated with higher satisfaction in three studies and partially associated in a fourth. This may be particularly important given the public’s popular (though not necessarily unreflective) association of media-driven criminal justice models with courts and tribunals generally.

Two studies identify the conduct of court staff as independently associated with satisfaction; another identifies independent links with whether support is provided to witnesses; and a third identifies facilities at court as independently associated. Positive assessments of these were associated with more satisfaction.

**Demographic factors**

The evidence on whether satisfaction is independently associated with particular demographics has received significant attention (especially in the context of ethnicity) but is mixed. Three studies found age was independently associated with satisfaction but four studies found age was not so associated. Two studies found gender to be independently associated and three studies found it not to be. Six studies found ethnicity was not independently associated with satisfaction whereas two found it was linked to judgments of procedural justice. One study found social and economic group to be significant and one did not; one study found education to be significant but three did not; three studies found income generally not to be significant; political orientation was found to be significant in one study; religion was found to be not significant in one study.
2.2 Summary

The data on overall levels of satisfaction with courts and tribunals is contradictory. General levels of public esteem, for the courts and judges, appear low. This is true in absolute terms and when compared with other institutions such as the police. Within these general public perception surveys, those with some experience of the justice system often have lower opinions. However, what this experience consist of is often opaque (for example, it may be simply experience of reporting a crime, or being a spectator in court). Conversely, in participant surveys those with substantial experience (users, jurors and witnesses) generally seem to have higher (and sometimes very high) levels of satisfaction.

There is remarkably little robust evidence of the perception of the general public of civil and family courts and tribunals. Similarly, there is remarkably little quantitative evidence of the satisfaction of participants in civil and family court and tribunal cases and what might drive that satisfaction. The bulk of the evidence is derived from general surveys of the public (where criminal process dominates both consciousness and experience) and from witnesses in criminal cases. That evidence suggests that outcomes and (in particular) procedural justice factors figure frequently in the models. Other attitudinal and contextual factors sometimes figure in such models, but less frequently (e.g. general perceptions of crime and the criminal justice system; general approval of state institutions; the provision of information about what to expect at court hearings; the conduct of court staff; court facilities and support provided to witnesses). Generally, demographic factors have been shown to not have an independent influence on satisfaction once considered alongside other factors.
3. Outcomes

This chapter considers the importance of outcomes, and participant assessments of outcomes, on levels of satisfaction with courts. It begins by considering the evidence on the importance of outcomes in influencing levels of satisfaction. Further sections consider specific elements of what might be termed outcomes: the specific role of settlement; enforcement; and, efficiency concerns (i.e. speed and cost as outcomes).

3.1 The importance of outcomes

As we have already noted, outcomes and the assessment of the fairness of outcomes by participants in court cases has been identified as independently associated with satisfaction. Whether small claims litigants are satisfied with the outcomes of hearings (Gosling, 2006, pp. 42-46) or witnesses in criminal cases perceive the verdict in their case as fair (Angle et al., 2003, p. 47, pp. 59-61; Whitehead, 2001, pp. 71-73;) appears to have strongly positive impact on levels of satisfaction with courts, the experience of being a witness and the criminal justice system as well as assessments of CAFCASS24 (BMRB, 2004, pp. 34-35).25 In Genn et al. on tribunals outcome was the only variable independently associated with fairness (2006, p. 239).26 Positive assessment of outcomes is also shown to be independently associated with positive public perceptions where the public have some experience of dealing with the justice system (Tyler, 2001, p. 230; Tyler and Huo, 2002, p. 55). Similarly, overall satisfaction appears linked (using bivariate analysis) to whether witnesses thought a sentence a criminal defendant received was fair (raising satisfaction) (Angle et al., 2003, pp. 34-35) and whether charges had been downgraded (lowering satisfaction) (Hamlyn et al., 2004, p. 46). In the crown court, defendants who received custodial sentences were more likely than those who did not, to have perceived unfair treatment at court (Hood et al., 2003, p. 58). The evidence also suggests that child witnesses in criminal trials were dissatisfied with what they perceived to be inadequate sentencing (Cashmore and Trimboli, 2005, p. 56; Eastwood and Patton, 2002, pp. 62-65). In Lyon, Dennison and Wilson (2000, p. 24) findings from focus groups with young offenders highlight dissatisfaction with inconsistency in sentencing amongst young defendants.

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24 Children and Family Court Advisory and Support Service.
25 Satisfaction with outcomes of small claims hearings was associated with greater levels of satisfaction with the overall process. Feeling verdicts in criminal cases were unfair was associated with greater likelihood of dissatisfaction with the overall experience of being a witness. Belief that the court had made the right decision in private law children cases was associated with greater levels of overall satisfaction with CAFCASS.
26 This finding relates to cases in CICAP (Criminal Injuries Compensation Appeals Panel) and the Appeals Service (now the Social Security and Child Support Appeals Tribunal). Genn et al. conducted logistic regression to predict likelihood of users saying the decision was unfair, and controlled for ethnicity, representation, whether an interpreter used, and case outcome but not, apparently, procedural justice factors.
For findings indicating the importance of outcome based on bare percentages and bivariate analysis see: Hayward et al., 2004, pp. 48-50, pp. 130-131, pp. 133-134 (employment tribunal cases generally); Peters et al., 2006, p. 27 (race discrimination cases in employment tribunals); Hamlyn et al., 2004, p. 61; Raine and Dunstan, 2005, pp. 20-21 and for qualitative evidence, Aston et al., 2006, pp. 92-95, p. 115 (race discrimination cases in employment tribunals); and Smart et al., 2005, pp. 37-39 (private law family cases).

Qualitative evidence on children provides some insight into why outcomes matter, even to witnesses. Eastwood and Patton found that all of the children involved as witnesses in sexual abuse cases in Australia which ended in acquittal were extremely angry and dissatisfied with the outcome (2002, pp. 62-64). In Cashmore and Trimboli, child witnesses in criminal cases in Australia commonly referred to defendants being found not guilty as one of the worst aspects of the court process. Similarly, feeling vindicated, believed and that justice had been done was reported by some children as one of the most helpful or positive aspects of the court experience (2005, pp. 56-57). There is qualitative evidence that acquittals in criminal trials exacerbate the child witness fears they would not be believed (Cashmore and Trimboli, 2005, p. 56; Eastwood and Patton, 2002, pp. 62-64).

It is clearly the case that outcomes do not in and of themselves guarantee satisfaction. Children’s positive ratings of their CAFCASS guardian were not dependent on what they perceived as positive outcomes in their case (Katz, 2006, pp. 17-20). More generally those who lose their case can also be satisfied with the tribunal or court dealing with it: all studies show a proportion of ‘winners’ being dissatisfied and ‘losers’ being satisfied. It is often difficult to isolate how much of this is due to perceptions of procedural fairness being as or more important than outcomes (but see below), or the nature of outcomes, which may shade more subtly between ‘win’ and ‘lose’ than some surveys suggest. Hayward et al.’s quantitative survey findings indicate that in employment tribunals, applicants’ dissatisfaction with apparently successful outcomes may be due to levels of compensation being lower than desired, the absence of an apology and the frustration of not having had ‘justice’, or not ‘proving [their] case/proving [they] were right’ (2004, p. 59, p. 150). This shows how boundaries between substantive and procedural justice and between ‘win’ and ‘lose’ can blur. Interestingly also satisfaction with outcome has been found to change as time passes (Gosling, pp. 42-46).

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27 The links made by Raine and Dunstan are with perceptions of National Parking Adjudication Service adjudicators’ independence and impartiality rather than overall satisfaction with NPAS.

28 Findings are reported from the whole sample of children irrespective of whether the defendant was found guilty or not guilty.
Settlement/agreement

That the importance of outcomes stretches beyond ‘winning’ and losing’ can also be seen in the findings on settlement. Particularly for those with an ongoing relationship, such as parents in family cases, agreement can represent a period of stability following uncertainty. Trinder et al.’s findings on conciliation cases suggest that reaching some agreement may be as or marginally more important than the specific nature of that outcome (at least when compared with satisfaction levels among those who reached no agreement). Reaching full rather than partial agreement was shown to be independently associated with satisfaction with the agreement (2006, pp. 40-46, p. 110).

Policy-makers and economists often advance settlement as preferable to trial because it is cheaper, more certain and more likely to be tailored to the needs of individual litigants. However, the evidence points to a more complex psychological picture. The applicants studied in employment tribunals by Hayward et al. were marginally more satisfied with the workings of the employment tribunal system when winning their case at a full hearing than when they settled, whereas employers preferred to pay out in settlement than lose at a hearing (under settlement 95% of employers were likely to be making payments to the applicants). This may reflect other benefits to employers from settlement (particularly saving of time and money, the main reason given by employers for settling cases) (Hayward et al., 2004, pp. 49-50, pp. 57-58, p. 134). Aston et al.’s qualitative study of claimants who brought race discrimination claims to employment tribunals, suggests that not having their claims adjudicated at a hearing left some claimants feeling dissatisfied. The main regrets tended to centre around the fact that settlements did not involve formal recognition that employers had been discriminatory. Financial compensation was said to be of secondary importance to this goal, but in some cases the amount of the settlement was also felt to be inadequate (2006, pp. 64-76, pp. 89-92). Hurstfield et al. (based on qualitative data) report similar sentiments regarding settlements in disability discrimination claims to employment tribunals, with applicants ‘seldom unreservedly satisfied with the outcome’ (2004, pp. 111-113, pp. 168-170).

Smart et al.’s qualitative findings on parents in highly-conflicted private law children cases raise a similar issue. They report that “the fact that judges would simply not impose the ‘correct’ and/or ‘just’ solution” was a factor in courts being defined by some as “an enemy”. Fathers in particular “became angry when the courts seemed to imply that parents themselves should be able to find a solution. It was as if they did not go to court to be told to try harder themselves; rather they went to court to have the right solution imposed upon the

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29 Although it is not clear that these differences are statistically significant.
recalcitrant spouse” (2005, p. 69). Again these findings suggest both the complexity of outcome and the blurring of outcome and process in driving satisfaction.

**Enforcement**

Baldwin found (among small claims litigants) that, “the inability of successful claimants to obtain payment from the other side months after the court hearing was a major source of frustration, and frequently left them feeling disillusioned about the whole small claims process” (2002, pp. 44-45). We do not know how strong an effect this might have on satisfaction with courts, although it is plausible that the effect would differ for first-time litigants and repeat players; the latter being more accustomed to the need for enforcement action (see Baldwin, 2003, pp. 5-6).

**Efficiency concerns**

There is surprisingly little evidence about the impact of efficiency concerns on satisfaction, probably because most of the surveys focus on witnesses or only modestly on the experience of courts amongst members of the public. That said, Rottman et al.’s survey of the general public in the USA found that whether respondents believed courts were efficient in terms of ‘speed and cost’ was independently associated with both how they felt about the courts in their community, and a composite evaluation of the courts.\(^30\) Higher ratings for perceived efficiency were associated with higher overall evaluations of the courts on these measures (2003, pp. 53-54).\(^31\) The same study also suggests that perceptions of affordability and timeliness of court proceedings may be associated with satisfaction with experience (Rottman et al., 2003, pp. 40-41, p. 111).\(^32\)

**3.2 Summary on outcomes**

The evidence suggests that outcomes, and the perceived fairness of those outcomes, do influence the perceptions of participants in the justice system (be they directly involved as parties or indirectly involved as witnesses). Findings that posit a strong link between outcome and satisfaction accord with the intuition of many working in the legal system, but it is important to emphasise the apparent limits to this effect which we discuss below.

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\(^{30}\) The composite evaluation was based on combined answers to how favourably respondents viewed the courts generally, together with views on handling of five specific types of criminal, civil and family cases.

\(^{31}\) The variable ‘speed and cost’ combined whether respondents agreed that a) it is affordable to bring a case to court, and b) court cases are resolved in a timely manner.

\(^{32}\) They report that recent court experience was associated with a tendency to disagree that courts were affordable and timely and that influence of such experience was significant but without fully presenting the statistical basis of this claim.
Furthermore, what constitutes an outcome can be complex. Outcomes are social as well as material events. Beyond compensation, participants may be interested in whether an outcome is fair and whether certain social judgments are validated by an outcome. For instance an employment practice being ‘found’ to be inappropriate may be part of the outcome an employment claimant is looking for alongside compensation. Similarly, evidence on settlement suggests that settlement itself may contribute to satisfaction where it adds to certainty or ‘closure’ but may inhibit it where a ‘deal’ is partial or does not give the same validation as a court judgment or verdict might do.
4. Contextual and attitudinal factors

This chapter of the report concentrates on those contextual and attitudinal factors which might drive satisfaction which are not based on outcomes, evaluations of process or the demographic characteristics of respondents. We begin by discussing how respondents’ perceptions of crime appear to influence their assessments of criminal courts and judges. The role of the media is considered, as is education about courts. There follows a discussion of the role of experience of courts in shaping satisfaction. This develops into a discussion of the particular types of participant in courts: jurors, criminal witness, different types of litigant and differences associated with case-type, and represented/unrepresented litigants. Other topics covered are the way satisfaction appears to change over time as the experience fades; the importance of court facilities to satisfaction; and the importance of pre-trial visits to witness satisfaction.

4.1 Perceptions about crime generally

There are some indications from the BCS studies that among the general public in England and Wales, perceptions of crime levels and confidence in the criminal justice system may be related, and there is some evidence that this may affect satisfaction with courts. So, for example, Edmonds and Smith (2006, p. 8) found a perception of stable or falling levels of crime was independently related to greater general confidence that the criminal justice system was effective at bringing offenders to justice. Similarly, in another study, perceptions that “teenagers hanging around the streets” was a big problem was also identified as independently associated with poor/very poor ratings for juvenile courts (Mattinson and Mirrlees-Black, 2000, p. 22, p. 77). In another study, respondents who thought crime had risen ‘a lot’ during the preceding two years were generally less confident in the criminal justice system (Mirrlees-Black, 2001, p. 5), although there is no indication whether these differences were significant.

The BCS studies tend to note that the majority of the public believe crime levels are rising when in fact they are probably falling (Mattinson and Mirrlees-Black, 2000, pp. 3-5, p. 22; Patterson and Thorpe, 2006, p. 34). In view of this, it is worth noting that Finney suggests national tabloid readers were more likely than national broadsheet readers to think both national crime and local crime had gone up in the preceding two years (2004, p. 30; as do Patterson and Thorpe, 2006, p. 35). Regression analysis identified the four strongest factors in predicting perceptions of rising national crime rates as: ‘reading a newspaper other than the Guardian or Independent, or not regularly reading any newspaper’; perceiving that the criminal
justice system is not effective at reducing crime; being fairly or very worried about being attacked by a stranger; and having lower or no educational qualifications (Finney, 2004, p. 33).

Similarly, several BCS reports indicate that the general public mostly perceive sentencing practices as too lenient; do not think sentences are appropriate; and underestimate the severity of sentencing practices. They also link these negative perceptions with a reduced confidence in the criminal justice system (Edmonds and Smith, 2006, pp. 8-13; Mirrlees-Black, 2001, pp. 5-6; see also Roberts and Hough, 2005). One study identifies a belief that the police and courts are much too lenient on young offenders as independently associated with poor ratings for juvenile courts (Mattinson and Mirrlees-Black, 2000, pp. 18-22, p. 77).

4.2 The importance of the media

Most studies do not attempt to link the media specifically to overall levels of satisfaction with the justice system. However, in qualitative studies it has been linked with influence on ‘views’ about courts on the part of victims and witnesses of crime (MORI/Audit Commission, 2003, p. 42, pp. 47-48) and awareness/knowledge of courts among Black and Minority Ethnic communities (MORI, 2005, p. 22). Mirrlees-Black reports on BCS data on the general public’s sources of information about the criminal justice system: TV/radio news was the most commonly cited source (cited by ‘nearly three-quarters’ of respondents); ‘about half’ cited TV documentaries, local newspapers and tabloid newspapers; broadsheet newspapers were mentioned by ‘around a third’. That said, only a minority of people [said they] believe that ‘what they read, see and hear’ is very accurate, only 6% thought it fairly or very inaccurate (2001, p. 4).

Matthews et al. (2004, p. 30) found that jurors in England and Wales reported that TV news (55%), drama/soap (49%), and newspapers (49%) were most influential in shaping their views of the court system. The education system was cited by only 9%. Other options were family (12%), friends (18%), own experience (16%), and films (14%). They also report, however, that jurors do not usually operate with uncritical conceptions of media representation and, “Jurors took particular offence at the denigration of judges and the ways they are sometimes represented in the mass media” (ibid., p. 32).

Rottman et al. (2003, pp. 80-82) asked US survey respondents with recent court experience (i.e. within the preceding 12 months) to say how important various sources of information were to overall impressions of ‘how the courts in your community work’. Media influences were cited as very important much less frequently than other sources, such as respondents’
own experience in court, the court experience of a member of their household, their lawyer, the court experience of a close relative, and the experience of a friend. That said, news media was cited as very important by about a quarter of respondents, and only TV judges were cited as not at all important by a substantial majority. The fuller results are worth recording. Respondents were asked, “how important to you are the following sources of information to your overall impression of how the courts in your community work”? The table below is derived from untabulated figures provided by Rottman et al. (ibid., pp. 122-124).

