

Resolving disputes: a framework for holistic reform

Full report

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Executive summary

This report sets out a vision of what a justice system should be in the twenty-first century. The main focus is on civil and administrative justice, namely disputes among people, or between people and businesses or the state, including consumer, family, housing, property and employment disputes.

Why is a fresh vision needed?

We have traditionally looked at each type of dispute separately and focused just on resolving the dispute. We have also assumed that the ultimate means of resolving disputes is through law, lawyers and courts. But we are learning that these traditional assumptions are unsafe.

The cost of a system based only on law is too high for many people, and for the state, so access to justice is often a mirage. Other techniques such as advice and mediation are successful and cheap but not deployed effectively. Much traditional thinking has occurred in silos, with the justice system focusing largely on dispute resolution whilst regulatory systems focus on ensuring compliance with laws – in both cases on the assumption that upholding the law through enforcement in individual cases will affect future behaviour and ensure compliance with the rules.

But finalising a dispute does not mean that changes in behaviours or procedures occur so that similar disputes are prevented in future. In addition, we know little about the causes of many common disputes, as we do not study or collect data on them and use it for learning and feedback. In short, several elements are currently missing, or at best inadequately delivered, in traditional justice systems.

The recent description of the justice system as one of ‘fragmentation by design’ is accurate.¹ Civil and administrative justice systems remain undeveloped, working largely within their own siloed vacuums – such as civil justice, administrative justice, regulation, business support, and social advice and support. The challenge is to join up these different silos and systems to form an effective comprehensive one. Additional mechanisms such as providing information and education, data collection, and supportive oversight of changes are critical for success.

What is needed is a holistic system that delivers outcomes such as widespread good behaviours, constant improvement in learning and performance, the ability to face unknown risks and innovation with confidence, and levels of trust that support social cohesion and commercial vibrancy. This system also needs to address current challenges such as the inability to fund advice services or provide universal access to courts.

¹ Regulatory Framework for the Future (Position Paper, Legal Services Consumer Panel, July 2026), www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2026/07/LSCP-Position-Paper-final.pdf.

Achieving this requires the reconfiguration of multiple elements so that the system delivers a series of additional functions, especially prevention, learning and change, rather than simply dispute resolution. Significant lessons can be drawn from the experience of modern regulatory systems, which are adopting a systems approach and thereby delivering better outcomes, preventing problems and contributing to a society that is more cohesive and vibrant both socially and economically.²

Refreshing the system as proposed in this report involves the following core elements:

- a. **Establish clear ethical principles and rules** that will lead to the outcomes desired by society, community, market and nation, reviewed and updated in response to fresh information or insights, in an ongoing self-reinforcing process.
- b. **Make the principles and rules known and accessible to people**, with adequate support for adopting them and accessing the system in practice.
- c. **Solve disputes, deliver redress and restore balanced relationships**, including ensuring that harm is repaired and damages or losses are compensated.
- d. **Identify problems by capturing data** that can confirm how well the system is working and support learning.
- e. **Provide information and feedback** on issues and problems.
- f. **Support voluntary change** and improvements by individuals and bodies, based on the evidence, to improve behaviour and culture, achieve the outcomes desired by society, and reduce future risk.
- g. **Achieve change by intervention or enforcement**, through formal means such as professional advice and support and the intervention of regulatory authorities with mandatory powers, if it does not occur spontaneously.
- h. **Monitor the situation** and action taken to see if any further or corrective action is needed.

Recommendations

1. Create a governance authority with responsibility for designing, managing and reforming the whole system. This 'Justice Institute' or 'Justice Council' should comprise all stakeholders, basing decisions on adequate data and research.³
2. Create a single, independent regulator for legal professionals to replace the existing eight frontline regulators,⁴ also including other professionals such as Ombudsmen.
3. Create a comprehensive complaints landscape that produces relevant data.

² C. Hodges, *Regulation That Works: Transforming the Future of Regulatory Systems* (Hart, 2026).

³ J. Sorabji, *Improving Civil Justice Reform: An Analysis of Major Reviews in England and Wales* (Nuffield Foundation, June 2026).

⁴ R. Lloyd, *The Legal Services Board: Independent Public Bodies Review* (Ministry of Justice, 2026).

4. Review what changes are needed in relation to each type of dispute and in each major sector in order to create the holistic system of functions. The system should:
 - (a) support information and education on what constitutes good behaviour;
 - (b) identify problems and be capable of taking positive actions so as to improve behaviour and reduce risk;
 - (c) deliver effective protection from multiple and mass harms; and
 - (d) innovate through accepting risk but managing it; and thereby
 - (e) grow social cohesion and economic growth.
5. Establish a single, uncomplicated portal, readily identifiable to users, behind which individual pathways and techniques are provided as required for particular disputes and their types.
6. For each sector or type of problem, ensure that pathways are user-friendly, cost-effective, strongly digital and usually investigative rather than adversarial, and that they automatically deploy relevant techniques. For example:
 - a. In the NHS, urgently switch from a medical negligence regime to a 'no blame' administrative injury and care scheme – essential in supporting information sharing in an outcomes-focused culture involving constant learning.
 - b. For consumers, establish a single integrated network of consumer ombudsmen, coordinated with (national and local) regulators and support functions, with coverage gaps filled and individual alternative dispute resolution (ADR) schemes upgraded into ombudsmen functions that contribute to an integrated database of relevant information.
 - c. In relation to property and housing, create a simplified, integrated pathway combining tribunals, the county court, ombudsmen and ADR schemes.
 - d. For neighbour disputes, establish a system that delivers local integrated expert support, based on feedback and coordinated local expertise.
 - e. Families, debt and social issues: a fresh arrangement that starts with integrated support from multiple local and charitable organisations and leads directly to relevant pathways of problem resolution and change.
 - f. Review which victim compensation systems need a 'front door' with personnel trained in mental health and ensure data collected once can be used for multiple subsequent purposes, without re-traumatising victims.
 - g. For employment disputes, create an integrated pathway of ACAS/ombudsman/tribunal plus local experts, that collects and feeds back relevant data to support collaborative workplace culture and behaviour, with an agreed code to resolve disputes in a positive atmosphere.

- h. Public sector: upgraded public ombudsmen and a fresh solution to investigating facts, reducing the need for huge public inquiries (which operate only in relation to major scandals anyway) and ensuring that appropriate change occurs. Redress processes could be more efficient and less acrimonious through the establishment of a permanent compensation authority.
- 7. Establish a single database (or linked databases) that maximises the volume of data collected while avoiding the confusion produced by having multiple unconnected pathways, organised within a single national pan-sectoral framework as created by the consumer ombudsmen in Belgium.
- 8. Appoint trusted data controllers with the ability to analyse and investigate the data, signals and facts. There are particular implications here for endowing public ombudsmen with additional powers.
- 9. Establish independent bodies with the authority to instigate and oversee appropriate action that ensures that two categories of responses occur:
 - a. Retrospective: repair, redress, compensation.
 - b. Prospective, or regulatory: ensuring whatever effective changes are necessary to stop and prevent harm are taken. Some of the responses may be formal enforcement actions, others may support changes of various types, such as involving education or behavioural changes.

A major example is in the public sector: there is a need for a performance of functions overseeing the operation of the system and ensuring that change occurs, equivalent to an independent regulator in private sectors: absent this, more disasters in the public sector will inevitably occur.

- 10. Ensure coordinated delivery of support services, differentiated from but alongside traditional enforcement, such as multi-disciplinary problem-solving forums and local support networks for e.g. SMEs and the housing sector.

1 A failing legal system

The crisis in the justice system has been building for many years. It has been recognised, but attempts at reform have consistently failed because they have tinkered with details rather than adopted a holistic approach to the system. Many citizens live in a ‘justice gap’ of ‘advice deserts’ with negligible access to justice,⁵ leading to ‘significant increases in eviction filings and court orders, alongside rises in homelessness and mortality’.⁶ Successive surveys have shown significant levels of ‘legal problems’ but unmet needs.⁷

Extensive and detailed reviews of dispute resolution in England (and partly Wales) in 2019 by the author,⁸ and (specifically in Wales) that chaired by former Lord Chief Justice, Lord Thomas of Cwmgiedd,⁹ have proposed that all forms of dispute resolution should be part of a single justice system. They have also argued that dispute resolution should contribute to a fairer and more equal society, but that it can only do this if the system is cohesive and coordinated – encompassing not just courts and tribunals but informal resolution, mechanisms such as ombudsmen, arbitration and redress schemes.

A major disadvantage of courts and lawyers is that the adversarial model of dispute resolution is no longer the only one used in delivering justice in most disputes involving consumers, citizens and small and medium-sized enterprises (SMEs), nor is it effective in many situations. It is unaffordable, takes too long and drives people apart rather than bringing them together, which does not support a fair, respectful and collaborative society. The underlying differences and disputes between people, businesses and government bodies may not be addressed merely by ‘resolving’ a legal issue. In summary, both the substance and the procedural context are too restricted to address many interactions and to support a healthy society and economy.

Evidence has continued to accumulate on the failures of the justice system, and the seriousness of the current crisis has been strongly confirmed in a series of recent reports around how barriers in access to justice produce unmet legal needs and increase consequential social and health

5 *Access to Justice: Legal Aid* (Justice Committee, Third Report of Session 2026–27, HC 541).

6 J.-N. Uraz, ‘Justice under Austerity: The Impacts of Reduced Access to Civil Legal Assistance in England and Wales’ (SSRN, 17 April 2026), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6516818.

7 A. Ames, K. Gallop, A. Baumont de Oliveira, J. Pace, E. Walker, R. Franklyn, G. Owens, G. Pilling and M. Smith, *Legal Problem and Resolution Survey 2023* (Ministry of Justice, 2024). See earlier R. Franklyn, T. Budd, R. Verrill and M. Willoughby, *Findings from the Legal Problem and Resolution Survey, 2014–15* (Ministry of Justice, 2017).

8 C. Hodges, *Delivering Dispute Resolution: A Holistic Review of Models in England & Wales* (Hart, 2019). See also C. Hodges, ‘Delivering Justice’ (2019) 9(1) *International Journal of Procedural Law* 149–177.

9 *Justice in Wales for the People of Wales* (Commission for Justice in Wales, 2019).

problems.¹⁰ The current position on access to justice was summarised by the Legal Services Consumer Panel in July 2026:¹¹

Two-thirds of people in England and Wales experienced at least one legal issue in the four years covered by the LSB's 2023 Individual Legal Needs Survey. Only half obtained professional help. Unmet need increased. The most acute unmet needs are in family law (40%), among those with disabilities (38%), and in low-income and deprived areas. Legal aid funding fell from 14% of legal services costs in 2012 to 5% in 2019 according to Tracker Survey data. Self-funding has risen from 56% to 73% over the same period. The regulatory framework has no coherent mechanism to respond to these structural shifts.

In a new study, Professor John Sorabji shows that all of the four major reforms of the civil justice system since 1988 have failed to provide a properly functioning system. He cites five reasons for this:

- they were framed as court-centric reviews and therefore looked at how to improve access to the civil courts by reducing complexity in the civil courts' practices, procedures and structures, and by reducing litigation cost and delay;
- they were predominately judge-led, with the support provided by a small advisory group drawn from additional judges, members of the legal profession and other professional court users;
- there was a general absence of involvement of lay court users;
- they were commissioned on the basis of anecdotal evidence while not being informed by an overarching, long-term strategy; and
- they are increasingly concluded in short time periods.¹²

Sorabji highlights the consistent conceptual deficit in which 'access to justice' is understood too narrowly, centring on courts. He notes that this 'fails to address or engage with the truly significant access to justice deficit that is centred on unmet legal need that results in a majority of individuals not even reaching the point where they can seek legal advice and assistance'. He also identifies the institutional failure to develop a long-term, coherent strategy for civil justice overseen by a single, permanent institution that bases decisions on a robust evidence base.

10 A. Ames, K. Gallop, A. Baumont de Oliveira, J. Pace, E. Walker, R. Franklyn, G. Owens, G. Pilling and M. Smith, *Legal Problem and Resolution Survey 2023* (Ministry of Justice, 2024); N. Byrom, *Where Has My Justice Gone? Current Issues in Access to Justice in England and Wales* (Nuffield Foundation, 2024); L. Curran, J. Ching and J. Jarman, *Regulatory Leadership on Access to Justice* (Nottingham Law School, for Legal Services Consumer Panel, 2024); J.-N. Uraz, 'Justice under Austerity: The Impacts of Reduced Access to Civil Legal Assistance in England and Wales' (SSRN, 17 April 2026), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6516818; E. Hitchings, C. Bryson, G. Douglas and S. Purdon, 'Fair Shares? Sorting Out Money and Property on Divorce – Executive Summary' (Nuffield Foundation, 2021).

11 *Regulatory Framework for the Future* (Position Paper, Legal Services Consumer Panel, July 2026), www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2026/07/LSCP-Position-Paper-final.pdf.

12 J. Sorabji, *Improving Civil Justice Reform: An Analysis of Major Reviews in England and Wales* (Nuffield Foundation, June 2026).

