

<b>Title: Court Broadcasting – Testing the filming of judges sentencing remarks in the Crown Court</b> <b>IA No: MoJ014/2015</b> <b>Lead department or agency:</b> Ministry of Justice  <b>Other departments or agencies:</b> Her Majesty's Court and Tribunals Service (HMCTS) and Judicial Office (JO).	<b>Impact Assessment (IA)</b>		
	<b>IA No: MoJ014/2015</b>		
	<b>Date</b> 17/03/2016		
	<b>Stage: Final</b>		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Other		
<b>Contact for enquiries:</b> <b>general.enquiries@justice.gsi.gov.uk</b>			

<b>Summary: Intervention and Options</b>	<b>RPC Opinion: N/A</b>
--	-------------------------

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
Not Quantified (NQ)	NQ	NQ	Out of scope	N/A

**What is the problem under consideration? Why is government intervention necessary?**

We are proposing to conduct a not-for broadcast test of the filming of judges sentencing remarks at eight Crown Court locations to help refine and establish new processes for filming in the Crown Court while protecting the integrity of the trial process. The test will aim to increase the probability of technical success in enabling broadcasting in support of the broader policy aim of increasing public understanding of what happens in judge's sentencing remarks, should such broadcasting be permitted in the future. Non-statutory alternatives do not exist. Filming in court requires an affirmative Order to be laid before Parliament, as required in Section 32 of the Crime and Courts Act 2013.

**What are the policy objectives and the intended effects?**

In the 2010 Green Paper, *Breaking the Cycle: Effective punishment, rehabilitation and sentencing of offenders*, the then Government made a commitment to make it easier for victims and the public to understand the nature of sentences that are handed down by courts by helping to demystify sentencing decisions. The aim of the test period is to help refine and establish new processes to inform a decision by the Lord Chancellor and Lord Chief Justice on whether to seek Parliament's support to allow broadcasting in the future in accordance with Section 32 of the Crime and Courts Act 2013, which will be subject to a further Order and Impact Assessment.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

**Option 0:** Do nothing  
**Option 1:** Court Broadcasting test: Allow the filming of judges' sentencing remarks in the Crown Court for a test period.

The preferred option is option 1 because it enhances the potential success for broadcasting these cases in the future. Non-statutory alternatives do not exist as there is currently a legal prohibition on the broadcasting of court proceedings.

**Will the policy be reviewed? See PIR section. If applicable, set review date:**

Does implementation go beyond minimum EU requirements?	No				
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> No	<b>&lt; 20</b> No	<b>Small</b> No	<b>Medium</b> No	<b>Large</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A	<b>Non-traded:</b> N/A	

**I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.**

Signed by the responsible Minister: \_\_\_\_\_ Shailesh Vara \_\_\_\_\_ Date: \_\_\_\_\_ 17/03/2016 \_\_\_\_\_

# Summary: Analysis & Evidence

# Policy Option 1

Description: Test the filming of judges sentencing remarks in the Crown Court

## FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Best Estimate	Negligible	Negligible	Negligible

### Description and scale of key monetised costs by 'main affected groups'

None

### Other key non-monetised costs by 'main affected groups'

The costs to Government are expected to be minimal, as broadcasters who already broadcast cases from the Court of Appeal have agreed to bear the expense of providing and operating the equipment required for the test period. As the test will be conducted under existing arrangements these costs cannot be estimated as they are commercially confidential.

The cost of raising awareness and refresher training for the judiciary who sit at the agreed Crown Court locations are expected to be minimal. The test period will help inform the development of any new training materials that may be required should such broadcasting be permitted in the future.

