

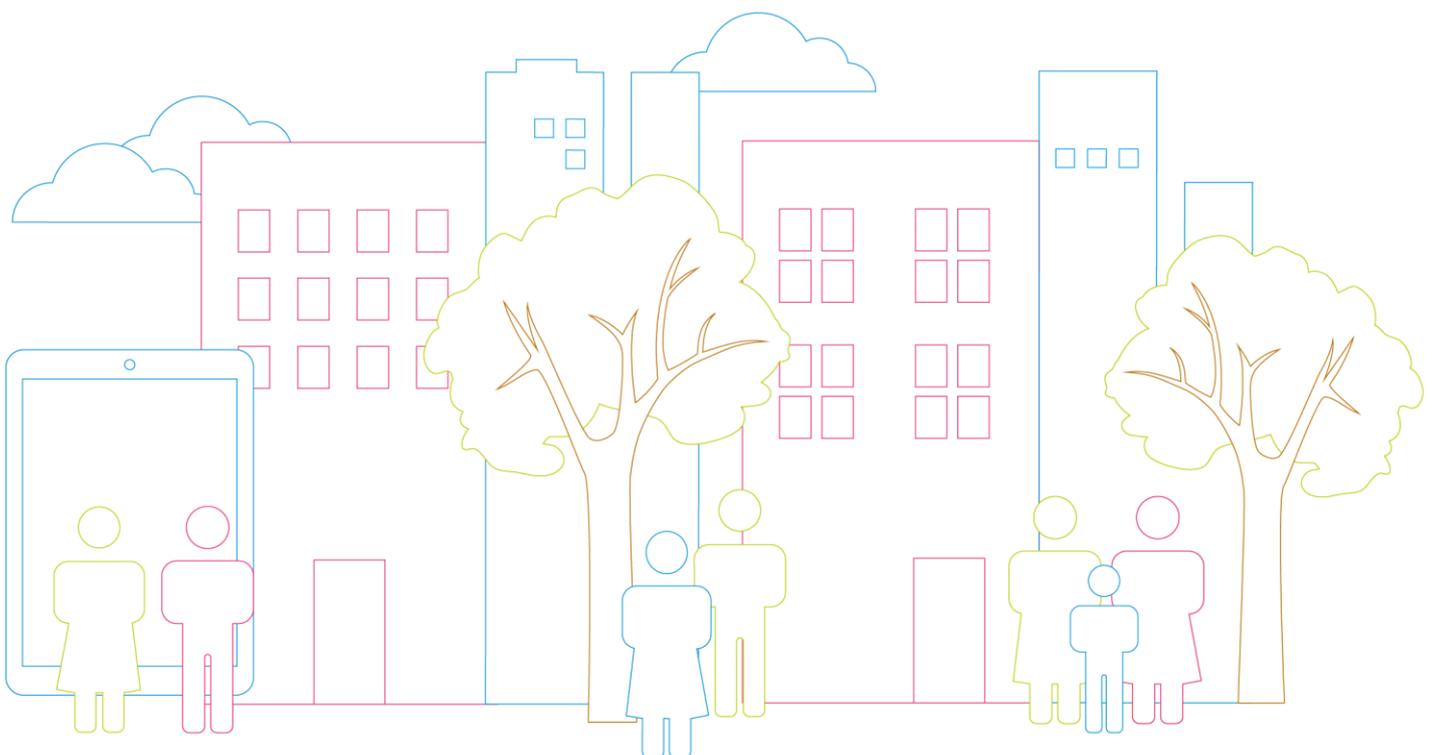


HM Courts &  
Tribunals Service

Justice matters

# Understanding and improving defendant engagement

July 2020



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Authors: Dr. Philip Mullen, Dr. Clare Collins, and Katy Savage  
(Revolving Doors Agency)

## About Revolving Doors Agency

Revolving Doors Agency is a national charity that aims to change systems and improve services for people in the revolving door of personal crisis and crime. We bring independent research, policy expertise and lived experience together to work towards a smarter criminal justice system where the revolving door is both avoidable and escapable. We work alongside policymakers, commissioners, local decision-makers, and frontline professionals to share evidence, demonstrate effective solutions, and change policy. We embed the involvement of people with lived experience in our work, including through peer research, interviews, lived experience teams and forums based in London, Birmingham, and Manchester.

## Acknowledgements

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# Executive summary

HM Courts and Tribunals Service (HMCTS) commissioned this research to better understand why defendants do or do not engage across the criminal courts process, and how they could be better supported to engage with this process. In particular, the research aimed to determine how defendants could be encouraged to take up legal representation where appropriate.

To support better understanding of defendant engagement the research agency, Revolving Doors, conducted 38 in-depth interviews with defendants who had recent criminal cases. The sample included first-time defendants and those who had represented themselves in court. This was an opportunity to hear from defendants in their own words.

Across the criminal courts process, at the police station, preparing for court and at court, the research identified three key barriers that prevented, or limited, defendant engagement. These were a lack of:

- relevant and user-friendly information about the criminal courts process provided by a trusted source
- timely information to support more informed decision-making, particularly around legal representation
- information and signposting to services that could help defendants with their additional support needs (e.g., mental health, substance misuse, domestic violence, and housing issues)

The research found early intervention is key. To improve engagement, defendants should be provided with more information at two stages:

- in police custody – defendants should receive information about the benefits of representation
- on discharge from custody – information about what will happen next and how to prepare for their court hearing

Revolving Doors recommends that HMCTS prioritise the development and user testing of this information.

Table 1 comprises a full set of recommendations to improve defendant engagement across the user journey. Priority recommendations for each stage of the defendant's journey are recommendations 2 and 3 (at the police station), recommendations 4 and 7 (preparing for court), and recommendations 8 and 11 (attending court). These are recommendations which the research suggests would have the greatest potential impact on defendant engagement and can be most readily actioned. Some of these recommendations can be implemented by HMCTS alone, others will rely on the engagement of partner agencies, for example the police and the Law Society. The recommendations reference agencies who may be well placed to work with HMCTS to take each recommendation forward, however, these agencies have not been consulted as part of the

research. There are several opportunities to use Easy Read documentation, identified in Table 1. Easy Read is an accessible format that uses simple, jargon free language, short sentences and supporting images.

**Table 1: Recommendations to improve defendant engagement across the user journey**

Stage of the journey	Recommendation
<b>Stage 1: At the police station</b>	<ol style="list-style-type: none"> <li>1. Engage with the police through relevant bodies to support them to inform defendants more effectively about their rights when being questioned, while still acting within PACE guidelines.</li> <li>2. Provide written information in Easy Read format to defendants that explains the importance of representation when being questioned.</li> <li>3. At the point that the defendant is charged, provide them with concise written information in Easy Read format about the next steps in their journey and how they can prepare for their hearing.</li> </ol>
<b>Stage 2: Preparing for court</b>	<ol style="list-style-type: none"> <li>4. Provide advice to defendants around what to expect on the day of the hearing on the formal paperwork defendants are provided with when they are charged.</li> <li>5. Make 3D tours of each local court available to defendants to help defendants to navigate the court.</li> <li>6. Provide defendants with more information about what they can do if they are dissatisfied with their representation.</li> <li>7. Signpost defendants to existing sources of help at multiple points in their journey, starting from police custody.</li> </ol>
<b>Stage 3: Attending court</b>	<ol style="list-style-type: none"> <li>8. Provide a queries desk at court so that defendants can better identify clerks and volunteers and direct queries to them.</li> <li>9. To better comply with existing guidance, work with bodies including the Law Society and Legal Aid Agency to identify and address barriers that prevent the defendant's representative from speaking to the defendant as early as possible on the day of the hearing.</li> <li>10. Provide defendants waiting in holding cells below the court with more sources of distraction, to allay anxiety.</li> <li>11. Referrals should be made by court staff wherever possible, and controls should be placed on who can approach defendants, to ensure support is provided sensitively.</li> </ol>

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12. Assess all defendants for reasonable adjustments that may be necessary to support their engagement with their hearing. A particular focus should be placed on assessing for hearing impairments as defendants may not always feel confident in requesting the required adjustments.

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HMCTS also wanted to better understand the factors that played into the decision-making of defendants opting to take part in a prison to court video link (PCVL) hearing, how their experience of a PCVL compared to face-to-face hearings, and whether there were any barriers to engaging with or understanding proceedings specific to PCVLs. Revolving Doors interviewed seven defendants who had experience of PCVLs for remand hearings.

All seven defendants interviewed opted for a PCVL over a face-to-face hearing to avoid the disruption of a day in court, and because their hearings were solely about their remand. Most, however, reflected that they would have likely made a different decision, to attend court-in person, if the hearing were for their sentencing, particularly if they faced a more serious charge.

The most challenging aspects of PCVLs for defendants were issues around communication. Some of these issues related to how PCVLs were set up, for example having limited time to speak to their representative prior to their hearing and delays in the date and time of their hearing being communicated to them, causing them to have less time to prepare.

Other communication issues occurred during their hearing. For example, the presence of a prison officer caused confidentiality concerns, and audio-visual issues resulting from technical problems with the link affected defendants' ability to follow proceedings. Only a couple of defendants felt that judges and court staff put measures in place to mitigate against these technical problems, for example by re-introducing themselves each time they spoke.

Two priority recommendations for PCVLs are to:

- provide the defendant with the opportunity to communicate in private with their representative for at least 15 minutes before and after their PCVL, and with their family where possible
- provide training and guidance to judges and court staff around the steps they can take to communicate with the defendant more effectively during a PCVL

Implementation of many of the recommendations relating to PCVLs are operational issues relating to prison regimes and therefore largely sit with HMPPS.

# 1. Context, methodology and sampling

## Context

This research was carried out between March and June 2020 and took place in the context of the COVID-19 pandemic. This brought both challenges and opportunities.

Due to the national lockdown, Revolving Doors adapted its plans to conduct interviews and focus groups in-person as many organisations the agency works with to recruit participants, particularly those in the third sector, were forced to suspend activities or temporarily close. Careful planning was needed to ensure recruitment of a diverse range of defendants and the agency reached out to more than 70 organisations for support with recruitment.

This context also brought opportunities. Conducting the research remotely meant that the sample was more geographically diverse, as it was no longer tied to conducting face-to-face research in a limited number of locations. Additionally, several participants told researchers that this was the first time they had recounted their experience of appearing at court to anyone else. The anonymity provided through a phone interview may have supported them to speak more openly about this experience.

It's important to note that, as a retrospective study of defendants' journeys through the court process, the changes made by HMCTS to court processes because of COVID-19 did not factor into the research.

## Aims and objectives

The aim of this research was to further understand how and when defendants, from their own perspective, engaged across the criminal courts process, from the point of their arrest through to their first hearing. It builds on research conducted in 2019 by the HMCTS Insight and User Research team which explored, from a defendant representative's perspective, how defendants could be encouraged to attend court, seek representation, and engage with a defendant representative at an earlier stage of the court process.

Through further understanding defendant behaviour and decision making (including around legal representation), the objective of the research was to identify how the engagement of defendants could be improved pre-court (including with legal representation) and at court (including with attendance), and how this engagement could be encouraged earlier in the court process.

An additional research aim was to understand whether and how defendants experienced the court process differently when attending in-person compared to taking part in a Prison to Court Video Link (PCVL) hearing, and whether this impacted on their understanding of the court process.

An example topic guide used for this research is included as Appendix 4.

## Methodology

All research was conducted through semi-structured interviews either over the phone or through an online video call. Most participants opted for a telephone interview.

Semi-structured interviews were conducted using three distinct interview guides, which explored:

1. the experiences of represented defendants across their journey, from the point of their arrest through to their physical presence in Magistrates' Court and/or Crown Court
2. the same journey for self-represented defendants, leading to their physical presence in court
3. how defendants experienced Prison to Court Video Link (PCVL) hearings

Each interview started by asking defendants to explain, in their own words, the decisions they made across their journey, for example around their plea and decision about whether to seek representation. Defendants were then asked a series of follow-up questions about each stage of their journey: at the police station, preparing for court, and attending court. These follow-up questions explored defendants' decision-making processes further, and how they felt they could have been better supported to make decisions. To conclude each interview, defendants were asked about the one thing that could make the process better.

## Sampling and limitations

In total, 38 interviews were conducted with 37 respondents. One respondent took part in both a PCVL interview and an interview about their experience of attending court in-person.

Of the 38 interviews, 31 were about the respondent's experience of attending court in-person (25 with represented defendants and 6 with self-represented defendants). The remaining 7 interviews concerned respondents' experiences taking part in a PCVL hearing.

Tables 2, 3 and 4 summarise information about the sample broken down for the two interview types (defendants who attended court in-person, and those who took part in a PCVL). Annex 1 provides further details in a graphical format.