1.1 Important evolutions: Unrealised opportunities

Ideas on reform should start by recognising a number of important evolutions that have profound impact on functioning of the traditional justice system, and on the vision of what a new system should be. I particularly highlight these issues:

- (a) **Identifying the core problems.** People experience problems, not just legal problems, and just looking at legal problems misses both the nature of the problem(s) and possible solutions.
- (b) **Law and values.** A justice system is not just about law, lawyers and courts. It should be based on ethical values rather than just legal rules, since values drive desired behaviours that underpin cohesive, vibrant societies, markets and nations through supporting trust, as evidenced by behaviours and cultures. Legal rules have their place, but so do other values, principles and rules, and they should be enshrined in codes.
- (c) **Applying alternative dispute resolution (ADR).** ADR is widely recognised. But it is not just a technique (such as mediation) but can also provide pathways for dispute resolution in addition to adjudication.¹³ 'Alternative' pathways and institutions have now proliferated as alternatives to courts. Important examples are consumer ADR schemes and public and consumer ombudsmen. But the result is a confusing mess. The diverse range of uncoordinated pathways and institutions now needs to be integrated into a coherent system. Reviewing the landscape will provide opportunities to improve many existing pathways.
- (d) **Digitalisation and AI.** The adoption of digital and AI solutions will continue to be transformative and should be managed.
- (e) **Costs, funding and affordability.** The drivers of cost, funding and efficiency call for reformed rules and drive new solutions. But all solutions need to be considered holistically, and some prioritised or deprioritised.
- (f) **Matching pathways, techniques and contexts.** Some solutions are appropriate for particular contexts, and they should be developed and prioritised.

1.1.1 Identifying the core problems: differentiating legal problems and integrating support functions

A traditional view is that the cause of a dispute can be resolved by resolving the dispute. A major evolution in understanding, well established by research, is that people experience problems in a broader sense rather than simply legal disputes: they might have a legal component but also multiple other aspects. Thus the law may only impact part of an underlying problem or set of problems.

¹³ The use of the term 'ADR' can be confusing, as it may refer to techniques or pathways, depending on context. Clearer use of language is needed to support full and accurate understanding: the best solution is to avoid the term altogether and be precise about the context that is being referred to.

Some decades ago, Dame Hazel Genn found empirically¹⁴ that people commonly have a significant number of problems many of which go unraised and hence unresolved. Similarly, the *Legal Problem and Resolution Survey* (LPRS) concluded in 2017:¹⁵

the problems that result in formal legal action are a very small part of a much larger pool of problems that people experience and, for the most part, deal with alone or without legal or professional help. These findings are in line with those from previous surveys. Understanding the overall picture and the extent to which individuals are able to deal with their problems through less formal means is important in considering what access to justice represents for different groups, and how people can best be supported in resolving issues effectively and quickly.

As Dr Natalie Byrom has said:

Successive research studies have found that people's awareness of legal services and their ability to recognise the problem they are experiencing as 'legal' in nature both play a critical role in determining the problem resolution strategy they adopt.¹⁶

Accordingly, the onus falls on those experiencing a problem to recognise that there is a legal dimension to it and therefore that the solution involves a legal pathway. Shifting this responsibility away from consumers would allow for more effective identification and resolution of problems (especially multifaceted problems). This is likely to involve a providing an approach based on a 'no wrong door' policy and perhaps a single entry point.

Recent research (examined further below) has confirmed the value of integrating services in primary healthcare with social welfare legal issues,¹⁷ or of integrating primary healthcare, local council services and housing associations.¹⁸ There is mounting evidence of the links between social welfare, health and 'legal' issues involving housing, debt, employment, education, mental and physical health, and family.¹⁹ When reformed systems were able to address these links, this had benefits for individuals, communities and state services in terms of addressing issues of debt or housing, reduced mental stress and improvements in physical condition for individuals, and savings in overall budgets.

To assume that a single mechanism or service just involving law will solve people's problems is therefore to miss the point and fail to deliver true resolution. A wider lens is needed, starting with a broader and more fluid definition of 'problems' that would avoid limiting responses by initial

14 H. Genn, *Paths to Justice: What People Do and Think about Going to Law* (Hart, 1999) and subsequent studies.

15 R. Franklyn, T. Budd, R. Verrill and M. Willoughby, *Findings from the Legal Problem and Resolution Survey, 2014–15* (Ministry of Justice, 2017). See earlier *Evaluation: How Can We Measure Access to Justice for Individual Consumers? A Discussion Paper* (Legal Services Board, 2012).

16 Alongside other factors including legal confidence and social norms – see, for example, P. Pleasence, N. Balmer and C. Denvir, *How People Understand and Interact with the Law* (The Legal Education Foundation, 2015); OECD and Open Society Foundations, *Legal Needs Surveys and Access to Justice* (OECD Publishing, 2019), www.oecd.org/content/dam/oecd/en/publications/reports/2019/05/legal-needs-surveys-and-access-to-justice_g1g9a36c/g2g9a36c-en.pdf.

17 J. Thompson, H. Page, E. Clark, H. Hernandez, J. Hanlon, H. Ross and C. Buckley, *Evaluation of Integrated Advice Hubs in Primary Healthcare Settings: Final Evaluation Report* (IFF Research & York Health Economics Consortium, Ministry of Justice Analytical Series, 2026).

18 D. Gibbons, *The Financial Shield Project: Supporting Working Aged People with Long-Term Health Conditions and Financial Difficulties* (Centre for Responsible Credit, October 2025), https://urbanhealth.org.uk/wp-content/uploads/2025/10/CfRC-Financial-Shield-Report_final.pdf.

19 S. Beardon and H. Genn, *The Health Justice Landscape in England and Wales: Social Welfare Legal Services in Health Settings* (UCL Centre for Access to Justice, 2018).

miscategorisation of what is or is not ‘legal’. This wider insight should drive planned and rational decisions on a wide range of responses, tools and pathways to resolution and prevention.

Some important statistical findings on dispute types for individuals, and people’s choices about them, are:²⁰

- Lawyers, courts and tribunals are used only by a small proportion of people with legal problems overall. People find them too expensive and too stressful.
- People find that the most serious problems are about families and dealings with the state.
- People shy away from raising problems as complaints to state bodies or to public ombudsmen.
- Consumer–trader disputes are mostly about substandard service and are generally raised with alternative dispute resolution (ADR) schemes or ombudsmen.

1.1.2 Law and values

We traditionally think about a (civil/administrative) justice system as the mechanism for vindicating and enforcing public and private law rights through litigation. However, the problems that people, organisations, markets and states experience are about not just legal rights but also behaviours and standards of behaviour, treatment and service. Organisational managers and regulators aim to influence behaviour through values and cultures rather than through enforcement of legal rules. A system based just on legal rules and their enforcement will only partly function. Focusing too much on only legal rights and the rule of law excludes what are essentially ethical considerations that are potentially resolvable through mechanisms other than legal processes applying legal rules.

Ethical values are more fundamental than a nation’s legal rules. The power of ethical values and the means by which they are applied has profound implications for the availability of pathways and mechanisms for preventing and resolving problems.

A switch is needed from an approach solely focused on enforcement to one that also encompasses a more motivating, inspiring and supportive approach to delivering change and improvement in behaviours and cultures. Such an approach is often encapsulated simply in the value described as fairness. This does not mean that the law and the courts have no role: they remain fundamentally important, but other approaches, pathways and institutions are also needed. The challenge, therefore, is to create and operate an integrated system that combines all the required functions and elements.

1.1.3 The evolution of ADR: Soft techniques, integration into pathways, distinct pathways

One of the important evolutions referred to above is the spread of structures and pathways other than courts. Examples include arbitration (prevalent in business disputes) and tribunals (in many public law cases), both of which exist in many specific contexts, which still essentially apply legal rules.

20 A. Ames, K. Gallop, A. Baumont de Oliveira, J. Pace, E. Wallker, R. Franklyn, G. Owens, G. Pilling and M. Smith, *Legal Problem and Resolution Survey 2023* (Ministry of Justice, 2024). See earlier R. Franklyn, T. Budd, R. Verrill and M. Willoughby, *Findings from the Legal Problem and Resolution Survey, 2014–15* (Ministry of Justice, 2017).

A further evolution is the spread of valuable new techniques of resolving disputes, generically called ADR, such as structured negotiation, mediation and conciliation, or early neutral evaluation. The word 'alternative' is intended to distinguish these softer techniques from formal, especially court-centred, adjudication, which is often reserved as a last (but important) resort.

This evolution in techniques, and their adoption before, during or alongside formal procedures involving adjudication, is linked to a further evolution in the development of distinct pathways for specific types of disputes, often basing decisions on codes of conduct rather than (or as well as) on law. Prominent examples are consumer ADR schemes, ADR schemes in housing and property sectors, and employment conciliation. ADR techniques and schemes offer considerable advantages over the traditional pathway of litigation through the courts and tribunals, often costing much less and resolving disputes more quickly and in more satisfying ways for the parties.

In areas such as consumer–trader disputes, consumer ombudsmen provide not just dispute resolution but also regulatory functions, such as collecting and feeding back data on disputes and problems which drives monitoring activities and operational changes by companies and regulators.²¹ The dispute resolution functions of such consumer ombudsmen are increasingly more than consensual for parties: they can have a mandatory and even exclusive jurisdiction under legislation. Procedures are typically investigative rather than adversarial, and access is often free to consumers. A 2019 parliamentary report found that 'at their best an ombudsman can be very effective', and recommended that the multiple consumer redress schemes, which had developed piecemeal, sometimes competing and sometimes leaving gaps, should be reformed into an integrated system.²²

In the public sector, a distinct set of public ombudsmen (the Parliamentary and Health Service Ombudsman, the Local Government and Social Care Ombudsman, the Pension Ombudsman, the Armed Forces Commissioner and others) play independent roles in resolving complaints (although such roles could be extended to be made more effective). The public ombudsmen have different remits from their consumer cousins, and there have been strong calls for reform in jurisdiction, powers and procedures.²³ Further, an increasing number of compensation schemes have been created for victims of public sector scandals, in which the applicable criteria and procedures can adopt significant innovation.²⁴

Overall, this proliferation in pathways and mechanisms has occurred in an unplanned manner, and it is now time to take an overview of the multiple dispute resolution options and to integrate them to create a more effective and holistic system.

21 C. Hodges, I. Benöhr and N. Creutzfeldt-Banda, *Consumer ADR in Europe* (Hart, 2012); C. Hodges, *Delivering Dispute Resolution: A Holistic Review of Models in England and Wales* (Hart, 2019); C. Hodges, *Regulation That Works: Transforming the Future of Regulatory Spaces* (Hart, 2026).

22 *Report from the Ombudsman Inquiry* (All-Party Parliamentary Group on Consumer Protection, 2019), <https://images6.moneysavingexpert.com/images/documents/Ombudsman%20report.pdf>

23 Discussed below.

24 *Government compensation schemes*, Committee of Public Accounts, Twelfth Report of Session 2026-27, HC 88 (2026).

1.1.4 Digitalisation and AI

Digitalisation and artificial intelligence (AI) are having a profoundly transformative impact on dispute processes, as they are in many other areas. It is now assumed that they will bring major efficiencies and transformations in every aspect of law: information, advice, formulation of complaints, analysis, dispute processes, evaluation and even determination.²⁵ But a warning note is necessary here: just because improvements in efficiency are made in one process (e.g. courts), it does not follow that that process itself becomes more attractive to users than other processes (e.g. ADR or ombudsmen), since all of the processes are likely to change. An assumption that AI will 'solve' all historical problems of access to justice via courts and similar processes does not necessarily follow. Almost all processes have evolved in their use of more advanced techniques and simplified processes (some more than others; e.g. private systems have innovated faster than state systems). What has been overlooked, though, is an attempt to integrate all relevant options (techniques, pathways, institutions, individuals) into a functioning system.²⁶

1.1.5 Costs, funding, affordability

Underlying many of the evolutions noted above are financial considerations. Adversarial processes, typically involving paid advisers and representatives for each party, are inherently more expensive than investigative processes involving a single ombudsman. Funding for court infrastructure and legal aid have long proved unaffordable for the state.²⁷ It is not surprising that free access to consumer ombudsmen (funded by business) has proved attractive.

The inevitable spread of private funding of lawyers through conditional fee arrangements and through independent litigation funders has not been managed or regulated well and remain confused, as was highlighted in 2025 by the Civil Justice Council (CJC).²⁸ There is a major need to rationalise the system – and the CJC's recommendations for doing so were logical and balanced.²⁹ An important factor is the proposed modernisation and standardisation of various forms of private funding for litigants,³⁰ such as conditional fee agreements, made possible by increased crystallisation of fixed-costs tariffs.³¹ Equally significant will be the introduction of regulation of third party litigation funding (TPLF).³² The latter should facilitate resolution of multiple similar individual claims but control the funding marketplace and

25 See 'The Tragedy of the Commons, AI Edition', *The Economist*, 6 August 2026, 21-22 ('AI-induced demand is overwhelming bureaucracies ... In the age of AI, a system suffers from, if anything, too much access.').

26 Specifically under the EU's Digital Services Act. *Out-of-Court Dispute Settlement* (Digital Trust & Safety Partnership 2025).

27 See recently *Regulatory Framework for the Future* (Position Paper, Legal Services Consumer Panel, July 2026), www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2026/07/LSCP-Position-Paper-final.pdf.

28 *Review of Litigation Funding: Final Report* (Civil Justice Council, 2025).

29 The author declares an interest as a member of the CJC's Working Party. The recommendations, perhaps unusually, drew significant support from the opposing interests.