### Table 4.1: Data on influence of media

<table>
<thead>
<tr>
<th>Source</th>
<th>Very important</th>
<th>Somewhat important</th>
<th>Not at all important</th>
<th>Not applicable</th>
<th>Don’t know</th>
<th>No answer/refused</th>
</tr>
</thead>
<tbody>
<tr>
<td>Your experience in court</td>
<td>71</td>
<td>20</td>
<td>4</td>
<td>-</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Court experiences by a member of your household</td>
<td>58</td>
<td>22</td>
<td>7</td>
<td>9</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Your lawyer</td>
<td>61</td>
<td>17</td>
<td>8</td>
<td>11</td>
<td>4</td>
<td>&lt;0.5</td>
</tr>
<tr>
<td>Court experiences of a close relative</td>
<td>51</td>
<td>30</td>
<td>8</td>
<td>6</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Court experiences of a friend</td>
<td>37</td>
<td>42</td>
<td>11</td>
<td>5</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Court experiences of someone you work with</td>
<td>30</td>
<td>40</td>
<td>17</td>
<td>9</td>
<td>5</td>
<td>&lt;0.5</td>
</tr>
<tr>
<td>Your job</td>
<td>50</td>
<td>20</td>
<td>17</td>
<td>9</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>What you see on TV news</td>
<td>25</td>
<td>46</td>
<td>23</td>
<td>-</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>What you read about court cases in newspapers</td>
<td>29</td>
<td>50</td>
<td>17</td>
<td>-</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>What happens during TV judge programs such as Judge Judy or the People’s Court</td>
<td>9</td>
<td>19</td>
<td>64</td>
<td>-</td>
<td>6</td>
<td>2</td>
</tr>
</tbody>
</table>

Experience related to criminal (46%), civil (23%), family (18%), and traffic (5%) cases (ibid., p. 29, p. 64).

Even amongst those with recent experience of courts, it can be seen that others’ experiences and the media had an apparent influence on their assessment of courts in their community. It is important to emphasise that this is self-reported influence. A particular risk may be that respondents down-play the actual importance of media because they do not want to appear easily led. Conversely, for some, the main source of information reported is the media.

### 4.3 Education about courts

One response to ignorance and media representations of the justice system is education. Chapman et al. (2002) studied the impact of information on improving public attitudes towards the criminal justice system in England and Wales. They quantitatively evaluated the impact of different forms of information provision on knowledge, perceptions of sentencing, and attitudes towards and confidence in the criminal justice system, by getting participants to
read booklets and watch videos. Overall, response rates were low, and findings should be treated as somewhat tentative. Watching videos and reading booklets were assessed as increasing the knowledge of participants and appearing to change the attitudes of substantial proportions of respondents about the toughness of sentencing (more became ‘less punitive’ than ‘more punitive’). The study also found differences in levels of confidence that the criminal justice system is effective at bringing offenders to justice, with levels of confidence on this measure significantly higher after the receipt of information than before. However, whilst there is therefore some evidence of a link between information and improved confidence in the justice system, the study concludes overall that there was not sufficient evidence to establish a clear relationship between improved levels of knowledge and improved levels of confidence. In addition, an unquantified proportion of respondents who changed their views on sentencing attributed this to factors other than the information received, including the simple act of taking part in the study (ibid., p. 31, pp. 33-35, p. 50).

Mattinson and Mirrlees-Black also report a link among BCS respondents between levels of accurate knowledge about juvenile crime, and ratings of juvenile courts, identifying an independent association between low or middling levels of knowledge, and rating the juvenile courts as doing a poor job. However, the authors acknowledge some methodological difficulties with how well knowledge of juvenile crime was measured here (2000, pp. 11-15, p. 22, p. 62, p. 77).

4.4 Experience/lack of experience of courts

Research evidence enables some comparison of those with and without experience of the courts in two ways. Firstly, general surveys of the public sometimes distinguish between those who have some experience of the courts (often the criminal courts) and those who do not. Thus comparisons are made within the context of the survey. Secondly, surveys of court users (which do not compare their findings with non-court users) may provide data which can, up to a point, be compared with data elsewhere on non-users. Interestingly, the two sets of data point in opposite directions.

It is only in the first type of study that one could see a closer, multivariate analysis of whether experience was independently associated with satisfaction. We have seen three studies where this has taken place. Based on a survey of the general public in the USA, Rottman et al. (2003, pp. 53-58) run separate regressions for White, African-American and Latino respondents, and for those with and without recent court experience. Recent court experience was only a significant factor for African-American respondents, reducing feelings of favourability towards
courts in their community. Secondly, Overby et al. (2004, pp. 170-171) based on a survey of the general public in Mississippi, ran two regressions, one to predict disapproval of the job done by state supreme courts and the other for local courts. Experience was one of the independent variables (here experience meant having ever served on a jury, ever been a litigant, or ever been a witness): the results were modest and contradictory.

Tyler’s approach to experience is somewhat different. His multivariate analysis of data from the same survey as Rottman et al. suggests that experience changes the criteria against which people judge the justice system: in particular those with personal experience rely most heavily on process evaluations to make their judgments about the courts; whereas those without it rely more significantly on how they think people are treated by the courts, relative to other groups (e.g. whether they think they are likely to be discriminated against) (2001, p. 229).

Looking beyond multivariate analysis, several BCS studies cite a general tendency for public confidence levels to be somewhat lower when people have some experience of the criminal justice system. However, they do not always distinguish between the nature of the experience (defendants, jurors, victims and other witnesses might have very different experiences of courts) (Mirrlees-Black, 2001, p. 4; Pepper et al., 2004, p. 4; Whitehead and Taylor, 2003, pp. 121-122). Ratings may also be affected by other factors related to likelihood of becoming involved with courts in the first place (Pepper et al., 2004, p. 4). There are similar findings from general public surveys in Canada, where ratings on several measures have been found to be lower among respondents with experience of courts (Gannon, 2005, p. 16; Tufts, 2000, pp. 5-6).

Genn and Paterson (2001, pp. 220-234) look at recent experience of legal proceedings to deal with civil and family matters amongst respondents to their survey of the general public in Scotland. They found that those whose ‘justiciable problems’ had been the subject of legal proceedings were significantly more likely to strongly disagree that ‘courts are an important way for ordinary people to enforce their rights’ than those who had not been involved in proceedings. Those whose ‘justiciable problems’ had been the subject of an adjudication, were significantly more likely to disagree that ‘if I went to court with a problem I am confident I would get a fair hearing’ than other groups, and to agree that ‘most judges are out of touch with ordinary people’s lives’. However, there was no significant difference based on experience of legal proceedings in respect of responses to the statement that ‘the legal system works better for rich people than for poor people’. The authors note that findings here

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33 Defined as civil law or family law issues.
differ to those in the English and Welsh Paths to Justice Study,34 in which such experience was not significantly associated with more negative attitudes (2001, p. 223, p. 234).

Given these findings, which all point to those with experience of the court system giving it lower ratings, it is a conundrum that the level of satisfaction found in studies of participants (e.g. witnesses, jurors and litigants) is generally higher than in those studies that evaluate general public perceptions (Angle et al., 2003; Whitehead, 2001 on lay witnesses in criminal cases; Matthews et al., 2004 on jurors; Gosling, 2006 on small claims; and Hayward et al., 2004; Peters et al., 2006 on the employment tribunal system).35 Whilst this may suggest that experience may play a role in improving satisfaction with the court system, none of these studies directly compare the satisfaction of those who have had experience of the justice system with those who have not. The evidence is less strong for certain types of user such as vulnerable witnesses and victims (see below).

One explanation may be the nature of the experience being measured in the surveys. In these participant surveys the participation is clear and significant. They also tend to focus on participation as a user or a witness. Participation in more general public perception surveys will be based on broader, more diffuse levels of experience, although as we have seen above, Genn and Paterson identify poorer public perceptions among those involved in adjudication.

Another way that researchers have tackled the issue of whether experience, in itself, has an impact is to ask participants directly. In California, Rottman found that around 55% of respondents to a general public survey who had served as jurors reported ‘somewhat’ or ‘much’ more confidence in the courts due to their experience. Among those summoned but not serving as jurors; litigants; witnesses; and victims, only a minority (around 20-30%) reported increased confidence (2005, pp. 11-15). In Hood et al. defendants in criminal cases were fairly evenly split about the impact of their experience on their confidence in the criminal courts (2003, pp. 70-71). Matthews et al. report that the experience of jury service improves jurors’ perceptions of the criminal justice system (2004, pp. 32-34).

35 All these studies relate to England and Wales apart from the employment tribunals’ studies, where the jurisdiction is Great Britain.
4.5 Differences associated with role/status

Jurors

First time jurors in Matthews et al. (2004, pp. 32-34) reported a positive change in their perceptions of the criminal justice system, even where they had been reluctant to undertake jury service or had previous experience of the CJS as victims. Rottman (2005, p. 17) finds approval ratings of those with experience as serving jurors in Californian courts were significantly higher (than victims and litigants for instance). The analysis suggests ratings are strongly influenced by jurors’ more favourable perceptions of procedural fairness (ibid., p. 27; Rottman et al., 2003, pp. 66-79).36

Victims and vulnerable witnesses37

There is some evidence from the BCS studies that among the general public in England and Wales, victims have more sceptical perceptions of the justice system. Edmonds and Smith (2006, p. 8) found an independent association between confidence in the effectiveness of the criminal justice system in bringing offenders to justice and whether a respondent had been a victim of a crime or not. Not having been a crime victim during the preceding 12 months was associated with greater levels of confidence. Ratings of judges, however, were not independently affected by victim status. Conversely, Mattinson and Mirrlees-Black indicate that being a victim was independently associated with poorer ratings of judges and magistrates, as well as juvenile courts (2000, p. 8, pp. 51-52, p. 77). Further evidence from the BCS suggests that ethnic minority victims may feel particularly dissatisfied with the performance of CJS agencies (Clancy et al., 2001, pp. 83-84).38 In New Zealand, Paulin et al. (2003, p. 25) found that among the general public, survey respondents who rated judges highly were less likely to have reported a crime (either as witnesses or victims).

Surveys of witnesses involved in criminal cases in England and Wales also point to differences between victims of crime and other witnesses. In one study, being a victim was independently associated with overall dissatisfaction among all witnesses and among those who gave evidence in court (Whitehead, p. 46, pp. 71-74). The evidence also suggests a link between victims’ perspectives on the fairness of the verdict, and their confidence in the criminal justice system. Not surprisingly, victims who felt the verdict was fair were more

36 It should be remembered that in the USA, as well as criminal cases, jury service may relate to a wider range of civil cases than in England and Wales. The US studies reviewed do not break down figures for experience of jury service into criminal and civil cases.

37 As noted previously, ‘vulnerable witnesses’ has a specific meaning. See below for this.

38 Although the statistical analysis here is limited, the figures suggest that the greater difference is likely to be between Minority Ethnic victims and Minority Ethnic non-victims, rather than Minority Ethnic victims and White victims.
likely to express confidence that the system is effective at bringing offenders to justice than those who said the verdict was unfair (ibid., p. 51). Bivariate analysis also suggests victims attending court to give evidence are less satisfied with their overall experience of the criminal justice system than other witnesses (Angle et al., 2003; Hamlyn et al., 2004, p. 95; Whitehead, 2001, p. 45).

**Differences between litigant types**

Small claims claimants have been found to have higher levels of satisfaction with the outcome of hearings than defendants (Gosling, 2006, p. 36). Although not directly raised by the author, this may be explained to an extent by better outcomes for claimants. They were in bare percentage terms more likely than defendants to say the outcome had been in their favour (ibid., p. 31). In a survey of employment tribunals’ litigants there was no apparent difference between applicants and employers in feeling the tribunal gave each party ‘a fair chance to make their case’. But there was an apparent difference for satisfaction ‘with the workings of the tribunal system’: applicants were more satisfied (Hayward et al., 2004, pp. 48-50, pp. 59-60, pp. 130-134, p. 149). In contrast, employers seemed more likely than applicants to be satisfied with outcomes even though applicants ‘won’ and employers ‘lost’ more cases. This suggests that feelings about settlement (by far the most common outcome) can be quite complex, presumably because of the trade offs involved on both sides.

There were also some differences between employers of different sizes: those with less than 250 employees were less likely to be satisfied with the workings of the employment tribunal system than those with 250 or more employees. Smaller employers were also less likely to be satisfied with outcome and less likely to say each party was given a fair chance to make their case (if it went to a hearing) (Hayward et al., 2004, p. 50, pp. 60-61, pp. 133-134). These size differences may reflect the survey findings that smaller businesses reported lower levels of prior experience of previous employment tribunal claims; greater likelihood of outright loss after a full hearing, and were more likely to report negative (non-financial) impact(s) of facing tribunal claims. However, a lack of multivariate analysis means the import of such factors cannot readily be assessed from this research.

**Businesses**

There are very few studies which directly engage with business satisfaction with or confidence in courts. Batra et al.’s survey data was not specifically geared at satisfaction but identified areas where it was felt businesses might have concerns; notably speed, 

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39 Although, see Frye (2002) which is very specific to the Russian context.
affordability or consistency (Batra et al., 2002, pp. 38-39, see also Beck et al., 2002, p. 11, p. 31). The figures in the table below refer to the percentage of survey respondents rating performance of courts in their country in resolving business disputes negatively, i.e. saying they were ‘never’, ‘seldom’ or ‘sometimes’, ‘quick’, ‘affordable’, etc. as opposed to ‘always’, ‘usually’ or ‘frequently’.

Table 4.2: World Bank figures on perceptions of courts

<table>
<thead>
<tr>
<th>Proportion evaluating courts/judiciary negatively on this criteria (OECD countries)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Speed</td>
</tr>
<tr>
<td>Affordability</td>
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<tr>
<td>Consistency</td>
</tr>
<tr>
<td>Enforcing decisions</td>
</tr>
<tr>
<td>Fairness and impartiality</td>
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<tr>
<td>Honest and non-corrupt</td>
</tr>
</tbody>
</table>

Based on the same data, Beck et al. (2002, p. 15, p. 35) report associations between general evaluations of quality and the above factors (using bivariate analysis). They do not seek to relate these factors to satisfaction but to economic outcomes (which may or may not be analogous to satisfaction amongst business users). Using multivariate analysis, Beck et al. also suggest independent associations with such factors and the businesses’ judgment of whether the ‘judicial system’ was a major or moderate obstacle for the operation and growth of their firm (ibid., pp. 19-21, p. 39). On the ‘plus’ side, notwithstanding these assessments by business, performance of the judiciary and courts tended to be regarded as far less of an obstacle to business than taxes and regulation, financing, policy instability and inflation. Also, UK businesses in the survey were among those reporting the lowest levels of problem in terms of the judiciary/courts presenting obstacles to their businesses (Beck et al., 2002, p. 10, pp. 30-31).

Hurstfield et al.’s qualitative study of disability discrimination cases covers business perspectives as employers and respondents to tribunal claims. Their findings here mostly deal with experience and satisfaction with aspects of experience rather than factors in overall satisfaction, but some are worth noting. Interestingly, it seems that many of the employers (and applicants) found the legal issues involved difficult to comprehend (although

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40 This list is derived from those factors offered to businesses by the researchers.
41 We include ‘sometimes’ here as a negative because Batra et al. do so (ibid., p. 39), and we agree that perceiving courts as offering speed, affordability, etc. on anything less than a frequent basis appears most likely to indicate a negative opinion of them.
Unlike most applicants, prior experience of tribunals, and greater access to specialist legal representation, tended to mitigate the effects of this for employers (2005, p. 66, p. 76, pp. 120-128, pp. 134-135). Considerations of costs, and a desire to avoid negative publicity, were said to oblige many respondents to adopt a pragmatic approach to settlement, with the likely costs of defending a claim, and the ‘mud sticks’ principle outweighing any desire to pursue ‘justice’ and ‘the truth’. For some smaller employers, there was particular concern at the financial costs involved in facing a discrimination claim, regardless of whether they had expected to win or lose (ibid., pp. 103-104, pp. 108-109, pp. 186-188). Hurstfield et al. also identify ‘a strong feeling of cynicism’ among some employers towards both the Disability Discrimination Act and the tribunal system, engendered by facing (and losing, or feeling obliged to settle) ‘unwarranted’ claims despite having (in their eyes) done their best to comply with their obligations. Such cynicism was compounded by complaints regarding the complexity of the law in this area, (undefined) ‘vagaries’ of the tribunal system, and in some cases complaints of bias in favour of applicants (ibid., pp. 196-200).

Samuel (2005) reports on an evaluation of the commercial court regime in Scotland, which has been designed to deal with litigation arising from business disputes (which may be business to business, business to consumer, and vice versa, but not relating to consumer credit). The study relies predominantly on data from a small number of qualitative interviews with lawyers (17), and five with parties, for the business perspective, but has been included in our analysis due to the paucity of data available directly from business users of the courts.

The evidence presented suggests that the court had been welcomed by business users, with solicitors reporting that, “there was a good ‘fit’ between commercial procedure and their commercial clients. Commercial procedure was decisive, fast, low cost, geared to settlement and provided opportunities for early negotiation” (ibid., p. 70). Samuel also reports that users of the commercial court, and especially its frequent users, “believed it was responsible for improving confidence in the Scottish civil justice system”. The reasons for such belief are cited as including: “superior judicial determination”; a “problem-solving ethos”; the “speed with which the court delivered justice”; “accessibility of sheriffs to solicitors” – “valued not only by solicitors but also by their clients for promoting inclusiveness in the civil justice system”, and a “paucity of appeals, which was believed to be indicative of the quality of justice” (ibid., p. 73). There also however appeared to be a fair degree of consensus that the main beneficiaries of the commercial court procedure have been pursuers (claimants) rather than defendants, due largely to the shortened time limits for submission of defences (ibid., pp. 73-74).
Whether a litigant is represented or dealing in person

Some survey data from Utah suggests that differences in satisfaction may be associated with whether litigants in person faced a lawyer on the other side, and whether they had to deal with a contested hearing. Although the findings are not discussed in terms of statistical significance, litigants in person involved in cases where there were litigants in person on both sides appeared slightly more likely than those who had faced a lawyer on the other side to be positive about various aspects of the hearing process, and to be satisfied with the outcome. Litigants in person appeared less satisfied with process and outcome when they had had to deal with contested hearings (Utah Judicial Council Standing Committee on Resources for Self-Represented Parties, 2006, pp. 62-66). However, the findings do not identify the importance of being a litigant in person and/or hearings being contested compared to the impact of positive/negative outcomes.