HM Courts and Tribunal Service (HMCTS) are of the view that the costs arising from the printing of signage and of a small number of leaflets to advise members of the public that filming will be taking place will be negligible.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	NQ	NQ	NQ

### Description and scale of key monetised benefits by 'main affected groups'

None

### Other key non-monetised benefits by 'main affected groups'

Although this is a not-for-broadcast test, any future filming and broadcasting from Crown Court (which this test will help inform) may lead to increased confidence in the CJS and in sentencing decisions handed down by judges. Court broadcasting may also act as a deterrent if potential criminals can view the consequences of criminal behaviour.

Key assumptions/sensitivities/risks

N/A

Though none of the recorded material during the test will be permitted to be broadcast, there is a risk:

- It may impact on the willingness of victims and witnesses in giving evidence, if they are aware that sentencing may be filmed. In order to mitigate this risk the legislation has been drafted to ensure that only judges may be filmed; and that the judge will be able to stop filming where a) it may cause undue prejudice to any person, including those not directly involved in the case; and b) in the event of disruption in court or to protect the interests of justice. Victims and witnesses will be made aware if their case might be recorded and reassured on the reporting restrictions in place and that none of the material captured during the test will be broadcast.
- That, if the test were to lead to broadcasting of cases in the future, the policy aims would not be met if the media selected cases for public interest value or excitement, rather than with the aim of promoting understanding. To mitigate this risk we will consider during the test period how we might ensure the availability of all appropriate recorded material, including the full judgements to the public, should broadcasting be allowed in the future.

## BUSINESS ASSESSMENT (Option 1(a))

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: NQ	Benefits: NQ	Net: NQ	No	N/A

# Evidence Base (for summary sheets)

## Problem under consideration

1. As part of the 2010 Green Paper, *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*, the Coalition Government made a commitment to make it easier for victims and the public to understand the nature of sentences that are handed down by courts<sup>1</sup>. But, while courts are open to members of the public in most cases, most hearings take place when many people are at work and the public tend to rely on information reported by the media.
2. The Crime Survey for England and Wales (CSEW) measures confidence in the Criminal Justice System (CJS). The 2013/14 CSEW showed that 64 per cent of respondents were very or fairly confident that the CJS was fair and 48 per cent were very or fairly confident the CJS was effective<sup>2</sup>. But the same survey also showed that under half (45%) of those surveyed were confident that courts were effective at dealing with cases promptly while only around one-third (31%) were confident that the courts are effective at giving punishments that fit the crime.
3. Furthermore, research published in 2011, undertaken by Ipsos Mori on behalf of the Sentencing Council, indicated that the public have little confidence in sentencing decisions. In particular, 65 per cent of the individuals surveyed thought the sentences handed down by judges and magistrates were too lenient<sup>3</sup>. Court broadcasting may also act as a deterrent if potential criminals can view the consequences of criminal behaviour<sup>4</sup>.
4. Low public confidence in the CJS has been linked to a wider lack of knowledge and understanding of the CJS suggesting the need for raising public awareness. For example, research undertaken by the Ministry of Justice (MoJ) in 2008<sup>5</sup> indicated that when members of the public feel more informed about crime, they tend to have higher confidence levels. The study found that the proportion of people confident that the CJS was effective in bringing people who commit crimes to justice was higher among recipients of an information booklet on crime statistics than non-recipients by a margin of nearly five percentage points.

## Rationale for intervention

5. Section 32 of the Crime and Courts Act 2003 provides that the Lord Chancellor, in concurrence with the Lord Chief Justice, can make an Order allowing for filming and broadcast from courts.
6. The rationale for the overall policy of Court Broadcasting is to increase public engagement with, and understanding of, what happens in courts. The proposed test will support this objective by increasing the probability of technical success in enabling broadcasting in the future.
7. Broadcasting has been allowed from the Supreme Court since 2009. Cameras have also been allowed to film and record in the Court of Appeal since October 2013, providing the public the opportunity to see and hear legal arguments and final judgements.

---

<sup>1</sup><http://webarchive.nationalarchives.gov.uk/20120119200607/http://www.justice.gov.uk/consultations/docs/breaking-the-cycle.pdf>

<sup>2</sup> <https://www.gov.uk/government/publications/public-confidence-in-the-criminal-justice-system>.