**Table 2: Demographic information for the two main types of interview conducted**

Aspect of the sample	In-person respondents		PCVL respondents	
TOTAL NUMBER OF RESPONDENTS	31		7	
Age	18-20:	1	18-20:	0
	21-30:	5	21-30:	2
	31-40:	6	31-40:	1
	41-50:	10	41-50:	2
	51-60:	8	51-60:	2
	61+:	1	61+:	0

Gender	9 males 22 females	7 males
Ethnicity	White British: 25 White (Other): 1 Asian/Asian British: 4 Prefer not to say: 1	White British: 7
Highest level of education	No formal education: 3 GCSE: 7 A level: 1 Vocational: 10 Degree: 4 Postgraduate: 4 Not provided: 2	No formal education: 2 Vocational: 4 Degree: 1
Location of respondents	Bradford, Cheshire, Chesterfield, Cornwall, Dudley, Ipswich, Kent, Leicestershire, Liverpool, London, Manchester, Norfolk, Nottinghamshire, Peterborough, Plymouth, Sheffield, and the West Midlands	London, Leicestershire, Manchester, Preston, and the West Midlands

**Table 3: Information on defendant type for the two main types of interview conducted**

Aspect of the sample	In-person respondents	PCVL respondents
TOTAL NUMBER OF RESPONDENTS	31	7
Represented defendants	25 respondents	7 respondents
Self-represented defendants	6 respondents	0 respondents

First-time defendants	19 respondents	0 respondents
Repeat defendants	12 respondents	7 respondents

**Table 4: Information on sentence outcomes for the two main types of interview conducted**

Aspect of the sample	In-person respondents		PCVL respondents	
TOTAL NUMBER OF RESPONDENTS	31		7	
Time since defendants last court appearance	3-6 months:	5	3-6 months:	0
	6-12 months:	7	6-12 months:	2
	1-2 years:	3	1-2 years:	1
	2-3 years:	13	2-3 years:	4
	Prefer not to say:	3		
Sentence type	Prison:	12	Prison:	6
	Community Sentence		CSTR:	1
	Treatment Requirement (CSTR)/			
	Suspended/Fines:	17		
	Not guilty:	2		

As outlined in Tables 2, 3 and 4 above, the sample included a diverse range of defendants in terms of age, gender, level of education, geographical location, and number of previous offences. Respondents also had a range of offences they were accused of, varying in severity, which included: Actual Bodily Harm (ABH), burglary, driving offences, fraud, Grievous Bodily Harm (GBH), malicious communication, possession of offensive weapons, sexual offences, and shoplifting. This range of offence types is represented graphically below, with the relative number of defendants with that offence type indicated by the size of the text:



Figure 1 Graphical representation of respondent's offence types

There are three important limitations to the sample:

- The sample includes a limited number of self-represented defendants. Revolving Doors had difficulty recruiting this category of defendants in the context of the national lockdown.
- The sample is not as ethnically diverse as the users of Magistrates' Courts and Crown Courts in England, when compared to the 2018 criminal justice system statistics on race. The sample includes a higher proportion of White defendants (88% in the sample, compared to 79% of criminal court users in 2018) and Asian defendants (11% in the sample, compared to 6% of criminal court users in 2018) and does not include any Black or mixed-race defendants (11% and 3% of criminal court users in 2018). The findings therefore may not fully reflect the experience and concerns of all Black and Minority Ethnic (BAME) defendants.
- The sample for in-person hearings (31 defendants) includes 9 males (29% in the sample, compared to 74% of individuals dealt with by the Criminal Justice System in 2019, according to Ministry of Justice data on women and the criminal justice system) and 22 females (71% in the sample, compared to 26% of individuals dealt with by the Criminal Justice System in 2019, according to same data). The findings therefore may not fully reflect the experience and concerns of all self-identified male defendants.

Further research with Black and Minority Ethnic (BAME) and self-represented defendants may be needed to understand their needs. Establishing formal partnerships with BAME-led organisations may enable future research to increase recruitment of participants underrepresented in this research, including Black, mixed race and Gypsy Roma Traveller communities.

## What this report contains

The rest of this report outlines the research findings and recommendations. Recommendations are based on prevalent themes from across the two main types of interview (31 defendants on their experiences of attending court in-person and 7 taking part in a virtual PCVL), within the sampling parameters outlined above.

Sections 2, 3 and 4 follow the stages of the defendant's journey (31 defendants) from the police station, to preparing for and, finally, attending court. Each section begins with the recommendations, followed by supporting research findings. The report presents findings across three core themes: access to information, informed decision-making, and support needs. These themes cut across each stage of the defendant's journey.

Section 5 focusses on PCVLs (7 defendants) and includes a summary of communication issues and defendant's attitudes towards PCVLs. This section builds on an earlier PCVL findings report (included in Annex 3).

Section 6 provides a summary of respondents' priorities, in their own words. The report concludes in Section 7 with a summary of findings and recommendations.

Throughout the report examples of practice valued by defendants that provide important insight and learning are included in grey boxes. Four case studies are provided in Annex 2 to illustrate the challenges that defendants faced across their journey and the key points of intervention that helped them to better navigate this journey.

## 2. Stage one: At the police station

This report recommends that HMCTS:

1. engage with the police through relevant bodies to support them to inform defendants more effectively about their rights when being questioned, while still acting within PACE guidelines
2. provide written information in Easy Read format to defendants that explains the importance of representation when being questioned
3. at the point that the defendant is charged, provide them with concise written information in Easy Read format about the next steps in their journey and how they can prepare for their hearing

The research shows that information and guidance provided to defendants (both orally and in writing) while they are in police custody and upon their discharge is the most critical point of intervention to support defendants to better navigate and engage with the court process. Information provided to defendants at the police station, with their court summons, at the point of their discharge from custody, and online on the GOV.UK website, should signpost them to:

- existing sources of information (including direct links where possible) – for example around sentencing guidelines and information about the HMCTS Service Centre and the phone number to call
- local and national organisations who can provide legal and wellbeing support
- new written information on duty representation in police custody

This section sets out the information that should be provided

- to defendants while they are in police custody around the value of duty representation, to encourage them to take it up
- to defendants when they leave police custody and are charged, to support them to better navigate existing sources of information and to encourage them to seek representation from a legal professional

The framing of this information in official documentation is critical to defendant engagement, and therefore should be tested with users. There may also be other channels that would be effective for creating triggers to prompt defendants to engage with this information, such as through text messages at key points between point of charge and first appearance in court but, as these channels were not used by HMCTS for this purpose at the time of this research, they require further investigation and user testing.

## Informed decision-making

Identifying the earliest possible trigger for defendants' engagement with representation is critical. The earliest trigger point is at the police station with duty representation and this research found that vulnerable defendants, for example those experiencing domestic violence or those who had a mental health difficulty, and first-time defendants were the groups least likely to accept help from a duty solicitor. These defendants made this decision due to one or more reasons including:

- not fully understanding the reasons for, and benefits of, having representation when being questioned
- wanting to leave police custody as quickly as possible as it was an uncomfortable and distressing experience for them
- not fully understanding the seriousness of the offence and the consequences that this decision around duty representation might have for them later in their case
- recognising they were guilty and/or that there was strong and irrefutable evidence against them, and therefore feeling that there was no role for defence representation as they already felt clear on their plea decision

The following quotes show some of these reasons that defendants gave for not accepting help from a duty solicitor:

*"The last thing I wanted to do was spend time in a police cell."*

*"I wasn't well at the time and didn't realise that I needed representation when making statements."*

*"It was not explained what the implications were of having representation or what would happen if I didn't have representation."*

To address these barriers to accepting duty representation, HMCTS could engage with the Home Office and other relevant bodies so that police officers are supported to inform defendants more effectively about their rights when being questioned. There are important limitations and guidelines resulting from the Police and Criminal Evidence Act (PACE). However, if the police were to give more information about the time it would take for a duty solicitor to arrive, this could help to encourage defendants wary of holding up the process to accept the offer of help.

Revolving Doors also recommends that defendants are provided with additional written information about representation, which the police cannot provide orally due to PACE guidelines. This information, which should be written in Easy Read and tested with defendants, should also be provided to defendants summoned by postal requisition. Information should:

- fully explain the reasons for having representation in the context of the potential consequences for the offence
- emphasise to the defendant that if they are charged with the offence that it would be advisable for them to seek further representation
- emphasise to the defendant that requesting duty representation when being questioned would not prejudice their case in any way

The defendants interviewed who chose to not accept duty representation, felt that they would have been able to make a more informed decision had they been given this information. They also felt they would have been more likely to have accepted representation, as the following quotes show:

*“If I had of known if it would have been quick [to get a duty solicitor to see me ahead of the police interview], and that I would need a solicitor down the line at some point anyway, I may have thought that it would have been easier to ask for one now.”*

*“I probably would have taken [the duty] if the police gave me an example of what could happen...took a long time for me to realise it would have been helpful...My advice [reflecting back on the case] for other defendants is to get legal help as soon as you can.”*

## Access to information

In addition to not having access to sufficient information around duty representation, first-time and self-represented defendants felt that they were not given sufficient information, at the point of their discharge from police custody, about what would happen next in their journey and how they could prepare for their hearing. This impeded and delayed their engagement with the courts process, as they did not know where to go for support and guidance.

Defendants interviewed identified the formal paperwork they are provided with when charged, which includes information about their charge and court date, as a critical opportunity to provide accurate and timely information about the next steps in their journey and guide them to trusted sources of further information to support them in taking these steps. Defendants recognised that there was a lot of information available about the court process, including from HMCTS. They felt it was challenging to find information and navigate, particularly online. Defendants who were not arrested but instead given a court summons expressed similar concerns. Providing more information on the summons documentation may therefore be helpful, as the following quotes show:

*“[The information provided upon discharge was a] total tick box exercise, they only gave me a leaflet for Samaritans.”*

*“Google can be a minefield and can worsen depression, leading to the bottle.”*

*“It was difficult to find out information in-between meetings with him [their solicitor] – looking through previous cases on the internet, to find out about the likely outcome, but no two cases are the same.”*

To encourage defendants to take earlier steps to prepare themselves for their hearing, including approaching legal representatives for advice and representation, formal documentation could be provided upon discharge. This should include information about:

- accessing representation and the benefits of doing so as early as possible, including informing the defendant that solicitors offer free initial consultations
- sentencing guidelines and the weblink for accessing these
- legal aid and how to check if you are eligible
- where to find advice around representing yourself in criminal cases. There is information provided on the GOV.UK webpage on self-representation, but this currently only relates to civil cases
- information about defendants’ options for submitting a plea decision, including how they can submit this earlier in the court process either online or by sending a letter to court
- what to expect on the day of the court hearing (more information about this can be found in section three of this report), including information about HMCTS Service Centres and the phoneline number, and reasonable adjustments that can be put in place for the court hearing

- organisations, both national and local where possible, that defendants can reach out to for support, including liaison and diversion, substance misuse services, and domestic violence and criminal justice support organisations (e.g. Anawim, a charity that specifically supports women involved in the criminal justice system in Birmingham, or CassPlus in Devon and Cornwall).

This information should be written concisely and in an accessible format such as Easy Read and should be user tested with defendants.

# 3. Stage two: Preparing for court

This report recommends that HMCTS:

4. Provide advice to defendants around what to expect on the day of the hearing on the formal paperwork defendants are provided with when they are charged.
5. Make 3D tours of each local court available to defendants to help defendants to navigate the court.
6. Provide defendants with more information about what they can do if they are dissatisfied with their representation.
7. Signpost defendants to existing sources of help at multiple points in their journey, starting from police custody.

## Access to information

Preparing for court was a particularly challenging stage of the journey for first-time defendants. They wanted to take practical steps to prepare themselves but were blocked by a lack of information. First-time defendants explained that they did not know where and how they could access practical information about what to expect on the day of their hearing, which left them feeling under-prepared. The information defendants wanted to know in advance of their hearing included:

- the length of time they could be waiting in court for their hearing to take place
- the overall length of time they may be expected to be in court, so that they could make appropriate work and childcare arrangements
- what they should bring with them on the day of the hearing, for example food, drink, or money to purchase refreshments
- who they could speak to on the day of their hearing if they had any questions, for example to find out which courtroom they would be in
- what they could expect when they entered the courtroom, particularly its layout and who would be present

Lack of advance access to practical information impeded the ability of first-time defendants to engage in their hearings. For example, several first-time defendants we spoke to experienced issues with work or childcare as they were in court for longer than they expected. As a result, they spent a significant amount of time on the day trying to resolve these issues, rather than focussing on preparing for their case to be heard, as the following quotes show:

*“Information sent to defendants should be sent ahead of time, a basic guide. You should be made aware of how long you could be in court and how to find the court room you are in, to avoid stresses about childcare.”*

*“If you go anywhere you’ve never been before, you have to find your bearings – like if you’re driving to a town you’ve never been to before, in the days before satnav – that anxiety feeling.”*

To support defendants to plan practically for court, reduce anxiety and therefore to better engage with their hearings, it is recommended they be directed to realistic advice, written in Easy Read format, about what they can expect on the day of the hearing. It is also recommended that 3D tours of each local Magistrates’ Court and Crown Court are made available to defendants, and again that defendants are better directed to this information through the formal paperwork they are provided with. A generic tour or map that identifies key components of the court building would be a good interim measure.

## Informed decision-making

Represented defendants recognised the important role that their solicitor played in supporting them to prepare for court, for example by providing advice on their plea decision and helping them to write their statement. These defendants, however, reported varying levels of satisfaction with their solicitor. While most defendants felt satisfied with their representation, several felt dissatisfied with the support their representative provided, and felt underprepared for their hearing as a result. The reasons defendants gave for their dissatisfaction included:

- the firm changing the solicitor the defendant had been assigned, often just as they had built up trust in the solicitor they were initially given
- irregular communication
- not answering the questions the defendant had, particularly around what they could expect in court
- solicitors communicating in ways that made them seem impersonal or judgemental
- not taking actions they had promised to take
- solicitors not spending sufficient time with the defendant to build the trust they required to fully explain their mitigating circumstances relating to the case

The following quotes show in further detail some of these reasons for these defendants’ dissatisfaction with their legal representative:

*“It felt like they had more important things to worry about. Brushing me off when I did ask questions. Told me to send things across and we will deal with it, but they didn’t do so. Tick a box mentality – told me to get on with it, but they needed to take steps to make it less overwhelming. I didn’t know what I was entitled to.”*

*“When speaking about the case with the solicitor, and the wait I faced in being seen by court, they advised me that the best thing to do was to breach the order placed on me [to avoid the town centre between certain hours] in order to get myself arrested and seen at court quicker. This was not something I wanted to put myself or my husband through. I decided to represent myself at this point. If I were to break bail conditions that would be another offence to me, and I was not prepared to take that risk. I also asked myself, what can they say or offer that I can’t myself?”*

Some dissatisfied defendants sought alternative representation, but others did not realise that this was an option. Despite their concerns, they felt their only choices were to continue with their solicitor or represent themselves. To support defendants to become more engaged, the formal documentation provided to defendants could include the contact details for the Solicitors

Regulation Authority and more information, in Easy Read format, about the appeals process, and defendants' rights, and the process of changing their legal representative.

## Support needs

Several defendants interviewed felt too ashamed to speak to their family and friends about their case. First-time defendants felt that their family and friends would either not be knowledgeable or that they would be judgemental. Defendants accused of sexual offences were particularly concerned about being judged if they reached out for help. Additionally, a few defendants felt abandoned by friends and family as their case involved accusations made by a family member, partner or friend.

