



The Research Unit supports effective policy development and delivery within the Ministry of Justice by providing high-quality social research to influence decision-making and encourage informed debate.

© Crown copyright 2008
Extracts from this document may be reproduced for non-commercial purposes on condition that the source is acknowledged.

First published April 2008

Contact info:
research@justice.gsi.gov.uk

The views expressed in this Research Summary are those of the author, not necessarily those of the Ministry of Justice (nor do they reflect Government policy)

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

Richard Moorhead, Mark Sefton and Lesley Scanlan
Cardiff Law School, Cardiff University

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

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

Given recent policy emphasis on public/user perceptions of courts and tribunals, this research intends to feed into considerations of the changes that could or should produce improvements in public opinion. Defining the factors that most strongly 'drive' satisfaction is key to developing robust policy founded in empirical evidence.

Key points

- There is a distinct scarcity of robust, well-analysed data on what the general public thinks about civil and family courts and tribunals or on what underlies these perceptions. There is little data on what businesses think of courts and tribunals. Data on participants, outside of the criminal context in particular, also lacks depth.
- Consideration should be given to how the resources expended on user surveys in the courts and tribunals services can be most effectively used to provide a more robust evidence base.
- The evidence that exists suggests that **outcomes, perceived fairness** of those outcomes, **attitudes, contextual issues** (such as quality of the court environment and support), and participant judgements about **fairness of process** all have an independent relationship with (and so may 'drive') public and participant satisfaction. The evidence on whether **demographic characteristics** have an independent influence is more mixed.
- The weight of the evidence available suggests that it is participant judgements about fairness of process, not outcomes that participants receive, which are most important in influencing levels of satisfaction.
- An adversarial justice system may inevitably lead to some dissatisfaction, amongst some participants, as it seeks to balance competing interests. Future research could usefully compare consumer perspectives with professional evaluations of the justice system and behaviours within the system.

Approach

We searched a variety of academic, governmental and non-governmental websites and databases for studies related to satisfaction with the justice system. Quantitative and qualitative research published from 2000 onwards is included in this structured literature review.

Strict tests determined which studies would be included. The review therefore deals with research where public or participant satisfaction was a significant part of the study, and where views were obtained directly from the public/users rather than through intermediaries.

Other requirements included: robust sampling, sufficient sample sizes, acceptable response rates, and clear reporting of methods, analysis and results. Geographical diversity in studies was also an inclusion criterion.

We allowed somewhat relaxed controls for research in areas where the literature was scant or participants might be described as hard to reach: i.e. studies dealing with diversity, business users, mental health patients and children.

The evidence base is poor on civil and family courts and tribunals

We reviewed the evidence generated on satisfaction with courts/tribunals. The key finding is that **there is a distinct lack of robust evidence of what the general public and court users think about civil and family courts and tribunals**. Robust, well analysed data on what the general public thinks about these institutions, and what underlies those perceptions, is almost non-existent. A similar gap is robust data on what businesses think about courts and tribunals. Indeed, we cannot say with any confidence how the general public, personal users and businesses perceive civil and family courts.

Given the importance of public confidence in the court system, this is a significant omission. To date, court user surveys conducted by HM Court Service have been inadequate: methods have lacked robustness, results have been unsatisfactorily reported and response rates have been far too low. Consideration should be given to how the resource expended on user surveys in the courts and tribunals services is most effectively used to provide a more reliable evidence base. (New work has, we

understand, been commissioned, which may address these concerns.)

There is much more of an evidence base in the criminal sphere, often derived from the British Crime Survey and work in the United States. This work allows us to suggest, in the context of criminal work, what the key influences on user and public satisfaction with criminal courts are.

What do the public and users think of the courts?

As already noted, we simply do not have robust quantitative data to form a view on civil and family courts and tribunals. General levels of public esteem for the courts and judges in the criminal sphere appear low. This is true in absolute terms and when compared with other institutions such as the police.

Within general public perception surveys, those with some experience of the (criminal) justice system often have lower opinions. However, what this experience consists of is often opaque (for example, it may be simply experience of reporting a crime, or being a spectator in court). Conversely, in surveys where participants have substantial experience (users, jurors and witnesses), they generally seem to have higher (and sometimes very high) levels of satisfaction.

What drives satisfaction?

