

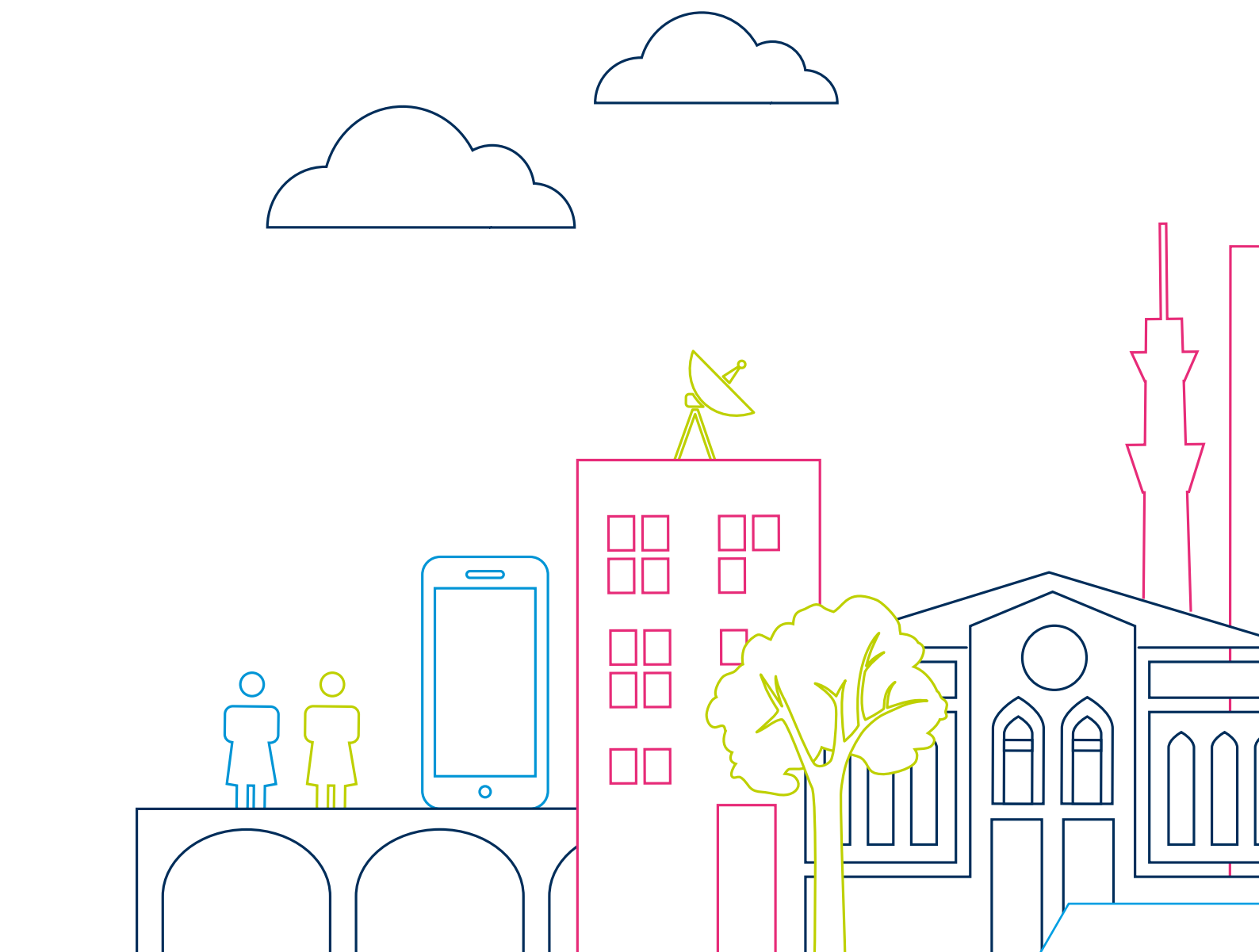


HM Courts &
Tribunals Service

Data in the Courts and Tribunals System

HMCTS Update Report

December 2021





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Introduction



1. The justice system is relied upon by millions – including victims, defendants, families and businesses across our country – to deliver justice outcomes that matter to them and wider society. HMCTS has a key purpose – to run an efficient and effective courts and tribunals system, which supports an independent judiciary in the administration of justice, enabling the rule of law to be upheld and providing access to justice for all.
2. Data has, more than ever before, become fundamental to the delivery of justice. It is also vital to our efforts to support the judiciary in upholding the rule of law, provide access to justice for all, improve performance and efficiency, drive fairness and promote openness and transparency.
3. Our HMCTS Reform programme and our response to the coronavirus pandemic have enabled HMCTS to become a more data-driven organisation and highlighted the opportunity and need for further change. Data plays a fundamental role in allowing us to understand the trends in our performance and improve our services. It is also key in helping us to recover from the pandemic and evaluate the Reform Programme.
4. It is paramount that we not only collect the right data, but also further develop the right data infrastructure and data capabilities. We must sustain and expand our efforts to share more and better data to improve our transparency and democratic accountability. We also need to enable others to help us understand 'what works' and develop innovative solutions that can help improve access to justice, the rule of law and the attractiveness of the UK legal services sector.

Latest progress

5. In October 2020 we published our [Making the Most of HMCTS Data report](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925341/HMCTS_Making_the_most_of_HMCTS_data_v2.pdf)¹ setting out our plans for data collection to support the evaluation of HMCTS Reform and for developing our approach to open and shared data. This followed on from the work of Dr. Natalie Byrom and The Legal Education Foundation (TLEF) – commissioned by HMCTS and undertaken at our request – and the original recommendations made in the 2019 [Digital Justice Report](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/835778/DigitalJusticeFINAL.PDF)².
6. Following the publication of our last update on the Digital Justice Report, the focus of HMCTS has been on our response to the COVID pandemic – ensuring that our justice system kept vital justice services running and the progression of our Reform Programme. As we complete reform and the new systems the programme is developing, we will make further improvements in our data.
7. Since the publication of the original report, out of the 29 original Digital Justice recommendations, 10 have been delivered, 18 are currently in delivery and one is dependent on a broader government approach.



1 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925341/HMCTS_Making_the_most_of_HMCTS_data_v2.pdf

2 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/835778/DigitalJusticeFINAL.PDF

8. In summary:

- i. We have developed and have published HMCTS's Data Strategy, which sets out our vision and plan for better data.
- ii. We have built the collection of protected characteristics data into the Probate, Online Civil Money Claims (OCMC), Divorce and Social Security and Child Support (SSCS) services, through the design of a common process for our services. This will be rolled out to other services in Civil, Family and Tribunals as the reformed services come online. We are aiming to publish data by the end of 2021. We are also collecting essential data on initiation channels (paper/digital) across different services and using it internally to inform access to justice analysis on our reformed services. To date, over 150,000 people have answered the protected characteristic questionnaire and the response rate is approximately 50%.