<sup>3</sup> Ipsos MORI/Sentencing Council (2011) *Attitudes to guilty plea sentence reductions* p.39

[http://sentencingcouncil.judiciary.gov.uk/docs/Attitudes\\_to\\_Guilty\\_Plea\\_Sentence\\_Reductions\\_\(web\).pdf](http://sentencingcouncil.judiciary.gov.uk/docs/Attitudes_to_Guilty_Plea_Sentence_Reductions_(web).pdf) - (To Note: "too lenient" was defined in the survey as either being a "little too lenient" or "much too lenient").

<sup>4</sup> Cohn, M., Dow, D., (2002) *Cameras in the Courtroom: Television and the Pursuit of Justice*. Lanham: Rowman & Littlefield Publishers, Inc.

<sup>5</sup> Cooper and Singer, Ministry of Justice (2008) *Inform, persuade and remind: an evaluation of a project to improve public confidence in the Criminal Justice System* p.13

<http://webarchive.nationalarchives.gov.uk/20090215180422/http://www.justice.gov.uk/publications/inform-persuade-remind.htm>

8. A review conducted by the MoJ one year on from commencement of broadcasting in the Court of Appeal, explored the experiences of judiciary and practitioners to help identify further process improvements. It concluded that while cameras in court has led to changes in court practice, after some initial problems, broadcasting had effectively embedded into Court of Appeal practice and that the safeguards in place to prevent release of sensitive case information (within existing reporting restrictions) were viewed by the majority of judicial interviewees as being sufficiently robust.
9. The review highlighted a number of points, including:
  - the importance of making victims and witnesses aware that cases might be recorded and to reassure them on what is and is not allowed to be filmed;
  - the need to review training, in particular on the safeguards and what action can be taken where things go wrong, and to improve processes where appropriate; and
  - that the broadcast material is used in a manner conducive to achieving the policy aims of improving public access and understanding of court judgements.

These themes will be re-considered as part of the proposed test in the Crown Court.

10. Similar initiatives have been tried elsewhere. Scotland has authorised filming in some court cases. These cases have included broadcasting the sentencing of Alexander Pacteau<sup>6</sup> (September 2015) where Lady Justice Rae allowed the recording and broadcast of her sentencing remarks; the case of Abdelbaset al-Megrahi<sup>7</sup> who was convicted of the Lockerbie bombing; the filming of a documentary in the special domestic violence court in Glasgow by the BBC and a documentary for Channel 4 proceedings at the High Court in Glasgow. However, Scotland has not seen widespread broadcasting of court proceedings, largely due to the fact that all parties have to give their permission for filming to take place.
11. Court broadcasting is also permitted in every USA state, however, whether it is for trials and/or appeal hearings varies between states. In all states, filming is only allowed at the discretion of the presiding judge. Contrary to their Canadian<sup>8</sup> counterparts, America's Supreme Court justices have refused to let cameras into their courtroom to record oral arguments though have allowed recording in some civil cases<sup>9</sup>.
12. In New Zealand, broadcasters can make an application in advance to the District or High Courts<sup>10</sup> setting out which aspect of the court process they wish to film (trial, sentencing, and appeal). The judge in each case can approve or decline applications and has the power to remove the media at their discretion. The New Zealand Ministry of Justice report that, the introduction of filming in courts has generally been without controversy<sup>11</sup>.