30 The initial model for funding claimants who could not afford lawyers or court fees was for public funding through legal aid, which protected losing claimants from having to reimburse winners' costs (losers usually have to pay most of a winner's costs, known as 'cost shifting' or 'loser pays' rules). The replacement for public funding involved either legal expenses insurance (widely used in Germany, where it can be priced effectively because of the use of fixed-costs tariffs for lawyers and liability for opponents' costs), or some form of funding from a third party that might include a higher return if the case was successful. One example is US lawyers' contingency fee. Various examples have appeared in England and Wales, notably those called Conditional Fee Agreements (CFAs) or Damages Based Agreements (DBAs); the differences between them are small, but each is subject to different regulatory rules. A further alternative source of funding, especially for large multi-claimant cases, has been called Third Party Litigation Funding (TPLF), which may involve agreements to fund lawyers and/or cover cost-shifting obligations, in return for either a percentage of the recovery or a fixed fee. The various funding options have developed piecemeal, and the exact rules on what arrangements are or are not legal remain to be clarified. A simplified system is urgently needed.

31 See CPR pt 3, section II; pt 45, sections VI and VII.

32 *Review of Litigation Funding: Final Report* (Civil Justice Council, 2025).

hence the flow of litigation, which could possibly be less speculative and more obviously evidence and merits-based.

There is a need to recognise that some pathways are more efficient than others, and to integrate all mechanisms into a coherent system. This should enable parties to choose the pathways and mechanisms that are more efficient, such as by adopting investigative mechanisms instead of adversarial models. This may depend on whether the substance of a dispute is resolved in accordance with law or with codes of conduct, and hence what expertise is needed by those facilitating investigation, negotiation, resolution or decision-making. It can certainly be argued that parties need individual expert assistance if the process is adversarial and if the issue involves law. But other solutions may be acceptable and effective and should be considered.

As the CJC report mentioned above recognised, mechanisms that are more efficient and speedier in delivering resolution of mass claims should be prioritised over litigation, and the same point about prioritisation can be made about individual claims of diverse types. There has been a considerable expansion in the powers of regulatory authorities and the availability of ombudsmen, both of which mechanisms have been shown to have significant advantages over litigation in delivering mass redress.³³

For instance, the National Audit Office has recognised that children and families are waiting too long for their cases to be resolved, that delays in resolving cases can lead to increased risk of harm to children and higher costs for taxpayers, that responsibility for family justice is dispersed across several government bodies, leading to weak accountability, that there is no overall strategy to improve family justice, that the government does not have the data needed to understand delays across the whole system, and that a system-wide assessment is needed of where initiatives should be prioritised given constrained funding.³⁴

1.1.6 Matching pathways, techniques and contexts

Individual pathways have developed that are unique to particular types of dispute or legal problems. Almost all of them have developed in an unplanned manner, and the landscape is confusing for users. Some leading examples are:

- Business–business disputes: arbitration.³⁵
- Consumer–trader disputes: multiple ADR schemes and ombudsmen.
- Disputes between citizens and public bodies: numerous tribunals and in some cases (subject to major constraints) public ombudsmen.

33 C. Hodges and S. Voet, *Delivering Collective Redress: New Technologies* (Hart, 2018).

34 *Improving Family Court Services for Children* (National Audit Office, 2025, HC 877).

35 Many commercial disputes have long been resolved by arbitration. The number of claims issued in the High Court Queen's Bench Division fell steadily from a high of 18,505 in 2007 to 8,400 in 2017. See successive quarterly Ministry of Justice 'Civil Justice and Judicial Review Tables', and *Civil Justice Statistics Quarterly*. In 2025, some of the larger types of cases handled by senior courts were companies (9,126), business (1,659), insolvency (1,388), commercial (596), technology and construction (455), property (442) and admiralty (86): 'Civil Justice Statistics Quarterly: October to December 2025' (Ministry of Justice, 2025), <https://www.gov.uk/government/statistics/civil-justice-statistics-quarterly-october-to-december-2025>. In 2016, over 80% of commercial cases handled by London law firms involved an international party – see the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals, *Transforming Our Justice System* (Ministry of Justice, 2016) – and this remains broadly true. The vast majority of large business-to-business disputes are resolved through arbitration.

- Debt cases: country courts and Online Civil Money Claims.
- Employment: ACAS and tribunals.
- Property and housing: county court, tribunal, ADR schemes and ombudsmen.

The response to this fragmentation is not to continue to try to prop up the court system but, first, to recognise that other institutions and pathways are more suitable for specific types of disputes and, second, to review each against consistent criteria and reform them so as to produce an effective system. The idea that there can be multiple doors to a court, and hence to a justice system, does not respond to what people find helpful. Marc Galanter's idea of 'justice in many rooms' is correct,³⁶ but currently the rooms are disconnected, and some are dysfunctional.

1.1.7 Specific models that should form the core of a new approach

- Consumer–trader: an integrated consumer ombudsman network, coordinated with (national and local) regulators and support functions, with coverage gaps filled and individual ADR schemes upgraded into ombudsmen functions that contribute to an integrated database of relevant information.
- Housing and property: a similar network based on functional integration of the tribunal and ombudsmen.
- Families, debt and social issues: a fresh arrangement that starts with integrated support from multiple local and charitable organisations and leads directly to relevant pathways of problem resolution and change.
- Employment: similarly, an integrated investigation and resolution architecture (fusing ACAS and tribunal), with a single pathway, that collects and feeds back relevant data to support new workplace culture and behaviour, with an agreed code to resolve disputes in a positive atmosphere.
- Public sector: upgraded public ombudsmen and a fresh solution to investigating facts, reducing the need for huge public inquiries (which operate only in relation to major scandals anyway) and ensuring that appropriate change occurs. Redress processes could be more efficient and less acrimonious through the establishment of a permanent compensation authority.

36 M. Galanter, 'Justice in Many Rooms', in Mauro Cappelletti (ed.), *Access to Justice and the Welfare State* (Kluwer Academic Publishers, 1981), 147.

2 The purposes of a justice system

Given the major system failures, challenges and evolutions that need to be recognised, this analysis continues by focusing on what a new holistic justice system should look like. And if we are to design a system of justice – like any system – we need to be clear about its purposes, objectives and outcomes. Traditional responses to this question revolve around upholding legal rights and resolving disputes, but the answers have expanded in recent times. There has been a growing realisation, especially in regulatory and public policy discussions³⁷ as well as in relation to the justice system,³⁸ that a wider system is necessary to ensuring that changes in behaviour and culture demonstrably occur, rather than ‘lessons being (claimed to be) learned’ but nothing changing. Only if people have confidence that improvements will actually occur will feel it worthwhile to raise problems, and only if problems are raised can a truly preventative and responsive environment be sustained. Let us examine these propositions in greater detail.

2.1 Going beyond dispute resolution

The system must deliver just and fair resolution of individual disputes between people, organisations and the state, thereby upholding rights and the law but also society’s ethical values. We need our society to provide a stable, predictable, fair and just environment, in accordance with shared ethical values, in order for people to be safe, live a fulfilled life, thrive, and support a vibrant society and economy.³⁹ Predictable stability is well recognised as a requirement for successful business trade and investment, and hence economic success,⁴⁰ and the same applies to stable societies. A democratic society should support its citizens, workers, traders, employers, officials and institutions in behaving well. As Dame Hazel Genn says, the justice system should provide the ‘framework’ for people, economies and societies.⁴¹

- 37 There has been criticism that investigations by bodies such as the Parliamentary and Health Service Ombudsman, public inquiries and inspectors tasked with investigating failures in maternity care do not lead to either lessons being learned or recommendations being implemented: see recently *Public Inquiries: Enhancing Public Trust* (House of Lords Statutory Inquiries Committee Report, 16 September 2024, HL 9); A. Williams, *Public Inquiries: Are They Fit for Purpose?* (Nuffield Foundation, 2026); *The Single Construction Regulator Prospectus Consultation Document* (HM Government, CP 1464, December 2025); Baroness Amos, *Independent Investigation into Maternity and Neonatal Services in England: Final Report and Recommendations* (National Maternity and Neonatal Investigation, July 2026).
- 38 Leading evidence here includes J. Sorabji, *Improving Civil Justice Reform: An Analysis of Major Reviews in England and Wales* (Nuffield Foundation, June 2026); *Improving Family Court Services for Children* (National Audit Office, 2025, HC 877).
- 39 The OECD has called for member countries to create ‘people-centred’ justice systems: *Recommendation of the Council on Access to Justice and People-Centred Justice Systems* (OECD, 2023).
- 40 L. Lopez-Gomez, *Literature Review: The Rule of Law and the Institutional Roots of Economic Performance* (Bingham Centre for the Rule of Law, 2026).
- 41 H. Genn, *Judging Civil Justice: The Hamlyn Lectures 2008* (Cambridge University Press, 2010).

The machinery of civil justice sustains social stability and economic growth by providing public processes for peacefully resolving civil disputes, for enforcing legal rights and for protecting private and personal rights. The civil justice system provides the legal architecture for the economy to operate effectively, for agreements to be honoured and for the power of government to be scrutinised and limited.

... civil justice has important and extensive social functions that go beyond settling disputes between [people] and to this extent must be regarded as a public rather than a private benefit. It has functions in relation to social justice, economic stability and social order. Civil justice is the means by which citizens are able to uphold their substantive civil rights against other citizens. It provides a framework in which business can be done and investment can be protected, thus supporting economic activity and development.

Societies and their interactions and commerce are based on trust between their members. Trust is based on evidence of trustworthiness, which is evaluated against ethical values that are inherent in (almost) every human being.⁴² That fact of life highlights the need for societies to be built on shared ethical values rather than just rules of conduct. Scientists have illuminated how humans constantly and inherently evaluate evidence of others' behaviour against an internal ethical matrix as the basis of decisions on others' trustworthiness.⁴³

For many centuries, society has been based on a dual system of ethical norms and legal rules (in which religions have played a strong underpinning role).⁴⁴ However, legal systems have increasingly developed in reach and sophistication, giving the impression that they, legal rules and the rule of law are all that matter for society,⁴⁵ when in fact they are only part of the picture.

In the last century, increasing secularisation and globalisation have eroded the ethical core of societies, leaving reliance on legal rules that can only operate as a safety net of basic requirements for human behaviour, rather than an aspirational code of desirable social conduct that sets a higher standard than that required by law. This is why in recent years a considerable expansion has occurred within regulatory systems of codes of ethical practice that set higher aspirational and value-based standards of behaviour than legal regulatory requirements. Such codes are typically based on fairness in behaviour. These ethical requirements have found their way into legal requirements, such as a ban on unfair consumer trading.

The challenge now is to reconnect the legal and the ethical components and institutions into a coherent, consistent and effective whole.

42 O. O'Neill, *A Question of Trust: The BBC Reith Lectures 2002* (Cambridge University Press, 2002); S.H. Schwartz, J. Cieciuch, M. Vecchione, E. Davidov, R. Fischer, C. Beierlein, A. Ramos, M. Verkasalo, J.-E. Lonnqvist, K. Demirutku, O. Dirilen-Gumus and M. Konty, 'Refining the Theory of Basic Individual Values' (2012) 103(4) *Journal of Personality and Social Psychology* 663–688.

43 E.O. Wilson, *The Social Conquest of Earth* (Liveright Publishing, 2012); J. Haidt, *The Righteous Mind. Why Good People are Divided by Politics and Religion* (Penguin Books, 2012). See earlier SH Schwartz, 'Universals in the content and structure of values: Theory and empirical tests in 20 countries' (1992) 25 *Advances in Experimental Social Psychology* 1; S. Schwartz, 'Are There Universal Aspects in the Structure and Content of Human Values?' (1994) 50(4) *Journal of Social Issues* 19–45.

44 J. Henrich, *The Secret of Our Success: How Culture Is Driving Human Evolution, Domesticating Our Species, and Making Us Smarter* (Princeton University Press, 2016); N.A. Christakis, *Blueprint: The Evolutionary Origins of A Good Society* (Little, Brown Spark, 2019); J. Henrich, *The Weirdest People in the World: How the West Became Psychologically Peculiar and Particularly Prosperous* (Allen Lane, 2020).

45 See *The Rule of Law: Holding the Line against Tyranny and Anarchy* (Select Committee on the Constitution, 12 November 2025, HL 211).

2.2 Relationships, behaviours, cultures and outcomes

It is increasingly clear that relationships and behaviour, in a broad range of contexts such as commerce, research, regulation, employment, community and politics, need to be supported. Understanding about how to do that has evolved. It will continue to involve enforcement (in the context of a legal system) but is also now recognised (in the context of a human behavioural system) to involve establishing ethical social norms and expectations of good behaviour, and providing support and intervention when people, organisations and situations are under stress, such that relevant change in fact occurs. The law, behavioural codes and the system as a whole should also constantly shape the behaviours and cultures that are desired by fair, respectful societies, markets and groups of nations.⁴⁶

Various examples of this vision are readily available. In the family context, relationships may come under stress and be ending and yet cooperation between the parties may need to continue to avoid serious harm to children. Employment disputes can also be broadly categorised into those where the employment relationship continues and those where it has ended, plus a small category where the employment relationship has not yet commenced (e.g. recruitment and selection cases or cases where the employer reneges on an agreement to employ before the employment commences). In the consumer–trader context, maintaining ongoing relationships between companies, customers, communities and the environment are of paramount importance. Means of supporting these relationships have been significantly developed through regulatory and ombudsman systems, in which ethical codes and data feedback play central roles.