In qualitative studies of claimants who brought race discrimination claims to employment tribunals and disability discrimination claims before employment tribunals, the findings suggest that claimants who represented themselves in their case generally, and particularly at a hearing, often felt at a disadvantage (Aston et al., 2006, pp. 83-87; Hurstfield et al., 2004, p. 134, pp. 137-139, pp. 156-157).

Genn et al. briefly record a substantial proportion of tribunal litigants in person wishing they had had representation (2006, pp. 228-230). Better access to advice and representation was reported by users as something that would increase their confidence in the tribunal system (2006, pp. 241-243).

Differences amongst tribunal case types

In employment tribunals surveys, some differences in satisfaction rates between types of cases have been found, with applicants in discrimination (in particular) and unfair dismissal claims seemingly less satisfied on some measures than those bringing redundancy, breach of contract and wages claims (Hayward et al., 2004, p. 49, p. 59, p. 131, p. 149). Peters et al. found that claimants in race discrimination cases were less likely to say the tribunal ‘gave each party a fair chance to make their case’ or to be satisfied with, ‘the workings of the employment tribunal system’ and the outcome of their case. They were also less likely than claimants in other types of cases to say they would ‘definitely advise a friend in the same position’ to mount

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42 The survey covered several types of civil and family cases but most commonly involved small claims (44%).
43 This finding relates to cases taken to the Appeals Service (now the Social Security and Child Support Appeals Tribunal); CICAP (Criminal Injuries Compensation Appeals Panel); and SENDIST (Special Educational Needs and Disability Tribunal).
discrimination claimants lost at the tribunal is said to help, “explain the high level of
dissatisfaction” with outcome, but no multivariate analysis is presented to confirm this.

It is also possible that discrimination claims, and perhaps also unfair dismissal, involve a
perception of a more personal attack whereas other claims are fundamentally about money.
When applicants were asked an open question about whether bringing a claim had involved
any non-financial negative effects, those in discrimination claims were most likely to mention
stress, depression, or finding the case emotionally draining (43%) (Hayward et al., p. 66,
p. 162). The figures were 38% for unfair dismissal cases, 29% for breach of contract, 23%
wages, and 25% redundancy. Also, those in discrimination and unfair dismissal claims were
most likely to mention loss of confidence/self-esteem (18% and 11%) whereas the figures for
other types of claims were 8% for breach of contract, 5% wages, 2% redundancy. Peters et al.
finds similar patterns including greater physical health problems, impact on personal
relationships and adverse career effects among race discrimination claimants (Peters et al.,
2006, p. 41, p. 91).

4.6 The effect of the passage of time and the timing of the assessment

Gosling’s study of small claims users suggests evaluations of satisfaction may depend, in
part, on when the assessment of satisfaction takes place. She conducted two assessments.
The first two to three weeks after hearing, and the other eight weeks after the hearing.
General levels of satisfaction did not differ across the two assessments (2006, pp. 35-37).
Within that though, at the first interview, 95% of those who won and 15% of those who had
lost were satisfied with the outcome of the hearing; but by the second interview, this had
changed to 87% of those who had won and 63% of those who had lost (ibid., p. 36).44

4.7 Facilities in court/tribunal buildings

General levels of satisfaction with facilities for small claims cases have been found to be
relatively high (Gosling, 2006, pp. 21-22). Gosling found that small claims litigants’
satisfaction with facilities was independently associated with their overall satisfaction at the
first interview (shortly after the final hearing) but did not appear as a key driver at second
interview. This may suggest that generally concern over facilities has only a short term impact

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44 There are methodological limits to this study, which seeks to consider potential key drivers of satisfaction at
two points in time. Respondents evaluated the service on these criteria (such as: usefulness of information;
satisfaction with court facilities; opportunity to say everything, etc.) at the first interview but not the second, by
which time the relative importance of these drivers had changed, but we do not know whether respondents’
assessments of those factors had also changed over time.
on user satisfaction or it may be an artefact of the research methods (2006, pp. 42-46). In the context of criminal cases, Whitehead’s survey of witnesses found that dissatisfaction with facilities had a strong independent association with overall dissatisfaction (2001, pp. 71-74).

The issue of separate waiting areas for prosecution and defence witnesses is said to be only weakly associated with overall satisfaction of witnesses. Bivariate analysis indicates that those who had been placed in separate waiting areas were slightly more likely to be satisfied with their overall experience than those who had not (Angle et al., 2003, p. 29; Whitehead, 2001, p. 29). But Angle et al. identify separate waiting areas as a ‘key issue’ for witnesses who felt intimidated (ibid., p. 29). This is relevant because intimidation has been found to be independently associated with satisfaction (see below). Hamlyn et al.’s survey of vulnerable prosecution witnesses also suggests that facilities are relevant to satisfaction, bivariate analysis indicating that those satisfied with facilities were significantly more likely to be satisfied overall with the experience of being a witness (73%) than those who were not (48%) (2004, p. 41). The reasons respondents gave for dissatisfaction with facilities is suggestive of a linkage with intimidation concerns, as they included that the defendant/defence witnesses used the same facilities, and having to pass through the area where the defendant was waiting to use facilities, more frequently than concerns about lack of refreshments, food quality and state of toilets (ibid.).

Researchers suggest that the need for separate waiting areas is a high priority for children, in particular because children are often concerned about the possibility of seeing the defendant or their supporters in and around the court (Plotnikoff and Wolfson, 2004, p. 20). In Cashmore and Trimboli (2005, p. 33) Australian children acting as witnesses in criminal sexual assault trials also highlighted a need for separate waiting rooms in order to ensure that they would not have to come face to face with the accused before or during the trial.

Qualitative studies of child witnesses in criminal trials suggest that a lack of child-friendly facilities can also add to the stress for children of having to wait to give evidence. Eastwood and Patton (2002, pp. 52-53) report that children in one Australian state which provides support personnel, activities, videos and games for the children while they were waiting reported much more pleasant experience than children from two other states where the facilities were described by children as ‘inadequate’ or ‘poor’. In Plotnikoff and Wolfson (2004, p. 22) 19 out of 50 witnesses criticized the available waiting facilities, highlighting

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45 See text at note 40.

46 This is a qualitative study of young witnesses and figures should not be taken as likely to be representative of the area studied.
dissatisfaction with the size of waiting rooms, lack of windows, uncomfortable temperatures and seating, inadequate toilet facilities and, in particular, lack of activities or things to do. Cashmore and Trimboli (2005, p. 34) report that child witnesses appreciated the space and separate facilities that were available in a remote witness suite which provided a large separate waiting area with a private toilet and drinks making facilities. The children also highlighted the value of games and activities to distract them while waiting to give evidence.

4.8 Pre-trial visits to court

One way of coping with participants’ fears of court is to provide them with a visit to court before the day of any hearing. The evidence concerning these pre-trial visits to court is mixed. It is clear that child witnesses in criminal cases were more likely than adult witnesses to have had a pre-trial visit (Angle et al., 2001, p. 25; Whitehead, 2001, p. 27). While the evidence shows that children found pre-trial visits helpful (Hamlyn et al., 2004, p. 34; Plotnikoff and Wolfson, 2004, p. 25), there is little evidence to suggest that pre-trial visits affect overall satisfaction.

4.9 Summary of contextual and attitudinal factors

There is some evidence that preconceptions about criminal justice (both the perception that crime is rising and courts may be failing to deal with that and the general impression that courts and tribunals will be like criminal trials seen in the media) inform perceptions of courts and tribunals. Education may combat this somewhat and we discuss the role of information in the next chapter.

The evidence on the impact of experience of courts on the perceptions of those courts is mixed. At the very least, this data suggests that it is not possible to generalise that experience has a beneficial or negative effect on satisfaction. Understanding the impact of experience on satisfaction depends on understanding more about the respondent’s role in any legal proceedings and the outcome and process of that experience itself. Jurors and witnesses on the whole report highest levels of satisfaction. The picture for other participants (i.e. the parties) in court and tribunal cases is more mixed.

Court facilities appear to be important precursors of satisfaction both in terms of providing a comfortable forum in which parties and witnesses can wait but also in providing secure environments which protect witnesses and their antagonists from confrontation with each other.
5. Procedural justice

There is a significant body of work predating this evidence review’s time frame and much of it carried out in the USA by Professor Tom Tyler emphasising the importance of procedural justice criteria in understanding overall levels of satisfaction with courts (and other institutions associated with justice). The chapter begins with evidence that respondent judgments about process are more important than judgments about outcome in influencing satisfaction with courts. These judgments about process are then broken down into:

- **expectations of, and information provided to, participants.** In particular this focuses on: the importance of information and keeping participants informed about the progress on cases they are involved in; the intelligibility of court information and court processes; and general issues about transparency. As much of this data derives from witnesses in criminal cases, the role of the police is shown to be important;

- **the quality of participation granted to participants.** This covers, in particular, what participants understand to be meaningful participation; the ambivalent participation afforded to children in family proceedings about them; the importance of ‘being understood’; and the role of lawyers and judges in securing and managing participation;

- **the quality of treatment and respect afforded to participants.** This covers issues of respect; confidentiality and privacy; intimidation, stress and anxiety; and evidence on measures of support for witnesses;

- **issues of convenience and comfort.** This deals with issues around inconvenient and rearranged court dates; and waiting prior to court hearings;

- **judgments about personnel.** This deals with perceptions of court staff and judges as well as perceived diversity amongst decision-makers.

5.1 Is process more important than outcome?

Most of Tyler’s work on satisfaction with courts (and the police) is devoted to showing the importance of process-based evaluations to satisfaction with, and acceptance of, the justice system, as well as contrasting the importance of process-based evaluations with outcome-based assessments. In looking at members of the general public who have some experience of the justice system, Tyler and Huo identify perceptions of social motives (i.e. assessments of process and decision-makers) as explaining 44% of variance in satisfaction, and instrumental motives (the impact of actual outcomes and the perception of those
outcomes) explaining only 1% (Tyler and Huo, 2002, p. 77). Similarly, Rottman’s analysis of Californian public perceptions reports the perception that courts deliver procedural fairness\textsuperscript{17} as ‘the strongest predictor by far’ of overall approval of ‘the California courts’, trumping even perceived delivery of fair outcomes. Although his multivariate analysis is not reported in detail, it is said that procedural fairness accounts for dramatically more variance than the combined impact of race, ethnicity, age, gender, education and income (2005, p. 24). In another US study, Rottman \textit{et al.} employed multiple regressions to identify factors in favourable assessments of how general public survey respondents ‘feel’ about the courts in their community. Belief in fair procedures was among the top three predictors of favourable ratings of courts, alongside belief in fair outcomes and belief in courts being affordable and dealing with cases in a timely manner, although the statistical models employed were fairly limited in the other variables taken into consideration (2003, pp. 53-54).\textsuperscript{48} Tyler, analysing the same data also shows assessments of procedural justice being substantially more important in explaining variance in assessments by those with experience of the justice system, compared to those without such experience (2001, pp. 229-230).

There are a number of further studies from England and Wales involving participants in court proceedings that employ multivariate analysis to consider the effect of process and outcome on overall satisfaction (Angle \textit{et al.}, 2003; BMRB, 2005; Gosling, 2006; Hamlyn \textit{et al.}, 2004; Whitehead, 2001). The picture here is fairly complex, but overall points to process being more influential than outcomes, particularly where the studies deal with participants or focus on those among the general public with experience of the justice system. Overall the weight of the data, and in particular the analyses that are most powerful in explaining variance in satisfaction, point towards process exerting a stronger influence on satisfaction than outcome.

At the qualitative level, Matthews \textit{et al.} report that factors which most influenced jurors’ confidence in the court system, elicited by open questioning, included ‘fairness’ and ‘due process’. ‘Fairness’ here was linked in jurors’ responses to diversity on juries and the apparent randomness of selection in establishing impartiality of juries. It also involved honesty and openness in the trial process; ensuring defendants received a proper hearing and listening to all the evidence; absence of bias/discrimination; and absence of corruption. ‘Due process’ included: consistency, following rules, respect for rights of defendants, and allowing sufficient time for evidence and arguments to be heard (2004, pp. 46-48, pp. 50-51).

\textsuperscript{17} His analysis is based on whether the courts are perceived as being unbiased in their decisions; treating people with dignity and respect; listening carefully to what people have to say; and taking the needs of people into account (2004, p. 4).

\textsuperscript{48} Levels of support for courts having non-traditional roles, ethnicity and age.
Procedural justice is, however, an amorphous concept. The research covers a wide range of factors, often apparently interlinked. Tyler and Huo emphasise the importance of four interrelated and overlapping factors in understanding satisfaction with the courts (Tyler and Huo, 2002, p. 17):

- **quality of decision-making** - involving assessments of being treated the same as anyone else in the same situation; the decision-maker being basically honest; decisions being based on facts;

- **quality of treatment** - sometimes described in terms of status recognition of individuals, this was assessed on judgments about having been treated politely, concern having been shown for their rights and being treated with dignity and respect;

- **procedural justice** - using criteria of self-reported evaluations of fairness of the procedure and how fairly treated respondents felt;

- **motive-based trust** - this is explained as an assessment of the extent to which courts are motivated to behave in a way benevolent to those that come before it (*ibid.*, p. 64). It was assessed by measuring the extent to which courts: considered participants’ views; tried hard to do the right thing by them; tried to take their needs into account; cared about their concerns; decisions were understandable; and the decision-maker was someone they ‘trust’ (*ibid.*, p. 68).

Each of these four concepts, themselves measured using the subsidiary concepts indicated in each of the above bullet points, was independently associated with satisfaction with the courts and the police (*ibid.*, pp. 86-88). Positive assessments in any of these four areas had a positive impact on satisfaction. There is however a significant degree of overlap in each of these. In terms of structuring our narrative, we suggest that **process-oriented factors** can be more readily understood in the following categories, alongside judgments of whether a process is fair in a more abstract sense:49

1. the expectations of, and information provided to, participants;

2. the quality of participation granted to participants (by which we mean in particular the extent to which, and process through which, participants are able to get their story out in a way that they view as accurate and fair);

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49 We do this for two reasons. One is that it is easier to separate out and follow the influence of each factor in the research we have scrutinised under this framework. Secondly, Tyler’s framework tends to be based on general population surveys where some respondents have had some experience of the courts. The studies of participants (particularly of witnesses in criminal cases) suggest slightly, although not fundamentally, different emphases.
3. the quality of treatment and, in particular, respect shown to the participant during their time at court;
4. issues of convenience and comfort (which may be themselves related to respect if inconvenience and discomfort is perceived as disrespectful treatment); and
5. judgments about court and tribunal personnel (what Tyler and Huo refer to as motive-based trust).

**Factor 1: Expectations of, and information provided to, participants**

What participants expect may influence satisfaction. Take an example from tribunals. Qualitative data suggests that Black and Minority Ethnic members of the public without knowledge and/or experience of tribunals tended to conceptualise them as similar to criminal courts. As a result, they thought of tribunals as more formal and intimidating than did those who knew more. Such associations also appeared to influence concerns about fair outcomes and likely discrimination. However, once a description and images of a tribunal hearing were provided, respondents were often pleasantly surprised and expressed more positive feelings towards them (Genn et al., 2006, pp. 97-113). Aston et al.’s qualitative study of race discrimination claimants also suggested the majority of interviewees did not know what to expect before bringing their claims to employment tribunals. Many found the reality of bringing a claim disturbing (2006, pp. 48-51).

Hurstfield et al. report that for applicants in disability discrimination claims, dealing with the employment tribunal process was like “feeling their way in the dark” (based on qualitative data). There was a “widely shared view” that the process was more legalistic than had been expected, and “often, a heightened awareness of the legislation [the Disability Discrimination Act 1995] was coupled with disillusionment”. Many of the problems appear due primarily to lack of understanding of a complex and still emerging area of law, rather than tribunal procedures per se. However, it is difficult here to disentangle the possible effects of substantive law, from those in respect of the process for dealing with alleged breaches of it (2004, p. 76, pp. 120-128, p. 134, pp. 183-186).

In small claims, expectations of formality were said to play a role in whether participants felt ‘comfortable and at ease’. Where hearings were a lot/a little more formal than expected, participants were less likely to feel comfortable. Interestingly, where hearings were a lot less formal than expected, participants were also less likely to feel comfortable than if the degree of formality was about as expected. These differences are not reported as significant (Gosling, 2006, pp. 23-24) but whether participants felt comfortable and at ease was associated with overall satisfaction (see below). Similarly, survey data from certain tribunal users,

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50 Based on focus groups with Somali, Nigerian, African-Caribbean, and Pakistani respondents.
51 Participants were given a brief description of key characteristics of tribunals and shown a short video clip of a fictional but realistic tribunal hearing.
52 In the Appeals Service (now the Social Security and Child Support Appeals Tribunal); CICAP (Criminal Injuries Compensation Appeals Panel); and SENDIST (Special Educational Needs and Disability Tribunal).
taken prior to receiving a decision, indicates that those who found the hearing a lot
more formal than expected were significantly less likely to have felt comfortable in the
hearing. They were more likely to feel they had been treated in a way that was
unfair, biased, or involved a lack of respect. Post-decision, however, there was no
significant association between users’ expectations of formality, and their belief in the
fairness or not of the decision (Genn et al., 2006, pp. 210-213, pp. 218-220, p. 237).