As a result, these defendants were too ashamed to seek help proactively. They felt alone in dealing with their anxieties around their case, particularly those related to the possibility of a custodial sentence. This impeded and delayed effective engagement with the process, as shown by the quotes below:

*“So worried and so upset during this time [preparing for the case] – and no one I could discuss it with, I was so ashamed and so couldn’t speak to friends and family. Left to go through it on my own, in my head night and day.”*

*“Could have done with someone to talk to – became estranged with family [as a result of the case involving their partner], couldn’t speak to partner, friends, lost the circle of support I would have had – resulted in mental health issues, couldn’t sleep or eat, suffering from anxiety.”*

*“As a survivor of domestic abuse, I went through 20 years of not being allowed to make a decision – you lose your voice. Nobody was reaching out to me from that angle, I could have done with signposting to other agencies.”*

To support defendants with their emotional wellbeing, Revolving Doors recommends that defendants are signposted to existing sources of help available locally. This signposting, as recounted in the example below, was viewed as crucial by defendants in supporting them to address wider issues around the case which were impeding their engagement with the case itself.

### Spotlight: importance of additional support and signposting

The following quote is from a defendant who describes the additional support and signposting provided by Anawim:

*“[Anawim provided] someone to support me during hearings – housing, someone to talk to, point you in right direction, and notify the legal system about changes in your life. Wouldn’t have had the nervous breakdown if I was speaking to them earlier – they gave me someone to speak to about what was going on, what was to come. They were so knowledgeable and so supportive.”*

## 4. Stage three: Attending court

This report recommends that HCMTS:

8. Provide a queries desk at court so that defendants can better identify clerks and volunteers and direct queries to them.
9. To better comply with existing guidance, work with bodies including the Law Society and Legal Aid Agency to identify and address barriers that prevent the defendant's representative from speaking to the defendant as early as possible on the day of the hearing.
10. Provide defendants waiting in holding cells below the court with more sources of distraction, to allay anxiety.
11. Referrals should be made by court staff wherever possible, and controls should be placed on who can approach to defendants, to ensure support is provided to defendants sensitively.
12. Assess all defendants for reasonable adjustments that may be necessary to support their engagement with their hearing. A particular focus should be placed on assessing for hearing impairments as defendants may not always feel confident in requesting the required adjustments.

### Access to information

On the day of their hearing, most defendants interviewed had basic queries and did not know who to direct them to. This particularly affected first-time and self-represented defendants, but also defendants who did not have anyone accompanying them to court.

Queries included when defendants could expect to be seen, which courtroom their case would be heard in, and the location of facilities such as the canteen or toilets. Without an identified person whom they could ask basic questions, these defendants built up anxieties which impeded their ability to engage effectively with their hearing, as shown by the quote below:

*"My name was first on the board so I was thinking I would go in first...Everyone going in was coming out again so I thought they were saving me for last cos they were going to send me to prison.... Started to make me agitated and angry – I've gone into the courtroom with a bit of an attitude, affected my behaviour."*

To allay anxieties and support defendants' engagement, a prominent queries desk could be set up at court and highlighted to defendants. This desk could be volunteer run, but those operating the desk would need to be trained in dealing with anxious people sensitively and appropriately. Training would need to include how to respond if the defendant is known to them and how to identify if the defendant requires more privacy to discuss their query. The example below illustrates the importance of this training for people undertaking this role:

*“The worst thing for me was that one of the school mums was a volunteer in the court and saw me and said ‘what are you doing here?’. She had to tell the judge that she knew me and had to leave the court. Last thing I wanted. On the drive home I was thinking I have to go and pick the kids up at school now, will she be there, will she mention it, look at me, what will I say?”*

## Informed decision-making

Several defendants interviewed, including those with existing representation, had to make updated decisions about their plea late on the day of their hearing, because of their representative sharing new updates about their case, for example that a charge had not been dropped as expected or that the prosecution had shared new evidence. As a result, these defendants were tasked with making life-changing decisions in a very limited time period, in many cases in less than thirty minutes before they were due to appear before the judge. This meant that they felt less able to think clearly and make a balanced decision:

*“Barrister should have seen me first thing in the morning – wanted to get it out of the way. Played me like a fiddle. Could have made a more rational decision if given more time... Better frame of mind if barrister would have seen me earlier. Barrister only saw me 10 minutes before went to see the judge.”*

*“In the end, on the day of the trial my solicitor advised me to go guilty as she found new evidence. I had my concerns earlier but didn’t have the opportunity to speak to someone else – the court should have advisers in place who are impartial.”*

Making an updated plea decision in this high-pressured scenario was more challenging for defendants who were held in the holding cells below court. The conditions in these cells, with defendants having limited options to distract themselves from their anxieties, impacted their wellbeing, which made it even harder to make rational decisions:

*“Nowhere to lie down. Too much thinking time, having nothing to do. Felt like I’d been thrown in a hole and forgotten, very claustrophobic. Not humane. Didn’t care what happened in court, I’d just prefer not to be there.”*

*“[They should help to] keep your mind active whilst waiting to be seen – let you take a book with you. Would lower the anxiety if you don’t know what will happen you assume the worst.”*

To support defendants to make more rational decisions, when tasked with doing so on the day of their hearing, Revolving Doors recommends that HMCTS works closely with bodies including the Law Society and Legal Aid Agency to identify and address barriers that prevent the defendant’s representative from speaking to the defendant earlier on the day of their hearing. Providing defendants with positive distractions in holding cells, for example a TV, radio, book, or a more comfortable place to rest, would also help to keep anxiety at bay and therefore aid decision-making and engagement during the hearing itself.

## Support needs

Defendants interviewed had a range of additional support needs around their case, particularly around domestic violence, substance misuse and mental health. They valued being signposted to sources of support to help them address these needs; when left unaddressed, they impacted on their ability to engage with their case. When attending court, defendants were approached by representatives of support organisations and appropriateness and effectiveness of this contact varied. Defendants found this support most helpful when members of court staff referred them to support organisations based in the court building as they felt it encouraged them to engage with the support offered.

These positive referrals contrasted with instances where a support representative approached the defendant without sensitivity, often out of the blue, which caused the defendant to be less likely to engage with the support offered:

*“One of them approached me and said ‘you’ve got a drink problem. I run an AA type group’ – and I thought I don’t even know who you are, court didn’t introduce her – I said ‘look I don’t need any help thank you’. I had had a bad enough day without that. I found it really intrusive. If it had been to do with the court, different. She just appeared out of nowhere.”*

*“After the court hearing was taken to a room straight after – they wanted to talk about abuse, but it was all too much. Didn’t have time to digest what had happened in the court room, bombarded me with too much information about support available. Needed to get out – not able to take it all in. All too much for me – not straight from court, should have been either later that day or the next day.”*

## Spotlight: positive experiences being referred to locally available support by court staff

The following quotes are from two defendants who describes their experience of being referred to locally available support by court staff:

*“The clerk was quite scary. But after they said what needed to be done [further hearing based on new evidence], she came straight over to me and said for me to go and see CASSPlus...She was like a completely different person. That was lovely, she got someone to show me where to go, that was nice, she knew I needed help and the help was there. CASSPlus were fantastic and got the case dismissed.”*

*“At a suspended hearing – a court officer usefully suggested to me that based on the report from probation officer, I might benefit from Anawim (a charity that specifically supports women in the criminal justice system) .... They helped to rebuild my trust and faith that there was someone else interested in my health and they helped me to deal with the impact the whole process had on me. Gained strength from them holding my hand through the process – as a result, I made it back to being me.”*

Referrals by court staff supported defendants to engage positively with support organisations. Revolving Doors recommends these referrals should be encouraged and HMCTS should take care to ensure that only those organisations who are trusted to approach defendants sensitively are permitted to do so.

Several defendants raised concerns around not being able to hear effectively in the dock. For most, reasonable adjustments were put in place before the hearing started, such as providing headphones or allowing them to stand outside the dock. However, where mitigations were not put in place ahead of time, defendants did not feel confident enough to request that the hearing be paused until these were in place. Care should be taken to ensure these measures are always in place prior to commencement of the hearing, as defendants could be disadvantaged otherwise, as the quote below shows:

*“Disadvantage – not being able to hear when in the dock. Delays in getting headphones to me – now I know I should have insisted that we didn’t get started without them. Should be standard practice – should ask can you hear alright? Lose confidence – feel at a disadvantage, unfair. Not easy to hear through glass.”*

# 5. Prison to Court Video Links (PCVLs)

## Summary

This section of the report builds on the initial PCVL findings report. It is recommended that the initial report (see Annex 3) is referred to while reading this section as it includes more information about the issues discussed, as well as findings relating to when defendants felt PCVLs were appropriate.

For the seven defendants interviewed, the most challenging aspects of PCVLs related to communication. Some of these issues related to how PCVLs were set up. For example, a few defendants described how they were transferred between prisons, because of miscommunication between courts and prison estates, with reported negative consequences for their mental wellbeing and rehabilitation.

All of the defendants reported feeling inadequately prepared for their hearing. This was either due to delays in the date and time of their hearing being communicated to them or having only limited time, in some cases less than five minutes, to speak to their representative about their hearing.

To address these communication issues, Revolving Doors recommends that HMCTS:

1. Work with HMPs to:
  - Minimise miscommunication between courts and prison estates and the implications these miscommunications may have for defendants.
  - Provide defendants with written notification of upcoming PCVLs with sufficient notice to support defendants to prepare effectively.
2. Provide the defendant with the opportunity to communicate in private with their representative for at least 15 minutes before and after their PCVL, and with their family where possible.

Defendants also experienced issues that prevented them from effectively communicating during their hearing. Most defendants felt that the presence of a prison officer prevented them from outlining their mitigating circumstances, because of concerns that this information could be shared with other officers and inmates.

Most defendants experienced audio-visual issues during their hearings resulting from technical problems with the link, but only a couple of defendants felt that judges and court staff put measures in place to mitigate against these, for example by re-introducing themselves each time they spoke.

One defendant interviewed who was usually supported by a mental health worker was not able to receive support from them during their hearing, because of inflexible procedures relating to security clearance within their prison. Such support would have been valued. To address these communication issues, Revolving Doors makes the following recommendations:

### 3. Work with HMPPS to review:

- Whether it is necessary for a prison officer to be present during a PCVL, given the confidentiality concerns of defendants which prevent their effective engagement with PCVLs.
- Procedures on the prison estate that can prevent support workers from accompanying defendants to PCVLs.

### 4. Provide defendants with the same visual overview of the courtroom that they would have if they attended court in-person.

### 5. Provide training and guidance to judges and court staff around the steps they can take to communicate with the defendant more effectively during a PCVL.

## Attitudes towards PCVLs

When asked how they felt about taking part in a PCVL, defendants' responses were mixed. A couple of defendants described how they felt more valued during a PCVL than they had done when attending court in-person, as the judge made the effort to ask them questions about the progress they were making while they were remanded:

*"On a video link they can see the progression you are making in prison, they can see you are doing some good, and can see how you are getting on. Can more easily speak to them about the prison environment, can tell them a bit more about what you are experiencing as it's fresher in your mind."*

*"I felt quite proud coming out, magistrate said he heard I was doing really well in there, keep up the good work, I felt quite valued. I had a good experience."*

Most of the seven respondents interviewed, however, felt that their experience was less positive. This was because of the communication issues outlined earlier, but also as they felt that non-verbal cues were much more difficult to communicate and interpret over video, which reduced their sense of confidence in outlining their defence and mitigating circumstances:

*"Anyone that's official [from the prison] was hard to get engagement from and difficult to get from them a clear path of what's happening and what's happening next."*

*"It felt like they couldn't take on board what I said, it felt like what I said doesn't mean anything as it's on a video call. When you go to court you can feel their body language, you know if they are listening to you – on a video link, they might be listening, but are they taking it on board?"*

*"A video-link makes you feel out of sight, out of mind, made me feel a bit s\*\*t. I feel everyone should have the chance to apologise and put their point across, but I didn't feel able to on a video link."*

*"Strange feeling, almost as if I wasn't there. Like a hearing going on about me, like a fly on the wall to it. People in court not looking at camera I was viewing, so it felt that proceedings were not directed towards me. Almost as if I was a ghost of me watching it. I worked really hard on my self-esteem in prison, felt deflated and that I had done a lot of hard work for nothing, that [PCVL] burst a bubble."*

As a result of these concerns, defendants made the decision to take part in a PCVL where there was less at stake during the hearing, for example if they evaluated their offence as not so serious

or the purpose of the hearing was about their remand and not their sentencing. For sentencing hearings, particularly on more serious cases, most defendants interviewed explained that they would have made a different decision, to attend court in-person. They described how they felt the benefits of improved communication, particularly non-verbal cues, would have outweighed the risk of being transferred to another prison:

*“On bigger cases, I would prefer to go in person – having that human interaction, sometimes difficult to understand emotions on video. Can really put across how you are really feeling in person.”*

*“Prefer video-link if it’s not necessary, depending on the severity of case and what you want to portray to the jury.”*

*“Sometimes you want to say your side of it – but it’s not the same as doing it face-to-face. You can get a lot more done face-to-face. Over video link I felt like there was no point – like what I said would go in one ear and out the other, they wouldn’t be taking it in. It didn’t feel appropriate, felt like it would be a waste of time.”*

## Defendant’s understanding of the court process

When asked about their ability to follow proceedings during a PCVL, defendants’ responses were mixed. Some defendants felt able to follow proceedings because of their previous experience of attending court and/or how those in attendance at court, particularly the judge, took additional steps to support them to engage with the hearing. These defendants particularly valued how, at the start of the hearing, everyone in attendance at court introduced themselves and the judge took the time to explain how the hearing would work:

*“Yeah [I was able to follow proceedings] – as if you are there in person.”*

*“Once the focus had sorted itself, it helped that everyone introduced themselves.”*

*“Could identify who everyone was because they introduced themselves, and solicitor had told me mags were at the top of the table. And I’ve been in enough courtrooms to know the prosecution and the defence.”*

Other defendants, however, experienced issues that prevented them from following proceedings. This was because of technological issues, for example with the connection or the way the camera was set up in court, and/or those in attendance at court not putting these additional measures in place to support them to better follow proceedings:

*“Sometimes you can’t hear what they are saying. You are sat there thinking this, you can’t grasp it, and the next minute they could be sentencing you – but you are thinking what did they actually say? [earlier in the hearing, when they couldn’t hear] ... There was microphone or signal issues – I couldn’t quite hear them properly. They should give you a headset, like they do in court, to hear them better.”*

*“Really difficult to get connection to work. Didn’t know if I was being stitched up as a result. Told to shush during the hearing, but it’s not a nice thing when you can’t hear what they are saying about you. Got a transcript a week later but didn’t hear everything at the time.”*

*“Lost track of who was talking at times, couldn’t see prosecution when they were talking.”*

*“Confused at one point as I thought probation service were prosecution. Had no idea who magistrates was directing things to. Should all introduce themselves at the start of the hearing – should have a right to know who is present... They should give you a decent perspective of actual setting rather than just important people there.”*

*“Camera only pointing to chairperson, other two magistrates not visible – could hear them speaking but couldn’t see them. When you are in prison you become suspicious, at that point I felt like there was a lack of transparency.”*

The issues that prevented defendants from effectively following proceedings are explored in further detail within Annex 3. As defendant’s understanding of the courts process was improved when those in attendance in court, and judges in particular, took additional steps to support the defendant to follow proceedings, we include examples that may warrant further exploration in staff training.

