

**On Wednesday 4 June 2025, Mr Justice Nicklin gave [a public lecture](#) at Green Templeton College, Oxford. This is an edited transcript from the Q&A that followed the lecture. It has been edited for clarity and brevity; we hope it will provide a useful resource to readers.**

**Question: What are your views on what we could be doing better as the media and journalists?**

**Answer:** The Lady Chief Justice has observed that the declining number of journalists in our courts is an area that is a real cause for concern, and it's noticeable. I speak to judicial colleagues around England and Wales, and they have noticed that where once sat the court reporter, who often they would know by name, the seat is now empty. I have tried to reassure them that they've not necessarily disappeared. They may now be online because of a revolution that has taken place, serendipitously produced by the pandemic. The pandemic forced Courts online, something that would never have happened but for the pandemic, and it delivered technology enhancement in courts and tribunals, which probably wouldn't have happened if it hadn't been for the pandemic.

It's transformed local journalists' ability to attend hearings. A local journalist can now cover his or her entire beat. So if you talk about the East Midlands, you've got large courts in Derby, Leicester and Nottingham. In the past, a journalist would have been presented with the choice. S/he would have to look at the list and try and work out which of these cases is likely to be the most important to attend. Now s/he can get the links for those court hearings and flick between them allowing him/her to cover multiple hearings that could never have been possible with physical attendance.

There is no doubt that we've lost coverage in the courts. And I think for a society that's a bad thing. Undoubtedly there are many people who now sit where the court reporter used to sit, but there aren't enough of those people either. But we've lost something of real value I think. Journalists started their careers by covering courts, and they understood the law. They understood how the law was developed. They understood sentencing. I see occasionally journalists who visit the courts who don't have that background. And I fear that they don't fully understand the process they're reporting upon. And that can impair the quality of the reporting.

There's a fine tradition in our country of legal education being a fundamental part of training to be a journalist. I wouldn't like to see that diminished. There are fantastic resources provided to support journalists in understanding media law, for example, and reporting courts. But it's vital that that goes hand in hand with being there and understanding the process.

**Question: Is there a way to evaluate the effectiveness of this kind of transparency? Where are there similarities and differences to issues about transparency [in the courts] and access to prisons?**

**Answer:** I'll take the second question first. I haven't looked at the question about openness of prisons. And I'm not really qualified to speak on that. Just off the top of my head, we have

an independent inspectorate for prisons which would be a key vehicle for transparency. They publish reports which include information from evidence-based visits etc. And, of course, journalism is an important part of the transparency and holding account of any public institution, including prisons. So those are I would say the two primary mechanisms.

Returning to measures of effectiveness. That's an interesting question. I have thought about this. It's very difficult to measure. I have worked in organisations with key performance indicators and there's a trap with key performance indicators that you end up measuring things that are easy to count. It's not necessarily a true measure of value. I do hope that we could do this. We have discussed the question about measuring the impact of televising sentencing remarks because it has done a lot. We see from our information provided by journalists to us about how it's being perceived is that it has a transformative effect in many areas. First, it's shown real judges at work, which has also done a lot to disabuse the idea that Judges are all old men.

Televised sentencing remarks have shown a diverse range of young judges engaged on sentencing. It delivers a message which is just as important, which is "these are ordinary people doing this job". It's a hard job. And people can see that sentencing is not an easy process. Those who watch the entire sentencing remarks, I believe, get a full insight of the things that have to be considered.

Nobody who watches sentencing remarks can come away thinking that sentencing people in criminal courts is easy or straightforward or that there's an obvious answer. In most cases it's a really difficult question about balancing several factors, and there's no substitute for allowing people to see that for themselves. The judiciary does do some work about public perceptions of the judiciary and I would like to see further research as to the impact that televising sentencing has had. It's difficult to measure, but I don't think that should deter us from trying.

**Question: How do you see the balance between media freedom and the need to maintain the integrity of judicial proceedings? How can one navigate reporting restrictions?**

**Answer:** There are occasional challenges from the media, but they are usually constructive. The media discharge an incredibly important function not merely as a conduit of information. Well-resourced media organisations are often the litigants who challenge reporting restrictions, for example. They were the groups who largely challenged, earlier in this year, the anonymisation of the judges in *Tickle v BBC* [2025] EWCA Civ 42. So, the media discharged not only the conventional role of conduit of information to the public, but also as part of their watchdog role. Often it is the media's vigilance, thinking, "no, no, that's not right. Those reporting restrictions aren't justified in that case".