- iii. We have linked together datasets to allow us to look at differences in case level data for certain services (for example on timeliness) split by protected characteristics. This analysis will be key to identifying disproportionalities and informing service design decisions that will improve access to justice. We continue to work with colleagues across the Criminal Justice System, including the Police and the Crown Prosecution Service, in relation to the collection of protected characteristics data. We are facilitating the development of common counting rules and understanding of a defendant's journey beyond the courts and through the Criminal Justice System.
- iv. Working in partnership across the Ministry of Justice and the Judiciary, we have taken steps to significantly improve access to judgments. We are currently working towards transferring the storage and publication of legally significant judgments to The National Archives (TNA). This new service will be introduced from April 2022. This service will save time and money for lawyers, judges, academics, journalists and members of the public who require access to judgments for vital case preparation or research purposes.
- v. We are continuing to develop user metrics that help us better understand user experience, and service performance. These will be used by HMCTS to improve services.
- vi. The Areas of Research Interest (ARIs)³ published by the Ministry of Justice now include an element on the development of objective indicators of procedural justice.
- vii. We have been working to improve the capture, quality and accessibility of data from Approved Enforcement Agencies. We are building the development of a wider set of enforcement data into our workplans for the next two years as well as the systems to manage, process and share our data with external users
- viii. Our Data Access Secretariat Team (DAST) is fully operational, working to improve access to HMCTS data. We have also redesigned our Data Access Panel (DAP) with new membership and new terms of reference.
- ix. We are currently scoping options for the production of an externally facing Catalogue of Open and Accessible Data. We expect this catalogue to be published in 2022. The catalogue will compile and index the many data services we already offer – our published data series (such as HMCTS Management Information), transparency information (such as Court Listings) and other resources, such as our transcription services. The Catalogue will also list additional data titles which HMCTS believes appropriate to make accessible as reusable public sector information and will explain how to obtain these data.
- x. Together with the Ministry of Justice and the Judiciary, we have set up a 'shadow' Senior Data Governance Panel (SDGP). The shadow SDGP is made up of members of the judiciary, civil servants and independent members, including academics. Its remit is to provide advice on novel and contentious data issues to inform our data decision making. We are working to formalise the SDGP in early 2022 subject to approvals by the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals and the recruitment of the external members of the panel.
- xi. We are currently looking at best practice and scoping options to ensure that public acceptability considerations are routinely and consistently fed into our data decision making. We expect to be able to make announcements in 2022.