## Policy objectives

13. In line with existing CJS objectives, this policy is intended to increase public knowledge and understanding of - and thus help improve confidence in - the CJS by increasing the exposure that members of the public get to the courts and the justice system. The policy is also intended to ensure that the CJS remains fair and just.
14. The test will be conducted in eight Crown Court locations named in the Order. There are expected to be only minimal costs to the Government as a result of testing the policy proposal, as broadcasters have committed to funding and operating the equipment required. There may

---

<sup>6</sup> <http://www.bbc.co.uk/news/uk-scotland-glasgow-west-34176058>

<sup>7</sup> <http://news.bbc.co.uk/1/hi/scotland/630378.stm>

<sup>8</sup> <http://www.cbc.ca/news/canada/cameras-in-the-courts-1.869497>

<sup>9</sup> <http://www.uscourts.gov/about-federal-courts/cameras-courts/history-cameras-courts>

<sup>10</sup> <http://www.justice.govt.nz/publications/global-publications/m/media-guide-for-reporting-the-courts-and-tribunals-edition-3.1/4-0-media-in-court/4-7-filming-photographing-and-recording-in-court>

<sup>11</sup> Ministry of Justice, (2012), *Proposals to allow the broadcasting, filming, and recording of selected court proceedings*.

Available: [www.justice.gov.uk](http://www.justice.gov.uk).

be some other costs to HMCTS and the Judicial Office, for example the cost for the judiciary to attend training.

15. The aim of the test period will be to refine and establish new processes to inform a decision by the Lord Chancellor and Lord Chief Justice on whether to seek Parliament's support to allow broadcasting in the future. This will require another Order to be placed before Parliament in accordance with Section 32 of the Crime and Courts Act 2013.
16. Therefore the two options considered in this Impact Assessment (IA) are:
  - Option 0: This is a "do nothing" (or 'baseline') option. Under this option, the proposed test period will not occur;
  - Option 1: Allow the filming of judges' sentencing remarks in the Crown Court for a test period.
17. The preferred policy option is option 1 as this will best meet the policy objectives.
18. Following the end of the test period, a further Impact Assessment will be prepared to support the final decision as to whether to allow Court Broadcasting of sentencing remarks from the Crown Court

## **Affected Groups**

19. We do not believe this policy and proposed not-for-broadcast test period will adversely impact any identified group. For further information please see the Equality Impact statement at Annex 2.

## **Costs and benefits**

20. This IA seeks to assess the costs and benefits associated with the options described above. It seeks to follow the procedures and criteria set out in the Impact Assessment Guidance and is consistent with the HM Treasury 'Green Book'.
21. The Green Book places a strong emphasis on the monetisation of costs and benefits, but there are often important impacts that cannot be monetised. This IA therefore discusses both monetisable and non-monetisable costs and benefits with due weight given to the latter.

## **Base case/ Option 0**

22. Under this option the current situation would continue and there would be no costs or benefits in addition to those which are already being incurred. Because the do-nothing option is compared to itself, its costs and benefits are necessarily zero, as is its Net Present Value (NPV)<sup>12</sup>.

## **Option 1: Allow the filming of judges' sentencing remarks in the Crown Court for a test period.**

23. Option 1 would allow a not-for-broadcast test period for filming of judges sentencing remarks in the Crown Court in eight Crown Court venues as named in the Order.

## **Costs of Option 1**

24. The Ministry of Justice and HMCTS expect that there will be minimal costs to the Government in conducting this test. The broadcasters in the Court of Appeal have agreed to bear the expense operating the equipment required for filming from the Crown Court for the period of the test, in the desire to demonstrate that broadcasting of Crown Court cases is practicable. The costs to broadcasters cannot be estimated as these are commercially confidential.

---

<sup>12</sup> The Net Present Value (NPV) shows the total net value of a project over a specific time period. The value of the costs and benefits in an NPV are adjusted to account for inflation and the fact that we generally value benefits that are provided now more than we value the same benefits provided in the future.

25. The Ministry of Justice and HMCTS view of the costs to the department in testing the policy are informed in part by the experience of filming in the Court of Appeal. Based on this experience we anticipate that the judiciary and court staff will require minimal additional training relating to the filming of judges sentencing remarks, with judgments made in open court as now. It is not possible to quantify the costs of any additional training the judges who sit in the Crown Court may require at this stage, but it is expected to be minimal.
26. The printing of signage and a small number of leaflets to advise members of the public that filming will be taking place will be printed in house by HMCTS at minimal cost.