Concerns regarding expectations are raised by Smart et al.’s qualitative findings from
three English courts on parents involved in highly-conflicted private law disputes
regarding children. They found a “major chasm” between parents’ expectations and
“What the system is actually designed to do”, which led to “a general feeling of having
been let down” by the courts and to some parents “losing all faith in, or respect for,
the justice system”. In part, the mismatch between expectations and reality was due
to differences between parents’ views of the crucial issues at stake (behaviour of the
other parent in their capacity as former spouse/partner rather than as a parent;
whether child support was paid) and the courts’ concerns (welfare of the children;
presumption in favour of contact). However, procedural justice issues were also
relevant (see below). In addition, Smart et al. raise the point that in family cases, the
parents interviewed were encouraged to minimise their differences, “which appears
not to be what many of the parents want. They want the court to recognise the
‘justness’ of their argument and to put the other parent in his or her place” (2005,

Qualitative evidence on children suggests their understanding of court and legal
process is also generally poor. Adoption and divorce are often associated with
criminal wrongdoing. Courts were seen as “scary places” with judges who have the
capacity to “punish” their parents. Their confusion leads them to fear having to go to
court (Butler et al., 2003; Douglas et al., 2006; Fortin et al., 2006; Marshall et al.,
2002; Lowe and Murch, 2001; Tisdall et al., 2004). All of these findings have been
attributed to a lack of information about courts, the legal process and the people who
are involved, resulting in the children being unable to prepare themselves for the
experience. The researchers highlight children’s needs to be given reliable
information about the court/litigation process in an appropriate form, as far as
possible at the beginning of the process. Plotnikoff and Wolfson report that 22% of
child witnesses in criminal proceedings were dissatisfied with what they perceived
as the lack of information provided as preparation for trial (2004, p. 28).

**Information and being kept informed**

The above findings suggest that unclear or inappropriate expectations might be
challengeable by information. Three studies of witnesses in criminal cases in
England and Wales have used multivariate analysis to identify whether perceptions
of how well witnesses felt they were kept informed impacted on overall evaluations of
courts and/or the criminal justice system. Lack of information on what is involved in
being a witness and not being updated whilst waiting at court were independently
associated with overall dissatisfaction in one study when all witnesses in the survey

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53 This is a qualitative study of young witnesses and figures should not be taken as likely to be representative of
the area studied.
were considered. However further analysis indicated that when split into those who did and did not give evidence, the association held good only for those who did not give evidence. This suggests that for those who did give evidence other factors (such as treatment in the courtroom by lawyers) became more important (Whitehead, 2001, pp. 46-47, pp. 71-74).

Hamlyn et al. identified that vulnerable witnesses’ recollections of whether they were given any information about what would happen in court was independently associated with overall satisfaction with the experience of being a witness (Hamlyn et al., 2004, pp. 106-107). Angle et al.’s multivariate evidence is more difficult to interpret, but using bivariate analysis, they found a ‘strong positive relationship’ between clarity of information received about attending court and overall satisfaction with witness experience of the criminal justice system (Angle et al., 2003, p. 28, p. 47).

The sorts of thing that witnesses or the researchers had in mind by ‘being kept informed’ clearly included (Angle et al., p. 15, p. 33, pp. 46-47; Hamlyn et al., 2004, pp. 28-29, p. 42):

- being given more information on what would happen at court;
- being kept regularly informed by police about progress of the case about timing and what was involved in giving evidence;
- once at court, being told approximately what time the case would be heard;
- being told what would happen next after they had given evidence.

Qualitative data from a MORI/Audit Commission study also provides interesting evidence of the role of the police in maintaining the information flow and good communications with victims and witnesses. Particularly, after an incident had been reported, as time passed, concerns about the process were expressed by witnesses/victims about being ‘left in the dark’ or ‘abandoned’. More regular and personal contact once they had received a letter inviting them to court were what was desired, particularly where incidents were more serious or witnesses were more nervous (2003, pp. 29-36).

Gosling found that the ‘usefulness of information received before the hearing’ and whether parties had ‘received all the information they needed for the hearing’ were independently associated with overall satisfaction of small claims users (2006, pp. 42-46, pp. 51-53). Participants who said they had received all the ‘information and advice’ they needed from the Courts Service were more likely to be satisfied with the overall small claims process (2006, pp. 12-13, p. 35). However, the question asked of participants conflated information and advice. We can not be sure whether it was information or advice that was the real concern. Advice/help with preparation was clearly amongst the improvements litigants wanted to see to courts (ibid., p. 39).

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54 The direction of association here is not explicitly stated but elsewhere in the report it is clear that those who received such information were more likely to be satisfied overall than those who did not (ibid., p. 29).
Baldwin (2002, p. 29) also emphasizes the importance of information and support within the courts for small claims litigants, which his qualitative evidence suggested was patchy. Similarly, better information about tribunals and what to expect at hearings was amongst the most common suggestions made by users surveyed as something that could improve their confidence in the tribunal system (Genn et al., 2006, pp. 241-243).

Children and information
A number of studies look at how satisfied children are with written information provided to them as part of both criminal and civil proceedings. These studies found that a large proportion of children either did not receive, or could not recall receiving, written information leaflets (Angle et al., 2003, p. 12; Hamlyn, 2001, p. 29; Katz, 2003, p. 14; Plotnikoff and Wolfson, 2004, p. 27; Whitehead, 2001, p. 13).

Children’s assessment of the usefulness of written information received is mixed. In Katz’s CAFCASS study, leaflets were more positively received by the under twelves than the twelve and overs but 40% of the latter group said they were ‘not very’ or ‘not at all’ helpful. Katz suggests that older children may prefer to learn the information directly face to face or that the leaflets for older children may need to be redesigned with their involvement in mind (2006, p. 14). In contrast, qualitative findings from a UK study reported by Plotnikoff and Wolfson suggest that children find the information prepared for children involved in criminal proceedings (provided as part of the child witness pack) more helpful. 85% of children who recalled seeing materials from the child witness pack reported finding it helpful (2004, p. 27).

Ease of understanding documentation/procedures/directions etc.
Gosling identified whether defendants found it easy to understand the documents sent by the court with claims, and whether claimants found the claim form easy to complete, as among key drivers of overall satisfaction with the small claims process. Both were important, but ease of understanding amongst defendants was more consistently identified as independently associated with improving overall satisfaction, and also of slightly greater relative importance (2006, pp. 42-46, pp. 51-53). 58% of defendants found court documents very or fairly easy to understand, whereas 84% of claimants found the claim form easy to complete (ibid., p. 11). Although it is impossible to know based on this study, it may be that some of the difference here reflects greater levels of prior experience of small claims among claimants, and/or greater use by claimants of the Money Claims Online service. In any event, it is worth noting that the relatively low performance of the courts here (as measured by defendants’ perceptions), led Gosling to identify defendants’ ease of understanding documentation as an issue requiring attention (albeit of secondary concern after information needed to deal with hearings) if overall satisfaction is to be improved (ibid., p. 43).

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55 See footnote 48 above for the tribunals involved in this study.

56 The provision of information to children involved in court proceedings most commonly occurs through written materials explaining the court process. Child witnesses in criminal proceedings are supposed to be provided with a Young Witness Pack (also referred to as Child Witness or Family Pack) before going to court. The pack contains a number of leaflets and booklets for young witnesses (aged from 5 to 17) designed to help them understand the court process. Children who are the subject of civil proceedings in the family courts are usually provided with age-related leaflets about the process from their CAFCASS guardian.
Transparency
Matthews et al. (2004, p. 49) suggest that ‘information and transparency’ was an important factor positively affecting jurors’ confidence in the system. From their qualitative data, it seems this largely related to the performance of judges, but also that of prosecution and defence lawyers, in ensuring things were explained to jurors and that any jurors’ questions arising during the trial were answered. When jurors received more thorough explanations of why they had to leave the court room and were kept waiting whilst points of law were discussed, it had a ‘strong bearing’ (again based on qualitative analysis) on their overall satisfaction and confidence in the court process (2004, p. 62). Similarly, Hamlyn et al. (2004, p. 56) found (with bivariate analysis) that vulnerable witnesses who gave evidence in criminal cases and felt they understood everything that went on very/quite well, were less likely to be dissatisfied overall with the experience of being a witness than those who felt they understood less. They were also more likely to say they would be ‘happy’ to be a witness again.

The role of the police
Hamlyn et al. found that among vulnerable witnesses, overall satisfaction with treatment by the police was one of the variables strongly independently associated with the overall satisfaction with experience of being a witness (2004, pp. 106-107). The report does not explicitly identify what ‘treatment’ witnesses were asked about here. However, from the reporting generally it seems likely to have covered several aspects of initial investigations and police involvement in pre-court stages of cases covered by the study. These included taking of statements from witnesses; action taken by police to deal with intimidation; provision of information by police about progress of investigations and about being a witness in court; and referrals to victim and witness support organisations.

A qualitative study by MORI provides some potentially interesting data linking experience with and perceptions of the police, with Black and Minority Ethnic groups’ expectations of fair treatment by the criminal justice system.57 A main finding was that ‘the police were the most well known CJS agency and one that dominated any spontaneous discussions about the system in general. For many, the police are the CJS and therefore they tended to be a key driver in determining attitudes towards the CJS as a whole’ (2005, p. 19). The corollary of this would appear to be that when discussing expectations of the CJS, participants focused on expectations of treatment by the police. However, some Black Caribbean participants, who had also had contact with other CJS agencies, felt their (mostly negative) interactions with the police tended to affect their experiences of those agencies. The reasoning here was that other agencies acted on information provided by the police, and if that information was biased, treatment by the other agencies would also be biased (ibid., p. 27). The extent to which this may apply to the courts and how widely such perceptions are held are not clear, but appear worth consideration.

57 Based on focus groups with Black African, Black Caribbean, Bangladeshi, Indian, Pakistani, Mixed Race, and Chinese respondents.
Factor 2: The quality of participation granted to participants

The extent to which, and process through which, witnesses and litigants are able to get their story out in a way that they view as accurate and fair is important. There appear to be links between these matters and overall satisfaction. This may partly be about assuring the participants that their view is respected and important (issues we turn to more directly below) but also relates to assurances that decisions are taken with all the facts available and in mind and without bias. A number of issues surface as potential impediments to this process.

Meaningful participation

Gosling (2006) identified whether small claims litigants were given an opportunity to say everything they wanted to say during a hearing as independently associated with increased satisfaction. The effect was particularly strong in the interviews shortly after hearings (Gosling, 2006, pp. 42-46, pp. 51-53). Similarly, whether small claims litigants felt comfortable and at ease at hearings was identified as independently associated with greater levels of satisfaction (ibid., pp. 42-46, pp. 51-53).

Whitehead found that among witnesses who gave evidence in criminal cases, not being given the opportunity by their ‘own side’s’ lawyer to say everything they wanted had an independent association with reduced overall satisfaction with being a witness (2001, p. 72). In simple percentage terms, the effect is quite dramatic. When given the opportunity to say everything they wanted by their ‘own side’s’ lawyer, 82% were satisfied overall. This compared with 43% satisfied among those who were not. Similarly, when given the opportunity to say everything they wanted by the ‘other side’s’ lawyer, 86% were satisfied overall. This compared with 56% satisfied among those who were not (2001, p. 33). Angle et al. (2003, pp. 32-33) and Hamlyn et al. find similar effects using only bivariate analysis (2004, p. 50).

Hamlyn et al. find vulnerable witnesses feeling they had been able to give their evidence accurately was independently associated with increased overall satisfaction (2004, pp. 106-107). Those saying they had been able to give their evidence completely accurately were significantly more likely to be satisfied overall with the experience of being a witness (83%), compared with those who were not able to do so (31%) (2004, pp. 55-57).

Raine and Dunstan report, based on bare percentage differences, that appellants to the National Parking Adjudication Service who exercised their right to attend hearings in person, were more likely to believe in the independence and impartiality of adjudicators than those who opted for a postal appeal. This is interpreted as indicating the ‘added value’ of hearings in providing opportunities for enhancing appellants’ understanding of, and trust in, the process (2005, pp. 19-20). The implication is that the greater opportunities for meaningful participation offered by hearings have positive effects on perceptions.

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58 The predictive power, if any, of this item when satisfaction with outcome of the hearing was deliberately excluded is unclear. The commentary and statistics presented are at odds with each other.
As noted above, Smart et al. identified unfulfilled expectations regarding procedural justice as affecting overall perceptions of family courts. They report that many parents interviewed expected “a kind of forensic examination of facts and feelings” leading to individually tailored outcomes, but felt that the process was a “conveyor belt” and that the courts’ approach to decisions were formulaic (tending to be based, where direct contact was ordered, on a “standard package” of fortnightly staying contact plus holidays etc.). A related factor was “a general feeling of not having been listened to during the court process”. This is discussed in the context of perceptions that judges relied too much on CAFCASS recommendations based on investigations of child welfare which were perceived by these parents as too brief and superficial. There were also complaints of a lack of opportunities for parents to speak for themselves during hearings. Such perceptions also appeared related to assumptions of gender bias on the part of both mothers and fathers. Some of the mothers felt courts were too pro-contact to the detriment of children’s welfare, particularly where violence was an issue. Some of the fathers felt residence was automatically granted to mothers, and that courts lacked understanding of their desire for more frequent contact (2005, pp. 28-33, pp. 86-87).

Surveys of witnesses in criminal proceedings suggest that children are less likely than adults to report that they have been given the opportunity to say everything they wanted (Angle et al., 2003, p. 33; Whitehead, 2001, p. 69). In Australia, Cashmore and Trimboli indicate that the vast majority of child witnesses were dissatisfied and frustrated at not being able to say exactly what had happened and ‘in their own words’ (2005, p. 50). Three reasons were given for this: 1) being cut off or interrupted during their accounts; 2) being told to ‘just answer the question being asked’; and 3) not being able to talk about particular aspects of the case because of inadmissibility issues. In Plotnikoff and Wolfson (2004, p. 52) 11 out of 50 witnesses said that they had not been able to tell the court everything they wanted.

**Meaningful participation of children in family cases**

A number of qualitative studies suggest that children feel that they lack involvement in family cases that they are the subject of, but not party to. ‘Involvement’ in children’s eyes could take many forms: being represented, meeting the judge outside of a hearing, giving evidence, and the more normal route of involvement in the reporting process.

The available evidence on children’s wishes about attending court is mixed. Ruegger (2001) reports on children in public law child care proceedings in England. All of the 20% of the children who were asked to attend court chose to do so (usually directions hearings or visits to the court buildings). A further 15% said they would have liked to have attended court, either because they wanted to be more involved in proceedings or because they wanted the opportunity to talk directly to the judge. Buchanan et al., 2001; Katz, 2006; Parkinson et al., 2007; Timms and Thoburn, 2003; and Timms et al., 2007 all suggest that children have reasonably clear views on whether they want to go to court. Sometimes preferences included seeing the judge and the court but not attending the actual hearings. Timms et al. (2007, p. 38)

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59 This is a qualitative study of young witnesses and figures should not be taken as likely to be representative of the area studied.
report that only 10 of the 141 children they surveyed had attended court and two of these said that they would have preferred not to. Sixty per cent of those who did not attend court said they would not have wanted to and 40% said that they would have liked to. Of those who indicated that they wanted to attend, just over half said that they wanted to go to court specifically to have seen a judge. In Douglas et al. (2006) children who had been separately represented in family proceedings wanted the court and the judicial authorities to be “child-friendly” and work in such a way that if they wanted to put their view to the judge directly, the setting and the judge would be sufficiently approachable to enable them to do so.

A child’s wish to be involved in the court process is not always expressed as a wish to be directly involved in court proceedings. Several studies have shown that a child’s need for greater participation in court proceedings that are about them is based on their need to be listened to and have their views taken into account as part of the court decision-making process, with studies reporting that children have a perception that decisions ‘about them’ are taken without adequately involving them (Buchanan et al., 2001; Fortin et al., 2006; Hay, 2003; Timms et al., 2007). Fortin et al. reports that fewer than a third of young adults thought that the court had taken proper account of their views during contact proceedings in the family court. Under half of respondents thought that their opinions had been sought and, where a welfare report had been written, only a third of participants felt that they had been given the opportunity to say everything they had wanted to (2006, p. 220). In Timms and Thoburn (2003, p. 9), concerning children who were the subject of care proceedings in the family court, only 42% of the whole sample of children reported that they were listened to, with 31% reporting that they were not listened to, and 31% saying they did not know. This figure rose only 5% to 47% of children in the sample who attended court reporting that they felt they had been listened to. Children under the age of 11 were significantly more likely to feel that they had been listened to than those aged 12-15 or 16-plus. Boys were also significantly more likely than girls to report that they had been listened to. Timms et al. (2007, pp. 35-37) explored the extent to which children felt listened to and whether they thought their views had influenced decisions that were made in court. They found that nearly three-quarters of children reported ‘having a say’ but overall they were less optimistic about whether their views would influence outcomes in court. Only 45% of those who felt that they had a say also felt that their views had actually influenced court decisions concerning where they lived or who they had contact with.

In Parkinson et al., who report on children involved in contact and residence disputes in Australian family courts, the primary reason given by children for wanting to talk directly to the judge was a child’s wish to have their say in the decision-making process. Some felt that this would allow what they considered to be ‘better’ decision-making by ensuring that the children’s interests were at the forefront of the decision rather than the parents’ interests (2007, pp. 9-16).