In contrast, the fragmented legal system has tended to support a society that is fractured, divided and mistrustful. This has obvious adverse implications in terms of social unrest, lack of collective motivation and cohesion, and dampening of economic and social productivity. A review by the Legal Services Board concluded that access to justice is fundamentally about outcomes and relationships more than legal processes:

justice is more than the resolution of disputes: it includes just relationships underpinned by law ... Justice is underpinned by legal knowledge, legislative frameworks, dispute resolution and the infrastructure of the legal services market and the court system as well as by the outcomes that consumers secure. Access to justice is the securing of these just outcomes rather than the process of dispute resolution.⁴⁷

This need for supported cohesion is a strong factor in the development of dispute resolution systems away from adversarial modes and towards restorative and mediated cohesion. As discussed below, it is paralleled by regulatory approaches expanding to include supportive intervention in addition to enforcement.

Every current dispute resolution pathway in which adversarialism remains should be urgently and objectively reviewed to determine if a wider and more sophisticated and effective approach is needed.

⁴⁶ See Lord Reed in *R (UNISON) v Lord Chancellor* [2017] UKSC 51; [2020] AC 869 at [68] – [73].

⁴⁷ *Evaluation: How Can We Measure Access to Justice for Individual Consumers? A Discussion Paper* (Legal Services Board, 2012), para 3.6.

2.3 Delivering real change

There have been multiple recent calls by victims of disasters for behaviour and the system to change and improve so that the same thing does not happen to others. There are many citations to this effect, including by the Public Accounts Committee (2017),⁴⁸ the Parliamentary and Health Service Ombudsman (PHSO, 2015)⁴⁹ and Consumer Focus (2012).⁵⁰ A succession of disasters in the public sector (notably those relating to Windrush, Hillsborough, maternity and neonatal care, care homes for older people, infected blood, Grenfell Tower and the Post Office Horizon IT scandal) demonstrates the need for real change in behaviours.

Yet the legal system as currently constituted has proved inadequate in identifying and delivering this change. Evidence is lacking that resolving individual disputes or holding reviews into ‘lessons learned’ in fact achieves effective change or encourages people to speak up in the belief that it is worth their doing so since such change will occur. Achieving behaviour and system change requires more than just fair and effective resolution of disputes and enforcement of rights. A wider vision and system need to be designed and operated. The system should identify problems, change behaviour and cultures (whether through learning, spontaneously or with support, or through directed or enforced change), and reduce risk. Data gathered from complaints, questions, concerns and disputes should form the evidence base for triggering these functions.

Developments in regulatory systems and systems thinking offer some powerful solutions here. In addition to focusing on affecting behaviour and delivering protection from harm, regulatory systems are increasingly shifting emphasis away from achieving compliance with rules through enforcement of sanctions and ‘vindication of rights’ to focusing on achieving sets of desired outcomes through systems that support effective and trustworthy behaviours.⁵¹ Law and legal rights are seen here as one tool among many to address behaviour – particularly relevant for criminal or unacceptable behaviour but less so for much everyday activity. A major outcome of a system that gives greater priority to promoting good behaviour is that by supporting productive social and economic interactions, it can prevent problems and disputes. This thinking can be seen in shifts from compliance with rules-based regulation to approaches in which behaviours are based on values and principles, such as fairness.

In summary, delivering justice is about anticipating, preventing and rectifying injustice, and this involves operating a system that delivers the functions of identifying, responding to and repairing harm – but also preventing it, especially by giving people confidence that the system applies to all and is observed and supported by all in society.⁵² It is only through this wider holistic and effective vision that just societies, markets and nations will be sustained. A justice system that simply provides an ex post facto dispute resolution mechanism does not deserve to be judged as anything like

48 *Managing the Costs of Clinical Negligence in Hospital Trusts* (House of Commons Committee of Public Accounts, Fifth Report of Session 2017–19, 1 December 2017, HC 397), para 5.

49 *RESOLVE News from the Ombudsman Service* (PHSO, December 2015).

50 P. Vaze, J. Hinde and G. Higginson, *Dealing with Dissatisfaction. Complaint Handling in Energy, Water, Telecoms, Royal Mail and Financial and Legal Services* (Consumer Focus, 2012). The data was from an online survey of 825 people, plus three group sessions and 18 in-depth interviews.

51 See G. Russell and C. Hodges (eds), *Regulatory Delivery* (Hart, 2019); C. Hodges, *Outcome-Based Cooperation: In Communities, Organisations, Regulation and Dispute Resolution* (Hart, 2022); C. Hodges, *Regulation That Works: Transforming the Future of Regulatory Systems* (Hart, 2026).

52 T.R. Tyler, *Advanced Introduction to Law and Psychology* (Edward Elgar, 2022); T.R. Tyler, *Why People Obey the Law* (Yale University Press, 2006).

effective.⁵³ It contributes little to the maintenance, let alone improvement, of social and commercial relationships, behaviours and practices. It does not build adequate trust, nor does it support social cohesion and vibrant commerce. So, the next question is how to design a system that does what we need.

53 See Lady Carr LCJ's acknowledgement of the wide role of the justice system, notably in supporting 'prevention, resolution and adjudication': Lady Carr LCJ speech at the Civil Justice Council National Forum, 17. November 2023, www.judiciary.uk/wp-content/uploads/2023/11/20231120-CJC-National-Forum-LCJ-Speech-as-delivered.pdf.

3 A systems-based analysis of the functions of a justice system

What are the components of a system that would deliver the purposes and outcomes that people, communities, markets and a nation need from it? What is needed is a holistic approach delivered by an integrated system based on the proper performance of a sequence of functions. Such a model has received support in regulatory contexts (the Regulatory Functions Model™).⁵⁴ A related model focused on the problems and outcomes identified above would deliver the following (illustrated in Figure 1):

- a. **Establish clear ethical principles and rules** that will lead to the outcomes desired by society, community, market and nation, reviewed and updated in response to fresh information or insights, in an ongoing self-reinforcing process.
- b. **Make the principles and rules known and accessible to people**, with adequate support for adopting them and accessing the system in practice.
- c. **Solve disputes, deliver redress and restore balanced relationships**, including ensuring that harm is repaired and damages or losses are compensated.
- d. **Identify problems by capturing data** that can confirm how well the system is working and support learning.
- e. **Provide information and feedback** on issues and problems.
- f. **Support voluntary change** and improvements by individuals and bodies, based on the evidence, to improve behaviour and culture, achieve the outcomes desired by society, and reduce future risk.
- g. **Achieve change by intervention or enforcement**, through formal means such as professional advice and support and the intervention of regulatory authorities with mandatory powers, if it does not occur spontaneously.
- h. **Monitor the situation** and action taken to see if any further or corrective action is needed.

54 The above 'systems' approach has been used in an increasing number of regulatory situations in recent years. Based on a specific methodology, it has been called the Outcome-Based Collaboration (OBC)™ model; it enables multiple outcomes to be achieved, even some that may be ostensibly in conflict (such as commercial success, protection of users from harm, economic growth, net zero and so on). See C. Hodges, *Outcome-Based Cooperation: In Communities, Business, Regulation, and Dispute Resolution* (Hart, 2022); C. Hodges, *Regulation That Works: Transforming the Future of Regulatory Spaces* (Hart, 2026).

Viewed from this holistic perspective, the problem is that, in broad terms, the courts, tribunals and most dispute resolution mechanisms are essentially designed to address only function C above. Some decisions lead to some changes in rules or procedures, but many decisions by judges and reports by public ombudsmen fail to achieve fundamental changes in behaviour or culture. This is a transformative realisation: the traditional 'justice system' does not deliver most of these functions – indeed, it is not designed to do so.

Addressing this new vision is particularly timely, given the government's prioritisation of economic growth and evidence of social polarisation. Social cohesion, innovation and economic growth are more likely to be nurtured where the problems of citizens and businesses are resolved.

The current approach is also a wasted opportunity, since some sectoral regulatory systems (such as aviation safety, financial services, energy, communications)⁵⁵ do adopt a more holistic approach and do deliver both the relevant set of functions and outcomes – or, at least, a more extensive set – than traditional models. The most obvious example exists in those consumer sectors where there are single sectoral ombudsmen who work together with either national regulatory authorities or trading standards or similar departments in local authorities, thereby operating data collection and feedback functions alongside the potential for change to occur where it is backed by a regulator's oversight and ability to intervene. Similarly, ombudsmen have been characterised as having functions of fire-fighting, fire-watching and fire-prevention.⁵⁶ The essence of these models is the integration of multiple actors, institutions and data in a continuous feedback cycle.

The government has recently proposed exactly this type of model (described as 'end-to-end'), similarly integrating a set of multiple functions, for consumer protection for domestic retrofit measures (solar panels and heat pumps).⁵⁷ The functions to be covered include advice, competence, installation, verification, complaints and rectification. The solutions involve codes, accreditation systems, guarantees, a single ombudsman, supportive interventions and ultimate enforcement measures, and systemic regulatory oversight. A related proposal includes an app with which consumers can make payments on successful completion of defined stages in home renovations.⁵⁸ These advances illustrate how multiple components of what have been regarded as separate insulated systems can be combined effectively into integrated solutions.

A redesign of the justice system should adopt a similar holistic approach. This would reduce the incidence of disputes; improve learning, performance and behaviour; and support more cohesive social and business relationships. Collectively, this could make a significant contribution to the national economy. However, achieving the necessary changes requires action across government – it is clearly not a matter for the Ministry of Justice alone. This would need to be coordinated from the top of government so as to ensure consistency of policy and actions.

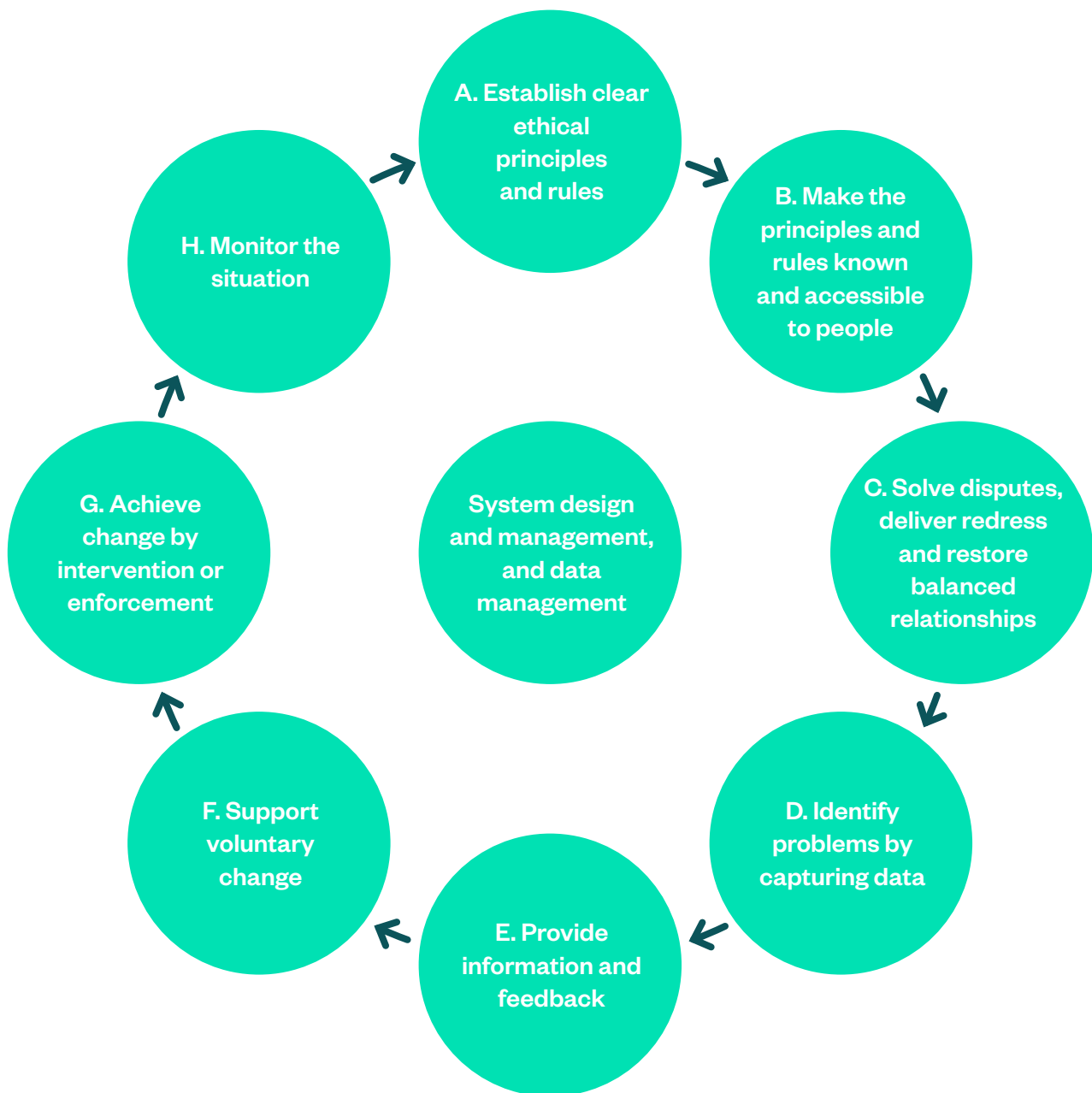
55 See C. Hodges, *Outcome-Based Cooperation: In Communities, Business, Regulation, and Dispute Resolution* (Hart, 2022).