## **Benefits of Option 1**

27. There is evidence that indicates that when the public feel more informed about issues affecting crime and justice, confidence in the effectiveness of the CJS in bringing people who commit crimes to justice may increase<sup>13</sup>. While this is not relevant to a not-for-broadcast test, any filming and broadcast from Crown Courts in the future (which this test will help inform) may lead to an increased level of confidence in the CJS and in the sentencing decisions handed down by judges.
28. Court broadcasting may act as a deterrent to crime because potential criminals can view the consequences of criminal behaviour<sup>14</sup>.

## **Risks and assumptions**

29. Only filming of judges sentencing remarks in the Crown Court will be permitted and none of the test material will be broadcast.
30. There is a potential risk to the willingness of victims and witnesses to give evidence or appear in court if they are aware that proceedings may be filmed. In order to mitigate this risk, all current reporting restrictions which are designed to protect victims, witnesses and the integrity of the trial process will apply and the secondary legislation has been drafted to ensure that victims and witnesses, defendants and all other court users will not be filmed and broadcasting of the material recorded during the test period is not permitted. The judge presiding over the court case will have the discretion to prevent, suspend or stop filming or prevent recording where it is in the interests of justice to do so.
31. There is also a potential risk that, if the test were to lead to broadcasting, policy aims would not be met if the media selected cases for public interest value or excitement rather than with the aim of promoting public understanding. To mitigate this risk we will consider during the test period how we might ensure the availability of all appropriate recorded material to the public if broadcasting is permitted in the future.

---

<sup>13</sup> Cooper and Singer, Ministry of Justice (2008) *Inform, persuade and remind: an evaluation of a project to improve public confidence in the Criminal Justice System* p.13  
<http://webarchive.nationalarchives.gov.uk/20090215180422/http://www.justice.gov.uk/publications/inform-persuade-remind.htm>

<sup>14</sup> Cohn, M., Dow, D., (2002) *Cameras in the Courtroom: Television and the Pursuit of Justice*. Lanham: Rowman & Littlefield Publishers, Inc.

## **Specific Impact Tests**

### **Statutory equality duties**

See the Equality Impact Statement at Annex 2.

### **Competition Assessment**

Section 32 of the Crime and Courts Act 2013 allows access to film in the Crown Court to parties permitted in writing by the Lord Chancellor. This written permission will be by means of the existing contract between HMCTS (on behalf of the Lord Chancellor) and the main news broadcasters in England & Wales (BBC, ITN, Sky and the Press Association).

The experience gained by the broadcasters from recording cases in the Court of Appeal increases the probability of technical success of filming cases in the Crown Court during the test period. They also may provide the best opportunity to achieve the policy intention of increasing public understanding of what happens in judge's sentencing remarks, as they have the potential to reach the largest audience should broadcasting be permitted in the future.

The Government is continuing to work with existing broadcasters to achieve a process for court broadcasting which achieves its policy aims and inform the decision to whether to allow broadcasting of recorded footage from the Crown Court in the future. If approved broadcasting from the Crown Court will be subject to new commercial arrangements and require the support of Parliament.

### **Small and Micro-business Assessment**

We do not expect any impact to small and micro businesses through these proposals

### **Greenhouse Gas Assessment**

Not applicable as the reform has no impact upon the emission of Greenhouse Gases.

### **Wider Environmental Issues**

Not applicable as the reform has no impact upon the environment.

### **Health and Well-being Impact Assessment**

Will your policy have a significant impact on human health by virtue of its effects on the wider determinants of health? : Income; crime; environment; transport; housing; education; employment; agriculture; social cohesion. No.