3 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1007378/areas-of-research-interest.pdf

Area of Focus - Data for services: understanding protected characteristics

Original recommendations

HMCTS should commit to embedding the collection of the thirteen data-points relating to vulnerability (outlined in Table 1 of the report) into each service. The collection of this data should take place at the earliest possible opportunity in the user journey, whether this is initiated through digital or paper processes. It is recommended that HMCTS commit to embedding the collection of this data into reformed services before they reach public beta stage. Those services already in public beta stage should be prioritised for immediate work to embed the collection of this data.

In delivery

HMCTS should commit to the ongoing collection of data on the characteristics of users initiating and defending cases via different channels to identify and monitor disproportionalities, e.g. individual vs bulk claimant, geo-demographic characteristics of claimants and defendants, represented vs. unrepresented.

In delivery

HMCTS should commit to the ongoing collection of data on the types of cases initiated via different channels to identify disproportionalities and refine services. This data should be presented at a level of specificity that would support useful analysis, e.g. for a money claim, the amount, type of claim and amount claimed.

In delivery

HMCTS should publish and consult on the metrics/data proxies used to assess the cost and effort associated with initiating and defending a claim via different channels. Once these metrics are agreed, the data collected should be analysed and reported on according to both case type and user characteristics.

In delivery

Capturing data on subjective perceptions of procedural justice using standardised tools, replacing the user satisfaction survey currently used.

In delivery

HMCTS should commit to collecting data on the characteristics of users and cases that reach judicial determination and analyse this data against the types of users that initiate cases, to explore patterns in the characteristics of users and cases that reach the judicial determination stage.

In delivery

HMCTS considers the benefits and risks of introducing unique identifiers for individual users of the justice system – as set out in our 2020 update while we agree with the principle of this, the implementation cuts across the whole justice system and so is beyond the scope of the HMCTS actions outlined here.

What we have already done

We have built the collection of protected characteristics data into the Probate, Online Civil Money Claims (OCMC), Divorce and Social Security and Child Support (SSCS) services through the design of a common process for our services. To date, over 150,000 people have answered the protected characteristic questionnaire, and the response rate is approximately 50%.

We are collecting essential data on initiation channels (paper/digital) across different services and using it internally to inform access to justice analysis on our reformed services and adding case flags that indicate whether a user has legal representation. This is being considered as part of our access to justice assessments in reformed services

We have linked together datasets to allow us to look at differences in case level data for certain services (for example on timeliness) split by protected characteristics.

We are also working with other government departments, particularly colleagues across the Criminal Justice System, to facilitate the development of common approaches to data collection.

What we are doing next

We are currently working to introduce the collection of protected characteristics data for the reformed services where this has not yet been implemented. The introduction of protected characteristics will continue to develop as the reformed services come on-line through the implementation of the Reform Programme.

We are aiming to publish data on the collection of protected characteristics by the end of 2021.

We will use the protected characteristics data and the linked datasets to identify and inform tackling disproportionalities and inform service design.

Area of Focus - Data for evaluation

Original recommendation

Working with experts in ODR to develop objective indicators of procedural fairness for new online processes and using this data to augment the data captures on subjective perceptions of procedural fairness.

Delivered

HMCTS should commit to sharing data collected on the impact of design architecture and behavioural “nudges” incorporated into forms and reformed processes with researchers to validate and check assumptions and build trust in new processes.