56 C. Gill, 'What Can Government Learn from the Ombudsman?', in M. Hertogh and R. Kirkham (eds), *Research Handbook on The Ombudsman* (Edward Elgar, 2018), 302–304; C. Harlow and R. Rawlings, *Law and Administration* (4th ed.) (Cambridge University Press, 2021); A. Abrahams, 'Making Sense of the Muddle: The Ombudsman and Administrative Justice' (2012) 34 *Journal of Social Welfare and Family Law* 91; R. Snell, 'Australian Ombudsman: A Continual Work in Progress' (2007) *Australian Administrative Law*, 100–115.

57 *Reforming Consumer Protection for Home Upgrade Schemes: Consultation* (UK Government, 2026), www.gov.uk/government/consultations/reforming-consumer-protection-for-home-upgrade-schemes.

58 *Press Release: Government Steps in to Protect Families from Cowboy Builders and Aggressive Bailiffs* (UK Government, 28 August 2026), www.gov.uk/government/news/government-steps-in-to-protect-families-from-cowboy-builders-and-aggressive-bailiffs.

Figure 1: The functions of an effective holistic justice system



The subsections summarise some critical ideas around components of an improved holistic system, illustrated by particular examples. The ‘system’ (and hence outcomes, functions institutions, pathways and techniques) should not necessarily be the same for each type of problem: but some ideas are clearly applicable in multiple contexts.

3.1 Function A: Establish clear ethical principles and rules that will achieve the outcomes desired by society, community, market and nation

In the corporate and regulatory worlds, there have been considerable shifts away from 'bright line rules' as the only tool and towards ensuring that business has purposes, and delivers outcomes, that are consistent with an organisation's values, especially those of fairness and ethics.

Important examples in what is now a growing phenomenon include the emphasis, in codes of corporate governance, on ethical values and cultures⁵⁹ and social purpose;⁶⁰ the impact of focus on environmental, social and governance (ESG) issues and the United Nations Sustainable Development Goals (SDGs);⁶¹ a move in understanding, policy and corporate practice from a focus on shareholder value to stakeholder value;⁶² the spread of codes across professions and trades; and the introduction in financial services of a focus on fair consumer outcomes. Many developments are recent and not yet embedded,⁶³ but the breadth and depth of these examples form a strong trend.

Further, many disputes are not about breaches of law but have roots in poor behaviour. For example, the 'majority of consumer transactions do not involve any dispute between a trader and a consumer caused by a breach of the law'.⁶⁴ They are often about how a trader treats a customer. These issues are classic territory for ombudsmen.

To some critics, making decisions on the basis of what seems fair and reasonable to an ombudsman is an attack on the rule of law, or more about settlement of cases than about legal precision.⁶⁵ But to others, it is about reaching decisions that reflect and support a fair society and market, based on society's agreed ethical values as expressed in a code. It is also increasingly the case that relevant consumer protection⁶⁶ and sectoral regulatory law requires that traders treat customers fairly,⁶⁷ so a

59 G20/OECD Principles of Corporate Governance (OECD, 2015); *The UK Corporate Governance Code* (Financial Reporting Council, July 2018). See B. Soltani and C. Maupetit, 'Importance of Core Values of Ethics, Integrity and Accountability in the European Corporate Governance Codes' (2015) 19(2) *Journal of Management & Governance* 259–284.

60 C. Mayer, *Firm Commitment: Why the Corporation Is Failing Us and How to Restore Trust in It* (Oxford University Press, 2013); C. Mayer, *Prosperity* (Oxford University Press, 2019); *Principles for Purposeful Business: How to Deliver the Framework for the Future of the Corporation* (The British Academy, 2019): this states that 'the purpose of business is to solve the problems of people and planet profitably, and not profit from causing problems' and that purpose goes before profit. 'This new corporate purpose should be the reason for a corporation's existence and its starting point. Profit should then be a product of a corporation's purpose, but not the purpose of the corporation. The ability to deliver on this purpose would be enabled by a renewed commitment to developing trust between corporations and the parties involved or impacted, and an embedded culture of ethics and values.'

61 See B. Sjøfjell and B.J. Richardson (eds), *Company Law and Sustainability: Legal Barriers and Opportunities* (Cambridge University Press, 2015).

62 *Statement on the Purpose of a Corporation* (US Business Roundtable, 2019), www.opportunity.businessroundtable.org/wp-content/uploads/2019/09/BRT-Statement-on-the-Purpose-of-a-Corporation-with-Signatures-1.pdf.

63 Some commentators are critical or cynical of individual initiatives but perhaps miss the change in zeitgeist that is occurring.

64 *Reforming Competition and Consumer Policy: Driving Growth and Delivering Competitive Markets That Work for Consumers* (HM Government, 2021, CP 488), para 0.27.

65 H. Genn, *Judging Civil Justice: The Hamlyn Lectures 2008* (Cambridge University Press, 2010); G. Wagner, 'Private Law Enforcement through ADR: Wonder Drug or Snake Oil?' (2014) 51 *Common Market Law Review* 165; H. Eidenmüller and M. Engel, 'Against False Settlement: Designing Efficient Consumer Rights Enforcement Systems in Europe' (2014) 29(3) *Ohio State Journal on Dispute Resolution* 261.

66 The Consumer Protection from Unfair Trading Regulations 2008, SI 2008 No. 1277, based on Directive 2005/29/EC, updated in Directive 2011/83/EU.

67 In financial services, see *FCA Mission: Our Future Approach to Consumers* (Financial Conduct Authority, 2017); see initially principle 6 of the Principles for Businesses, 'to pay due regard to the interests of customers and treat them fairly', *Treating Customers Fairly After the Point of Sale* (DP7, Financial Services Authority, 2001). The Invoice Finance and Asset Based Lending Code of the Professional Standards Council requires that 'Members shall act with integrity and deal fairly and responsibly with clients and guarantors'.

fairness standard is required under law. The jurisdictions of the Groceries Code Adjudicator (GCA), the Pubs Code Adjudicator (PCA) and the Small Business Commissioner (SBC)⁶⁸ all extend the requirement of fairness to dealings with SMEs. It has long been one of the requirements of mediators that they must ensure fairness in their activities and procedure.⁶⁹ This underpinning of rules and behaviours by values of fairness, justice and ethics should be taken further.

The fundamental point is that reliance on rules per se is inadequate if those rules are not grounded in ethical values. The application of values is increasing as a system requirement. This has implications for who makes decisions: a judge (law), an ombudsman (ethics), a regulator – or sometimes two or all of them? And if more than one of them is involved, what is the process?

3.2 Function B: Make the principles and rules known and accessible to people

3.2.1 Knowledge, education, advice, support

People need to know what the rules and values are, and what help and options are available. This starts with general education, supplemented by information and support when people encounter specific problems, then access to help or a procedure/pathway. A recent review of public users' experiences of the justice system found that their information, assistance and emotional needs are not being met and that significant improvements are needed.⁷⁰

The recent relaunch of the Public Legal Education Committee by the Attorney General's Office is welcome:⁷¹ much more outreach and education is needed on values and examples of good behaviour, how to support doing the right thing, and where to raise issues and seek help. It is also significant that stakeholders have been involved in co-creation here – and essential that this should continue.

The clusters of problems that people often have (such as illness, disability, mental health, debt, housing, social support and entitlement, employment, and other issues) are traditionally catered for by individual service suppliers (doctors, lawyers, law centres, trade unions and so on). The advice landscape has grown piecemeal into an uncoordinated and confusing mess, with 'advice deserts' across the country. Individual advisers exist through Citizens Advice and centres that focus on family, housing, immigration, social support, mental health, employment, legal issues or other specialist areas.

The confusion and unpredictability caused by this is compounded by lack of coordination of multiple fragile funding streams (from different parts of central and local government and charities) and in the rules around funding and costs in third-party and contingency arrangements. Much good work is done, but the picture is patchy, fragile and uncoordinated. Delivery (of ranges of specialisms and funding) should be coordinated on a local basis, depending on local needs. The value of early

68 The Small Business, Enterprise and Employment Act 2015, part 4; The Pubs Code etc. Regulations 2016, SI 2016 no 790.

69 See European Code of Conduct for Mediators (2004), http://europa.eu.int/comm/justice_home/ejn/adr_ec_code_conduct_en.pdf; Directive 2013/11/EU on consumer ADR, art 9.

70 A. Tsalapatanis, J. Trippy, M. Newman, C. Vigurs and K. Nokes, *People's Experiences and Views of the Justice System* (Nuffield Foundation, 2026).

71 *Public Legal Education: New Principles and Committee* (Attorney General's Office, 28 April 2026), www.gov.uk/government/news/public-legal-education-new-principles-and-committee?utm_source=BILCL+Mailing+List&utm_campaign=8fcff29f3-Spring_Newsletter_2026&utm_medium=email&utm_term=0_-8fcff29f3-456900309.

intervention and support, in avoiding problem escalation for those involved and in saving state resources later on, is well recognised.⁷²

This builds on the benefits, noted in the first section above, of locating accessible support in places where people already go. Innovations include offering initial advice (and subsequent triage and involvement of specialist advice) at supermarkets, health centres and doctors' surgeries.⁷³ Another joined-up approach is to integrate different services through 'problem-solving courts'⁷⁴ and Family Drug and Alcohol Courts (FDAC)⁷⁵ where judges, social workers and psychologists support parents to quit addictions so as to prevent the removal of their children. These are examples of a fresh approach to analysing what problems people have and reconfiguring services and functions around them, rather than providing multiple individual but uncoordinated offerings. Outcomes appear encouraging.⁷⁶

Recent research indicates that the fundamental point is to connect and integrate different services such as primary care, social care, and advice on debt or housing or immigration. Issues of co-location, referral or the means of delivery of advice are secondary to having an integrated functioning system. This seems to be possible under the proposed holistic ways of working within neighbourhood teams envisaged in government's *10 Year Health Plan for England*.⁷⁷

Improved local delivery could be achieved by integrating multiple funding streams and the local coordination of multiple advice centre outlets based on the pattern of local needs. The system should provide an initial stage of information and help, which integrates and coordinates adequately funded support from a range of specialist services – healthcare professionals,⁷⁸ mental health nurses, debt advisers, personality counsellors, employment counselling, social entitlement assistance and so on – with appropriate funding.

In 2014, 84% of people used a formal resolution process without any legal or professional help.⁷⁹ This may be encouraging (suggesting that people can fix problems themselves) or concerning (suggesting that they cannot access or afford help). Since then, the World Justice Project has reported that the UK's score on whether 'people can access and afford civil justice' declined from 0.62 in 2015 to 0.54 in 2025, below the global average, the second-lowest in the European and North American region and the third-lowest in the high-income countries in the survey.⁸⁰

72 *Access to Justice: Legal Aid* (Justice Committee, Third Report of Session 2026–27 HC 541).

73 J. Thompson, H. Page, E. Clark, H. Hernandez, J. Hanlon, H. Ross and C. Buckley, *Evaluation of Integrated Advice Hubs in Primary Healthcare Settings: Final Evaluation Report* (IFF Research & York Health Economics Consortium, Ministry of Justice Analytical Series, 2026); D. Gibbons, *The Financial Shield Project: Supporting Working Aged People with Long-Term Health Conditions and Financial Difficulties* (Centre for Responsible Credit, October 2025), https://urbanhealth.org.uk/wp-content/uploads/2025/10/CfRC-Financial-Shield-Report_final.pdf.

74 *Problem-Solving Courts: An Evidence Review* (Centre for Justice Innovation, 2015).

75 J. Harwin, B. Alrouh, M. Ryan, and J. Tunnard, *Changing Lifestyles, Keeping Children Safe: An Evaluation of the First Family Drug and Alcohol Court (FDAC) in Care Proceedings* (Brunel University, 2014).

76 A single case that goes through the Family Drug And Alcohol Court (FDAC) instead of traditional proceedings could save a council £10,000 in legal costs, according to analysis commissioned by the Department for Education. See M. Fouzder, 'Problem-Solving Courts Yield Big Savings for Local Councils' *Gazette*, 2 August 2024.

77 *Fit for the Future: 10 Year Health Plan for England* (UK Government, 2025). <https://assets.publishing.service.gov.uk/media/6888a0b1a1f859994409147/fit-for-the-future-10-year-health-plan-for-england.pdf>.

78 For example, S. Beardon and H. Genn, *The Health Justice Landscape in England and Wales: Social Welfare Legal Services in Health Settings* (UCL Centre for Access to Justice, 2018).

79 R. Franklyn, T. Budd, R. Verrill and M. Willoughby, *Findings from the Legal Problem and Resolution Survey, 2014–15* (Ministry of Justice, 2017).

80 *Rule of Law Index 2023* (World Justice Project, 2023).

Much information is of course now available online. The websites of Citizens Advice and consumer ombudsmen receive millions of hits annually, and their chatlines and phone assistance are also widely used. But it is clear that many people are unable to access, use or understand online information, especially when they have multifaceted problems or need to engage with online or other dispute processes. Proliferation can give rise to confusion and lack of trust in sources.

In the consumer sphere, a network of all the consumer sectoral ombudsmen in Belgium has made life significantly easier for consumers by creating a single consumer website that provides much information and signposting, acting as the portal for every consumer–trader dispute. This is more than the ‘no wrong door’ principle: it provides a single, memorable and simple door where whatever coordination is needed takes place behind the scenes. The UK should create a similar integrated network of consumer ombudsmen (bringing existing ADR schemes into this ombudsman network), with a single national consumer portal covering all types of consumer disputes and information. The Law Society’s 21st Century Justice project has similarly called for a single-point-of-entry ‘Solutions Explorer’.⁸¹

Similar support systems are needed at local level for SMEs, and in the property and housing sectors, creating local frameworks of actors such as local authority trading standards, local business organisations, advice centres, charities, volunteers, tribunal personnel and so on, linked with national data centres (such as the proposed network of consumer ombudsmen).