Will there be a significant impact on any of the following lifestyle related variables: Physical activity; diet; smoking; drugs or alcohol use; sexual behaviour; accidents and stress at home or work? No

Is there likely to be a significant demand on any of the following health and social care services?:

Primary care; community services; hospital care; need for medicines; accident or emergency attendances; social services; health protection and preparedness response. No

### **Human Rights**

The proposals are compliant with the Human Rights Act (1998).

### **Justice Impact Test**

The overall impact on the Justice System is outlined in the evidence base of this Impact Assessment.

### **Rural proofing**

Not applicable.

### **Sustainable Development**

We do not anticipate the proposals having any negative effect on the principles of sustainable development.

**Privacy Impact Test**

Greater transparency within the CJS may present a risk to privacy to the judiciary if cases are allowed to be broadcast in the future, as cases may receive greater media coverage. We do not anticipate any impact on other groups as they are outside the scope for filming of judges sentencing remarks as set in secondary legislation.

**Family Impact Test**

Not in scope.



# Annexes

## Annex 1: Post Implementation Review (PIR) Plan

**Basis of the review:**

To review the policy proposal for the filming of Judges sentencing remarks shortly after the test period in conjunction with HMCTS and senior Judiciary.

This will be done by presenting the footage that would have been broadcast (if this had not been a not-for-broadcast test) to the judiciary along with the lessons learnt which are intended to be captured during the test period. The test period will be managed by a joint governance team of MoJ, HMCTS and Judicial Office officials.

A formal PIR will be set when and if the overarching policy is implemented (i.e. recorded material is allowed to be broadcast) subject to agreement between the Lord Chancellor and Lord Chief Justice and the support of Parliament.

**Review objective:**

To assess the practical implications of and identify issues (including challenges faced and lessons learned) in the recording of judges sentencing remarks, to inform the proposed introduction of broadcasting in the future.

**Review approach and rationale:**

The review intends to focus on an assessment of the processes and experiences of stakeholders involved in the test in order to learn from any challenges faced and improve the process if the policy is implemented in the future.

Information will be gathered via feedback from identified groups (Judiciary, court staff etc).

**Baseline:**

The Crime Survey for England and Wales provides a baseline for public confidence in the CJS. However, this is a not-for-broadcast test so we anticipate no impact on public confidence.

**Success criteria:**

Improved processes for implementation of the recording of judges sentencing remarks resulting from the test period.

**Monitoring information arrangements:**

The test period will involve feedback being gathered, which will then be reviewed post-test period, along with the recorded footage, by MoJ, HMCTS and Judicial Office. This will help inform the development of new processes & training and help inform the next steps for broadcasting in the Crown Court.

**Reasons for not planning a PIR:**

The not-for-broadcast test period will enable us to test the policy proposal in advance of agreement to allow broadcasting of judges sentencing remarks in the Crown Court in the future. There will be consideration of a PIR being undertaken if the overarching policy is implemented.

## Annex 2 – Equality Impacts Statement

### Summary

Allow a not-for-broadcast test to proceed in a limited number of Crown Court venues to enable technical processes & guidance to be developed in advance of a decision whether to permit broadcasting of judges sentencing remarks in the future.

### Equality duties

Under section 149 of the Equality Act 2010, when exercising their functions, MoJ and its Ministers are under a legal duty to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct under the Act;
- Advance equality of opportunity between different groups (those who share a protected characteristic and those who do not);
- Foster good relations between different groups; and
- Paying ‘due regard’ needs to be considered against the nine “protected characteristics” under the Equality Act – namely race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity.

### Equality considerations

#### *Direct discrimination*

The not-for-broadcast test proposal is not directly discriminatory within the meaning of the Equality Act as it applies equally to all the judiciary and court users irrespective of whether or not they have a protected characteristic; we do not consider that the proposals would result in people being treated less favourably because of the protected characteristic.

#### *Indirect discrimination*

We do not consider that the planned change in allowing a not-for-broadcast test in limited Crown Court venues as agreed with the Lord Chief Justice, will lead to any particular disadvantage on people with protected characteristics. On the basis of the available evidence, we have not identified any significant negative or positive impact.