## Supporting communication: examples of practice valued by defendants

The defendants interviewed who had positive attitudes towards PCVLs identified how measures undertaken by court staff, particularly the judge, were critical to that positive experience. We share some examples in the defendants’ own words, below. These may warrant exploration in training and guidance provided to court staff:

### Spotlight: examples of communication and explanations from court staff and judiciary valued by defendants

The following quote are from three defendants who describe examples of effective communication from court staff and the judiciary that they found particularly valuable:

*“I was asked things about myself, not like in a courtroom, that has never happened to me before. They asked how I was getting on, how I was enjoying my job. I felt part of it, not just a statistic, part of the hearing. When you’re actually in court it’s like when your parents are talking about you and you’re sitting there. With the video link I felt part of the conversation, not just them talking about me.”*

*“The judge did more explaining than anyone, they were more informative than my solicitor. They explained what was going to happen [during the hearing] and asked if there is anything else I needed to know.”*

*“[In my experience during a PCVL] judges always make a conscious effort, they ask: can you hear? Do you understand? If not more so than being in person, doing a mic check.”*

# 6. Respondents' priorities for change

Interviews concluded by asking respondents about their personal recommendation to HMCTS, using the following question:

**“If you were speaking to someone from the Court service, and you had time to tell them one thing that could make the process better, what would that be?”**

Their responses, grouped by theme, are set out below. The most frequently mentioned theme was making changes to improve their experience on the day of their court appearance:

## ***Signposting to other sources of support***

*“Listen and learn – people have issues they don’t want to talk about – it just might be helpful to talk about them”*

*“When leaving court, signposting to all support organisations available local to that court. Instead of wallowing and having anxiety about unanswered questions, can go and get help about it”*

## ***Relationships with the judiciary***

*“Just listen to people – half the time cases are not black and white. I don’t feel people look at facts and circumstances that got you there. The judge seemed to take the view that I was just using circumstances to get a lighter sentence – not taking into account the challenges I faced”*

*“Ask them to be human – massive line between defendants and judges/lawyers. Attitudes much better elsewhere. Everyone should be met equally”*

*“Treat people as individuals”*

## ***Improving the court experience***

*“Have someone explain when you arrive at court how it’s going to all work when you go in”*

*“Helpful to have some staff to chat to you a bit more – check you are ok, a long wait, come and explain what is going to happen”*

*“They could provide a volunteer tea stand – helpful as an opportunity to be with someone”*

*“Having someone so that when you walk through the doors you can go to someone who’s not legal but who can provide advice and guidance. Someone neutral”*

*“Narrow down court times. Keep you waiting less time, so you don’t have to wait so long”*

*“The less stressed-out people are [on the day], the better the process it will be. There is no need to stress people out”*

*“Having someone to speak to who’s knowledgeable about what you’re likely to go through or need to go through. There’s lots of knowledgeable people in there but they are all busy booking someone in or running around. Someone you can ask to speak to for 5 mins”*

*“Having CASSPlus there really helped – I had never heard of them and didn’t know they were available to help. So that needs to be made more aware of. If the clerk hadn’t told me, I wouldn’t have had a clue. In similar circumstances to me, a single mum who’s struggling, CASSPlus should be made available to me – they need support”*

*“Having someone on the day to speak to specifically to help you emotionally”*

*“To go through [the process attending court] it is difficult, your mind goes blank. Even just the basic layout of the courtroom. Someone to put your mind at ease”*

*“More information about how the process works – hard to fill-in forms that isn’t user friendly (particularly when dyslexic), made me feel small when I couldn’t fill-in forms due to dyslexia, and it was seen as my fault. Having someone to explain it or a user-friendly/easy-read format would be helpful”*

### **Prison to court video links**

*“Explain to the client what is going happen, make sure they are fully aware. A first-timer wouldn’t have a clue what is going on”*

*“More communication [from custody officers] with individual prisoners – it feels they are not coming down to see if I’m ok, just there to fill out paperwork”*

*“Video calls – to have better footage from the court room, being able to see entire court, so you can see that nothing going on behind your back”*

*“Scrap video-links as you can miss out on vital information, and there can be a lack of communication. You wonder if they have had a little conversation before you join or after you leave – is the case still going on? You have that little bit of paranoia in your head”*

# 7. Conclusions and summary of recommendations

## Conclusions

The aim of this research was to further understand the engagement of a range of defendants (including self-represented, represented, first-time and repeat defendants) across the criminal courts process, from the police station and preparing for court, through to attending court. Through increasing understanding of defendants' experiences at these different stages, the research objective was to identify how defendants could be supported to engage more and earlier with the criminal courts process, including with legal representation.

This research has identified three key factors that prevented defendants from engaging further and earlier with the criminal courts process, and these are: a lack of access to user-friendly, relevant and trusted information; not having access to this information in an accessible format and timely manner to support them to make more informed decisions; and a lack of support around their additional support needs (e.g. mental health or domestic violence) which impeded defendants' ability to engage with their case. Recommendations to address these key factors, as they relate to each stage of the defendant's journey, are set out below.

Interventions across the defendant's journey, both directly by HMCTS and in partnership with HM Prison and Probation Service (HMPPS), the Home Office and other relevant bodies to work with the police, the Legal Aid Agency, and the Law Society, will be important to increase engagement from defendants with the court process, particularly from an earlier point in this process.

The research findings show that early intervention is key. The critical point of early intervention is at the police station. This research indicates that providing more comprehensive information to defendants at this stage would support them to make more informed decisions, particularly around legal representation. The two key opportunities for providing defendants with more information are:

- while they are in police custody, provide defendants with better information on the independence of duty solicitors and the pros and cons of accepting representation at the police station
- on discharge from police custody, provide defendants with additional information on the official documentation they are given when they are charged to support them to better prepare for court

Using this information to signpost defendants to local services (including liaison and diversion) that can meet their additional support needs, which when left unaddressed could impede their ability to engage with the court process, is also critical. Revolving Doors recommends that the priority for HMCTS should be to develop and user test this information, both in terms of its content and framing. There are also likely to be opportunities to create trigger points between leaving custody and the defendant's first hearing, for example, through text messaging, to encourage them to refer back to this information. This also warrants further exploration and user testing.

## Summary of recommendations

This report has summarised findings and recommendations relevant to in-person and PCVL hearings. Findings and recommendations for in-person hearings have been structured by stage of the defendant's journey and into three themes, which cut across the defendant's journey: access to information, informed decision-making, and support needs. The recommendations are summarised in Table 5 below. Recommendations relating to PCVLs are summarised in Table 6.

In this section the priority recommendations for each stage of the defendant's journey are recommendations 2 and 3 (at the police station), recommendations 4 and 7 (preparing for court), and recommendations 8 and 11 (attending court). For Prison to Court Video Links (PCVLs), the priority recommendations are 2, 4 and 5. Revolving Doors considers that these recommendations will have the greatest potential impact on defendant engagement and can be most easily actioned by HMCTS.

**Table 5: Recommendations relating to defendants attending court in-person**

Stage of the journey	Recommendation
<b>Stage 1: At the police station</b>	<ol style="list-style-type: none"><li>1. Engage with the police through relevant bodies to support them to inform defendants more effectively about their rights when being questioned, while still acting within PACE guidelines.</li><li>2. Provide written information in Easy Read format to defendants that explains the importance of representation when being questioned.</li><li>3. At the point that the defendant is charged, provide them with concise written information in Easy Read format about the next steps in their journey and how they can prepare for their hearing.</li></ol>
<b>Stage 2: Preparing for court</b>	<ol style="list-style-type: none"><li>4. Provide advice to defendants around what to expect on the day of the hearing on the formal paperwork defendants are provided with when they are charged.</li><li>5. Make 3D tours of each local court available to defendants to help defendants to navigate the court.</li><li>6. Provide defendants with more information about what they can do if they are dissatisfied with their representation.</li><li>7. Signpost defendants to sources of existing help at multiple points in their journey, starting from police custody.</li></ol>
<b>Stage 3: Attending court</b>	<ol style="list-style-type: none"><li>8. Provide a queries desk at court so that defendants can better identify clerks and volunteers and direct queries to them.</li><li>9. To better comply with existing guidance, work with bodies including the Law Society and Legal Aid Agency to identify and address barriers that prevent the defendant's representative from speaking to the defendant as early as possible on the day of the hearing.</li></ol>

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10. Provide defendants waiting in holding cells below the court with more sources of distraction, to allay anxiety.

11. Referrals should be made by court staff wherever possible, and controls should be placed on who can approach to defendants, to ensure support is provided to defendants sensitively.

12. Assess all defendants for reasonable adjustments that may be necessary to support their engagement with their hearing. A particular focus should be placed on assessing for hearing impairments as defendants may not always feel confident in requesting the required adjustments.

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**Table 6: Recommendations relating to Prison to Court Video Links (PCVLs)**

<b>Stage of the journey</b>	<b>Recommendation</b>
PCVLs – communication around PCVLs	<ol style="list-style-type: none"><li>1. Work with HMPPS to:<ul style="list-style-type: none"><li>• Minimise miscommunication between courts and prison estates and the implications these miscommunications may have for defendants.</li><li>• Provide defendants with written notification of upcoming PCVLs with sufficient notice to support defendants to prepare effectively.</li></ul></li><li>2. Provide the defendant with the opportunity to communicate in private with their representative for at least 15 minutes before and after their PCVL, and with their family where possible.</li></ol>
PCVLs – conducting PCVLs	<ol style="list-style-type: none"><li>3. Work with HMPPS to review:<ul style="list-style-type: none"><li>• Whether it is necessary for a prison officer to be present during a PCVL, given the confidentiality concerns of defendants which prevent their effective engagement with PCVLs.</li><li>• Procedures on the prison estate that can prevent support workers from accompanying defendants to PCVLs.</li></ul></li><li>4. Provide defendants with the same visual overview of the courtroom that they would have if they attended court in-person.</li><li>5. Provide training and guidance to judges and court staff around the steps they can take to communicate with the defendant more effectively during a PCVL.</li></ol>

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# Annex 1: Graphical representations of sampling information

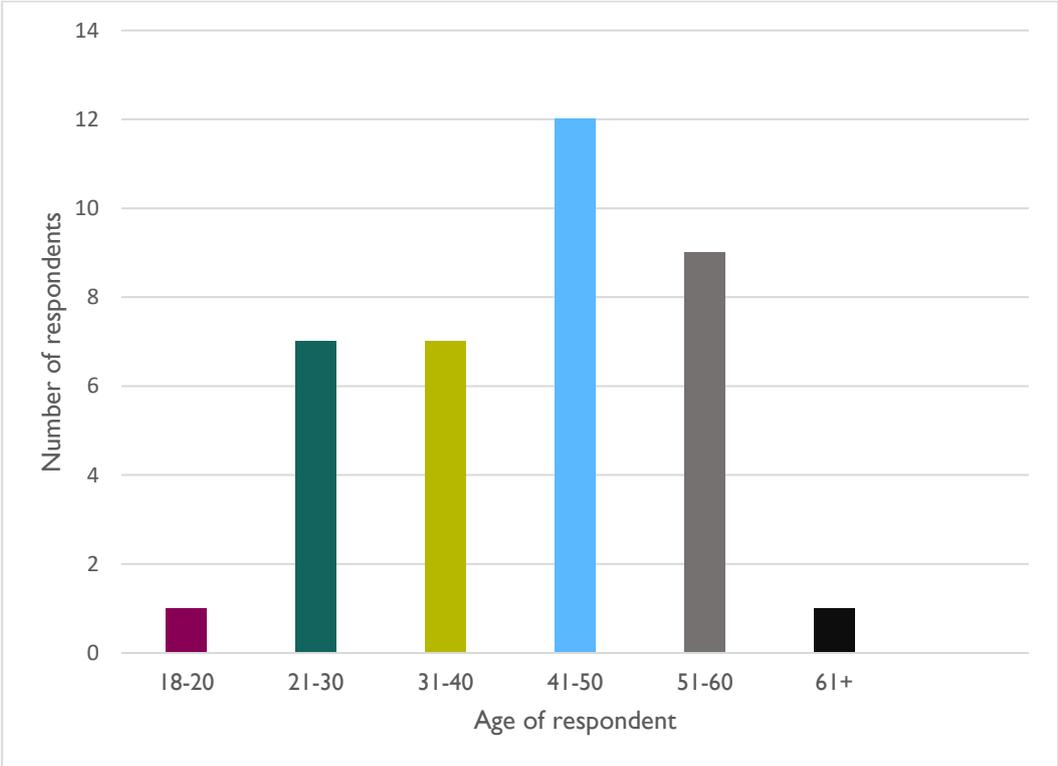


Figure 2 1 Respondent age profile (n=37)