The new Online Court system may enable users to talk to a case officer after a case has been commenced, but where do people get trusted assistance at the outset, when deciding what to do about their problem? A significant function of solicitors when legal aid was widely available was in offering information, assistance and advice; filtering out poor cases; triage; and providing assistance in bringing a complaint through a claim process. The relevance of these functions can now be seen by their absence since the withdrawal of legal aid in 2014 in employment, family and social entitlement cases, and in the rise in litigants in person. Solicitors are right that if their services are required, then legal aid is essential. But if the state cannot fund them or other providers, new solutions have to be found. Perhaps the cost barrier could be reviewed so that expert legal support could be integrated into a new, holistic system.

81 ‘Fresh Ideas for 21st Century Justice’ (The Law Society, 23 June 2025), www.lawsociety.org.uk/campaigns/21st-century-justice.

Recognising the need for legal education, advice and support as widespread issues, the Low Commission (echoing the earlier Legal Services Commissions Community Legal Service model⁸²) has proposed a strategy for provision of advice and legal support on social welfare law, which would include:⁸³

- a public legal education system, making full use of the internet and embedding information about social welfare law issues in community settings locally;
- national helpline and website services, providing information and advice on all aspects of social welfare law, building on and developing current services;
- local advice networks of generalist and some specialist advisers for each local authority area, providing face-to-face information, advice, and legal support;
- access to specialist national support providing information and advice for frontline agencies.

3.2.2 Psychological support

We saw above that legal pathways and solutions may often fail to address the root cause(s) of problems: law may be only one component of a problem, and imposing only a legal solution may miss the point. One of the most powerful demonstrations of this is that a significant number of the victims of major disasters in the public sector (such as those connected to the Post Office, maternity care, elderly care, infected blood, Hillsborough or Windrush) are so traumatised that they have no wish to engage with a compensation scheme, a public inquiry or even their own lawyers. The fact that many people are considered to be ‘vulnerable’ has long been discussed in various contexts, such as housing, social security and employment.

We need to be more analytical and flexible in delivering support and solutions that people need. The ‘front line’ may need to be people who are trained in psychological support and mental health, rather than lawyers or other disciplines. Similarly, pathways may need to be designed to record victims’ evidence once only, so that it can subsequently be used for multiple purposes, rather than making vulnerable people subject to repeatedly reliving traumatic events for different evidential purposes.

3.2.3 Ongoing support

People may need help during a dispute resolution process – and problem-solving stage – but also after it to assist with ongoing relationships and behaviours. Ongoing assistance, support and intervention may involve a range of possible actions, ranging from formal enforcement triggered by breaches of law, to working with, for example, businesses, landlords, tenants or commonholders,⁸⁴ to ensuring understanding of appropriate behaviour and relationships and supporting the actions that are taken. The author has discussed this with experts in housing and property who confirm that – if they were asked – they could create local panels of independent expert supporters from members of tribunals and professions.

82 See ‘Our Strategy for the CLS (Legal Services Commission), https://webarchive.nationalarchives.gov.uk/ukgwa/20080727003141/http://www.legalservices.gov.uk/civil/innovations/strategy_for_cls.asp#making and ‘Community Legal Advice’, <https://web.archive.org/web/20100514003158/http://www.communitylegaladvice.org.uk>.

83 *Getting it Right in Social Welfare Law: The Low Commission’s Follow-Up Report* (The Low Commission, 2015).

84 The Government intends to phase out most forms of leasehold property ownership and replace them with commonhold ownership. See *Commonhold White Paper: The Proposed New Commonhold Model for Homeownership in England and Wales* (Ministry of Housing, Communities and Local Government, 2025); Commonhold and Leasehold Reform Bill 2026.

Neighbours' disputes are particularly open to a fresh approach. Anti-social neighbour behaviour is one of the largest problem types experienced by citizens, and simultaneously the one where people are most likely to have engaged legal or professional help (40%) (at some financial cost) and where they are most likely to have taken no action (22%). These statistics raise the question of whether the dispute resolution solution (expensive legal letters and proceedings) is effective. Might provision of support by an independent, authoritative intermediary, if necessary on an ongoing basis, be more effective? There are instructive examples in the socio-legal literature of the effectiveness of independent 'wise persons', including ones that operate without formal 'law',⁸⁵ such as resolving disputes by discussion in village councils in Ladakh in India or external mediators used by nomads.⁸⁶ Calm Mediation provides assistance in resolving neighbourhood problems (including peer mediation and restorative justice in potentially criminal contexts), 'working in novel ways with the support of local agencies to restore harmony in neighbourhoods'.⁸⁷

3.3 Function C: Solve disputes, deliver redress and restore balanced relationships

3.3.1 Modes of legal resolution: The failure of the adversarial model

The adversarial model of dispute resolution is no longer effective in delivering justice for most disputes involving consumers, citizens and SMEs. It cannot be afforded, it takes too long and it drives people apart rather than bringing them together. That does not support a fair, respectful and collaborative society. Adjudicative decision by an independent person (judge, ombudsman, regulator) remains essential as a final resort, but designing all pathways around this model misses many effective opportunities.

In contrast, an investigative model responds to all these issues, as well as contributing more than do current models to the circulation of data and intervention to improve behaviour, culture, performance and outcomes. All consumer ombudsmen adopt this model, integrating online technology and inherently mediative, restorative techniques. They are free to consumers, have low overall costs, do not involve lawyers and are very speedy by comparison with the adversarial model. The various compensation schemes that have operated for the 15,000 victims of the Post Office Horizon scandal have all, where possible,⁸⁸ shifted away from traditional adversarial modes towards far more cooperative modes.

The investigative mode should therefore be adopted more widely in other types of disputes, becoming the default paradigm.

85 R.C. Ellickson, *Order without Law: How Neighbours Settle Disputes* (Harvard University Press, 1991); J.H. Baker, *An Introduction to English Legal History* (4th ed.) (Oxford University Press, 4ed. 2002); S. Roberts and M. Palmer, *Dispute Processes: ADR and the Primary Forms of Decision-Making* (2nd ed.) (Cambridge University Press, 2005); F. Pirie, *The Anthropology of Law* (Oxford University Press, 2013).

86 F. Pirie, *The Anthropology of Law* (Oxford University Press, 2013), 35.

87 'A Voice for Change' (Calm Mediation, no date), www.calmmediation.org.

88 The ideal of a fully investigative mode could not be achieved once schemes were ongoing but was identified as the preferred option for similar public sector disasters.

3.3.2 Integrated techniques

Different parties and types of disputes may need particular techniques to be deployed flexibly if the best outcomes are to be achieved. This includes techniques such as providing information, assisted communication, mediation, early neutral evaluation, expert input and adjudication. This implies a need for professional case management to ensure that the most relevant techniques are deployed effectively, cost-effectively and without delay (beyond what is necessary for efficient evidence-gathering, assessment and so on).

Regarding ADR as something separate or different from 'standard' pathways misses the point: we should cease to refer to 'ADR'. Consumer Ombudsmen typically use mediation as a possible technique in their case management pathways, not as a separate stage, process or scheme, outside the core pathway.

One of the advantages of mediation as a technique is that it focuses not just on resolving a dispute but on restoring the social relationships between people.⁸⁹ It can provide opportunities for apology⁹⁰ and healing.⁹¹ In social policy terms, this is inherently more democratic and human than adversarial argument and external imposition of a solution on the parties. In commercial cases, the Centre for Effective Dispute Resolution (CEDR) reports that use of mediation has increased continuously over the past 20 years, to over 16,000 cases in 2020, with a 93% settlement rate.⁹² Recently, CEDR notes a widespread increase in levels of acceptance of mediating online.

In employment disputes, a claimant first has to notify ACAS,⁹³ which then contacts both sides to offer its conciliation services. But it is not mandatory to use ACAS, or any other mediation provider. The claimant just needs a piece of paper before being able to start a claim in an employment tribunal (ET). Judicial mediation can be offered in an ET and has a 70% success rate in resolving disputes. In 2024/25, 20 million people visited the ACAS website and 594,000 called the ACAS helpline. ACAS' involvement led to 'settlement or good progress towards one' in 93% of 522 collective cases, and in 38% of individual conciliations (of which 124,546 were notified). However, in early conciliation individual cases, 7.1% of employees could not be contacted, 32.3% declined to participate and 55.5% continued to an ET. In 2024/25, nine out of ten potential claims notified to ACAS were resolved without requiring a hearing in the ET. But if people had to pass through ACAS and be subject to a process in which automatic investigation of their case led to communication between the parties facilitated by ACAS, more cases would presumably settle at that stage and fewer would proceed to an ET (and ETs are currently overwhelmed with cases⁹⁴). Lawyers have called for compulsory mediation for all employment cases,⁹⁵ but having mediation as an automatic option would be preferable.

89 S. Roberts and M. Palmer, *Dispute Processes: ADR and the Primary Forms of Decision-Making* (Cambridge University Press, 2005).

90 Surveys found that 73% of those taking cases to ADR and 31% to courts were seeking something without monetary value, such as an apology: *Resolving Consumer Disputes: Alternative Dispute Resolution and the Court System* (IOF Consulting on behalf of BEIS, 2018).

91 P. Randolph, *The Psychology of Conflict: Mediating in a Diverse World* (Bloomsbury, 2016); R. Carroll, A. Allan and M. Halsmith, 'Apologies, Mediation and the Law: Resolution of Civil Disputes' (2017) 7(3) *Oñati Socio-legal Series* 569.

92 *The Ninth Mediation Audit: A Survey of Commercial Mediator Attitudes and Experience in the United Kingdom* (CEDR, 2021).

93 See Employment Tribunals Act 1996 ss. 18, 18A and 18B.

94 S. Harrison, 'Labour Pains', *Gazette*, 19 June 2026, 20–23.

95 J Hyde, 'Employment Lawyers Draw Up Radical Plans for Cutting Tribunal Backlog' *Gazette*, 21 May 2026; S. Fraser Butlin, C. Barnard and M. Menashe, *Reimagining Employment Dispute Resolution and Enforcement* (Hart, 2026).

A further example of lack of integration of mediation is in family disputes. The Children and Families Act 2014 made attendance at a family ‘Mediation Information and Assessment Meeting’ (MIAM) mandatory before a person can make a relevant family application, save where there is evidence of domestic violence or of a risk of domestic violence.⁹⁶ But attending a MIAM is not the same as agreeing to a mediation. Numbers of people attending family mediation (which needs to be paid for) have remained low. Research published in 2015 found that only 19% of a sample of 300 applicants had attended a MIAM before commencement of proceedings.⁹⁷ Since the withdrawal of legal aid from most family cases in 2014, the number of MIAMs has fallen dramatically.⁹⁸ Mediation should be automatically available if it seems relevant to the case manager, rather than being a choice of the parties, which is how many consumer Ombudsmen operate.

Automatic referral to the Small Claims Mediation Service is currently required in the Small Claims Track in the Online Civil Money Claims (OCMC) pilot scheme.⁹⁹ However, in an example of successful integration, most consumer ombudsmen case handlers are trained to deploy a communication/mediation role as part of their investigation, thereby avoiding referral to anyone else.

3.3.3 Digital by default

‘Digital by default’ is a widely used slogan of our age. Every leading consumer ombudsman in the UK adopted online processes some years ago and has continued to develop sophisticated IT and artificial intelligence that can assist consumers, traders and ombudsmen themselves in analysing and resolving the substance and emotional impact of cases.¹⁰⁰

The digitalisation process should be continued in the courts and tribunals system. Some areas are already a success, such as the Money Claim Online (MCOL) service,¹⁰¹ that was upgraded some years ago with the ability for without-prejudice offers to be made and accepted, and with 90% of users being satisfied or very satisfied.¹⁰² As noted above, the new OCMC includes mandatory referral to mediation.

The Injury Portal¹⁰³ was developed by the insurance industry as the single entry portal for road traffic injury claims over £1,000 and with an upper limit of £25,000, roughly from 2010. From July 2013 it was extended to Employers’ Liability and Public Liability claims valued at under £25,000.

96 Children and Families Act 2014, ss. 1 and 10. See *A Brighter Future for Family Justice: A Round Up of What’s Happened since the Family Justice Review* (Department for Education and Ministry of Justice, 2014).

97 B. Hamlyn, E. Coleman and M. Sefton, *Mediation Information and Assessment Meetings (MIAMs) and Mediation in Private Family Law Disputes: Quantitative Research Findings* (Ministry of Justice, 2015).

98 *Legal Aid, Sentencing and Punishment of Offenders Act 2012: Post-Legislative Memorandum. Submitted to the Justice Select Committee on 30 October 2017* (Ministry of Justice, 2017) cm 9486, para 161.

99 ‘Practice Direction 51R: Online Civil Money Claims Pilot’ (Ministry of Justice, 2025), www.justice.gov.uk/courts/procedure-rules/civil/rules/practice-direction-51r-online-court-pilot#start; ‘Make a Court Claim for Money’ (UK Government, no date), www.gov.uk/make-court-claim-for-money/mediation.