In delivery

Working with expert stakeholders to identify proxies for user engagement with reformed processes, e.g. management of information such as volume and quality of evidence provided, uptake of procedural safeguards etc.

In delivery

Collecting data on patterns of engagement by users with legal advice and representation across paper and reformed processes to test the assumptions underpinning pilots

In delivery

Collecting data on the characteristics of users and cases “triaged” to different processes, to assist the judiciary in understanding whether the Practice Directions they have made are being applied correctly and to assist in the training of Authorised Officers who are intended to assist with these processes.

In delivery

Collecting data on the outcomes of cases e.g. abandoned/withdrawn/settled/determined and the amounts awarded/settled for across the different processes, e.g. Continuous Online Resolution, Online Civil Money Claims.

In delivery

HMCTS should capture and publish data on applications for enforcement, time from decision to enforcement and whether enforcement proceedings are defended across both paper and reformed services as part of any evaluation of the impact of the reform programme on access to remedy. Examples of data to be captured (in the context of Civil Money Claims) could include: whether enforcement is applied for; type of enforcement applied for (warrant of execution, attachment of earnings order, third party debt order, charging order, bankruptcy petition); whether an application for suspension of a warrant/variation of order is made and whether an application notice, certificate of cancellation or satisfaction is applied for by the defendant.

It has been claimed that enforcement is easier following mediation or less necessary because people comply more willingly with negotiated settlement agreements. As such, data comparing compliance with ODR settlement terms to compliance with determinations should be captured.

In delivery

What we have already done

In addition to the data for services (particularly protected characteristics data) updates in the previous section, we have started to use user engagement data to better understand user experience, service performance and access to justice.

The development of objective indicators of procedural justice, which will enable us to better evaluate our programmes, has been included in the departmental Areas of Research Interest (ARIs) as one of our key evidence needs.

We have also been working to improve the capture, quality and accessibility of data from Approved Enforcement Agencies.

What we are doing next

We will use engagement data to continuously improve service design and access to justice. The work we are doing will enable better analysis of disproportionalities in the system.

We will publish two reports assessing changes to the Single Justice Procedure Notice in early 2022. These changes were informed by behavioural insight and will be used by the business to improve service design and access to justice.

The interim evaluation of the Reform Programme is expected to be published by the end of 2022. The overarching evaluation of the Reform Programme, as well as project-level evaluations, will look to explore users’ perceptions of procedural justice.

We are building the development of a wider set of enforcement data into our workplans for the next two years as well as the systems to manage, process and share our data with external users.

Area of Focus – Data Access

Original Recommendations

HMCTS should conduct an urgent review of their internal position with regard to data and prioritise the production of an external-facing data catalogue. This catalogue should:

- list what data is held
- explain who is responsible for each dataset
- detail where the data is stored and who stores it
- provide an indication of the relative quality of different datasets
- explain who is currently allowed to access the data and for what purposes
- describe existing arrangements for accessing data and detail any charges associated with access to particular types of data.

In delivery

HMCTS should consider approaches to meeting the other areas of priority [data] need identified by stakeholders through a transparent process as part of the development of the HMCTS data strategy. Tools such as the ODI Data Ethics Canvas could be deployed to devise an approach in partnership with internal and external stakeholders.

Delivered

The appropriate standard for approving or denying requests to access data should be based on the robustness of the research design, rather than utility to the business. [...] the Insight and User Research Division or another function in HMCTS must be resourced with adequate additional funding to deliver this function if volumes of requests increase as expected in line with the rollout of reforms.

Delivered

Functions and roles should be clearly articulated and resourced, particularly with regard to Quality Assurance, GDPR and Privacy Assurance.

Delivered

Scenarios (including resource implications) should be urgently developed for how to handle increased demand [for access to data] in 2019 and meet HMCTS's public commitments in the near term.

Delivered

Once draft principles are agreed, the datasets identified as a priority need by stakeholders should be catalogued and used as a case study to evaluate the utility of the approach designed, starting with case level data.

In delivery

Existing models for sharing data with researchers are available and should be utilised in the medium term to facilitate the delivery of HMCTS's public commitments to make data available for evaluation and research. See for example, the SAIL Databank, and the forthcoming ADRP hosted by ONS which provides safe accredited access for accredited researchers to administrative data.