#### *Potential impact of proposals on victims or witnesses:*

The legislation prohibits the filming of victims or witnesses and none of the material recorded during this test will be allowed to be broadcast.

Existing rules about reporting restrictions on cases will continue to apply to filmed cases, as they do other types of new reporting. For example, the identities of young people involved in proceedings and victims of rape will continue to be protected, as well as those of other parties (for example, a witness who has been intimidated) where the court determines it is in the interest of justice.

#### *Potential impact of proposals on defendants:*

We do not anticipate that defendants will be disadvantaged by this policy as:

- filming of defendants is prohibited;
- Judges sentencing remarks are made after the defendant’s guilt has been established; and,

- Sentencing will continue to be made in accordance with Sentencing Guidelines.

The judge will also be able to halt filming to avoid giving defendants the opportunity for theatrical or political public display.

### Age

The policy scope will apply to adult trial cases in the Crown Court only (cases involving youths are excluded). None of the material recorded during the test period will broadcast and we, therefore, do not foresee anyone being will be disadvantaged by this policy on the grounds of age.

### Race

BME groups are overrepresented in certain offence types, and in the criminal justice system generally, but as the recorded material will not be allowed to be broadcast, we do not anticipate that anyone will be disadvantaged by this policy during the test period.

### Sex

Overall, 84% per cent of persons sentenced for indictable offences in the Crown Court are male<sup>1</sup>. However, we do not anticipate that any group will be disadvantaged as the filming of defendants is prohibited.

## **Discrimination arising from disability and duty to make reasonable adjustments**

In so far as the policy extends to court users, we believe that the policy is proportionate, having regard to its aim. It would not be reasonable to make an adjustment for disabled court users so that they are out of scope of the proposals, but it remains important to make reasonable adjustments for disabled court users to ensure appropriate support is given.

The existing system requires that the court consider whether any additional support should be provided and the same assistance as at present will be available.

If broadcasting is permitted in the future, this may provide the public with a wider choice in whether to attend court or not, with the potential of reducing the need to attend and therefore reducing the need to travel. This proposal may have the potential to impact positively on the lives of people with disability and thus advance equality of opportunity if broadcasting of judges sentencing remarks is allowed in the future.

## **Advancing equality of opportunity**

Consideration has been given to how these proposals impact on the duty to advance equality of opportunity by meeting the needs of Judiciary and court users, who share a particular characteristic, where those needs are different from the need of those who do not share that particular characteristic. See the comments above.

## **Fostering good relations**

Consideration has been given to this objective that indicates it is unlikely to be of particular relevance to the proposals.

## **Potential impact of proposals on legal professionals and the Judiciary**

If implemented, this policy will allow sentencing remarks only to be broadcast in the future. 77%<sup>2</sup> of High Court and Circuit Court Judges are male, it is therefore possible that men may be differentially affected by this policy in terms of the likelihood of the case they are presiding over may be recorded.

We do not anticipate any adverse impact on legal professionals or the Judiciary during the proposed test, as none of the recorded material during the test period will be broadcast.

## **Mitigation, justification and further equalities analysis**

The changes which this policy will bring about if implemented beyond the test period, may increase the opportunity for the public to hear judges sentencing remarks which are made in open court. We do not anticipate that broadcasting of the sentencing remarks will impose a manifestly different sentence made in open court, as the judge in the case will operate within existing sentencing guidance. Therefore whilst the differentials listed above have been found to exist in the criminal justice system already, this work is not intended to address those differentials, nor is it anticipated that they will be made worse by the change of approach.

---

<sup>1</sup> <https://www.gov.uk/government/.../statistics-women-cjs-2011-v2.pdf>

<sup>2</sup> <https://www.judiciary.gov.uk/publications/judicial-statistics-2015/>