As already noted, these findings largely derive from criminal courts. The first, key point emerging from the literature is a challenge to the **'sore losers'** argument. It is often assumed that dissatisfaction with courts is derived solely or mainly from getting a bad result. The research supports this, but only up to a point. Whether or not a user perceives an outcome as fair does influence their overall level of satisfaction with courts. However, the evidence suggests **it is participant judgements about the fairness of the process, not the outcomes that participants receive, which are most important in influencing the levels of their satisfaction**. This suggests that a policy focus on good process can impact significantly on levels of satisfaction even amongst those who lose their cases.

Furthermore, research indicates that what constitutes an outcome can be complex. Outcomes are social as well as material events. Beyond compensation, participants may be interested in whether an outcome is fair and whether it validates certain social judgements. For instance, an employment practice being found to be inappropriate may be part of the outcome an employment claimant is looking for alongside compensation. Similarly, evidence on pre-court settlement of cases suggests that settlement itself may contribute to satisfaction where it adds to certainty or 'closure.' However, it may inhibit satisfaction when a 'deal' is partial or is not perceived as having the same impact as a judgement or verdict might do. This is in some tension with any policy of encouraging alternative dispute resolution.

As well as perception of outcome and process, research suggests that user and public **attitudes** may exert an independent influence on satisfaction with courts. So, for example, those with concerns about crime and poorer perceptions of the criminal justice system (e.g. of the police) are likely to have higher levels of dissatisfaction with courts.

Contextual issues such as the quality of the court environment; support provided to vulnerable witnesses; failure to separate witnesses who may intimidate each other; the provision of information about what to expect at court hearings; the conduct of court staff; and the quality of court facilities, all appear, according to the studies reviewed, to have an impact on satisfaction.

The evidence on whether **demographic characteristics** have an independent influence is more mixed. Issues such as age, health, education, ethnicity, gender and social and economic group all show some influence in some of the studies we examined but not in others. In so far as it is possible to generalise, the research suggests that it is the experiences of certain demographic groups, rather than their demographic characteristics *per se*, that lead to differences in satisfaction.

What sorts of things are perceived as fair process?

Judgements about the fairness of court or tribunal process are, the evidence suggests, at least for criminal justice, central to satisfaction with those courts. What makes up a lay assessment of fairness appears to be complex.

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

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

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

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

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

Conclusions/Implications

The evidence from studies of criminal courts suggests that processes which are perceived to be fair bolster satisfaction with, and enhance the perceived legitimacy of, courts. Whilst the factors underlying such judgements are reasonably understood (information, participation, treatment, comfort and trust) the relationship between these underlying factors and the actual design of court processes, the skills of judges and court personnel, and the nature of court environments is less well researched. Most importantly for the Ministry of Justice, there is very little robust information on levels of satisfaction with civil and family courts, let alone what drives that satisfaction.

Balancing Justice and Satisfaction ('Just' Satisfaction)

It is important to both qualify and underline the significance of public and user satisfaction with courts and tribunals. Satisfaction is not everything: courts must deliver justice and cannot always 'satisfy' everyone. Conversely, whilst higher values are at stake than simple consumerist notions of good service, user (and public) satisfaction with courts is key to their legitimacy.

It follows that an *intelligently* consumerist approach must be found; one that properly balances the pursuit of satisfaction with the other desirable needs of the justice system, such as predictability, efficiency and the delivery of just outcomes. There is a lack of evidence comparing consumer perspectives with professional evaluations of underlying systems and behaviours.

To give a controversial example, where studies indicate that witnesses are dissatisfied with the process of cross-examination, we have no data from researchers or professionals on whether the cross-examinations were appropriate or could have been conducted better. An adversarial justice system may inevitably lead to some dissatisfaction, among some participants, as it seeks to balance competing interests. Meaningful research on 'just' satisfaction needs to scrutinise that balance and that means triangulating user satisfaction with other perspectives.

Even losing parties may gain some satisfaction from a process which is palpably just. Winners and

losers can be (and are) often given *just* satisfaction through a process that properly takes into account the competing perspectives in a dispute. There is also some evidence that perceived legitimacy can and does influence the behaviour of citizens by making them more likely to behave lawfully. As a result it is possible to say that, whilst public and user satisfaction with courts is not the only thing that policy-makers, judges and court managers should be concerned with, it is very important.