In Katz’s (2006, pp. 22-23) study of teenagers’ experience of the court welfare service in family proceedings, they overwhelmingly believed they should be allowed to read reports written about them. Few children reported having read the whole report (21%). More commonly, children report either having read only part of the
report (36%) or having had part of the report read to them by their CAFCASS worker (33%). Children under the age of 12 were even less likely to report being told what was in the report.

**Being understood**

Communication is a two way process, and ‘being understood’ appears to impact on users’ sense of satisfaction. Being understood relates to participants’ assessments of decision-makers’ cognition (has the listener convincingly conveyed that they have indeed understood what the speaker has told them) and their perceived motivation (those who do not feel understood may be more likely to perceive bias or otherwise mistrust the motives of the listener). Whether small claims litigants felt that the judge listened to everything they had to say and how well they felt the judge understood their case have both been found to be independently associated with satisfaction (Gosling, 2006, pp. 28-29, p. 35, pp. 42-46, pp. 51-53). In simple percentage terms, 84% of those who said the judge listened to all they had to say were satisfied overall, compared with 62% of those who said the judge listened to almost everything, and 20% of those who felt the judge had not listened. Similarly, 84% of those who felt the judge had understood their case well were satisfied overall, compared with 23% of those who felt the judge did not understand.

Eastwood and Patton, in a qualitative analysis of interviews with child witnesses in sexual assault cases, found that children appreciated being spoken to by the judge and feeling that the judge had listened carefully to them (2002, pp. 64-65). Children were shown to be particularly pleased if the judge had made some positive comment or gesture towards them which helped them feel more comfortable.

**Performance of lawyers**

We have already noted the importance to witnesses of the need to feel they have been able to give their evidence fully and truthfully. We now turn more directly to assessments of lawyers in this process. The performance of lawyers in legal proceedings is a factor not generally discussed in looking at user (or public) satisfaction, save in surveys of witnesses in criminal cases. An exception is a study of jurors which notes very briefly that the factor most frequently cited as a negative influence on confidence in the criminal justice system was ‘poorly prepared cases/poor quality of evidence’ (Matthews et al., 2004, p. 51). Quality of evidence referred to that gathered prior to trial, as well as presentation during the trial.

**CPS/prosecution**

Angle et al. identified dissatisfaction with the CPS/prosecution lawyer as strongly independently associated with criminal witnesses’ dissatisfaction with their overall experience of being a witness (2003, pp. 46-47, pp. 59-62). This was true whether or not witnesses gave evidence, although the impact was weaker where evidence was not given, suggesting the performance of the prosecution lawyer in the court room may have had greater impact on overall satisfaction. To put the findings in perspective however, it should be noted that the number of witnesses dissatisfied with the CPS was relatively small (about 9% of all respondents that had given evidence).
Hamlyn et al. is more clearly directly concerned with performance in the court room, and dealing with vulnerable witnesses. They report an independent association between satisfaction with the CPS/prosecution lawyer and overall satisfaction with being a witness (2004, pp. 106-107). Satisfaction with CPS/prosecution lawyers did not feature as a predictor of overall dissatisfaction in Whitehead (2001). However, Whitehead did find that feeling that the lawyer for ‘their’ side (usually the prosecution) did not treat witnesses courteously, and (in a separate question) did not give them the opportunity to say all they wanted to say, were both independently associated with overall dissatisfaction (2001, p. 46, p. 72).

Qualitative evidence from victims and other prosecution witnesses emphasises more graphically the possible role of dissatisfaction with the prosecution in ‘driving’ dissatisfaction.

Many victims and witnesses were highly critical of their experiences with Crown Prosecution Service solicitors and barristers. Indeed, this was the element of the criminal justice system with which victims and witnesses were generally least satisfied, with few expressing any positive opinions about the role and conduct of barristers or solicitors. MORI/Audit Commission (2003, pp. 50-51)

Two key issues were identified here. One was a lack of contact between the CPS and victims/witnesses at court prior to the hearing. This was felt to be particularly bewildering given that they felt the prosecution lawyer was about to represent ‘them’ and ‘their case’ in court. The other issue was poor preparation and lack of familiarity with the details of the case.

In Australia, Eastwood and Patton (2002, pp. 66-67) report that the overwhelming message from child witnesses in criminal cases who met with their prosecution lawyer before proceedings was that meeting the lawyer helped them to feel more comfortable about the process of giving evidence and allowed them the opportunities to ask questions about what would happen. Cashmore and Trimboli (2005, p. 42) highlighted the importance to children of having continuity with their prosecution lawyer. Children wanted the chance to get to know and feel comfortable with their lawyer and to avoid having to talk to different people about the allegations of sexual assault in the case.

**The role of defence lawyers**

Hamlyn et al. identified that whether vulnerable witnesses (including child witnesses) were satisfied with their treatment by a defence lawyer, had an independent impact on overall satisfaction with experience of being a witness. Greater satisfaction with such treatment was associated with greater overall satisfaction (2004, p. 92, pp. 106-107). Hamlyn et al.’s bivariate analysis also suggests that among this sample of witnesses, clarity of questioning by a defence lawyer, and feeling able to give evidence accurately, were related to overall satisfaction. Those who felt that questioning was not clear were more likely to be dissatisfied, and those who felt able to give evidence accurately were more likely to be satisfied, with the overall experience of being a witness (2004, pp. 55-57).
Interestingly, there is evidence suggesting that child witnesses are generally less satisfied with their handling by defence lawyers than adults (Angle et al., 2003, p. 30; Whitehead, 2001, p. 31). This may be partly because child witnesses in criminal cases are very likely to be victims and/or witnesses of violent or sexual assaults and quite likely to face challenges to their veracity. Equally, children may struggle to cope with the challenges posed by cross-examination. In other studies, children’s accounts of their treatment by defence lawyers consistently identified two main sources of dissatisfaction. In particular, children were unhappy about the use of confusing and repetitive questioning and angered and upset by what they perceived as accusations of lying (Cashmore and Trimboli, 2005, p. 46; Eastwood and Patton, 2002, pp. 59-62; Plotnikoff and Wolfson, 2004, p. 50). These studies and Hamlyn et al. (2004) suggest that the nature of questioning and children’s understanding of questions during cross-examination in criminal proceedings may impact on their satisfaction with the court process.

In Plotnikoff and Wolfson (2004, pp. 47-50) children reported being forced to say things they did not mean, having words ‘twisted’ or having words ‘put in their mouths’, being asked questions that were repetitive, put too quickly or about things that it was unrealistic to expect them to remember. In Cashmore and Trimboli (2005, p. 47) child witnesses report being unhappy about what they considered to be long and complex questions, the use of difficult vocabulary, use of negative, unclear and changing references to time, place and other details. The children identified the number of questions, repetitive questioning, accusations of lying and attempts to ‘trick’ as being particularly detrimental to their experience of cross-examination.

The importance to children of being treated courteously by defence lawyers during cross-examination in criminal proceedings is also supported by a number of studies where negative terms used to describe defence lawyers included ‘aggressive’, ‘sarcastic’, ‘horrible’, ‘rude’, ‘disrespectful’, ‘scary’ and ‘pushy’ and treatment included being ‘yelled at’ or accused of lying during cross-examination (Cashmore and Trimboli, 2005, p. 57; Eastwood and Patton, 2002, pp. 59-62; Plotnikoff and Wolfson, 2004, pp. 51-52).

**Different types of judicial participation and control**

There is one study that is relevant to how variations in judicial approach may impact on satisfaction with conciliated agreements. Trinder et al. report on quantitative data from a study of parents attending three different types of in-court conciliation over contact issues: a low judicial control, CAFCASS led model; a high judicial control model with CAFCASS in support; and a more mixed model (Trinder et al., 2006). Low control involved parties attending with CAFCASS then reporting briefly to the district judge. High control involved the district judge running the conciliation appointment with CAFCASS present. The mixed model involved the district judge initiating the process, parties going off with CAFCASS, and then reporting back to the judge.

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60 Whitehead (2001, p. 30) reports only 4% of child witnesses as defence witnesses compared with 51% as victims and 45% as other prosecution witnesses. In Angle et al. (2003, p. 30) 7% of child witnesses were defence witnesses compared to 50% who were victims and 43% who were other prosecution witnesses. Angle et al. suggests that the majority of child witnesses (81%) were witnesses of a sexual or violent offence.
The schemes differed in various other respects, including levels of ‘success’ in terms of whether or not agreement was reached and the role of lawyers. Model of conciliation was examined as part of Trinder et al.’s multivariate analysis to see if it affected satisfaction with any agreement reached at conciliation. No independent relationship was attributable to the models. Whilst bivariate analysis suggested there were significant differences in relation to different models, with satisfaction being markedly lower in the high judicial control model, the authors concluded that this was due to lower rates of agreement reached rather than the model per se (ibid., p. 64).

Interestingly, the results suggest that levels of participation by judges may impact on satisfaction with judges (as opposed to satisfaction with any agreement reached). District judges in the high control model (where they were more active) were significantly more likely to be assessed by parents interviewed as having understood the problems in their case and to have been helpful than in the other two models (ibid., pp. 58-63).

Factor 3: The quality of treatment and, in particular, respect shown to the participant during their time at court

We have already begun to see the importance of quality of treatment in the findings on witness perceptions of examination and cross-examination by prosecution and defence lawyers. Tyler’s 2001 study emphasises perceptions of trust, neutrality, respect and participation/voice as being crucial. Tyler and Huo (2002) identify being treated politely; concern having been shown for participant’s rights; and being treated with dignity and respect. In both studies positive assessments on these ‘quality of treatment’ issues were independently associated with higher satisfaction.

Respect

One aspect of procedural fairness is treating people with dignity and respect. Gosling’s survey of small claims litigants found that participants’ assessments of whether the judge had been courteous was independently associated with overall satisfaction. However, when satisfaction with outcome of the hearing was considered as a potential factor, multivariate analysis produced conflicting results on whether litigants’ assessments regarding such courtesy had an independent impact on overall satisfaction (2006, pp. 42-46, pp. 51-53).

Angle et al. (2003) discuss the extent to which levels of overall satisfaction, and strength of satisfaction, varied depending on whether witnesses in criminal cases felt appreciated and/or not taken for granted. Feeling taken for granted was strongly independently associated with overall dissatisfaction, even when witnesses did not give evidence (Angle et al., pp. 59-62). Hamlyn et al. also found that vulnerable witnesses’ perceptions that the criminal justice system treats witnesses fairly and with respect was independently associated with overall satisfaction with the experience of being a witness (2004, pp. 106-107).
Respect is not solely derived from judicial behaviour. As noted previously in the context of satisfaction with the CPS/prosecution generally, Whitehead found that witnesses' negative perceptions of treatment by their 'own side's' lawyer was independently associated with overall dissatisfaction (2001, p. 72); although in practice this may be of relatively low importance because over 90% of witnesses surveyed said their 'own side's' lawyer treated them courteously. Similarly, Angle et al. (2003, pp. 32-33) found that among witnesses who gave evidence, those who were treated courteously by lawyers for both sides and who were given the opportunity by the lawyers to say everything they wanted to say, were much more likely to be satisfied overall than other witnesses.

Respect may also be shown outside the courtroom in the general way in which witnesses are treated. Hamlyn et al. in bivariate analysis suggest that where witness expenses were being met in full, they were more likely to be satisfied overall with experience of being a witness (2004, p. 63). Whitehead reports a similar finding (2002, pp. 35-36).

The evidence from the witness surveys cited above also suggests that children are less likely than adults to report being treated courteously by the 'other side's' lawyer and less likely to report that they had been given the opportunity to say everything they wanted. Whitehead (2001, p. 69) found fewer child witnesses felt they had been treated courteously than adult witnesses. Angle et al.'s findings are similar (2003, p. 33). Conversely, Hamlyn et al. found vulnerable child witnesses in criminal cases were more confident that they were treated fairly and with respect than vulnerable adult witnesses (2004, p. 101).

In Plotnikoff and Wolfson (2004, p. 57) 34 out of 50 young witnesses reported being appreciative when they recalled that someone from the court had said 'thank you' to them. Seventeen of the 25 young witnesses who had been thanked by someone for giving evidence said they would be happy to be a witness again.

Lyon et al. (2000) highlighted that young defendants have a strong desire to be treated with respect and to be taken seriously by professional adults in the criminal justice system. Focus groups with young offenders showed that a number were critical of what they perceived as unprofessional adults and unprofessional services in the system. They provided examples of disrespectful treatment, clear abuse of power by adults in authority and, in some cases, incidents involving what they interpreted as racism or violence. They felt that there had been no understanding of their backgrounds or upbringing. In particular, judges were seen to be drawn from privileged backgrounds, with little understanding of what young peoples' lives are like. Magistrates were seen to possess neither the qualifications nor experience to sit in judgment. Judges and magistrates were also seen to pay little attention to pre-sentence reports. A number of young people interpreted their behaviour as not 'caring' (2000, pp. 23-24).

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61 This is a qualitative study of young witnesses and figures should not be taken as likely to be representative of the area studied.
**Confidentiality and privacy (children)**
Qualitative studies have illustrated the importance to children of maintaining the confidentiality of information given to guardians in public and private family law proceedings (Douglas *et al.*, 2006; Ruegger, 2001). In both studies, there was an apparent level of confusion among the children interviewed about what would be done with the information they provided to guardians; both in terms of what information was included in written reports and who got to read it. Children were upset if it appeared to them that the CAFCASS reporter and/or guardian had promised to respect confidences but had then breached this in the report to the court. Children were also unhappy if things they had said to their guardian had been read by parents in written welfare reports. The importance of confidentiality for children who are involved in family law proceedings in Scotland was also highlighted in Marshall *et al.* (2006). Confidentiality was reported as a high priority for the majority of child informants.

Two studies have highlighted the importance to children of privacy when meeting with guardians as part of public and private family law proceedings. In Ruegger, children’s assessment of the suitability of venues for these meetings was often dependent on the degree of privacy which could be ensured: including whether meetings could be conducted without interruption and without conversations being overheard by others (2001, p. 139). In Katz, the vast majority of children and young people met their CAFCASS worker at home and felt that the places they met ‘were a good place to meet’; but nevertheless 28% raised concerns that they were not able to talk to their CAFCASS worker in private.

**Intimidation, stress and anxiety**
Whitehead (2001, pp. 71-73) found that having felt intimidated was one of the two factors most strongly independently associated with overall witness dissatisfaction in criminal cases. Interestingly, intimidation by the process (which might include cross-examination) had a stronger effect than intimidation by individuals, although it is sometimes difficult to disentangle these aspects. Where intimidation was due to both individuals and the process the effect was stronger still. These findings are replicated by Angle *et al.* but in their multivariate analysis, only in relation to whether a witness felt intimidated by the process/environment (2003, pp. 36-37, pp. 46-47, pp. 59-61). On a related note, Hamlyn *et al.* identified whether vulnerable witnesses felt “feelings of being intimidated or threatened whilst at court were dealt with effectively” as independently associated with overall satisfaction with the experience of being a witness. Perceived efficiency of action was associated with greater satisfaction (2004, p. 24, pp. 106-107). Hamlyn *et al.* identified whether these witnesses felt “really anxious or distressed, either by the whole experience of being a witness or by the court environment” as independently associated with their higher levels of overall dissatisfaction (2004, p. 84, pp. 106-107).

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62 Although being intimidated by an individual most often meant by the defendant or defendant’s family/friends, the ‘other side’s’ lawyer was also frequently mentioned (particularly among those giving evidence and being cross-examined). Also, among the elements of the process/environment mentioned as intimidating, were the lawyers, being too close to the defendant in court, and lack of separate waiting areas. So there seems to be quite an overlap between individuals and process/environment.
Qualitative evidence adds extra colour to these findings. It suggests that victims and other prosecution witnesses in criminal cases may anticipate (and worry about) encountering defendants in the courtroom itself, but are unprepared for bumping into a defendant elsewhere in the building. Unwelcome contact with defendants may be the most unpleasant aspect of going to court, often resulting in real distress and shock. In one qualitative study, ‘many’ of those interviewed expected a far greater degree of segregation between the two opposing sides and ‘some’ saw this as a priority for improvement in terms of court facilities (MORI/Audit Commission, 2003, pp. 49-50).

In view of the apparent importance of intimidation, it is worth noting that several of the studies cited above report quite a high incidence of feeling intimidated among criminal witnesses: about a quarter being intimidated by individuals and about one in five being intimidated by the process/environment (Angle et al., 2003, pp. 36-37; Whitehead, 2001, pp. 36-37). The figures are higher for vulnerable witnesses (Hamlyn et al., 2004, p. 19; where between 35 and 53% of respondents experienced intimidation).

In Hamlyn et al.’s bivariate analysis actual intimidation was found to be ‘strongly related to’ lower levels of satisfaction but fear alone of intimidation was not (2004, pp. 95-96). This perhaps reflects indications that fear of intimidation was being dealt with more effectively than actual intimidation (ibid., p. 75). In both the main witness surveys, child witnesses reported higher levels of intimidation than adult witnesses (Angle et al., 2003, p. 35; Whitehead, 2001, p. 36).

Support available
One possible answer to the stresses and intimidation suffered in criminal court proceedings is the Witness Service run by Victim Support. Qualitative evidence suggests that such services are well regarded (even crucial to some witnesses’ participation) when they are needed and received. Types of support considered valuable included: emotional support and counselling; information about court process and pre-case visits to court; help and advice about compensation and expenses; and arranging transport to court (MORI/Audit Commission, 2003, pp. 44-47).