In delivery

Data Engineering Fellowships should be funded for between 6-12 months. Consultation with internal and external stakeholders suggested that the key responsibilities, skills and person specification should be modelled on the recently advertised role of Ministry of Justice Lead Data Engineer.

Delivered

What we have already done

To enable better and more data access and improve transparency, we have created a Data Access Secretariat Team (DAST) with a mandate to improve access to HMCTS data by supporting applicants to HMCTS data through our processes. We have also redesigned our Data Access Panel (DAP) with new membership and new terms of reference aimed at improving its efficiency and enhancing the quality of our decision making.

Together with MoJ and the Judiciary, we have set up a 'shadow' Senior Data Governance Panel (SDGP) with a mandate to provide advice on novel and contentious data issues to inform and further improve our decision making. The shadow SDGP is made up of members of the judiciary, civil servants and independent members, including academics.

Through the 'Data First' programme, we have made HMCTS data available to accredited researchers through the ONS Secure Research Service.

Area of Focus – Data Access (Cont.)

What we are doing next

We expect to publish an externally facing Catalogue of Open and Accessible Data, in 2022. The catalogue will compile and index the many data services we already offer – our published data series (such as HMCTS Management Information), transparency information (such as Court Listings) and other resources, such as our transcription services.

The catalogue will also list additional data titles which HMCTS believes appropriate to make accessible as re-usable public sector information and will explain how to obtain these data.

We are working to formalise the Senior Data Governance Panel (SDGP) in early 2022 subject to approvals by the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals and the recruitment of the external members of the panel.

Through the 'Data First' programme, we will continue to explore other mechanisms that enable safe sharing of HMCTS data with accredited researchers for approved purposes.

Area of Focus – Data Transparency

Original Recommendations

HMCTS should work with the judiciary and colleagues in the MoJ to commission an independent report which reviews the current arrangements for disseminating judgments to the public and maps the information flows from courts to publication. On the basis of this report, HMCTS and the MoJ should engage with key stakeholders to develop a publication solution that delivers free and comprehensive access to judgments in a structured machine-readable format.

Delivered

The production of an external-facing data catalogue to guide applications should be prioritised as a matter of urgency. Data Engineering Fellowships should be established to deliver this work (see Chapter 7 below). Work to engage external funders where needed to deliver this should be prioritised.

In delivery

Minutes of future DAP meetings should be made publicly available.

Delivered

HMCTS should publish its vision with regard to shared/open data and develop its overarching strategy in line with existing legal and ethical principles through a transparent and accountable process.

Delivered

In terms of developing wider open/shared data principles: consolidating, publishing and consulting on the aims of the future open/shared data strategy with key stakeholders at the earliest possible opportunity is recommended. HMCTS should publish details of their approach across the ODI data spectrum with indicative timeframes for engaging stakeholders.

In delivery

Data Engineering Fellowships should be funded for between 6-12 months. Consultation with internal and external stakeholders suggested that the key responsibilities, skills and person specification should be modelled on the recently advertised role of Ministry of Justice Lead Data Engineer.

Delivered

What we have already done

Following the recommendations in the 'Digital Justice' report, we have taken steps to significantly improve access to judgments. Working in partnership across the Ministry of Justice and the Judiciary, we are currently working towards transferring the storage and publication of legally significant judgments to the National Archives (TNA).

We have recently published our Data Strategy, which lays out how we will collect, manage and share data.

What we are doing next

We will introduce a new service for accessing Judgments on The National Archives as from April 2022. This service will save time and money for lawyers, judges, academics, journalists and members of the public who require judgments for vital case preparation or research purposes.

We will start publishing Data Access Panel decisions and proceedings in 2022

As outlined in the previous section, we intend to publish an externally facing Catalogue of Open and Accessible data in 2022.

Area of Focus – Public Acceptability of the use of data by HMCTS

Original Recommendations

HMCTS should [when considering open/shared data], dedicate resource to reviewing national and international best practice, existing legal frameworks, engaging a wide range of stakeholders and the public and testing the acceptability of different models with stakeholders and the public.