The media are also often able to provide a great deal of support to judges who are maybe unfamiliar with some of the more obscure aspects of reporting restrictions. And so they discharge a vital function of actually supporting the rule of law by being an active participant in the proceedings themselves. I don't necessarily see them as acting in conflict. It's a constructive challenge. Usually, it's "show me why". It's the right calibration in the process: "show me why this derogation is necessary". So it's that inquiring process, which the media

provide. They are the ones that send KCs to come and have the argument. But anybody can do it. If you know the basis of the reporting restriction regime, and when you're familiar with it, then any judge will welcome you standing up and saying, "could I make some submissions on the reporting restrictions please?" And then you put your case.

Now you have to pick your moment. If you take the judge by surprise and, for example, he or she's in the middle of summing up to a jury, that's not the best moment. But all judges will, I hope welcome your intervention if you raise a point like that, and in particular if you're able to point the judge in the direction of where the relevant law is to be found. So, I don't regard it as a conflict. Slightly beyond that, there is an issue with the public's knowledge of the law. It's referred to in the MOJ response [\*"Open Justice: the way forward"\*](#), published on 29 January 2025. It noted that the public's understanding of the law of contempt is a bit shaky and you see a lot of comment online, particularly in the aftermath of serious alleged criminal offences. Better public understanding would help with that. But in that area, the media certainly aren't guilty themselves doing that. The media are very well aware of what contempt laws provide, and they understand the rules that apply.

**Question: There's a rule at the moment that certain victims of specified offences can get free access to transcripts. Is there not a real danger the victims of other serious crimes will feel that they've been unfairly treated since they can't get this, and they might have been very severely harmed as well?**

**Answer:** I understand the point you're making. It's a policy decision for the government as to who gets the benefits of free transcripts. The Board is looking actively at harnessing modern technology which we think is likely to be able to provide AI generated transcripts which could potentially provide additional opportunities in this area, particularly for those who are interested in the proceedings because of their status as a victim or a relation of a victim of an offence. Many people do not require an entirely accurate word for word transcript, the sort of thing that is produced for Court of Appeal hearings. What they want to understand is what has been said, and an AI generated transcript is likely to discharge that function substantially. If it leaves something that needs to be clarified, then you can go further and get something more precise. But in terms of availability, cost and speed, AI is now potentially offering access to transcripts on a much greater scale than hitherto has been possible. And so I would hope that we're not too far away for a situation where anybody who wants a transcript of court proceedings should be able to get one that is not as expensive as the sort of Rolls Royce transcript that is currently the only option available.

**Question: What are the plans for transparency in the Criminal Courts and Crown Courts, particularly in regard to access to documents?**

**Answer:** There's not a pilot at the moment, but when you see the finalised key objectives for the Transparency and Open Justice Board, which won't be that different on this issue than the ones that we published in December last year, you will see that those make reference to the core documents that ought to be provided. It's about embracing and nurturing open justice. I have encouraged judges in the criminal courts to think about how they can make the process more open and accessible, for example by making copies of the jury bundle available in the press box so that the media representatives can see what the

jury is seeing. If you ever go and watch a criminal trial, you almost certainly see reference to the sequence of events chart. It can be a very important document in criminal proceedings because it collates and presents some of the key evidence in a chronology key evidence - CCTV footage, mobile phone data, all of that, which would be - if you had to cross reference to the raw material - very unwieldy. It's now produced in a sequence of events chart. Typically, the sequence of events chart is referred to throughout the criminal trial. But if you don't have it, you either won't know what's being referred to or accurately reporting it depends on you recording the entries when they are read out. And some of it contains the vital evidence that is being presented in the case. So it needs to be understood and reported accurately. And so, it seems to me, it should be available in the press box.

We should do better at thinking about these things. We should keep asking ourselves "what has changed in the way we work?" Thirty years ago, you could sit in a Crown court and every bit of the evidence you would hear delivered orally. Now things have changed, it's moved on a bit, but we need to keep checking ourselves. Are we making sure that that is open to everybody? That doesn't require a rule change. It just requires an understanding and appreciation and thinking, "actually what do I need to do to make this process more open?" For example, sentencing notes are now the critical document at the sentencing phase. They are the legal submissions and the arguments advanced by both parties. Those are absolutely central to the argument that's being put forward. And if you don't have access to that, you're only getting part of the picture. When you read or hear the judge's sentencing remarks, you need to see the arguments that were put forward in so the public can judge "is that the right answer?" So we need to be vigilant about making sure that we make clear to the public how the process is working. I anticipate that there will be some rule changes to support better access to documents in the Crown Court.