Only one study looks at this type of support using multivariate analysis. Witnesses who ‘had not interacted with any official before leaving court’ were asked whether they felt they ‘needed help of any kind before [they] left court’. An unmet need for such help was independently associated with dissatisfaction with the experience of being a witness (Hamlyn et al., 2004, pp. 106-107).

Beyond that, the main evidence suggests that witnesses who asked for, or would have liked, support but did not get it had lower levels of satisfaction (Angle et al., 2003, pp. 19-20; Hamlyn et al., 2004, p. 59, p. 68, pp. 72-73; Whitehead, 2001, p. 24).

See footnote 61 for the nature of and overlaps between intimidation by ‘individuals’ and process/environment.
Plotnikoff and Wolfson (2007)\textsuperscript{64} report that specialist support services developed for child witnesses were beneficial to children who used them but the evidence suggests that it is not necessarily enough to ameliorate the negative effects of the court process: witnesses experienced similar levels of difficulty with questioning at court, with 48\% of those who testified reporting that they did not understand some questions and 80\% reported one or more symptoms of stress.

Timms and Thoburn (2003) reporting on children who were the subject of care proceedings in the family court, found that children who had attended court, when asked what would have made things easier identified: a need for more support (34\%); more information (34\%); and more practical help (12\%).

**Special measures**

More specifically with respect to support, a programme of special measures has been introduced with the aims of improving treatment of vulnerable and intimidated witnesses\textsuperscript{65} in criminal cases, and enabling them to give their evidence more effectively (see Hamlyn et al., 2004, pp. ix-x). Vulnerable witnesses who had benefited from the use of special measures (such as screening of witnesses in court rooms, and giving evidence by live video link) were significantly more likely than those who had not, to express confidence in the effectiveness of the criminal justice system in bringing offenders to justice, and meeting the needs of victims (Hamlyn et al., 2004, pp. 100-102). Among witnesses who were not given the option of giving evidence from behind a screen, saying they would have found doing so helpful was found to have an independent association with reduced overall satisfaction. Among those not given the option of giving evidence via TV link, saying they would have found it helpful to do so was independently associated with less willingness to be a witness again. In addition, among witnesses who had been able to make use of one or more of a range of special measures, whether they would have still felt willing and able to give evidence had special measures not been available, was independently and positively associated with whether witnesses said they would be likely to be a witness again (ibid., pp. 106-107).

\textsuperscript{64} Data from executive summary only as the full report was not available for review.

\textsuperscript{65} In the relevant legislation vulnerable witnesses are defined as: all witnesses aged under 17, witnesses with a physical disability*, witnesses with a mental disorder or otherwise with a significant impairment of intelligence or social functioning*, and witnesses likely to suffer fear or distress about testifying, including victims of sexual offences and witnesses who fear or suffer intimidation* (*where the court considers the quality of evidence given by the witness is likely to be diminished by this reason).
Factor 4: Issues of convenience and comfort

Legal process makes substantial and disruptive demands on participants. The nature and manner of these demands may have a significant impact on participant satisfaction. This may itself be related to the idea of respect. So, for example, the way that courts adjourn, sometimes at short notice, and demand witness attendance without overtly taking the inconvenience to such witnesses into account may indicate to the witness that they are of low status and be interpreted as a sign of disrespect.

Speed/timeliness – changes in/inconvenience of court dates
Whitehead found that a very inconvenient court date was a ‘strong’ independent predictor of overall dissatisfaction amongst witnesses (2001, pp. 71-74). In percentage terms, 82% of witnesses who found their court date convenient were satisfied overall with their treatment by the criminal justice system, compared with 57% who found it very inconvenient (2001, p. 16). Angle et al. found a similar independent relationship. Additionally, they found the same applied even when the inconvenience was ‘slight’ (although only among witnesses who gave evidence). Being called to court more than once was also independently associated with overall dissatisfaction (both when witnesses did and did not give evidence) (2003, pp. 46-47).

Hamlyn et al. identify a change to the original court date (which happened to 47% of their respondents) as associated with greater overall dissatisfaction with the experience of being a witness. The same applied to predicting willingness to be a witness again (2004, pp. 106-107).

Angle et al. also report a modest bivariate relationship between overall satisfaction and whether a court date was changed. Those who were satisfied overall were less likely to have been subjected to a change of date than those who were dissatisfied overall (2003, pp. 16-17).

There is also some suggestion in Peters et al.’s survey of race discrimination claimants in employment tribunals that satisfaction may be influenced by the number of hearings and the number of days they are held over. Those whose hearings were dealt with on a single day were more likely to be satisfied with the system than those whose cases required hearings on two or more days. Having to deal with four or more separate hearings appeared linked with lower levels of satisfaction (but it is unclear what proportion of claimants would have dealt with this many hearings) (2006, p. 28). It is possible, of course, that longer and more frequent hearings are a feature of more complex cases, and that such complexity may have been the root cause of dissatisfaction here. Equally, it seems possible that longer and more frequent hearings are due in part to administrative delays on the part of tribunals, parties, their representatives and/or their witnesses. But we can only speculate here as the report is silent on these issues.
Unsurprisingly, qualitative evidence supports the view that delays and adjournments were seen as responsible for causing considerable frustration and anxiety among victims and witnesses in criminal cases. Some of the issues here were practical (arranging time off work, child care, holidays). Others were ‘mental/emotional’ (reliving details of the case each time it was adjourned; the emotional strain of preparing for the confrontation at court; and the lack of ‘closure’ for witnesses due to their evidence not being required) (MORI/Audit Commission, 2003, pp. 37-38, p. 55).

On the basis of the high levels of stress reported by children who have to wait long periods of time before trial, delay may well be a particularly important factor in children’s satisfaction with the court process. In Eastwood and Patton (2002, p. 49) having to wait between reporting and trial in sexual abuse cases was described as one of the most problematic parts of the criminal justice process by children. Children highlighted the stress and worry involved in having to wait for prolonged periods, the inability to get on with their lives and their frustration and anger at repeated adjournments or re-trials that were typical of these cases.

Other studies have also shown waiting for trial to be a particularly stressful period. In Plotnikoff and Wolfson (2004, pp. 11-12), out of 50 child witnesses in criminal proceedings, 35 described feelings of being very scared or nervous whilst waiting for trial and 20 described symptoms of anxiety including sleeplessness, bed-wetting, and self-harm. The findings also suggest that not being kept informed about what was happening while waiting for trial may have contributed to the children’s anxiety. Cashmore and Trimboli (2005, pp. 28-29) also report that child witnesses in sexual assault cases found long delays in waiting for trial extremely frustrating and that this added to the stress of the experience. Having to wait so long for trial was rated by children in this study as one of the worst aspects of their court experience.

Children who have been involved in lengthy proceedings in family courts have also highlighted problems associated with having to wait long periods of time between hearings. In Marshall et al. (2002, p. 46) and Tisdall et al. (2004, p. 28) children who had been involved in protracted family proceedings reported high levels of stress that peaked when each court hearing was due. Unresolved issues concerning the children’s care left the children feeling anxious and unable to get on with their lives. Timms and Thoburn (2003, p. 20) report that from the children’s perspective problems of delay are not so much about delay in proceedings but in relation to delay in hearing about what decisions have been made.

**Waiting and wasting time at court**
Whitehead found that, among witnesses who gave evidence in criminal cases, waiting times of longer than four hours were independently associated with their overall dissatisfaction (2001, pp. 71-74). Angle et al. support this finding in simple percentage terms (2003, p. 27). Again in simple percentage terms, it seems that witnesses were more likely to feel satisfied with their overall experience if they were allowed to leave straight after giving evidence (as they usually are) (Angle et al., 2004, p. 33; Whitehead, 2001, p. 34).
In both of the Scottish customer satisfaction surveys, the variables most strongly associated with overall satisfaction with ‘customer service’ related to explanations/updates by court staff in respect of waiting times at court. These findings relate to all users, i.e. professional and non-professional. In the 2005 survey, the most important factor affecting overall satisfaction was whether users who had to wait were satisfied with court staff’s efforts to keep them informed about why they had to wait (MVA, 2005, p. 47, p. 49). In the 2006 survey, the most important factor affecting overall satisfaction was whether users were satisfied with staff efforts to keep them informed about how much longer they would have to wait (MVA, 2006, p. 54, p. 56). On a related note, among those who were satisfied with explanations of how long they would have to wait, the next most important factor independently associated with overall satisfaction was whether users who had to wait because other cases were in front of them, were satisfied with actual waiting times (MVA, 2006, p. 55).

Concerns about waiting times are partly about expectations. Thus witnesses who think it reasonable to wait ‘as long as it takes’ appear more likely in basic percentage terms to be satisfied by their overall experience than those who thought it was reasonable to wait up to an hour (Angle, 2003, p. 27; Whitehead, 2001, p. 29).

The impact of court delays on overall satisfaction may be greater for children, who have less generous expectations about the amount of time it is reasonable to wait (Angle, 2003, p. 27; Whitehead, 2001, p. 28). This may reflect a lack of understanding of the practicalities involved on the part of the child witness, or it may be due to the increased nervousness of child witnesses who wanted the experience to be over quicker.

**Factor 5: Judgments about personnel**

Tyler and Huo establish an independent association between satisfaction and what they refer to as motive-based trust (2002, p. 73). This they relate to ideas such as whether a decision-maker: tried hard to do the right thing by a participant; tried to take their needs into account; cared about their concerns; whether their decisions were understandable; and whether the decision-maker was someone they ‘trust’.

**Court staff**

Dissatisfaction with court staff has been shown to be strongly independently associated with overall dissatisfaction with the experience of being a witness (Angle et al., 2003, p. 47, pp. 59-62). Whether staff were perceived as helpful was independently associated with perspectives of Scottish court users on customer service issues. Not surprisingly, those who felt staff were helpful were more likely to be satisfied overall than those who felt staff unhelpful (MVA, 2005, pp. 44-45; 2006, pp. 52-53). Whether users felt staff were polite, was also important. Equally unsurprisingly, users who were satisfied with the politeness of staff were more likely to be satisfied overall than those who felt staff impolite (MVA, 2005, pp. 47-49).
Such dissatisfaction is however rare, according to the research available. Among participants, absolute levels of satisfaction with court and tribunal staff seem generally to be assessed as high (Angle et al., 2003, p. 18, p. 22; Genn et al., 2006, p. 234; Gosling, 2006, p. 22; Hamlyn et al., 2004, pp. 92-93; Matthews et al., 2004, p. 31, p. 36; MVA, 2005, pp. 24-25; 2006, pp. 26-28; Utah Judicial Council Standing Committee on Resources for Self-Represented Parties, 2006, p. 15, p. 34; Whitehead, 2001, pp. 23-24).

**The judiciary**

We know that the BCS and other studies indicate that the general public do not generally think judges and magistrates do a good job, and also think they are out of touch (see above). However, studies of criminal court witnesses and jurors show very high levels of satisfaction with judges and magistrates (Angle et al., 2003, pp. 29-30; Hamlyn et al., 2004, p. 93; Matthews et al., 2004, p. 31; Whitehead, 2001, pp. 30-31). Studies of satisfaction are however surprisingly silent about any relationship between satisfaction and the conduct of the judge. Although many allude indirectly or implicitly to judicial influence on satisfaction, it is rarely directly addressed. As we have seen above, Trinder et al.’s survey findings suggest that greater participation by judges may be influential in persuading participants that the judge has understood their problems and been helpful in conciliation appointments (see above). There is also some indication that witnesses who were satisfied with their treatment by the judge/magistrate(s), were more likely to be satisfied overall with the experience of being a witness (70%) than those who were not (30%) (Hamlyn et al., 2004, p. 93). It is not clear whether this difference was statistically significant. As we have discussed above, courtesy from the judge has been independently associated with small claimant satisfaction (Gosling, 2006, pp. 42-46, pp. 51-53). Similarly, Aston et al.’s qualitative study of claimants who brought race discrimination claims to employment tribunals, suggests that among those claimants who got as far as a hearing, the performance of the panel chair in particular had a bearing on their perceptions of the tribunal (2006, pp. 78-83). The chair appeared to be perceived as pivotal to how the case was dealt with, with other panel members being perceived as peripheral. In the criminal context, Matthews et al. reports on jurors’ comments on judges as showing (2004, p. 31):

> an overwhelming degree of support for the work judges carry out in managing and summarising cases. It was clear that the vast majority of respondents were extremely impressed with the way judges performed... ...judges were praised particularly for their perceived professionalism, the consideration they showed, particularly for jurors, their ability to summarise and clarify information, and their impartiality... [Also,] many jurors were pleasantly surprised by the way judges had performed, and in some cases the perceptions they had of judges before engaging in jury service were transformed.

As the above extract suggests, Matthews et al. report the professionalism of judges as key to more positive attitudes towards jury service and the court system. The authors describe “professionalism” in this context as being “reflected in the extent to which conduct seemed fair, procedures and evidence were well explained, and the trial ran smoothly” (ibid., p. 48).
Diversity of decision-maker
A judge’s behaviour is one element of importance. Identity may be another. Aston et al.’s qualitative findings point towards all-White tribunal panels appearing to have a negative bearing on satisfaction among some ethnic minority claimants in race discrimination claims. Doubts were expressed about the ability of such panels to deal adequately with issues of racial discrimination. It seems that where this was so, satisfaction with tribunal decisions and also overall perceptions of the tribunal process were negatively affected (2006, p. 50, pp. 82-83, p. 88). Genn et al. (based on focus groups) claim even stronger support amongst members of the public for diversity in tribunals generally, saying greater diversity in tribunal composition would be welcomed and may increase confidence in the system (2006, pp. 97-113). Skepticism about the impartiality of a system that was not representative of those passing through was found to be “widespread across all the groups, including both White and Ethnic Minority participants” (ibid., p. 102). Conversely, Genn et al.’s quantitative work with users66 did not find significant differences either in satisfaction with composition of tribunal panels, or perceptions of fairness, related to ethnicity of tribunal members (2006, pp. 153-154, pp. 223-226). Users did however suggest improving panel composition would increase their confidence in the tribunal system. ‘Improvement’ here appears to mean ‘greater diversity’ (ibid., pp. 241-243). Hood et al.’s findings on criminal defendants are similar. They found no relevant differences in proportions of Black or Asian defendants reporting unfairness in sentencing or magistrates’ conduct/attitude when the ethnicity of the judge/bench was taken into account (Hood et al., 2003, pp. 60-61). However, BME defendants did tend to suggest that one of the improvements that would increase their confidence in courts was more ethnic minority court personnel (Hood et al., 2003, pp. 109-111).

Matthews et al. (2004, pp. 46-47) asked jurors to identify factors which most influenced their confidence in the court system; by far the most frequently identified positive was what the authors called ‘justice through diversity’ cited by just over a third of respondents. Diversity here refers to the apparent randomness of jury selection and the inclusion of all sections of the community (different social and economic backgrounds, those who are ‘streetwise’ as well as those who are ‘educated’) as a way of overcoming individual biases and as an important factor in ensuring fairness in jury deliberations.

5.2 Summary of procedural justice
Judgments about the fairness of court or tribunal process are, the evidence suggests, central to satisfaction with those courts and tribunals. Where rigorous comparison is made it is suggested that the influence of respondent views on process is stronger than the influence of their views on outcomes. This is an important finding particularly as it is common-place to hear in practice, when complaints are made, that the complainant is unhappy simply because they got a bad result.

66 Of the Appeals Service (now the Social Security and Child Support Appeals Tribunal); CICAP (Criminal Injuries Compensation Appeals Panel); and SENDIST (Special Educational Needs and Disability Tribunal).
The data on what makes up a lay assessment of fairness presents a complex picture.

Information presented to participants prior to their involvement in cases and/or hearings appears important. If clear and comprehensible, this may challenge preconceptions, lower levels of fear and improve participant comprehension of the processes they are involved in.

The quality of participation afforded to that participant is also clearly important. There is particularly interesting evidence around the reaction of witnesses to the process of evidence giving. To witnesses the process sometimes cuts across their ability to give evidence fully and truthfully. This opens up the interesting ethical and procedural question of whether such problems are necessary side-effects of the adversarial process.

A related issue is the quality of treatment and, in particular, respect shown to the participant during their time at court. This relates to concerns about evidence giving, and the courtesy of both prosecution and defence lawyers in particular; but also to the behaviour of judges and court staff. Protection of participants from intimidation is also important.

Issues of convenience and comfort (which may be themselves related to respect) are also identified as related to satisfaction. The need for and handling of adjournments appear to be an issue, alongside waiting times. This appears to relate partly to objective disruption in people’s lives and partly to the provision of good quality information about the need for, and implications of, adjournments.

Finally, the research suggests that participant evaluations about personnel in courts can have important influences on satisfaction. They appear to judge how far the decision-maker has behaved in a way that engenders trust. Helpfulness and politeness are important. Judicial identity may also be important, although the evidence on whether diversity (amongst tribunal panels for instance) increases levels of trust and satisfaction is mixed.
6. Demographics

We have already outlined the contradictory nature of evidence on the relationship between demographic characteristics and satisfaction with the court and tribunal system. This chapter discusses the evidence. Demographics covered are: age, disability/illness, education, ethnicity, gender, issues of geography, social and economic group and political orientation.