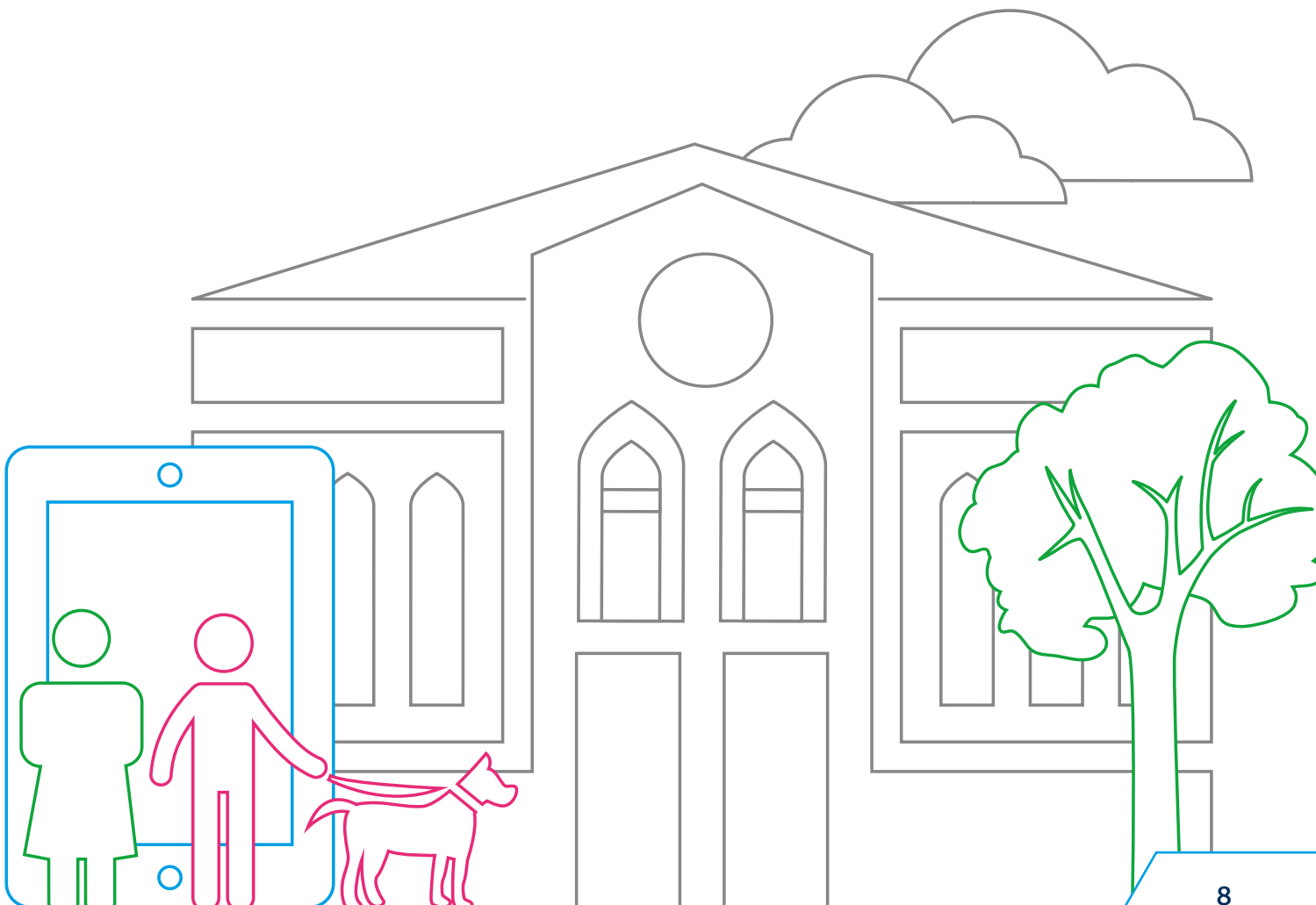
In delivery

What we have already done

We have been looking at best practice and scoping options to ensure that public acceptability considerations are consistently and routinely fed into our data decision making processes. Ensuring that we maintain public confidence and the acceptability of the ways in which we collect and use data is one of our key priorities.

What we are doing next

We expect to be able to make announcements in 2022.





HM Courts & Tribunals Service

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