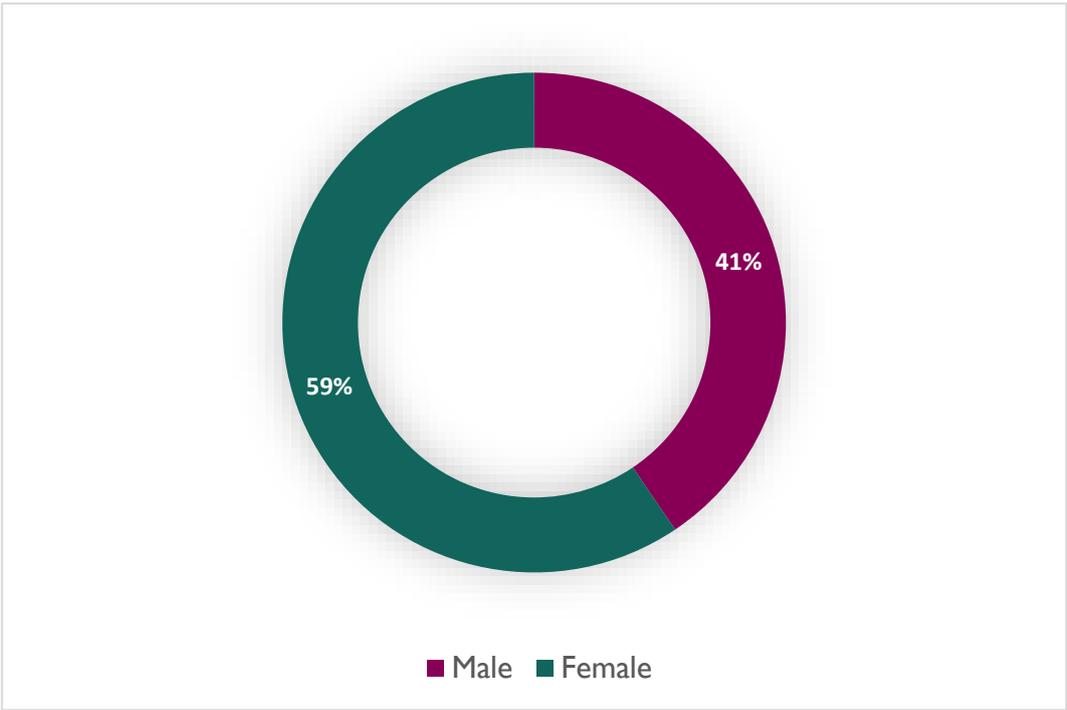


Figure 2 2 Respondent gender profile (n=37)

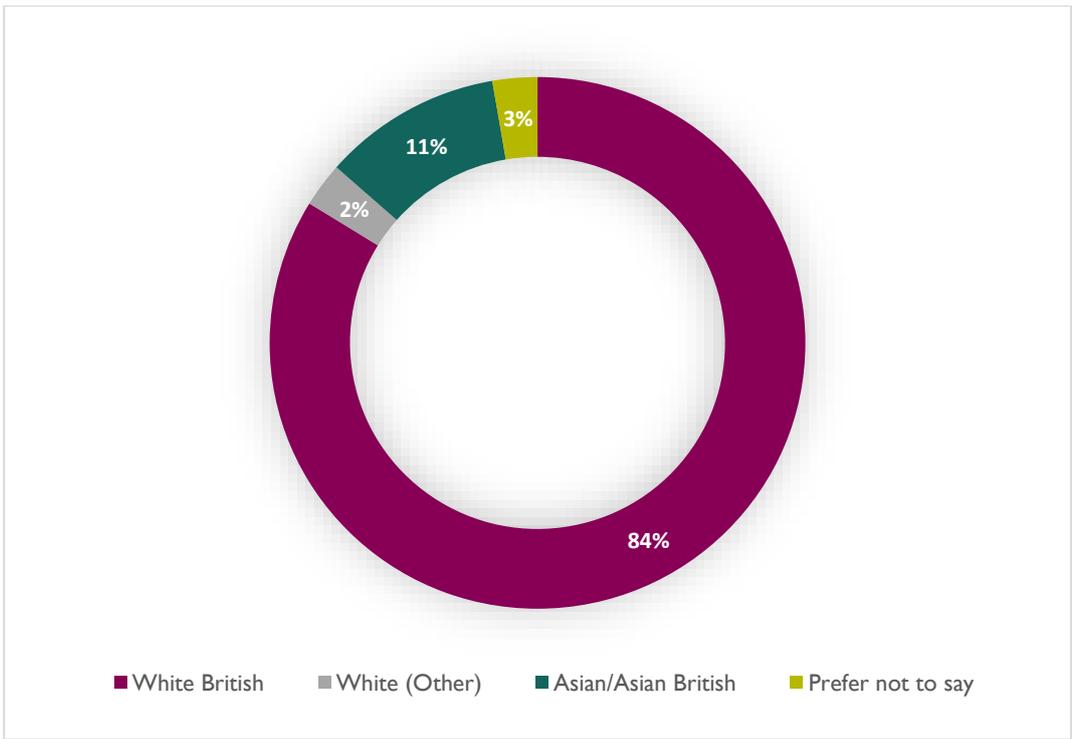


Figure 2 3 respondent ethnicity profile (n=37)



Figure 2 4 location of respondents across England

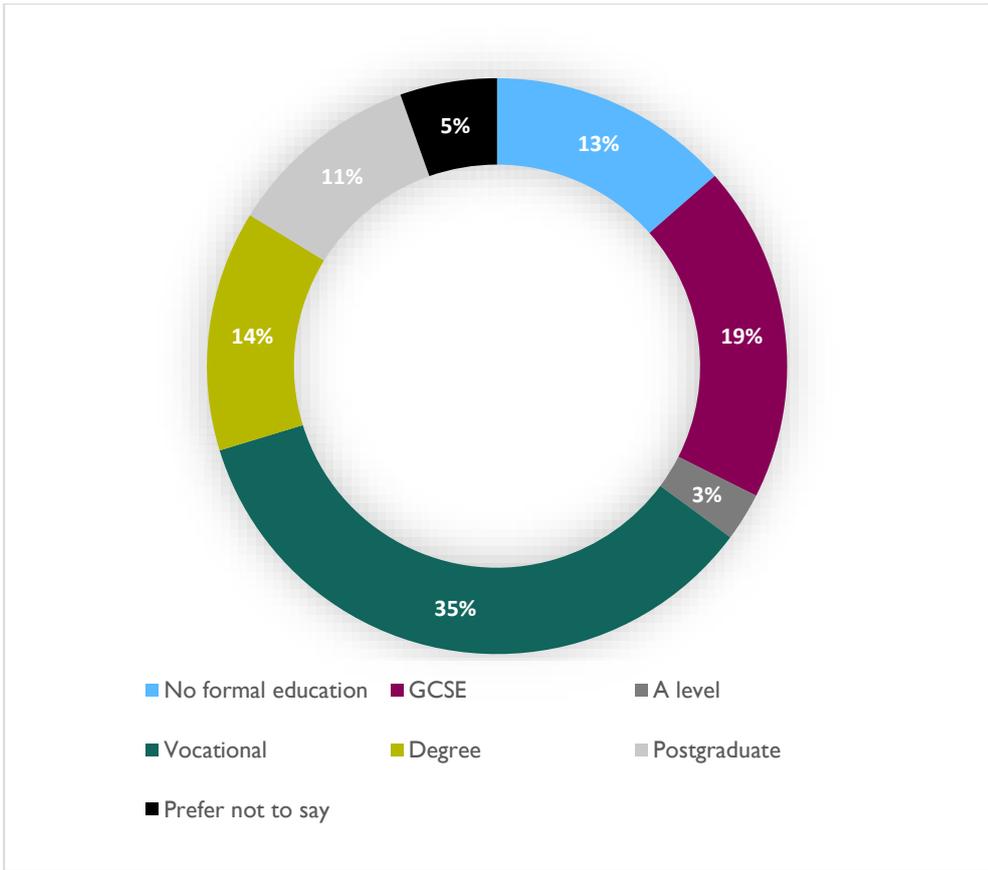


Figure 2 5 education level of respondents (n=37)

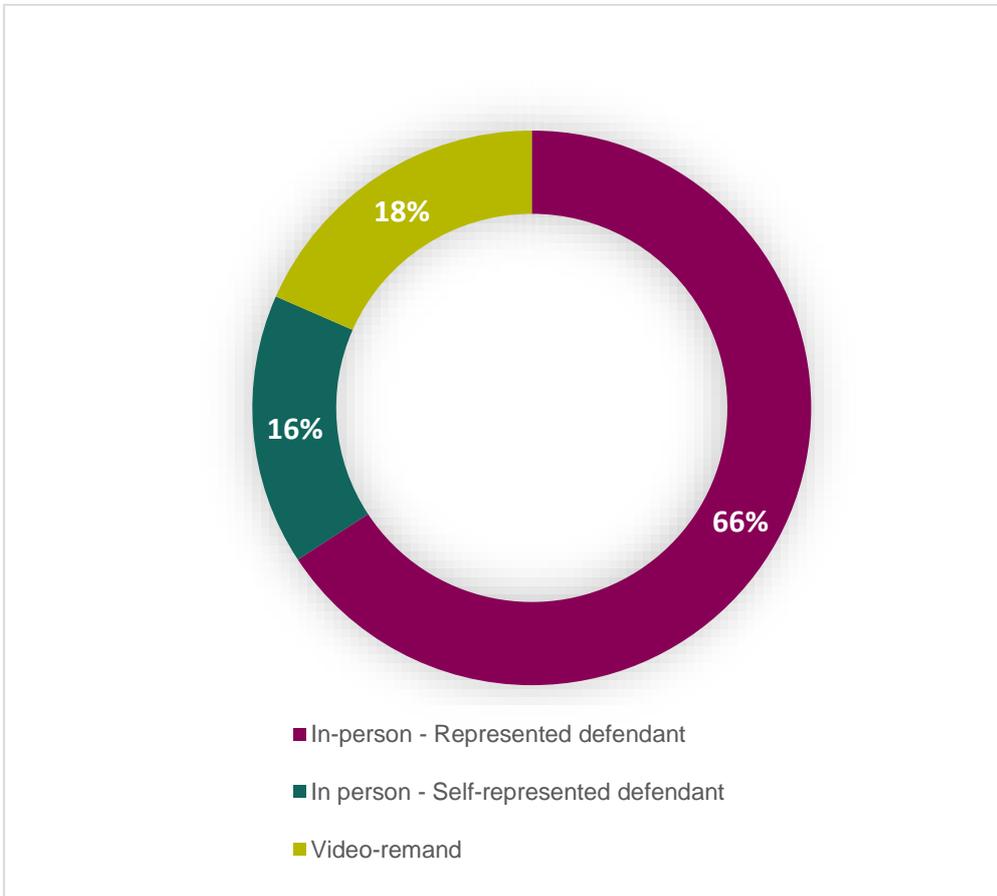


Figure 2 6 Breakdown of interview conducted

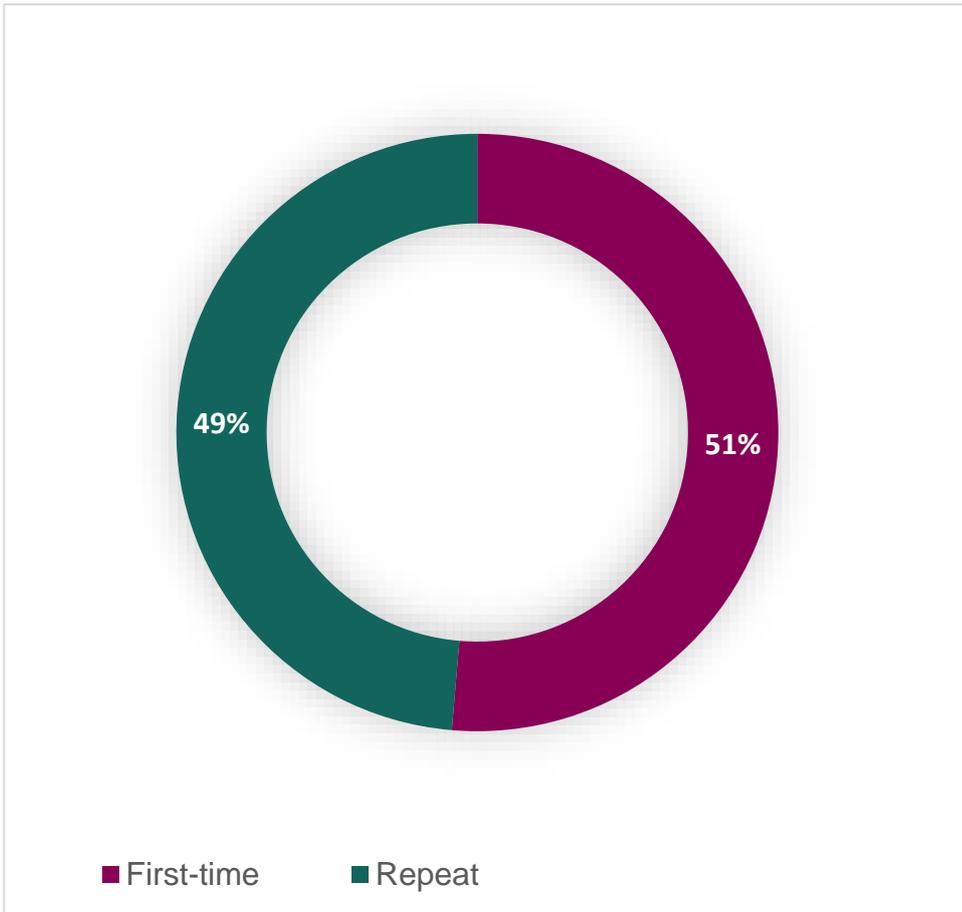


Figure 2 7 previous experience of court (n=37)