6.1 Age

Three studies found age was independently associated with satisfaction or analogues (Edmonds and Smith, 2006; Mirrlees-Black, 2001; Overby et al., 2004) but three studies found age was not so associated (Mattinson and Mirrlees-Black, 2000; Rottman, 2005; Rottman et al., 2003). As noted below, findings from one survey of witnesses in criminal cases (Whitehead 2001) were mixed. The British Crime Survey studies tend to show the young (16-24) expressing the greatest levels of confidence in the criminal justice system (see Allen et al., 2005, p. 3; Edmonds and Smith, 2006, p. 6, p. 8; Mirrlees-Black, 2001, pp. 2-3; Patterson and Thorpe, 2006, p. 41, p. 46; Pepper et al., 2004, p. 5, p. 7; Whitehead and Taylor, 2003, p. 123, p. 129). Citizenship surveys results are similar, with younger people more likely than older people to say they trust the criminal courts (Attwood et al., 2003, p. 22, p. 25; Home Office, 2004, pp. 43-44, p. 47; Kitchen et al., 2006b, p. 36). There is also some evidence that those aged 45 and over may be more sceptical of judges (Edmonds and Smith, 2006, p. 10).

Conversely, witness surveys indicate (based on bare comparisons) that older adults are more sanguine about matters such as inconvenience of court dates and waiting times; better able to cope with cross-examination; and more likely to say they would be willing to be a witness again. However, these differences are most marked between adult and child witnesses (Angle et al., 2003, p. 30, pp. 47-48; Whitehead, 2001, p. 16, pp. 30-31, pp. 47-48). Whilst Whitehead notes that ‘age was not strongly linked with’ overall satisfaction (ibid., p. 45) there was an independent association between age and unwillingness to be a witness again, with those aged under 17 significantly more likely than adults to say they were unwilling (ibid., p. 49, p. 74).

Genn and Paterson (2001, pp. 221-223) found that among the general public in Scotland those under 25 and over 65 were most likely to agree that ‘if I went to court with a problem

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67 Edmonds and Smith, Mattinson and Mirrlees-Black and Mirrlees-Black report on the BCS. Overby et al., Rottman et al. and Rottman are US studies based on general public surveys.

68 Surveys of the Canadian general public have also found that the young (aged 15-24) report more positive attitudes towards the criminal courts, with this group being most likely to say that courts do ‘a good job’ in respect of various functions (although it is not always clear whether differences between this and other age groups are statistically significant) (Gannon, 2005, p. 15, p. 27; Tufts, 2000, p. 5, p. 16).
I am confident I would get a fair hearing’. Those between 45 and 54 were most likely to disagree with this statement. But it is not entirely clear whether these differences were significant, and there were no significant differences relating to age in respect of other attitude statements regarding courts.69

6.2 Disability/ill health
From BCS survey data, respondents self-classifying as in good health (as opposed to poor health) appear to be significantly more likely to be confident on all measures of confidence in the criminal justice system. There are similar findings in respect of those reporting no illness/disability at all, compared with those reporting a limiting illness/disability (Edmonds and Smith, 2006, p. 6; see also Allen et al., table 1.01; Patterson and Thorpe, table 3.04; Pepper et al., table 1.01; Whitehead and Taylor, table 8.02).

6.3 Education
Whilst public ignorance might be one explanation for low levels of public satisfaction with the courts, there is some counter-evidence. In particular, one BCS study reports that the more educated (along with professional/managerial social classes) were least confident that the criminal justice system is effective in bringing offenders to justice; deals with cases promptly and efficiently; and meets the needs of victims (Mirrlees-Black, 2001, p. 3 based on multivariate analysis). Evidence from Scotland however indicates that more educated respondents were significantly more likely to disagree with the idea that judges are out of touch than other groups (but they still tended to think that judges were out of touch) (Genn and Paterson, 2001, pp. 233-234).

The citizenship survey studies report bivariate analysis suggesting that among the general public, higher educational attainment appears associated with both greater levels of trust in the criminal courts, and heightened perceptions that courts discriminate racially (Home Office, 2004, pp. 43-44, pp. 53-54, p. 89; Kitchen et al., 2006b, p. 17, p. 39).

6.4 Ethnicity
Many studies point to differences in absolute levels of satisfaction between ethnic groups (see below). However, where ethnicity is included as a variable in multivariate modeling of public satisfaction, it has generally been the case that no direct relationship between ethnicity and satisfaction is found (see the US studies by Rottman et al., 2003, p. 24, pp. 53-58; Tyler and

69 The other attitude statements are noted above in chapters 2 and 4.
Both Tyler and Huo and Rottman et al. find race affecting either or both perceived fairness of outcomes and perceived fairness of processes, but not satisfaction once these two fairness judgments were controlled for. In practical terms, this suggests ethnic minority dissatisfaction is predicted by their more strongly critical judgments of the fairness of the process and the fairness of outcomes. Interestingly, both Rottman et al. (2003, pp. 53-58) and Tyler and Huo’s (2002, p. 155) data suggests that Minority Ethnic respondents placed less emphasis than White respondents on fair outcomes, fair procedures, speed and cost in evaluating courts. Generally the studies do not suggest what they may have put emphasis on in the alternative, although favourable ratings of local police had a stronger relationship with favourable assessments of courts among Black and Latino respondents than they did among White respondents (ibid., p. 56). Overby et al.’s (2004, pp. 170-171) results (from Mississippi) are mostly consistent with race having no independent effect on overall evaluations of state and local courts.70 Hood et al. found no statistically significant differences between Black, Asian and White defendants in criminal cases in terms of incidence of perceived unfair treatment, nor in respect of unfairness in sentencing (2003, p. 29, pp. 44-45).

Beyond multivariate analysis, the BCS studies suggest an association between ethnicity and confidence in the criminal justice system in England and Wales. Among surveys of the general public, Minority Ethnic groups consistently express greater levels of confidence in the system generally and in judges and youth courts specifically. It is worth noting that often the differences between BME and White respondents are quite large; upwards of 10 and 15%.

Confidence levels are highest among respondents of Asian or Chinese/other ethnicity; with Black and Mixed race respondents the next highest and White respondents showing lowest confidence. However, levels of confidence that the criminal justice system respects the rights of the accused are consistently highest among White respondents, with those of Asian and Chinese/other ethnicity in the middle, and Black and Mixed minority ethnic respondents expressing the lowest levels of confidence (Allen et al., 2005, pp. 4-5; Clancy et al., 2001, pp. 82-86; Edmonds and Smith, 2006, pp. 6-9; Mirrlees-Black, 2001, pp. 2-3; Patterson and Thorpe, 2006, p. 41; Pepper et al., 2004, p. 3; Whitehead and Taylor, 2003, pp. 120-123). However, it should be noted that only some of the studies cited above flag up the differences as statistically significant.

Comparisons in this study were simply between White and African-American respondents. The authors did report one very modest effect for race, but only at probability levels of .1 and so this result has been discounted here.

The various items in respect of which confidence is measured are noted in chapter 1. There is some replication of these patterns in surveys of the New Zealand public (Mayhew and Reilly, 2007, p. 79, p. 115; Paulin et al., 2003, p. 25, p. 85). By replication here, we mean in the sense that minority ethnic groups in New Zealand have been found to rate judges more highly than majority ethnic respondents. Clearly, these findings are not directly transferable as they relate to different contexts and different ethnic groups. But they do raise an interesting question: why should ethnic minority populations rate elements of the justice system more highly than majority populations?
Reports of the three citizenship surveys indicate that among the general public, ethnicity appears associated with levels of trust in the criminal courts. However, findings in respect of individual ethnic groupings differ slightly from survey to survey. The following differences, based on bivariate analysis, were found to be statistically significant. In each survey, Asian respondents were more likely than White or Black respondents to report trust in the criminal courts. In the 2003 and 2001 surveys, the same was true of respondents of Chinese or other ethnic origin. However, in simple percentage terms, unlike in the BCS studies, Black respondents appear less positive in terms of trust in the criminal courts than White respondents (see Attwood et al., 2003, p. 23, p. 26; Home Office, 2004, pp. 43-44, pp. 48-49; Kitchen et al., 2006b, p. 37).

The findings in respect of Black respondents illustrate that homogeneity of perceptions should not be assumed to exist across all ethnic minorities. In the 2003 and 2001 surveys, respondents of Black Caribbean origin were significantly less likely than other groups to trust the courts (55%), and in the 2001 survey, the difference between respondents of Black Caribbean and Black African origin was also statistically significant (Attwood et al., 2003, p. 23, p. 26; Home Office, 2004, pp. 43-44, pp. 48-49). Other studies also emphasise that there may be differences within as well as between minority ethnic groups (see for example de la Garza and DeSipio, 2001, pp. 244-245; Genn et al., 2006; Hood et al., 2003).

Rottman’s survey of the Californian public found, based on multivariate analysis, no independent relationship between race/ethnicity and overall approval of courts. However, he did find that minority ethnic groups differed in their assessments of both procedural fairness and outcomes, i.e. the two areas which were most influential to overall approval. African-American respondents were least positive about these aspects. They were also the most likely to feel that people of their own ethnic group would be discriminated against by the system (2005, p. 25 onwards; see also Overby et al., 2004, pp. 172-174; Rottman et al., 2003 for similar evidence). Whether respondents were born in the USA and length of residence, which differed between ethnic groups, also appeared to have some effect on both overall evaluations of courts and perceptions of courts as discriminatory (de la Garza and DeSipio, 2001, pp. 240-241; Rottman, 2005, pp. 22-23) (although this has not been fully tested and the results were mixed: Rottman suggests that more recent Latino immigrants had greater confidence in the Californian courts than Latinos who were US-born or resident

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72 The ethnic groupings used were White, African-American, Asian-American and Latino.
73 Looking at factors such as whether courts ‘are concerned with people’s rights’ and ‘treat people with dignity and respect’ and ‘treat people politely’; whether ‘courts make decisions based on the facts’ and ‘judges are honest in their case decisions’; whether ‘courts listen carefully to what people have to say’; and whether courts ‘take the needs of people into account’ and ‘are sensitive to the concerns of the average citizen’.
for longer; whereas de la Garza and DeSipio suggest that foreign-born Latino respondents were more likely than their US-born counterparts to perceive courts as discriminatory).

Genn et al. (2006, pp. 231-233) asked users of three types of tribunals (post hearing, pre-decision) whether they thought that people from an ethnic minority are always treated by the tribunal system in the same way that a White person is treated. Black and South Asian users were more likely to be certain in beliefs that discrimination takes place, but also slightly more likely to say it does not.

Whilst the evidence suggests membership of Minority Ethnic groups is not independently predictive of dissatisfaction, such groups may nevertheless attribute dissatisfaction to treatment related to ethnicity. Hood et al. found that about one in five Black/Asian defendants in the crown court, and about one in ten in the magistrates’ court, perceived unfair treatment which they attributed to race/ethnicity. The most common complaints here arose from a belief that sentencing had been harsher in their case than it would have been had they been White. There were few complaints regarding unfair treatment involving conduct/attitudes of judges/magistrates, or of court staff, which were attributed to race/ethnicity (Hood et al., 2003, pp. 28-48).

Findings from the 2005 citizenship survey based on bivariate analysis, indicate a statistically significant association between perceptions that criminal courts are discriminatory, and a lack of trust in those courts (Kitchen et al., 2006a, p. 5). It is not always obvious from the reporting whether differences between groups regarding perceptions of discrimination are statistically significant. But in terms of broad ethnic groupings, there tends to be a pattern of Black people being most likely to expect to be discriminated against, followed by those of Mixed race, and then Asian people (Attwood et al., 2003, pp. 43-44; Home Office, 2004, p. 82, pp. 86-88; Kitchen et al., 2006, pp. 15-16).

Brophy et al.’s small-scale qualitative study of solicitors and minority ethnic parents involved in care proceedings in England suggests there might be specific difficulties for parents in having to discuss their ethnic/cultural/family background with their solicitors, when they may perceive discussion of such matters as not relevant, intrusive, or embarrassing (2005, pp. 119-120). Additionally, some parents criticised the statements prepared by their solicitor for a lack of prominence/understanding given to cultural background. In spite of cultural dimensions to some of their criticisms, generally speaking, most parents in this study seem to have put their dissatisfaction with the above aspects down to ‘the system’, rather than any unequal treatment due to their ethnicity. Brophy et al. asked: had they encountered anything
disrespectful, insensitive, or racist, in their relationship with their solicitor, at court, or from experts and others; did they feel that any cultural/religious values, practices/mores were relevant to the case and if they were satisfied with how these issues were addressed; whether they had a fair and just hearing; whether they felt heard and understood (2005, p. 125). Some participants said they had experienced disrespectful, insensitive, or racist behaviour from magistrates/judges in court. The examples given related to not understanding/taking account of cultural background, and being pre-judged in a way that was attributed to ethnicity (ibid., pp. 133-135). Others were not entirely happy but attributed this to a lack of voice due to the limitations of their statements and/or the shortness of hearings rather than factors related to ethnicity (ibid., p. 137).

Focus group work with members of the general public on perceptions of tribunals suggested that ethnicity did not appear to be the defining characteristic in identifying differences in perceptions. Cultural and language barriers did however appear relevant for four groups of non-English speaking participants (two Somali groups, two Pakistani). However, “scepticism about the impartiality of a system that was not representative of those passing through it was widespread across all groups in the sample, including both White and Ethnic Minority respondents” (Genn et al., 2006, p. 102) and, “language and cultural barriers coupled with poor or inaccurate information ... were identified as the critical barriers to people accessing and using the tribunal system. These issues were perceived as more likely to limit access to tribunal redress than the simple fact of a claimant’s ethnicity” (ibid., p. 110).

6.5 Gender

Mattinson and Mirrlees-Black, based on the BCS (which covers England and Wales), found that among the general public males rated criminal justice system agencies less positively than females. Being male was independently associated with poor ratings of judges, magistrates’ and juvenile courts (as well as the police) (2000, p. 8, pp. 50-52, p. 77). Other than for juvenile courts, no details of model or statistics are supplied for these regressions. The authors also state briefly (ibid., p. 8) that males were more likely than females to say both judges and magistrates were out of touch with what ordinary people think, and to say that sentences were far too lenient.

The picture in relation to participants is less clear. Findings from the main surveys of witnesses in criminal cases in England and Wales suggest that gender has an independent association with being happy/willing to be a witness again, with females significantly more likely to be unwilling. However, gender was not found to be independently associated with
satisfaction with the overall experience of being a witness. These apparently contrary findings perhaps reflect the fact that female witnesses were more likely to be victims of or witnesses to sexual or violent offences, and so involved in particularly distressing types of cases. In such circumstances they may have been more reluctant to repeat the experience of giving evidence and undergoing cross-examination again, even if satisfied overall (Angle et al., 2003, p. 30, pp. 48-49, pp. 59-62; Whitehead, 2001, p. 30, pp. 47-49, pp. 71-74).

Beyond multivariate analysis, consistent with Mattinson and Mirrlees-Black, several of the BCS studies report that women consistently express slightly greater levels of confidence than men on most measures of confidence in the criminal justice system (see chapter 1 for the measures). The position is however reversed for one measure: men are consistently slightly more confident than women that the system respects the rights of the accused (see Allen et al., 2005, p. 3; Edmonds and Smith, 2006, p. 6; Mirrlees-Black, 2001, p. 3; Patterson and Thorpe, 2006, table 3.04; Pepper et al., 2004, table 1.01; Whitehead and Taylor, 2003, table 8.02). The differences are consistent but slight.

Surveys of witnesses in the criminal justice system replicate some of the questions on confidence from the BCS, but do not seem to show consistent patterns in confidence levels according to gender. Whitehead (2001, pp. 50-51) and Angle et al. (2003, pp. 50-52) suggest that in simple percentage terms, men were equally or slightly more confident than women on matters such as dealing with cases promptly and efficiently and bringing offenders to justice. Hamlyn et al. also reported that among vulnerable witnesses, males were significantly more likely to express confidence that the system meets the needs of victims (2004, pp. 100-101).

On the civil side, Gosling (2006, p. 35) found women ‘slightly’ more likely to be satisfied with the overall small claims process than men (77% vs 67%). However, this is a bare percentage difference with no significance testing. Evidence from the Utah Judicial Council Standing Committee on Resources for Self-Represented Parties (2006, pp. 62-66) also suggests that among litigants in person, men were slightly less likely to agree that they were treated well on the procedural justice criteria such as being treated with courtesy, being listened to, being treated fairly and the like. They were also less likely to be satisfied with what happened at their hearing. There is no clear analysis of the significance of these differences, or whether they might be explained by other factors (for instance, men generally felt they received slightly poorer outcomes too). In Scotland, Genn and Paterson found that among the general public surveyed, men were ‘somewhat’ more likely than women to agree strongly that ‘the legal system works better for rich people than poor people’ (2001, p. 228).
6.6 Geography and locality

Whether courts are perceived as local or more distant may be important. In the US, Rottman (2005, p.10) indicates that among the Californian public, in bare percentage terms, local courts were rated higher than state courts, although a number of unexamined factors may account for this including differences in case-type.

BCS studies provide some indications of regional and area differences in confidence in the criminal justice system. However, it is possible that this is due to other demographics (for example class/income rather than purely location). (See Allen et al., 2005, table 1.01; Edmonds and Smith, 2006, pp. 4-5; Pepper et al., 2004, p. 5 and table 1.02; Whitehead and Taylor, 2003, table 8.03; and compare Patterson and Thorpe, 2006, table 3.04.) Two of the three citizenship surveys report that among the general public, aspects of where respondents live appear associated with levels of trust in the criminal courts. Kitchen et al. (2006b, p. 36, p. 104) found that people living in the least deprived areas were significantly more likely than those living in the most deprived areas to trust the courts. The Home Office (2004, pp. 43-45) found that people living in areas classified as ‘Prosperous Professionals, Metropolitan’ were significantly more likely to trust the courts than those in areas classed as ‘Prosperous Pensioners, Retirement’.