**Question: Does the Board's remit straddle all courts and tribunals in England and Wales, and which jurisdictions do you see as particularly problematic or complex?**

**Answer:** The area that is likely to provide most complexity, and it's to do with the absence of recording, is First Tier Tribunals. First Tier Tribunals do a huge amount of work in our legal system. They range from mental health tribunals, employment tribunals, you've got the immigration and asylum chamber. They have a prodigious output of work but some of their proceedings are not recorded. That provides difficulties in terms of access to transcripts and judgments. The Board has been clear. We believe that open justice requires proceedings to be recorded. So that would affect Magistrates' Courts and some First Tier Tribunals.

With recording comes a whole host of benefits, not just open justice, because it affects the whole efficiency of the process. Delivering justice without recording the proceedings can be inefficient. To compensate for the lack of recording, an obligation is often imposed on tribunals, whose proceedings are not recorded, to then provide written reasons because the parties must have a record of the explanation for their decision, for example for any appeal. So you can get situations where tribunal members are having to do the job effectively twice, once to give the decision together with their reasons, then can be asked to provide written reasons as well.

Whereas in courts and tribunals where proceedings are recorded, a request is made for the transcript of the decision. You don't go back and do it again. So I would say this is one of the most challenging areas because recording Magistrates' Courts and all first tier tribunal proceedings represents a step change. It will eradicate the distinction between courts of record and courts not of record. I think a modern justice system we would say almost without question, "we should have those proceedings recorded".

**Question: How far does the scrutiny role go in terms of using court information to help the public understand how a particular case might fit into a broader context (e.g. the decision to bring a prosecution)?**

**Answer:** I think the open justice principles are really clear on that, which is the purpose of opening the proceedings is to allow precisely that scrutiny of whoever you want to scrutinise. It's not just the judges. That's an important part of it. It can extend to everybody involved in the process. It can extend to why are people bringing these prosecutions? Why is this claim being brought in this jurisdiction, making these claims? Why are similar claims being made in other jurisdictions? Why aren't they being made in certain jurisdictions? My take is very simple. You put it all out there on the table and whoever wants to come and scrutinise whatever part of it, for whatever reason, should be enabled to do so. [As mentioned in the talk] It was Lord Toulson, and I almost underlined it, [who said] "open justice lets in the light and allows the public to scrutinise the workings of the law for better or for worse." You've got to grit your teeth and you have to accept that we may not be perfect and we may get things wrong and other people involved in the process may be doing things wrong, and it may not be apparent to the court at the time when it's dealing with the case what is wrong. But people who investigate and scrutinise may be able to point to things that have gone wrong in that process, either because they have additional resources, a better insight, better access to information, better access to witnesses, better access to documentation. That's going to only be healthy in a democracy. The rule of law doesn't mean uncritical acceptance of the product of the legal system. And the important part of watchdog-stroke-bloodhound is to encourage and facilitate people who want to scrutinise that system.

**Question: The duty to scrutinise seems quite a burdensome task for us ordinary members of the public. What support is available?**

**Answer:** I'm quite genuine in the sense that it would make our system better if every day somebody sat at the back of every court and tribunal. They didn't have to be there for any particular purpose. It's just their being there because it helps focus everybody's mind on, "this is open. We should be trying to make sure that the person at the back can hear, that the person at the back can follow what's going on within these". We ought to be trying to do more to make our proceedings user friendly. That's a wider question.

It was an interesting question that was put to us in the [stakeholder group] engagement responses, which is, "what are you doing to make it more accessible? What are you doing to assist in legal education?" Because there's a lot of jargon used in legal courts and tribunals and it's unhelpful to public understanding. Now that's a big battle I'll have there because I'll never persuade the entire legal profession that they need to start adjusting their language

to make it more accessible to the people who are sitting watching court proceedings. But it would be helpful if they at least had knowledge that was part of the role [...]

OK, the primary audience is the judge or the jury or both. But there are other audiences. They are very important to the process because if people don't understand what is going on, then the process is not over. I think merely by being there you are doing part of the holding to account. Reporting on it just adds to the value that you're providing. But please don't go away thinking that I've told you must go away and scrutinise every waking hour, and challenge, and carry out that important role. Do as much or a little challenging as you want. But I really do mean that being there is the most important part.