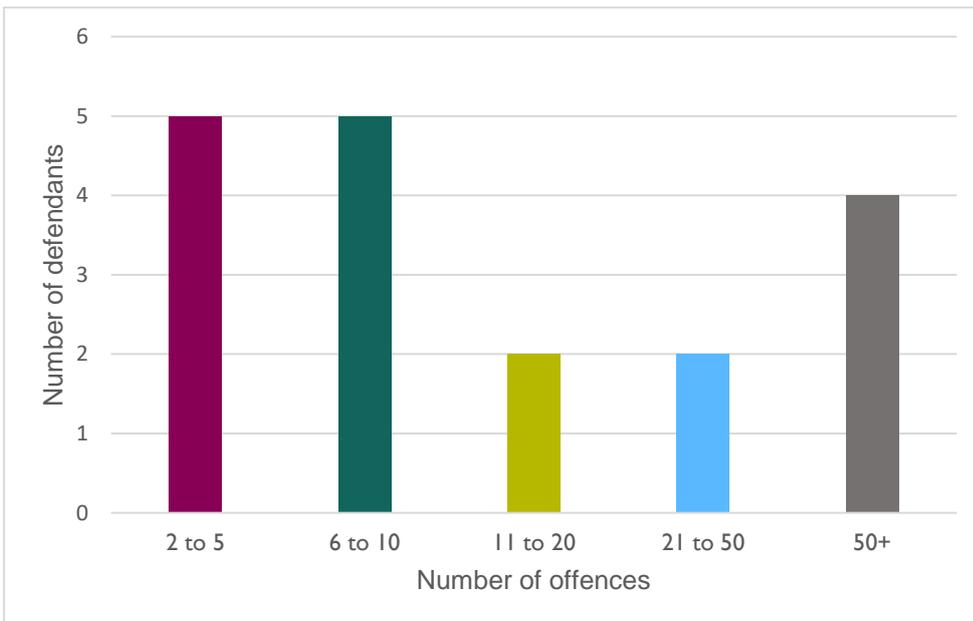


Figure 2 8 number of offences for respondents with repeat offences

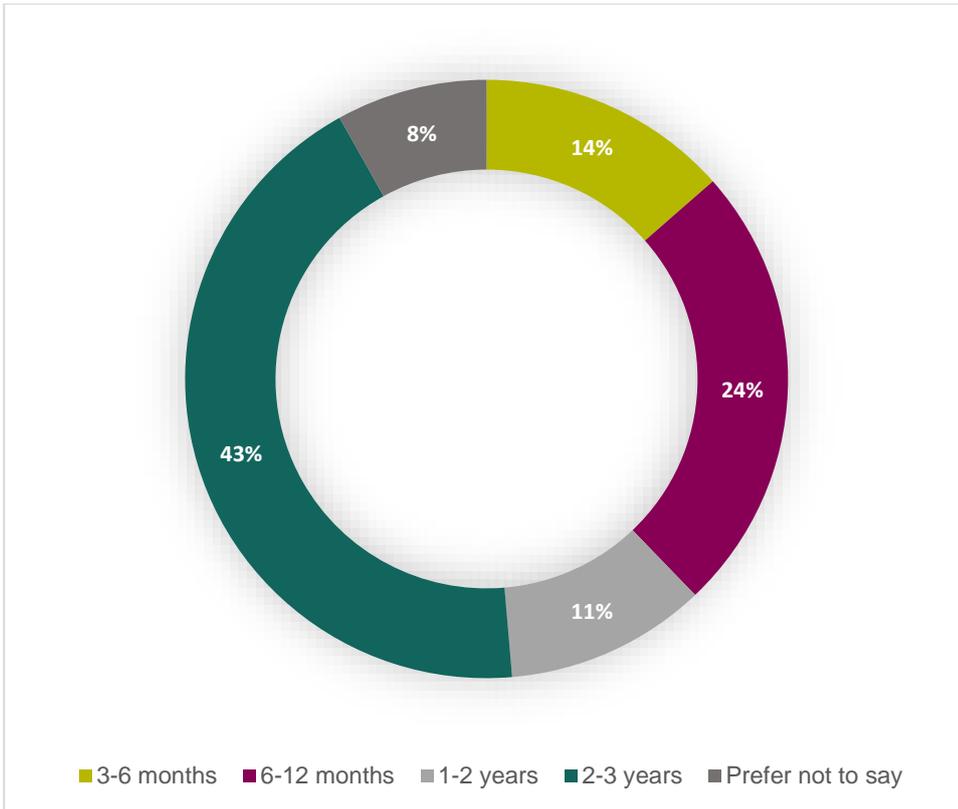


Figure 2 9 length of time elapsed since our respondent's last court appearance (the appearance they were interviewed about) (n=37)

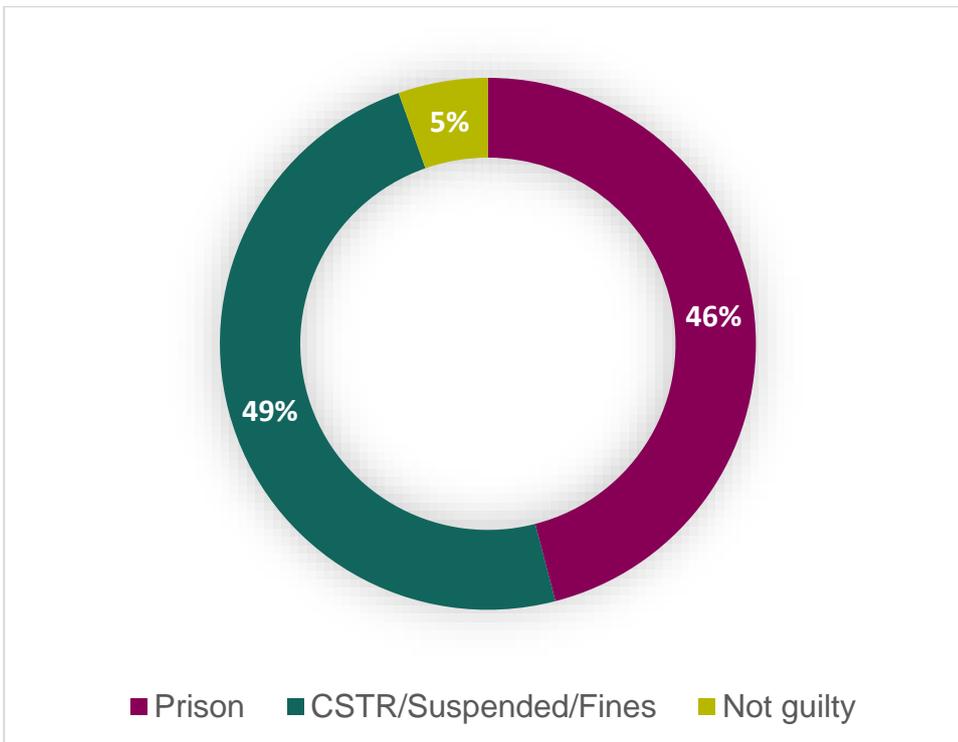


Figure 2 10 sentences respondents were given on their last court appearance (the appearance they were interviewed about) (n=37)

# Annex 2: Case studies of defendants' journeys

Three case studies of defendants' journeys to attending court in-person are presented in this section to illustrate each of the core themes that emerged from the research: support needs, informed decision-making, and access to information. While each case study focusses on one of these themes, the journeys explored in the case studies illustrate how these themes are interconnected.

Each case study starts with a summary of the defendant's journey, the intervention that would have supported their further engagement with the court process, and a situation of this journey in terms of the wider research. The defendant's journey is then outlined by stage, at the police station, preparing for court, and attending court, and within each of these stages, the issues the defendant experienced, and intervention points are explored. As a set of case studies, they illustrate the transformational impact that effective interventions, even on the day of the hearing, can have on the engagement of defendants with their case, but the core recommendation is that interventions are more effective earlier in the defendant's journey, at the police station.

These three case studies are followed by a fourth that explores a defendant's experience with PCVLs. While their journey is less transformational than the previous case studies, it is included as it is representative of our respondent's experiences with PCVLs: that they felt positively about the potential of PCVLs, but aspects of their implementation caused them concern.

Karen\*, Represented first-time defendant, 37, Female, White British

## Case Study 1: Support needs (summary)

*While they were preparing for court, many of the women we interviewed were either in a violent and abusive relationship or had been in their very recent past. Karen was one of these women. She was trying to leave her partner at the same time as she was preparing her case. Early on in Karen's journey through the courts process, in police custody and on discharge, opportunities were missed to assess her additional support needs and signpost her to women's services. While it was positive that Karen's additional needs were assessed when she attended court, her story illustrates the importance of providing support to defendants with support needs as early as possible in their journey, particularly as in this case these acted as significant mitigating circumstances.*

### At the police station

Karen was not signposted to sources of support to help her leave an abusive relationship. This left her without the support she needed to manage this situation while preparing to attend court, which exacerbated the existing stresses that preparing to attend court caused her:

*"...Nobody seemed to notice [signs of abuse], even though I was arrested with my ex-partner who had previously been arrested, and the police had even be called to my address on several prior to my arrest [due to domestic violence]. They just didn't join the dots when I was detained – I was taken aback by it.*

Karen\*, Represented first-time defendant, 37, Female, White British

*Nobody asked why did you do this? I had gotten to the point that I snapped. I felt failed at that point, as nobody really cared why..."*

*Afterwards [being released on bail] I returned to the house with him – it was frightening. It was only that he didn't come to court with me that I was able to say what I needed to say."*

### **Preparing for court**

An additional challenge Karen faced while preparing for court was that she had concerns about her relationship with her solicitor, but she did not have any information about what to do with those concerns:

*"Felt it was easier to stick with them, I didn't know how to go about getting another solicitor, and didn't want to go through whole process again...I had very little correspondence with solicitor in this time, I rang to ask questions, but the receptionist didn't get messages back to me, I had to keep hassling and calling. I felt like the solicitor acted as like I was a bit stupid."*

### **Attending court**

Karen's case took a dramatic turn because of the interventions of professionals based at court, and a Probation officer in particular:

*"She started to get a background to everything that happened in the run up to the offence...I was also seen by a mental health nurse to do an assessment and a support worker from a local charity who worked with female defendants, both said I needed to be supported, and we came up with an action plan... During this second time in the court room I also really felt the probation officer changed to someone fighting my corner – compassionate woman, she presented the facts of things running up to when I offended, and explained I had sought mental health treatment in the run-up... Had the probation officer not pushed me I was looking at a 32-week custodial sentence. Turned out to be amazing in the end – she recognised there was a situation that needed looking into, and that sending me to prison wasn't the answer and I needed mental health treatment."*

Karen's journey illustrates the importance of providing signposting and support around defendant's additional needs as early as possible in their journey. It also demonstrates the importance of multiple professionals carrying out this signposting role across the journey, as one individual may not always assess additional needs effectively.

### **Post-sentence outcome**

As a result of these interventions, Karen described how:

*"The support I received after court was second to none. The Community Sentence Treatment Requirement (CSTR) programme is tried and tested in my county, so I felt lucky. The mental health support was fantastic. I was always seeing someone once a week, whether it was my probation worker, support worker, or psychiatric nurse... The nurse helped to get me to root core of emotions and gave me a new perspective, she gave me tools to manage my mental health better. The support they gave helped me to move forwards. It also helped that everything was mandatory, so my ex-partner couldn't attend with me, it enabled me to get out of that relationship. Out of something so bad came something so good, it enabled me to get my life back on track."*

\*Pseudonym

Lucy\*, Repeat represented defendant (one previous offence), 37, Female, White British

## Case study 2: Informed decision-making (summary)

*Several defendants we interviewed experienced issues in their relationships with their solicitor, which impeded their ability to prepare effectively for attending court. While some dissatisfied defendants made the decision to choose alternative representation, others were not aware of their rights around representation and that this was an option. Lucy was one of these defendants who had a challenging relationship with her solicitor but did not know what she could do with her concerns or where else she could turn for support. Providing more information about representation on the official documentation provided at point charge would support defendants like Lucy to make more informed decisions about their representation.*

### At the police station

Lucy experienced her journey through the courts process as challenging, starting from the point of her arrest:

*“It was nearly 24 hours later in police custody before I got to see representation, and the police refused to let me shower despite me needing to as I was on my period. When the solicitor arrived, they came across as if they had no interest, they even asked me to have a shower despite me pointing out that I had requested to several times. At that point I just wanted to leave as quickly as possible”*

### Preparing for court

After being discharged from police custody, Lucy sought representation through legal aid but found her relationship her solicitors' firm challenging. She explained that she did not know what she could do with these concerns or where she could turn to for additional information and support:

*“The firm kept changing solicitor. I mostly had contact with the solicitors by email, I sent all the evidence to them via email, but this meant I didn't send them all the evidence I had. I was on bail for a year but had issues with mental health and substance addiction in that time which meant I was too scared to continue to harass them [the solicitors' firm], despite the lack of contact...*

*...[The firm was] terrible – a lack of contact, lack of support, lack of signposting, lack of awareness, lack of empathy. They could not give a s\*\*t, felt like they had more important things to worry about. Brushing me off when I did ask questions. Told me to send things across and we will deal with it, but they didn't do so. They had a tick a box mentality, they just told me to get on with it, but they needed to take steps to make it less overwhelming. I didn't know what I was entitled to. They acknowledged my mental health difficulties, but they just didn't know anything about it”*

### Attending court

As a result of these challenges in preparing her case, Lucy experienced her court appearance as particularly difficult:

Lucy\*, Repeat represented defendant (one previous offence), 37, Female, White British

*"I was scared, drunk, off my face, numb. I was just wanted to run away and hide, but also had all these questions. I wish I had known my rights. I felt like I had no support, I felt alone, and had no one to tell me what to expect, what would happen in a worst-case scenario...They [my representative] didn't explain anything to me and I was scared of rocking the boat and asking too many questions...I wish I had known more about the process [in advance], I thought I wasn't allowed to stand up for myself. As a defendant I understand that they [representatives] are busy, but they also have to understand we are going through hell and we need support"*

However, while she found her legal representative unsupportive, she described a positive relationship with a court officer who provided her with help to better manage her emotions in court, and in turn better engage with her hearing:

*"The court officer was the nicest person I have met. They were comforting, calming, like a mother figure. She swapped shifts [they met on an earlier court appearance] so that she could be there when I was called in again. She gave me a hand on my shoulder and checked in on me"*

To support defendants like Lucy to make more informed decisions and engage more effectively with the courts process, more information should be provided at the police station and upon discharge. As Lucy said:

*"Signposting [by the solicitor and other professionals] doesn't take much, it's really helpful to know what my rights are as a defendant. Google can be a minefield and can worsen depression, leading to the bottle."*