100 Ombudsman Services undertook a Transformation Programme in 2018 which switched 70% of consumer traffic from phone to online. The technology assists in identifying vulnerable consumers. The Financial Ombudsman Service developed a digital analytical tool to assist with processing the large number of payment protection insurance claims it received: see R. Thomas, *The Impact of PPI Mis-selling on the Financial Ombudsman Service* (Financial Ombudsman Service, 2016).

101 Money Claim Online (no date), www.moneyclaim.gov.uk/web/mcol/welcome.

102 *Reform Update: Autumn 2018* (HM Courts & Tribunals Service, 2018), 12.

103 ‘A Tool for Processing Personal Injury Claims up to the Value of £25,000’ (Claims Portal, no date), www.claimsportal.org.uk.

From 31 May 2021, minor road traffic injury claims can also be made through a free online portal, developed by the Motor Insurers' Bureau on behalf of the [Ministry of Justice](#).¹⁰⁴ This is for personal injury claims under £5,000, with a total of £10,000 for all losses related to the accident (such as loss of earnings and damage to your car and property). It is designed for people to use without lawyer, and applies a compensation tariff for injuries. Once a liability decision has been received from the at-fault insurer, claimants can obtain a medical report, from either a directly instructed medical expert or a medical reporting organisation. If the at-fault insurer has accepted any portion of liability, they will also pay for the report. This innovation was introduced to reduce the number and cost of whiplash claims, which had escalated out of control, and savings by insurers are intended to be seen in reduced motor insurance policies.¹⁰⁵ However, the existence of competing portals, with differing arrangements and governance, will inevitably create confusion for public and should be rationalised.

Overall, it is notable how similar the processes adopted by different online dispute resolution systems are becoming. The online modes of operation of the Traffic Penalty Tribunal, all leading consumer ombudsmen, the British Columbia Civil Resolution Tribunal,¹⁰⁶ the OCMC, and tribunals such as the Social Entitlement Chamber and Immigration and Asylum Chamber have strong similarities in use of online application pages, uploading of evidence, accessibility between parties and the judge, electronic taking of evidence and so on. In those systems with significant throughput, case management is typically undertaken by case officers, sometimes assisting ultimate decision-makers. The process often includes communication between the case officer and both parties that can form the basis of mutual explanation and mediated negotiation.

3.3.4 Reviewing pathways

There has been proliferation of techniques and pathways for many types of disputes, involving new intermediaries. This has resulted in confused landscapes, and simplification and rationalisation is needed.

All pathways across all types of disputes should be reviewed to ensure that they are easily identifiable and as simple as possible to navigate, and that they integrate all relevant techniques and apply them at the right time. This revision has parallels with the need to reorganise tribunals into a simpler and more cohesive structure after their success and proliferation, pursuant to the 2001 Leggatt Report.¹⁰⁷

Consumer claims are now hardly ever brought in the UK, specifically England and Wales, in the county court, particularly on its small claims tracks. They have been replaced by ADR schemes and especially by sectoral ombudsmen, which are typically free to consumers and work together with regulators. In 2018, seven of the leading consumer ombudsmen received over 2 million contacts from consumers, compared with roughly 2 million cases of all types started in the county court (i.e. including personal injury, debt, property, neighbours). For many disputes, the consumer ombudsmen aim to resolve issues faster than the county court, whose median time in the first quarter of 2026 for those cases that went to trial was 37.6 weeks after issue for a small claim and 54.3 weeks for fast,

104 'Making a Personal Injury Claim' (Official Injury Claim, no date), www.officialinjuryclaim.org.uk. In the first quarter to 31 August 2021, the portal processed 45,718 claims including 4,331 from unrepresented claimants; 24,812 liability decisions were made, and 436 claims reached settlement stage.

105 Civil Liability Act 2018.

106 S. Salter and D. Thompson, 'Public-Centered Civil Justice Redesign: A Case Study of the British Columbia Civil Resolution Tribunal' (2016/2017) 3 *McGill Journal of Dispute Resolution* 113.

107 Sir Andrew Leggatt, *Tribunals for Users: One System, One Service* (Ministry of Justice, 2001). Implemented in the Tribunals, Courts and Enforcement Act 2007.

intermediate or multi-track claims.¹⁰⁸ Between May 2023 and April 2024, 72% of UK consumers were estimated to have encountered at least one instance of consumer detriment – nearly 295 million individual problems.¹⁰⁹

Given more attractive choices than lawyers and courts, consumers have voted with their feet, towards ADR schemes and especially ombudsmen. However, as the Consumers' Association has said, the 'consumer ADR' landscape is 'a confusing patchwork of provision across different sectors', with some gaps in coverage.¹¹⁰ Only some schemes or their decisions are mandatory for traders. Of those consumers who chose to go to court, 70% did so because the trader refused to participate in a non-court scheme.¹¹¹

That problem could be solved by directing all consumer disputes to a single national network of ombudsmen, providing comprehensive coverage of complaints about traders. A consumer ombudsman case handler's investigation of the facts, engaging with both sides, inherently provides an opportunity for communication between the parties that resolves the vast majority of cases. Neither party needs to pay more for the 'mediation' process: it is automatically part of the pathway. The outcome is the efficient, speedy and cost-effective resolution of cases.¹¹² This can assist in rebuilding consumer loyalty and trust with traders.

Consumer ombudsmen and regulatory authorities working together have been highly successful in delivering large sums to consumers, much more swiftly and cheaply than collective litigation procedures, and in changing business behaviour.¹¹³ The ombudsmen can respond to multiple individual cases in a number of ways.¹¹⁴ They are good at processing multiple similar small claims, as has been demonstrated by their handling hundreds of thousands of payment protection insurance (PPI) claims. Second, many UK regulatory authorities have delivered mass redress extremely swiftly, as a result of exercise of powers either to order collective redress or to accept undertakings to that effect.¹¹⁵

A single pathway, portal and network is also required for housing and property cases, integrating case management between the First-tier Tribunal, the county court, housing ombudsman, property ombudsman, new homes ombudsman, various ADR schemes and proposed private rented sector

108 'Civil Justice Statistics Quarterly, England and Wales, January to March 2026' (Ministry of Justice, 2026).

109 *Consumer Detriment Survey 2024* (Competition and Markets Authority, 2025), www.gov.uk/government/publications/consumer-detriment-survey-2024.

110 *Strengthening ADR Frameworks: Advancing Fair and Effective Consumer Dispute Resolution. Policy Paper on ADR* (Which?, 2025).

111 *Resolving Consumer Disputes: Alternative Dispute Resolution and the Court System. Final Report* (Department for Business, Energy and Industrial Strategy, 2018). www.gov.uk/government/publications/resolving-consumer-disputes-alternative-dispute-resolution-and-the-court-system.

112 From 2014, Ombudsman Services in UK resolved some disputes with energy and communications companies within 30 minutes. A major study found that problems with purchasing goods and services were resolved more quickly than those involving relationship break-up or personal debt: R. Franklyn, T. Budd, R. Verrill and M. Willoughby, *Findings from the Legal Problem and Resolution Survey, 2014–15* (Ministry of Justice, 2017).

113 C. Hodges and S. Voet, *Delivering Collective Redress: New Technologies* (Hart, 2018), chapter 5.

114 C. Hodges, 'Best Practice in Customer Care in UK', in C. Hodges, I. Benöhr and N. Creutzfeldt-Banda, *Consumer ADR in Europe* (Hart, 2012).

115 C. Hodges, 'Mass Collective Redress: Consumer ADR and Regulatory Techniques', *European Review of Private Law* 23 (2015): 829–874.

ombudsman¹¹⁶ – a long list that itself demonstrates the need to reduce the number of institutions involved to provide clarity and efficiency.

In disputes involving SMEs, three bodies that involve a mixture of regulatory and dispute resolution functions and an ethical code have been created and may be integrated further.¹¹⁷ They are the GCA,¹¹⁸ the PCA¹¹⁹ and the SBC.¹²⁰

For claims against the state, considerable modernisation is needed. All public bodies have complaint mechanisms, but they are all different.¹²¹ The range of types includes review by another official (whether on the same or a different level to the person involved in the original problem) or by an external body (e.g. an adjudicator in the case of HMRC, an independent assessor in the case of the Crown Prosecution Service).¹²² An example of the former is the Department for Work and Pensions' 'Mandatory Reconsideration' process, which has been widely criticised as opaque and unfair. The lack of standardisation leads to a lack of understanding on how to complain, with the result that many fail to do so, and that processes can be extremely confusing when they do.¹²³

Complaints about public sector bodies, typically on the basis that there has been 'maladministration',¹²⁴ can be made to the PHSO, the Local Government and Social Care Ombudsman (LGSCO) or the Pensions Ombudsman, the Prisons and Probation Ombudsman, the Independent Adjudicator for Higher Education, the Independent Complaints Reviewer (covering complaints about the Land Registry and the Northern Ireland Youth Justice Agency), the Independent Office for Police Conduct, and counterpart bodies in Scotland, Wales and Northern Ireland. However, some public ombudsmen do not accept every complaint for investigation. The need to improve access to the PHSO, to widen the remit, was recognised a decade ago but has not been addressed.¹²⁵ The public ombudsmen could have played a role (at an early stage) in identifying and responding to various public sector disasters, had they had the remit and powers of consumer ombudsmen and been able to operate as part of a wider system.

116 *Strengthening Consumer Redress in the Housing Market: Summary of Responses to the Consultation and the Government's Response* (Ministry of Housing, Communities and Local Government, 2019); *Solving Housing Disputes* (JUSTICE, 2020).

117 R. Blackburn, J. Kitching and G. Saridakis, *The Legal Needs of Small Businesses: An Analysis of Small Businesses' Experience of Legal Problems, Capacity and Attitudes* (Legal Services Board, 2015); *Tied Up: Unravelling the Dispute Resolution Process for Small Firms* (Federation of Small Businesses, 2016); *Treating Smaller Businesses Like Consumers: Unfair Contract Terms* (Federation of Small Businesses, 2017); K. Larkin, V. Clarke, C. McDonnell and M. Turner, *The Legal Needs of Small Businesses 2013/2017* (BMG Research, 2018).

118 See *GCA Compliance and Monitoring Policy* (Groceries Code Adjudicator, 2016).

119 The Small Business, Enterprise and Employment Act 2015, part 4. The Pubs Code etc. Regulations 2016, SI 2016 no. 790.

120 Enterprise Act 2016, s1.

121 C. Hodges, *Delivering Dispute Resolution: A Holistic Review of Models in England & Wales* (Hart, 2019), chapter 13.

122 For an insight into the evolution of the internal review procedure and the office of adjudicator and independent monitor as new models of administrative processes, see M. Harris, 'New Procedures', in M. Harris and M. Partington (eds), *Administrative Justice in the 21st century* (Hart, 1999). See also M. Harris, 'The Place of Formal and Informal Review in the Administrative Justice System' in the same volume.

123 *More Complaints Please!* (Public Affairs Standing Committee, Twelfth Report of Session 2013–14, 14 April 2014, HC 229).

124 Maladministration is as stated in the *Principles of the Protection and Promotion of Ombudsman Institutions* ("The Venice Principles") (Council of Europe, 2019), para 12.

125 R. Kirkham, B. Thompson and T. Buck, 'When Putting Things Right Goes Wrong: Enforcing the Recommendations of the Ombudsman' [2008] *Public Law* 510; *Public Services Ombudsmen* (The Law Commission, 2011); *More Complaints Please!* (Public Affairs Standing Committee, Twelfth Report of Session 2013–14, 14 April 2014, HC 229); *Time for a People's Ombudsman Service*, (Public Affairs Standing Committee, Fourteenth Report of Session 2013–14, 28 April 2014, HC 655); R. Gordon, *Better to Serve the Public: Proposals to Restructure, Reform, Renew and Reinvigorate Public Services Ombudsmen* (Cabinet Office, 2014); *A Public Service Ombudsman: Government Response to Consultation* (Cabinet Office, 2015); Draft Public Service Ombudsman Bill 2016.

It is now clear, after successive compensation schemes have had to be created from scratch to deliver compensation to victims of public disasters, that there is a need for a permanent body to provide this function, and avoid re-learning lessons and implementation delays.¹²⁶ The body should be capable of adopting an investigative (rather than adversarial) mode, and have mental health and other assistance (rather than lawyers) as the first line of contact, and provide restorative justice options.¹²⁷

In the public healthcare sector, requiring clinical injuries claims to be processed through litigation based on a negligence trigger, even where assisted by mediation, is positively harmful and expensive. It is not only stressful for patients and costly as a model, but the shift to a 'no blame' culture is essential for healthcare professionals to feel psychological safety in sharing difficult information. Such an open culture of sharing is the foundation of successful safety regulatory systems such as aviation and nuclear; without it, learning and improved performance simply do not occur.

All Nordic states and some others (New Zealand is well known) have highly successful administrative redress schemes for patient, drug, employment and motor injuries.¹²⁸ These are regarded as essential for supporting a healthcare system that is capable of learning through sharing information and effecting change. Nordic medical systems are far safer than that of the UK.¹²⁹

Calls in the UK for a 'no blame' culture¹³⁰ and a caring and open response¹³¹ are not new and are long overdue for implementation. The Health and Social Care Committee called in 2022 for a switch to 'a radically different system' involving an independent administrative body, since 'the biggest priority is the prevention of future harm'.¹³²

Over time and in different parts of the health services, numerous compensation schemes have emerged,¹³³ making up a confusing landscape. All schemes should now be brought under a single NHS administrative 'no blame' scheme.¹³⁴

126 *Government compensation schemes*, Committee of Public Accounts, Twelfth Report of Session 2026-27, HC 88 (2026).