6.7 Social and economic group
(class/income levels/household tenure)

Data from the British Crime Survey provides some illumination on social and economic grouping. Mirrlees-Black (2001, pp. 2-3) found an independent relationship between professional/managerial social classes and confidence in the criminal justice system on three of four measures; these classes were generally found to have lower levels of confidence than skilled manual/non-manual or unskilled classes (but ratings for performance in respecting the rights of the accused were the same across groups). The citizenship survey studies all report that among the general public, social and economic group appears associated with levels of trust in the criminal courts. Higher managerial and professional occupations were significantly more likely to report trust in courts than those from most lower SEGs (Attwood et al., 2003, p. 23, p. 25; Home Office, 2004, pp. 43-44, p. 53; Kitchen et al., 2006b, p. 39, p. 108). Edmonds and Smith (2006, p. 6) found the lowest income group (those earning less than £10k) more likely on a bivariate analysis than the highest (measured as those earning over £30k) to be confident that the criminal justice system: is effective in reducing crime; deals with cases promptly and efficiently; meets the needs of victims; and is effective at dealing with young people accused of crime. The highest income
groups were more likely than the lowest to be confident that system respects rights of the accused and treats witnesses well. Allen et al. (2005, table 1.01), Pepper et al. (2004, table 1.01) and Whitehead and Taylor (2003, table 8.02) appear to show similar patterns between highest and lowest income groups, but these studies do not flag up such differences or indicate that they are significant.

Genn and Paterson found differences between income groups in Scotland were significant in respect of the statement that ‘the legal system works better for rich people than poor people’. Those on the highest incomes were most likely to disagree and those with middle incomes were most likely to agree or strongly agree (2001, pp. 227-233). The commentary and data from qualitative interviews indicate these findings were linked, at least in part, to concerns of those on middle incomes that they were too poor to afford lawyers, and too well off to qualify for legal aid. On a related note, largely through qualitative interviews, Genn and Paterson link perceptions among the general public in Scotland that ‘the legal system works better for rich people than poor people’ with middle income concern about the cost of lawyers and the absence of legal aid (2001, pp. 227-233).

Edmonds and Smith (2006, p. 6) found significant differences related to housing tenure and confidence in the criminal justice system: private renters were more confident than owner-occupiers and social renters on most measures. Exceptions to this pattern were that owner-occupiers were more confident that the system respects rights of the accused; and both private and social renters were more confident that it deals with cases promptly/efficiently. But where private renters were more confident, percentage differences ranged from 6-11 points above social renters, and 10-17 points above owner-occupiers. The other BCS reports do not flag up differences here, but Allen et al. (2005, table 1.01), Patterson and Thorpe (2006, table 3.04), Pepper et al. (2004, table 1.01) and Whitehead and Taylor (2003, table 8.02) all appear to show similar patterns.

Interestingly, there is some evidence that housing tenure may be more important than income groups. In Edmonds and Smith, private renters' confidence was generally higher than each of the income groups and there tended to be wider differences between private renters and social renters/owner-occupiers, than between the different income groups. It may be that this reflected greater levels of confidence generally found among the youngest age group but we cannot evaluate this from the data.
6.8 **Political orientation**

Rottman presents a figure indicating that the Californian public are less approving of the courts if their political orientation is conservative (as opposed to moderate, liberal or progressive) (Rottman, 2005, p. 24). This is presented as an independent association established by logistic regression, but insufficient details are given to judge the relative importance of this factor.

6.9 **Summary on demographic factors**

Demographic characteristics may have some relationship with satisfaction, although the evidence is mixed, suggesting that the picture is a complex one. Issues such as age, health, education, ethnicity, gender and social and economic group all show some influence in some of the studies we examined but not in others. In so far as it is possible to generalise, the research suggests that it is the experiences of these groups, rather than their demographic characteristics *per se* that lead to differences in satisfaction. The results on age and ethnicity are perhaps the most puzzling. Why would older respondents tend to be less satisfied with courts? Similarly, although multivariate analysis often diminishes the significance of differences between white and ethnic minority respondents, it must remain an area to be scrutinised carefully as the studies are somewhat contradictory and inconclusive.
7. **Conclusions: what do we know and what do we not know about drivers of satisfaction?**

7.1 **General problems with the evidence base**

There are a number of specific weaknesses in the evidence base. One is that it is dominated by studies either wholly in the criminal context or which fail to disaggregate civil/family and criminal data. Robust, well analysed data on what the general public thinks about civil and family courts and tribunals and what underlies those perceptions is almost non-existent. A similar gap is robust data on what businesses think about courts and tribunals.

There are exceptions to this in relation to some studies of participants in civil and family courts and tribunals, but there are relatively few of these and most have taken place in particular contexts (e.g. specific aspects of family procedure or focusing on issues of diversity). Whilst government and government bodies such as HM Courts Service conduct user surveys, these nearly always had to be excluded from this study. Usually this was because methods lacked robustness, were inadequately reported or response rates were low. Consideration should be given to how the resource expended on user surveys in the courts and tribunals services is most effectively used.

A related problem is the foci of public perception and participant perception studies. The latter tend to concentrate on participants who have been involved in hearings. The former include people with experience of the justice system but data on the nature of that experience is fairly sparse. This may account for the perplexing contradiction in studies that suggest (depending on which study is being looked at) that experience either increases or decreases satisfaction with the justice system. The bottom line is that we know very little either about the general public (and business community’s) satisfaction with civil and family courts and tribunals and even less about what drives that (dis)satisfaction. Similarly, understanding of participant satisfaction with courts and tribunals, outside of the criminal sphere, is piecemeal or absent. This is particularly true of those who participate at arm’s length, as many personal injury litigants may litigate, for example, or without attending substantial hearings. Non-attendance may be true of the majority of participants in court and tribunal cases.

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74 The Legal Services Research Centre has some relevant data in their rolling justiciable problems study which we understand is in the process of being analysed.

75 We understand the Tribunal Service is in the process of commissioning improved user surveys.
The lack of information is acute. We cannot say with authority whether the public, or indeed those who have participated in civil or family cases, are generally satisfied with those courts and tribunals, and why they are satisfied (or not). What evidence there is suggests those with significant involvement in court proceedings are generally satisfied, although there is some counter-evidence. Conversely, the general public do not generally think the criminal courts, and the juvenile courts, in particular, are doing a good job either in absolute terms or when compared to other institutions, notably the police. Nevertheless they are generally ‘trusted’. Partly, this is explained by the ambivalent role of courts in protecting the rights of both victims and defendants; and broader (often misinformed) perspectives on crime and criminal justice. The basic contradictions, however, serve to underline the weakness of the evidence base on a core activity of liberal democracy.

Many of the studies of children, particularly their participation in family proceedings, are qualitative in nature. More quantitative surveys of witnesses provide data which suggests that children may struggle particularly with aspects of court process and be more dissatisfied than adults as a result, but there is generally a lack of data which quantifies children’s satisfaction, looks at what drives it and compares it with the picture for adults.

7.2 What drives satisfaction?

In terms of indications of what might drive satisfaction, the evidence base in relation to (mostly prosecution) witnesses and general public perceptions of criminal courts is strongest. Quantitative work on other participants (most obviously the parties) is less common and tends to focus on those participants who have had substantial involvement through hearings or on those respondents in public perception surveys who have some experience, without it always being very clear what the nature and significance of that experience was. This should be borne in mind in reading the following.

The evidence suggests that outcomes, and the perceived fairness of those outcomes, do influence the satisfaction of participants in the justice system (be they directly involved as parties or less directly involved as witnesses). A link between outcome and satisfaction accords with the intuition of many working in the legal system, but it is important to emphasise the apparent limits to this effect. As we discuss below, judgments about the fairness of process may be more important. Furthermore, what constitutes an outcome can be complex. Participants may be interested in whether an outcome is fair and whether certain social judgments are validated (for instance whether an employer’s employment practices have been ‘found’ to be inappropriate) as well as whether they get something
beneficial (damages or an apology). Evidence on settlement suggests that settlement itself may assist satisfaction where it adds to certainty or ‘closure’ (where a long-running family dispute is resolved for instance) but may inhibit it where a ‘deal’ is partial or does not give the same validation as a court judgment or verdict might do.

**Attitudes and contextual issues** also appear to be important. There is some evidence that perceptions that crime is rising and that courts may be failing to deal with that and the general impression that courts and tribunals will be like criminal trials as seen in the media, inform perceptions of courts and tribunals. Court facilities appear important precursors of satisfaction both in terms of providing a comfortable forum in which parties and witnesses can wait but also in providing secure environments which protect witnesses and their antagonists from confrontation with each other.

Judgments about the fairness of court or tribunal process are, the evidence suggests, most central to satisfaction with those courts and tribunals. The weight of the data, particularly the models most powerful in explaining variance in satisfaction, point towards process exerting a stronger influence on satisfaction than outcome, attitudes/contextual issues or demographics. This is an important finding particularly as it is common-place to hear in practice, when complaints are made, that the complainant is unhappy simply because they got a bad result. The evidence suggests this is not ordinarily the case.

The data on what makes up a lay assessment of fairness presents a complex picture. It should be noted from the outset that what researchers and research subjects mean by process may be quite different from how lawyers and judges conceive of it. Assessments of fairness are likely to encompass the entire process of a person’s involvement with legal proceedings and may well involve multiple agencies (police, lawyers, social workers, expert witnesses, court staff and judges). As will also be noted in what follows, fairness judgments focus on what research subjects are, or believe themselves to be capable of, assessing.

**Information** presented to participants prior to their involvement in cases and/or hearings appears important. This may challenge preconceptions about courts or tribunals, lower levels of fear and improve participant comprehension of the processes they are involved in.

The quality of participation afforded to participants is also clearly important. There is particularly interesting evidence around the reaction of witnesses to the process of evidence giving. In the eyes of witnesses the process sometimes cuts across their ability to give evidence fully and truthfully. This opens up the interesting question of whether such
problems are necessary side-effects of the adversarial process or related to poor performance by the professional actors.

A related issue is the **quality of treatment** and, in particular, respect shown to the participant during their involvement in the justice process. This relates to concerns about evidence giving, and the courtesy of both prosecution and defence lawyers in particular; but also to the behaviour of judges and court staff and the extent to which participants’ concerns about court dates are met or managed. Protection of participants from intimidation is also important.

Issues of **convenience and comfort** are also identified as related to satisfaction. The need for and handling of adjournments appear to be an issue, alongside waiting times. This appears to relate partly to objective disruption in people’s lives and partly to the provision of good quality information about the need for and implications of adjournments.

There is also evidence that **judgments about personnel** (court staff, judges and lawyers) impact on satisfaction. Whether they are courteous, attentive, professional and unbiased are evidenced as influencing satisfaction.

**Demographic characteristics** may have some relationship with satisfaction, although the evidence is mixed, suggesting that the picture is a complex one. Issues such as age, health, education, ethnicity, gender and social and economic group all show some influence in some of the studies we examined but not in others. In so far as it is possible to generalise, the research suggests that it is the experiences of these groups, rather than their demographic characteristics *per se* that lead to differences in satisfaction. The results on age, gender and ethnicity are perhaps the most troubling. Why, for instance, would older members of the general public tend to be less satisfied with criminal courts than the young? Are the types of cases women are involved in inevitably going to lead to more dissatisfaction? Similarly, although multivariate analysis often diminishes the significance of differences between white and ethnic minority respondents, it must remain an area to be scrutinised carefully.

### 7.3 Tying evaluation to professional systems and behaviours

An observation of some importance arises out of the difference between lay understandings of fair process and professional understandings. The observation operates on two levels. Firstly, quantitative evidence ‘establishing’ drivers of satisfaction operates at a level of some abstraction and at one remove from what actually happened in any particular court room or tribunal. We would suggest that there is a need to link this (consumer focused) evaluation
with a deeper understanding of the professional behaviours and processes that have led to the consumer response. Secondly, there may be a limit to how far a system or a professional can respond to concerns about satisfaction without violating other interests critical to justice.

To give an example, what is to be made of the evidence that, in the eyes of some witnesses, prosecution and defence lawyers (and presumably judges) inhibit a witness’ ability to give their evidence in full and truthfully? The important issue this leaves unresolved is the extent to which such perceptions are an inevitable part of the adversarial process of cross-examination, evidential rules of relevance and the like, or to what extent are they caused by flaws in the performance of particular professionals. Some of the dissatisfaction with having been cut short and having one’s veracity challenged is perhaps inevitable for some witnesses: but is all of it? Should a judge bear in mind the impact of policing firmly a witness’ relevance on that witness’ satisfaction with the process? Should there be stronger professional ethics limitations on cross-examination? These are difficult, even controversial issues (on judges, see Moorhead, 2007).

There are more prosaic but equally important examples: what behaviours of judges, lawyers and court staff are likely to bolster feelings of having been treated courteously? How do judges convey to litigants and witnesses that they have understood all of their evidence and taken it into account in reaching a decision? What can all professionals do to ensure that witnesses do not feel taken for granted? What types of information and in what form increase satisfaction?

Finally, it is worth emphasizing that if, and as, the evidence base on public and participant satisfaction is strengthened some fundamental issues should be borne in mind. There may need to be a debate about whether ‘satisfaction’ is the most important perspective to get from consumers: studies look at various issues, confidence, trust, the capacity of justice systems to engender respect and compliance with legal decisions. All of these are important in their own way. Similarly, as work on confidence in particular shows, concepts such as satisfaction do not reveal singular realities: they consist of a series of evaluations of different aspects of service; they deal with process and outcome; they encompass issues of self- and societal-interest and they both support and are in tension with notions of justice. Thus there may need to be a harder look at what is being measured and how if we are to understand a more rounded and meaningful concept of just satisfaction.
References


BMRB (2004) CAFCASS Client Satisfaction Survey. CAFCASS.


Plotnikoff, J. and Woolfson, R. (2004) In their own words. The experiences of 50 young witnesses in criminal proceedings. NSPCC.


Appendix 1: Searching strategy explained

We drew up a list of key words (see below) and targeted three groups of websites for searching: government, other relevant and academic.

Government websites
Initially we examined these websites using the internal search engine for each site. Upon entering the keywords, the researcher was usually required to specify either ‘any word’, ‘all words’ or ‘any words in title’. We piloted all of these options with a variety of different key word combinations. Broadly, we found that the ‘any word’ search produced too many hits of low or no relevance. ‘All words’ searches produced less hits and a higher degree of relevance but when we cross-referenced with the results from the ‘any word’ searches and with a sight search of the publications section, it became evident that this type of search missed potentially relevant material. The highest relevance ratio was achieved using an ‘any word in the title’ search (we estimate about 5% of results returned were relevant) but we were aware this search was still missing relevant material. Equally, we were concerned that using search engines which were website-specific might lack uniformity so we became dissatisfied with this approach.

In order to limit the number of hits but drive up the relevance ratio, we piloted a hierarchical search method using an external search engine (Google). This allowed us to search more effectively using a stem word (‘must contain the word’) and a string of optional keywords (‘may contain the words’). Using this method we were able to move down a list of stem words, systematically searching for relevant hits whilst excluding those hits we had already assessed. Further, the Google’s relevance ranking system meant most of the relevant hits tended to be located within the first 500 results. The total number of relevant hits approximately doubled and we therefore adopted this method.

Other relevant websites
In addition to searching governmental websites, we used the Google Advanced method to locate evidence from institutional and organisational bodies. We checked the findings of the search engine by manually searching the ‘research and publication’ sections of these sites and this provided further confirmation that the Google method was reliable.

Academic databases
The Google Advanced method was not suitable for use where academic databases were concerned because they tend to be password protected and they also worked better with smaller strings. With academic searches, the relevance was generally stronger and the yield higher possibly because databases were more specialised and because search engines provided greater scope to focus the searches, for example, the capacity to adhere to date restrictions. However, the combinations of keywords had to be adapted to meet the configuration of each database search facility which makes it harder to make generalisations about the way we searched academic sources. However, our aim was to come as close as possible (within the confines of individual search tools) to searching in the following way.

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76 Normally ‘K-Broker’.
77 Although we typically searched to 1,000 hits.
78 See academic table which shows we found higher relevance ratio with shorter strings.
79 See websites spreadsheet submitted on 2/7/07.
We searched against the following terms as keywords:

1. court or tribunal or judge or adjudicator or appeals; and
2. public or user or litigant or company or business or child or children or young or applicant or petitioner or respondent or victim or witness or juror or customer; and
3. confidence or evaluation or opinion or perception or satisfaction or survey or experience.

Wherever possible we use the connectors (or and and) as described above. Where we needed to restrict the length of strings searched against we sought to search in the following combinations.

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<thead>
<tr>
<th>court or tribunal or appeals</th>
<th>public or user or litigant or customer</th>
<th>confidence or evaluation or survey</th>
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<td>Adjudicator Appeals</td>
<td>Journal of Empirical Legal Studies</td>
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<td>Journal of Law and Society</td>
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<td>Civil Justice Quarterly (quarterly)</td>
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<td>Income Tax Tribunals</td>
<td>Web of Science: Social Science Citation</td>
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Ministry of Justice Research Series 5/08

Just satisfaction? What drives public and participant satisfaction with courts and tribunals: a review of recent evidence

Reviewing existing research on drivers of public/participant satisfaction with courts and tribunals, this report examines both UK and international evidence (published from 2000 onwards) on what factors may be associated with satisfaction with, and trust in, the justice system.

It only includes evidence based on studies that meet acceptable standards of method and reporting, and concentrates on findings with policy significance.

This research intends to feed into discussion of the changes that could or should produce improvements in public opinion. It suggests that consideration of the factors that most strongly ‘drive’ satisfaction is key to developing robust policy founded in empirical evidence.

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http://www.justice.gov.uk/publications/research.htm