\*Pseudonym

Fran\*, Represented first-time defendant, 60, Female

## Case study 3: Access to information (summary)

*Several defendants interviewed, and first-time defendants in particular, felt ashamed about being charged with an offence, and as a result did not reach out to family and friends who could normally be relied upon to provide advice and support. Fran was one of these defendants. Without this support she struggled to find information about the next steps in her journey. It was only late on in her journey, as a result of an intervention by a court officer, that she was signposted to an organisation (Anawim) who helped her to better understand the next steps and how she could prepare. Providing more information to defendants on the paperwork they are provided with when they are charged, about the next steps in their journey, how they can prepare, and local organisations they can reach out to for support, would support defendants like Fran to better engage with the courts process.*

### At the police station

As a first-time defendant, Fran found her experience in police custody challenging:

*“It was only at the police interview that I realised it was criminal, that’s when it all hit me at once, I had a breakdown as a result and needed medication. I went to pieces, all at once. Was travelling to [another country, removed to ensure anonymity] to help my parents at the time, it dawned on me that I wouldn’t be able to travel to see them, people should realise the hard hitting consequences of words spoken to me.”*

As she attended a voluntary interview initially, it was six months before she was interviewed again. She recounted that during this period she was:

*“So worried and upset, and there was no one I could discuss it with, I was so ashamed and so couldn’t speak to family and friends. I was left to go through it on my own, in my head night and day”*

### Preparing for court

As a result of her sense of shame, Fran did not approach a legal representative early in her journey. It was only after her first court appearance that she did so. To encourage her to reach out to a legal representative earlier in her journey she said that:

*“It would have been helpful to be given a list of charities [who can provide legal and emotional support] at the point of arrest. There were also opportunities missed by my solicitors and the probation officer I spoke to, first-timers should be given information straight out of the gate. You could even be sent a list at the same time as when you are called in for questioning”*

### At court

While opportunities were missed early on in her journey to signpost her to organisations that could support her to better manage her emotions and sense of shame, and in turn be in a position to more effectively engage with her case, the intervention of a court officer proved critical:

Fran\*, Represented first-time defendant, 60, Female

*“At a suspended hearing, a court officer usefully suggested to me that based on the report from the probation officer, I might benefit from Anawim...”*

*...Anawim have a track history of supporting women, wherever they are and through previous horrific events. Nothing can shock them and they are very welcoming and non-judgemental. If I was in touch with them earlier, they could have helped me by suggesting solicitors that could have approached me more empathically [which would have supported her engagement with them] After Anawim came in I was no longer internalised, they made suggestions of things that could help. As a result, I spent more time engaging with what was happening [in her case], what the steps to get to the end point were...*

*...Anawim also referred me to support from Mind, and they provided support in the community that would come and support me through the day. I had access to a counsellor [through Anawim], money advice, courses, it was a huge umbrella to lots of things. They also attended court with me, gave me someone I could speak to at any time. There wasn't anything I could say that was silly, the only thing that was silly was the questions that I didn't ask. They also explained the different options available and how to prepare and layout my statements. They encourage me to bring a clearer picture to the courts, and helped me to make statements in precise ways that were legible, before I was just rolling these out...*

*...They helped to rebuild my trust and faith that there was someone else interested in my health and they helped me to deal with the impact the whole process had on me. I gained strength from them holding my hand through the process, as a result I made it back to being me.”*

The support that Fran received from Anawim was transformational for the way she experienced and engaged with her case. Providing information to defendants about the next steps in their journey, how they can prepare, and the names and contact details of local and national organisations who can provide support, at the point of their discharge from police custody, could make a significant difference to defendants like Fran.

\*Pseudonym

Matthew\*, Repeat represented defendant (10 previous offences), 35, Male, White British, Prison to Court Video Link (PCVL) interviewee

## Case study 4: PCVLs

As part of the case Matthew was interviewed about, he took part in three PCVLs. Like PCVLs on previous cases, Matthew had a positive experience with the first two of these PCVLs. He felt the secure audio-visual platform worked well and he could follow proceedings and hear everything well, which was not always a guarantee when he had previously attended court in-person. He also highly valued how his solicitor came to visit him in his remand prison to help him prepare for his hearing. The third PCVL, however, was experienced by Matthew as challenging:

*"[On the day of the third PCVL, setup during his second PCVL] things escalated in a conversation with a prison officer who went to extract me from the cell. This was a bit of a shock as I knew I had a video-hearing and didn't need to go to court. It went all the way to the Governor who insisted I left to go to court, even though I had been told it was a video-link. When I got there, the judge told me that it was meant to be a video-link and apologised. As a result, I was locked out of the prison... I never went back to that prison, had to take it on the chin. I lost my job as a librarian, inside that's quite a good job, your family and friends know where you are, it's pretty drastic when you have to move jail. They also moved me further away from home, that was problematic in terms of visits. Simple things get absolutely exaggerated in prison"*

It was precisely this reason, to avoid the risk of being transferred between prisons, when combined with his positive experiences with PCVLs in the past, that factored into his decision to prefer PCVLs to in-court hearings. As a result of this experience during his third PCVL, however, Matthew explained that he would be more reluctant to take part in a PCVL in future. This reluctance was also due in part to other concerns he had around PCVLs:

*"You question what the jury thinks though, is he too dangerous to come to court? Why isn't he here? It comes across a little more human in person"*

*"I had minimal communication with my solicitor, would prefer extra time prior to the hearing. Even 10 minutes or half an hour before would make a difference. Had literally 30 seconds in this case [during the second hearing]...They could help explain to me what was happening, what we were going to do during the case, give me some preparation for what was going to go ahead, not just about the case but how the system of the video hearing was going to work...When you are in person you are on the same page, when you are on the phone there is a little bit of difference, things can be misperceived, at the end of the day we are talking about someone's life...It's also always nice afterwards to have a conversation with your solicitor in person [on the PCVL, rather than on the telephone in your cell], especially if you don't really understand the proceedings, nice to hear from the horse's mouth"*

Matthew also emphasised that his decision-making may be different if he were charged with a more serious offence where he would:

*"Prefer to go in person, to have that human interaction, it's sometimes difficult to understand emotions on video. You can really put across how you are really feeling in person."*

\*Pseudonym

# Annex 3: Initial findings from PCVL interviews

This document sets out the initial findings from the seven Prison to court video link (PCVL) interviews carried out to date on the defendant engagement research project commissioned by HMCTS and delivered by Revolving Doors Agency. A complete analysis and set of recommendations will be included in the final research report to delivered to HMCTS.

All interviews were with repeat defendants who had previously been through the court process in person in England. Defendants had previously been to court between 5 and 40 times, with four defendants having attended court between 5 and 10 times, and three defendants having attended court at least 15 times. All defendants were male, and they were aged between 23 and 53. Defendants were located across England, in London, Manchester, Preston, the West Midlands, and Leicestershire.

The initial findings are set out in two sections:

- the processes of decision-making defendants went through when deciding whether to take part in a PCVL; and
- the communication issues defendants experienced around PCVL hearings

## Section 1. The decision to take part in a video-hearing

**When deciding whether to take part in a PCVL, most interviewees considered the risks that attending court in-person posed for defendants on remand.** While on remand these defendants had built positive relationships with prison officers and inmates, secured prison jobs they found meaningful, and had made efforts to personalise their cell, all of which supported their rehabilitation and wellbeing. Based on their previous experiences with remand, they knew that if they attended court in-person they could be kept in court for longer than expected. This could in turn result in them being locked out of the prison they were remanded in and forced to transfer prisons. Defendants felt that such a transfer would have significant negative consequences as they would lose access to the relationships and resources that supported their wellbeing. To avoid this risk, interviewees made the decision to take part in a video hearing:

*R10: "Video link was better for me as I didn't have to leave prison. Main reason I went for it was to avoid risk of being moved to another prison – I was settled and I had a job of being a peer mentor for the Drugs and Alcohol Team. One of the best jobs in there, I was the head mentor. I worked really hard for it. Didn't want to lose that."*

*I22: "I prefer video personally – normally when you are in a remand prison, it can be quite tricky to get jobs. Sometimes when you go to court you get locked out, you have to be transferred to a new remand centre, and go through the whole jobs process again."*

*I3: "In the past I have had to go to another jail overnight, not always had my possessions returned after having to move cells [when I returned to the prison I was based in]."*

One interviewee was disappointed that a last-minute change meant they were given no choice but to take part in a PCVL, as this meant they missed out on a day out of prison. Most interviewees, however, made the decision to take part in video-hearings to avoid the risk of being forced to

transfer prisons and the disruption to their routine that a court visit in person would entail. These defendants described the journey travelling to court as uncomfortable and demeaning, particularly because of having to be taken in handcuffs. They were also frustrated by having to spend hours waiting in court for their hearing, with little to do to take their mind off the stresses and anxieties they faced:

*I22: “[Video-hearings are] easier, I don’t have to worry about getting on a bus and sitting in court for hours on end.”*

*R10: “I have been taken to court before from prison and it’s a really long day, up at the crack of dawn waiting for escorts, go in handcuffs, sitting in the court cell for hours. You don’t get into your cell till the evening. Tiring. The mode of transport – over an hour in a Serco van – is not the best place to be. Not nice to be taken out in handcuffs, you’re still a human being, you don’t need to be paraded.”*

*I3: “If I had to be there in person, I’d have to be up early in the morning, going in a sweatbox, and sometimes they won’t let you back in for the night-time – could risk losing cell and having to start again, after you have made it homely.”*

These factors were balanced by defendants against what was at stake during the hearing and what they wanted to communicate to the court. **All of the interviewees had decided to take part in video-hearings in this instance as they faced less serious charges and as they understood that the hearing was solely about their remand.** They explained how they would have made a different decision, to attend court in-person, if they faced more serious charges, if the hearing was to discuss their sentencing, or if they wanted to communicate more complex mitigating circumstances. Defendants felt that it would be challenging to outline their defence, and accurately portray and understand emotions over video, and so felt that video hearings were inappropriate when more was at stake:

*I22: “[Taking part in a video-hearing] was okay as it was only a small case. On bigger cases, I would prefer to go in person to have that human interaction, it is sometimes difficult to understand emotions on video. You can really put across how you are really feeling in person. When pleading guilty and on less serious cases, the effort is not necessary to go to court in person – you can put the mitigation across via writing and video.”*

*E10: “You can better put your point across in person, over a screen you can’t really say much...A video-link makes you feel out of sight, out of mind – made me feel a bit s\*\*t. I feel everyone should have the chance to apologise and put their point across, but I didn’t feel able to on a video link.”*

*I22: “I prefer video-link if it’s not necessary, but that is depending on the severity of the case and what you want to portray to the jury.”*

*I3: “[Video-links are] not good for trials – if I have to defend myself, I want them to see that I meant it from my heart and to see my body language.”*

## Section 2. Communication issues defendants experienced around PCVLs

Communication challenges was the central issue that defendants experienced with PCVLs. Communication was an issue for defendants throughout the process, from setting up the hearing, taking part in the hearing and through to taking follow-up action after it had taken place. This section explores these issues around communication in the following six key areas:

- between the court and prison in setting up the PCVL

- between prison staff and the defendant in notifying and preparing them for the PCVL
- between the defendant and their representative (both before and after the PCVL)
- during the PCVL because of technological failings and/or the lack of additional measures being put in place
- confidentiality concerns during a PCVL
- with other people who could provide support (notably support workers and family members)

### Communication issue 1: Between the court and the prison

While only identified as an issue by a few defendants, **miscommunication between the court and the prison estate had significant negative consequences**. For one defendant (I23), there was a miscommunication around the date and time of the video-hearing which meant that they had to wait for a significant period in the video-link room while this was investigated. This avoidable miscommunication caused the defendant significant disruption as they missed vital group work sessions which supported their recovery from substance misuse. It also meant that they were not able to perform their role as a peer mentor on that day, affecting another defendant's recovery.

The second defendant (I22) had been told at the end of their first video-hearing that their next hearing would also be over video. As this had not been communicated clearly to the prison, on instructions from the Governor the defendant was forcibly taken to court. While the magistrate apologised, this avoidable miscommunication resulted in the defendant being locked out of prison as they were late returning, which in turn led to them being transferred to a different prison. They lost their prison job which they highly valued, and visits were also made harder as the prison they had been moved to was further from their family and friends.

*I23: "On Tuesday morning I was taken to do a video-link, but the case hadn't been listed at court. The prison wasn't made aware of the mistake until lunchtime that day. I then had to return that following morning and it took place on 4pm that afternoon – I had to wait all day for a 10-minute hearing. I missed a day and a half of group work [for help with substance misuse] that I would have otherwise had access to, unnecessarily. I also had a role as a peer mentor at the time, so this prevented me from holding groups."*

*I22: "During one of these [video-hearings], things escalated in a conversation I had with a prison officer. In the end they [the prison officer] went to extract me from the cell [to take me to court that morning], it was a bit of a shock as I knew I had a video-hearing and didn't need to go to the court.... As a result [of going to court in-person] I was locked out of prison. I never went back to that prison and had to take it on the chin. I lost a job as a librarian, inside that's quite a good job. It's pretty drastic when you have to move jail, my family and friends didn't know where I was and they moved me further away from home which made visits harder. Simple things get absolutely exaggerated in prison."*

### Communication Issue 2: Between prison staff and the defendant

Defendants we spoke to also felt that **communication within the prison was insufficient, particularly around the notice given about upcoming PCVLs, the process of a PCVL, and support for contacting their legal representative ahead of the hearing**. It was critical to defendants that they were given sufficient notice in writing about the date of the PCVL, the charges placed against them, and the purpose of the hearing (e.g. remand or sentencing) so that they could prepare adequately. Defendants were not always given this notice which left them feeling panicked and under-prepared for the hearing, and at a disadvantage compared to those who attended court in-person:

I14: “[Your] solicitor starts cancelling your anxieties when you start talking to them on the day [but I only spoke to them just before the PCVL]. Everyone is all used to this game, but not for me. What my solicitor wrapped up in 10 minutes, for me it was a mountain – there needs to be recognition that mental health is still really important [that I need to talk to someone earlier in the process to help with anxieties].”

I23: “There really wasn’t any preparation for it – I wasn’t given papers telling me what it was about. I only found out what it was about when I spoke to my solicitor, shortly before the hearing...I had to inform solicitor of all courses I had done [while in prison, to help with the case] – there would have been something I had missed out, as I had to remember from the top of my head. I needed time to write a letter of apology.”

I11: “As long as I can speak to my solicitor, I don’t really need to speak to anyone else [about my case]. In my most recent video link I didn’t know I had one [that they had arranged for my solicitor to be present], it was only when the prison officer called me in on the day and told me. More advance notice would have meant I could have got it [an appointment with my solicitor] booked. Nothing was written [notification of the video-link]. I was not prepared, you are running around trying to contact them [your solicitor] in the 10-15 minutes before the link, but you are panicked.”

### **Communication issue 3: Between the defendant and their representative**

**All interviewees experienced challenges in effectively communicating with their representative, particularly immediately before and after a video-hearing took place.** In most cases they only had a few minutes to talk to their representative, which they didn’t feel was sufficient to 1) discuss their case and 2) understand how a video hearing would work. All defendants felt they would engage more effectively if they had more time (ideally through video) with their representative to prepare – at least 10 minutes, but ideally longer. They also needed more time immediately afterwards to debrief, particularly if they didn’t understand parts of the hearing. They saw this additional time as essential to supporting them to engage with the hearing and understand what happened during it:

R10: “You get a 5-minute window before [the PCVL] to talk to your solicitor – not long enough. If [you have a] local solicitor they can visit you couple of days before, but if not, it is only 5 minutes. It’s a massive thing – your liberty could be at risk, but you are given 5 minutes. If longer, your solicitor could tell you what outcome expecting, what she will put forward, what you want to add. More time could put you at ease more, prepare you for what she says she thinks will happen.”

I22: “When you are in person you are on the same page, when you are on the phone there is a little bit of difference – things can be misperceived. The extra time makes sure we are clear and on the same page – at the end of the day we are talking about someone’s life...”

...Always nice afterwards to have a conversation with solicitor in person – especially if you don’t really understand the proceedings, nice to hear from horse’s mouth. Nice to stay on with solicitor on your own, not in front of the court.”

E10: “Once the video link was over, I was taken straight back to the wing. It would have been helpful to have 20 minutes to speak to my solicitor, and have 5 minutes to calm down before going on – a chance to compose yourself, as you feel nervous and on edge.”

### **Communication issue 4: Miscommunication because of technological failings and/or the lack of additional measures being put in place**

**Defendants felt positively about video-hearings when actors in the court, particularly the judge, took additional steps to support them to actively engage with the hearing.** They

particularly valued judges who checked whether they could hear correctly, explained how the process would work, and made the effort to ask them questions about how their rehabilitation in prison was progressing. Where judges took these additional steps, defendants felt they could play a more active part in discussions that took place as part of the hearing:

*I22: “Judges [in my experience of video-hearings] always make a conscious effort – can you hear? Do you understand? If not more so than being in person, doing a mic check. It’s human nature to assume everything – useful to check for in-person hearings too, to ensure they can hear properly.”*

*I3: “Judge did more explaining than anyone, was more informative than my solicitor. Explained what was going to happen and asked if there is anything else I needed to know.”*

*R10: “The whole thing was a positive experience for me... I was asked things about myself – not like in a courtroom – that has never happened to me before. For example, how I was getting on, how I was enjoying my job. I felt part of it, not just a statistic, part of the hearing. When you’re actually in court it’s like when your parents are talking about you and you’re sitting there – with the video link I felt part of the conversation – not just them talking about me.”*

While these extra efforts supported defendants to play a more active part in the hearing, as they felt less judged and had a greater understanding of how the process would work, the issue was that these were not always made. Defendants felt that all judges should take these steps in every video-hearing.

**Some interviewees experienced issues with either the audio or video which affected their ability to follow proceedings.** These defendants described instances where the camera lost focus, the audio dropped out or was muffled, and they could not see people in the court who were speaking to them. Defendants were concerned that these technological issues meant that they missed important parts of the hearing but expressed how their lack of confidence in legal settings prevented them from asking clarifying questions. Defendants emphasised the importance of additional microphones and screens, and the judge making the effort throughout the trial to ask if they were experiencing any technological issues:

*E10: “It took about half an hour to get the technology working.... Couldn’t get the video to load or the camera to focus. As it took so long [to rectify these issues] I forgot half of what I discussed with my solicitor, but in the end I just got on with the link... A couple more mics and another screen would have been helpful, to improve the quality of sound and what you can see. Another screen could have been helpful as a backup.”*

*I23: “People in the court were not looking at the camera I was viewing, so it felt that proceedings were not directed towards me. Almost as if I was a ghost of me watching it. I worked really hard on my self-esteem in prison, felt deflated and that I had done a lot of hard work for nothing – that burst a bubble... Might have helped if they identified themselves every time they spoke – confused at one point as I thought the probation service were the prosecution.”*

*I11: “Sometimes you can’t hear what they are saying. You are sat there thinking this to yourself, you can’t grasp it [what they are saying], and the next minute they could be sentencing you – but you are thinking what did they actually say [before when you couldn’t hear]?”*

## **Communication issue 5: Confidentiality concerns during a PCVL**

**Most defendants felt that having a prison officer in the room with them when they did a video-hearing prevented them from effectively communicating with the court.** Their primary concern was around confidentiality and the risk of the prison officer sharing what they had heard with other members of staff and inmates. It was the case for one defendant (I3) that the

assurances they had been given around confidentiality from the prison officer were broken after the hearing took place.

As a result of this concern, defendants felt they had to be careful around what they communicated during the hearing, particularly around their life history and mitigating circumstances, which they felt made it harder for them to adequately defend themselves in court:

*I3: "This officer spoke about these challenges [I have faced in my life] to other staff and inmates which was very uncomfortable for me...I didn't feel I could be myself as a result of the prison officer in the room – you have a front and a position in the jail to maintain. It would have been demeaning to defend myself in front of the prison officer, you live with them 24/7. There is no confidentiality."*

*I23: "[It was] odd that the prison officer had to sit there with me and that they commented to me afterwards, there was a lack of privacy."*

### **Communication issue 6: A lack of communication with other people who could provide support**

When comparing video-hearings to attending court in-person, defendants reflected on how **taking part in a PCVL meant they did not have access, or as easy access, to other people who could support them**. The support that family members and support workers provided was highly valued by defendants, particularly around supporting their emotional wellbeing, but was experienced as much more difficult to access than during in-person hearings. This was as a result of: 1) procedures in prison, notably the permissions needed for support workers to accompany the defendant to the video-link room, which were not always authorised, and 2) how the defendant was not offered the opportunity to speak with their family as part of the hearing:

*E10: "It's really difficult to get support to you in video-link room due to rules of the prison – you have to be escorted and permissions have to be given by the governor. I normally get support [day-to-day] from a supervisor from the prison mental health team, I have formed a bond [with] that person – but in this case I was told they couldn't come as they haven't got clearance.... If my support worker would have been there – they can help if I'm on edge or going off track – if they were there I would have been able to say what I wanted to say."*

*...Normally [when going to court in-person] you get to speak to your family – even a letter from them makes a difference, makes you feel like everything is going to be ok. On the video-link I saw them in the background – but I wasn't able to speak to them. Speaking to them before you go into court helps calm you down."*

*I3: "Makes a difference having friends and family to support you, I feel the judge takes this into account. [As this didn't happen on a video link] I feel they don't see you as a person, they see you as criminal. They don't see a whole package through video."*

# Annex 4: Example topic guide – represented defendants

## ***Section 1 - The decisions they made pre-court and their discussions with their representative***

### **Introductory question 1: Can you talk me through the decisions you had to make:**

- From the point you were arrested and while you were in police custody
- AND after you were released from police custody and while you were preparing to attend court for the first time

Guide the interviewee to think about: Their decision to seek representation and the decision around their plea.

### **Introductory question 2: When, how and why did you make these decisions at the times that you did?**

### **Introductory question 3: What additional support do you feel could have been helpful to you in making these decisions?**

### **Main question 1: When did you decide to get representation (i.e. assistance from a lawyer)?**

- What prompted you to get representation at that stage in the process? Did you feel you had access to the information you needed to make this decision?
- Why did you decide not to look for representation earlier in the journey?
- Why did you decide to seek representation? Would you have known what to do if you were not represented?
- What would have supported you to get representation earlier in the process (e.g. at time of arrest)?

### **Main question 2: When did you submit a plea?**

- How did you decide to plead guilty or not guilty?
- Did you face any challenges when deciding on and submitting a plea?
- If yes, what were these? Did you need any support? How could you have been better supported to do this?
- If no, what helped you to feel confident in doing so?

Have you ever submitted a plea online?

- If no, were you aware that you could? Have you ever considered doing so? Do you have any concerns about doing so?
- If yes, how did you find the process? How could the process have been improved for you?

**Main question 3: How was your relationship with your representative?**

- What was positive? What was less positive?
- How often did you talk with them? At what stages did you talk with them? What caused you to talk with them more at these stages and less at others?
- Did you always attend appointments with them? Why/Why not?
- Did you want to talk with them more or less? If more, what were the barriers to doing so? What would have supported you to do so?
- How did you assess the quality of your representative (e.g. case outcome, their communication or how they listened)?
- How could your relationship with them have been improved?

**Main question 4: How did you find communicating with your representative?**

- How did you communicate with them? Is this how you wanted to communicate with them? Did you feel you communicated with them often enough? What kind of things were you asking your representative?
- Would you have wanted to talk with them earlier in the process? If so, what would have supported you to do so?
- Is there anything that could have been improved about your communication with them?
- Did you stop talking with them at any point? If so, what were the reasons for this? Issues around trust? What would have supported you to start talking with them again?

**Section 2 - *Their appearance at court***

**Question 1: How did you feel when you went to court?**

- Why did you feel this way? What would have helped you to feel more confident in court?
- Did you find any points in the court hearing challenging? Why/Why not? What would have helped you during these stages?
- Did you always understand what was happening during each stage of the hearing?
- Did you feel able to ask questions to clarify what was happening? Why/why not? What would have supported you to ask questions?
- Did you have access to the information and support you needed?
- What would have helped you to take a more active part in the court hearing?
- Have you ever not attended court? If yes, what were the reasons behind this? What would have supported you to attend court?

**Question 2: Before this most recent experience, had you been to court previously?**

- Can you tell me more about these experiences, and how they compared to this most recent experience of court?

- Did you face any other challenges during these previous experiences? How could you have been better supported to manage these?
- What has been the biggest challenge you have faced during the court process? How do you feel this could be better managed?
- Have you ever not been represented within these previous experiences of court? If so, how did you find not being represented? What were the key differences to being represented?

Closing question: If you were speaking to someone from the Court service, and you had time to tell them one thing that could make the process better, what would that be?

# Annex 5: Research with defence representatives

## Context

User research was conducted by HMCTS in late 2019 with a varied sample of (23) legal representatives across England and Wales (11 LAA funded Solicitor, 3 LAA funded Duty Solicitor, 3 LAA funded Barrister/Advocates – Crown Court, 2 LAA junior Barrister; Magistrates/Crown Court, and 4 Paralegals). In part this research aimed to understand the perspective of these professionals on how to encourage defendants to attend court, seek legal representation and engage with defence. The research informed the subsequent research study conducted by Revolving Doors.

## Key findings

### ***What happens at the police station can play a key role in why defendants choose to go unrepresented***

- Several perceived behaviours at this stage could drive decision-making around representation:
  - *Negative perceptions of duty solicitors at the police station* – defence representatives interviewed had the opinion that defendants generally do not see duty solicitors as objective, rather that they are ‘on the same side as the police’ and / or below par and not as skilled as other solicitors they could instruct
  - *Speed of engagement* - interviewees felt that some defendants may be being led to believe that they will be seen more quickly if they chose to represent themselves and start proceedings rather than waiting for a solicitor
  - *Refusal to accept advice provided by the Duty Solicitor* – interviewees felt that if a defendant is not happy or disagrees with the advice provided they might choose to represent themselves instead.

Defence representatives interviewed also feel that unrepresented defendants do not know what information they can request from the police to better represent themselves, which has consequences for when they appear in court.

### ***Unrepresented defendants’ access to justice***

- Defence representatives interviewed feel that in general unrepresented defendants attend court unprepared:
  - They may not have the knowledge of, or fully understand, the court process and language used, which can put them at a disadvantage

- Once in court, while unrepresented defendants can be supported by Legal advisers, there can often not be enough time for them to fully understand and appreciate the evidence put forward to them or make the best decision for how to proceed.
- A defendant's financial situation and personal circumstances can be a significant barrier to uptake of representation:
  - Defence representatives interviewed frequently encountered defendants who are not aware of how LAA funding works or that it is an income means tested system
  - Interviewees felt that defendants just over the threshold (who still need to make contributions) might not be able to afford representation or will submit a certain plea which benefits them financially i.e. decide not to go to trial despite being advised they have a good case due to inability to pay contributions for a long period of time.

***Barriers to engagement are not consistent across all defendants or case types***

- Legal professionals interviewed felt that defendant engagement throughout a case is typically good. Most of the defence representatives within the research felt like they encountered a specific cohort of defendants who they perceive to be more concerned about their case and the outcome.
- These defendants will frequently make contact to find out how their case is progressing and will maintain their appointments to gain updates. However, interviewees felt there is some variation across LAA and privately funded cases:
  - For LAA funded cases, interviewees reported challenges with engagement specifically with those defendants who have vulnerabilities i.e. mental health issues /drink and drug addiction needs which may make them more unreliable
  - Repeat offenders who know the system and what will happen will often choose not to engage prior to court and have no incentive to change their behavior
  - In contrast, during privately funded cases it was felt that defence representatives tend to have better communication with their clients, and are more likely to be fully engaged with the process as they are paying fully for the service they receive
  - Locality can also present issues with distance being a barrier to defendant engagement (during the process) for those solicitors working in rural firms/ defendants living in rural areas
  - General engagement issues centred on being unable to contact clients when their phones have been seized by the police or they have work commitments. Not getting the Representation Order can also mean that solicitors will not work the case or appear in court with the client.

Typically, those interviewed felt that defendants do engage with the process if contact has been maintained throughout the journey, and that engagement dips when contact is lost with defendants (police seize their phone or contact details are not updated during released under investigation).