127 As is occurring in the Post Office Horizon context.

128 S. Macleod and C. Hodges, *Redress Schemes for Personal Injuries* (Hart, 2017).

129 *Global State of Patient Safety 2025* (Imperial College, 2025), www.imperial.ac.uk/Stories/global-state-patient-safety-2025/. The ranking of the first 21 of 38 OECD states is: Norway, Korea, Switzerland, Ireland, Finland, Japan, Spain, Sweden, Iceland, Netherlands, Italy, Australia, Denmark, Luxembourg, Estonia, Germany, Canada, New Zealand, Australia, Israel, UK.

130 Rt Hon Jeremy Hunt MP, 'From a Blame Culture to a Learning Culture', speech at Global Patient Safety Summit, Lancaster House, 10 March 2016, www.gov.uk/government/speeches/from-a-blame-culture-to-a-learning-culture; *Will the NHS Ever Learn? Follow-Up to PHSO Report 'Learning from Mistakes' on the NHS in England* (House of Commons Public Administration and Constitutional Affairs Committee, Seventh Report of Session 2016–17, 17 January 2017, HC 743).

131 For a recent overview of extensive research, see Y. Birks, F. Aspinall and K. Bloor, *Understanding the Drivers of Litigation in Health Services* (University of York and The King's Fund, 2018).

132 *NHS Litigation Reform* (House of Commons Health and Social Care Committee Report, 20 April 2022, HC 740).

133 See S. Macleod and C. Hodges, *Redress Schemes for Personal Injuries* (Hart, 2017).

134 The Independent Healthcare Sector Claims Adjudication Service (ISCAS), the Criminal Injuries Compensation Scheme, the Armed Forces and Reserve Forces Compensation Scheme, the Vaccine Damage Payments scheme, the Diffuse Mesothelioma Payments Scheme, the Coal Workers Pneumoconiosis Scheme, the Coal Health Compensation Schemes covering Chronic Obstructive Pulmonary Disease (COPD) and Vibration White Finger (VWF) injuries, the Skipton Fund for hepatitis C, the MacFarlane Trust offering discretionary financial assistance for various injuries, and the vCJD Trust.

3.4 Functions D and E: identify problems by capturing data; provide information and feedback

3.4.1 Data collection, collation and feedback

The modern era is one based on digitised information – data systems. Feedback, learning and change cannot occur without the data collection function. This is an essential component of effective business and regulatory systems, and it should be part of a reformed justice system. If data is not collected on the issues that arise and their root causes, then it cannot be used profitably in making improvements. But many dispute resolution systems currently do not collect, aggregate or analyse relevant data.

Data has for some time been an essential feature of all consumer ombudsmen in regulated sectors and of platforms such as Resolver, Amazon and eBay, and was envisaged in the Online Court. Regulators use information about performance to press companies to improve their service.¹³⁵ Safety systems, such as aviation and nuclear safety globally, high drinking-water quality in UK,¹³⁶ and Nordic healthcare, are all based on the circulation of data.

Dispute resolution systems and information or complaint systems can provide rich data that can illuminate what interventions or enforcement action may be required to change future behaviour and to reduce future risk. In order to do this, they need to be designed so as to capture as much data as possible on relevant activity, to aggregate it and to feed it back into the system. A data-generating dispute resolution system has to be seen as part of a regulatory, market surveillance and behavioural system – a link that is only just being recognised in many sectors but that provides huge potential for improving performance and reducing risk. System design is critical, and the creation of valuable databases requires a single or small number of portals (rather than a multiplicity of disparate dispute resolution schemes) so that people can easily identify where to go for information and assistance.

However, some databases are unnecessarily limited, for example because they are based only on disputes about legal rights, or collect only partial data. They may not capture the vast amount of valuable early data on what people ask questions about, as opposed to the subject matter and outcome of a formal claim. Dispute resolution platforms that focus exclusively on online dispute resolution (ODR) are typically not connected with systems that provide support and intervention to change the underlining and future behaviour.

135 *Modernising Consumer Markets: Consumer Green Paper* (BEIS, 2018), para 66. Para 67 says: 'Collecting and publishing performance data at company level can place reputational incentives on companies to improve outcomes for consumers and can inform consumer choice. It can also help regulators determine where to focus action. Regulators have taken steps to publish supplier performance data.'

136 M. Rink, 'Regulating Quality Outputs, an Approach based on Provision of Data to Drive Behaviour', in G. Russell and C. Hodges (eds), *Regulatory Delivery* (Hart, 2019); J. Cunliffe, *Independent Water Commission: Review of the Water Sector* (Independent Water Commission, 2025).

3.5 Functions F and G: Support voluntary change; achieve change by intervention or enforcement

It should be a purpose of a state to ensure that corrections and improvements are made in behaviour, culture and systems. Contrary to traditional theories, there is now extensive empirical evidence that deterrence and court decisions are ineffective in achieving these outcomes in many situations.¹³⁷ Fear of consequences can affect behaviour, but only in very limited circumstances in the civil justice system and nowhere near as effectively as popular usage of the word ‘deterrence’ assumes. What causes or motivates people and organisations to do things that cause harm is now recognised as far more complex than traditional legal systems theory assumes, and the mechanisms for preventing such harms need to recognise this. More sophisticated systems are needed based on feedback and intervention, as are generally found operating through sophisticated organisational and regulatory regimes. A telling example is a 2018 survey finding that ‘traders generally do not change their complaints-handling processes nor their business practices after their experience with the courts’.¹³⁸

Merely publicising judgments or systemic problems is not enough. For many years, reports by the public ombudsmen and tribunal judges have highlighted repeated inaccuracies in decisions by public services and called for change, but little change has resulted. For example, a report by JUSTICE¹³⁹ highlighted poor decision-making by the Home Office in immigration and asylum appeals, leading to some 50% of decisions not being upheld on appeal in the First-tier Tribunal (Immigration and Asylum Chamber), compared with 25% historically,¹⁴⁰ although this fell to 39% in the second quarter of 2025.¹⁴¹ One in four complaints to the PHSO in 2016/17 related to failures in decision-making.¹⁴² The LGSCO has set itself the goal ‘to move the conversation about our work away from simplistic complaint volumes, to the lessons that can be learned and the wider good we can achieve through our recommendations to improve services for the many’.¹⁴³ Innumerable reports have been issued about the NHS, from within¹⁴⁴ and outside,¹⁴⁵ with seemingly little impact on culture. Academic studies reach similar conclusions, such as Halliday’s study of three local authorities’ approaches to decision-

137 C. Hodges, *Law and Corporate Behaviour: Integrating Theories of Regulation, Enforcement, Culture and Ethics* (Hart Publishing, 2015) and the evidence cited there at chapters 2 to 6.

138 *Resolving Consumer Disputes: Alternative Dispute Resolution and the Court System* (IOF Consulting on behalf of BEIS, 2018).

139 *Immigration and Asylum Appeals: A Fresh Look* (JUSTICE, 2018).

140 ‘Tribunals and Gender Recognition Statistics Quarterly: October to December 2017’, Main Tables (Ministry of Justice, October to December 2017), Table FIA.3 Q3 2017/18.

141 ‘Tribunal Statistics Quarterly: July to September 2025’ (Ministry of Justice, 11 December 2025), www.gov.uk/government/statistics/tribunals-statistics-quarterly-july-to-september-2025/tribunal-statistics-quarterly-july-to-september-2025.

142 ‘Tribunal Statistics Quarterly: July to September 2025’ (Ministry of Justice, 11 December 2025), www.gov.uk/government/statistics/tribunals-statistics-quarterly-july-to-september-2025/tribunal-statistics-quarterly-july-to-september-2025, 7.

143 *Building for the Future: Annual Report and Accounts 2017–2018* (Local Government and Social Care Ombudsman, 2018).

144 Recent examples: *Gosport War Memorial Hospital: The Report of the Gosport Independent Panel* (Gosport Independent Panel, 2018); A. Oates, *Learning from Suicide-Related Claims: A Thematic Review of NHS Resolution Data* (NHS Resolution, September 2018); M. Hutton, *Spinal Services: GIRFT Programme National Specialty Report* (NHS Improvement, 2019).

145 *Independent Inquiry into Care provided by Mid Staffordshire NHS Foundation Trust January 2005–March 2009. Volume I. Chaired by Robert Francis QC (HC 375-I, 2010)*; *A Promise to Learn – a Commitment to Act: Improving the Safety of Patients in England* (National Advisory Group on the Safety of Patients in England, 2013); K. Evans, ‘Using the Gift of Complaints’: *A Review of Concerns (Complaints) Handling in NHS Wales* (Welsh Government, 2014); *Investigating Clinical Incidents in the NHS* (Public Administration Select Committee, Sixth Report, 24 March 2015); *Learning Not Blaming: The Government Response to the Freedom to Speak Up Consultation, the Public Administration Select Committee Report ‘Investigating Clinical Incidents in the NHS’, and the Morecambe Bay Investigation* (Department of Health, 2015).

making regarding homelessness, which showed considerable variation in organisational approaches and ability to internalise any learning from judicial review decisions.¹⁴⁶

The same problem of failures to effect change arises with public inquiries:¹⁴⁷

At their best, they conduct detailed investigations into major failures and disasters, establish facts, find where mistakes have been made and identify who is accountable for them. This information is used to establish what lessons must be learned, while recommendations for change are given to the Government to prevent disasters from recurring. In addition, inquiries can provide catharsis for those most closely affected by a tragedy – victims, survivors and their families – giving them confidence that a similar tragedy is less likely to be repeated.

As Professor Andrew Williams notes, evidence of concrete changes following inquiries is scarce.¹⁴⁸ This is not surprising given the absence of any focus on how changes flow from written reports.

Ensuring that change occurs requires a system of oversight and transparency. The governance mechanism for this needs to involve some form of independent regulation and (increasingly) education and support as well as enforcement. The data on legal claims usually indicates only whether a case that reached the justice system was resolved or not, but we have little data on, or understanding of, outcomes in the broadest sense. Did legal resolution deliver what people wanted? Research findings show that people want things to change, and that they often do not complain or raise a problem because they do not have trust that this will happen.¹⁴⁹ This is especially true of complaints about public bodies.¹⁵⁰

The system needs to be able to capture extensive information on problems (whether they are concerns or formal claims), feed the aggregated data back (publicly and otherwise), and provide for internal and external interventions in organisations, directed at affecting behaviour and especially culture. The data fed back must provide opportunities for voluntary, spontaneous changes to occur (Function F) or for changes to be required by public intervention, such as by regulators, the police, courts or inquiries (Function G).

Consumer markets work well where businesses, ombudsmen and regulatory authorities are part of a coherent integrated system to identify data, feed it back, intervene and make changes to reduce future risk. Results are improved where the focus is expressly on an open, ethical culture.¹⁵¹ Dispute resolution systems need to operate as part of larger systems that are directed at identifying problems, especially through the aggregation of data, and supporting interventions to deliver changes in behaviour and culture. Dispute resolution systems need to be integrated with regulatory systems,

146 S. Halliday, *Judicial Review and Compliance with Administrative Law* (Hart, 2004).

147 House of Lords, (2024) n6 at 3.

148 A. Williams, *Public Inquiries: Are They Fit for Purpose?* (Nuffield Foundation, 2026).

149 A. Ames, K. Gallop, A. Baumont de Oliveira, J. Pace, E. Wallker, R. Franklyn, G. Owens, G. Pilling and M. Smith, *Legal Problem and Resolution Survey 2023* (Ministry of Justice, 2024). See earlier R. Franklyn, T. Budd, R. Verrill and M. Willoughby, *Findings from the Legal Problem and Resolution Survey, 2014–15* (Ministry of Justice, 2017); *Consumer Action Monitor* (Ombudsman Services, 2018); Oxford Economics, *Consumer Detriment: Counting the Cost of Consumer Problems* (Citizens' Advice, 2016).

150 *What Do People Think About Complaining?* (Parliamentary and Health Service Ombudsman, 2015); *Learning from Mistakes: How Complaints Can Drive Improvements to Public Services* (Citizens Advice, 2016).

151 C. Hodges and R. Steinholtz, *Ethical Business Practice and Regulation: A Behavioural and Values-Based Approach to Compliance and Enforcement* (Hart, 2017).

using data to drive the ability to identify and address possible improvements in performance, behaviour and culture.

Examples of good practice of such information-sharing initiatives in UK include the Financial Ombudsman Service's publication of data on the types of complaints made against named banks. It holds regular meetings with the Financial Conduct Authority and individual banks to feed back findings from their data. In the energy sector, tripartite working occurs between the regulator Ofgem, the Energy Ombudsman and Citizens Advice, wherein data is shared and an action plan is agreed to determine who will do what in working with the relevant company, and who will act to reduce consumer detriment. The ombudsman uses the economic stress model to analyse if any companies might be at risk of liquidation and which others might be best placed to take over the customer base if needed.

As indicated above, the feedback functions are provided by sectoral consumer ombudsmen in many sectors in UK. Belgium has gone further and has an admirable single integrated system comprising a network of ombudsmen.

Such improved data feedback and support mechanisms are needed in various contexts, including in relation to families, housing, employment and SMEs and across public sector activities. It is the absence of such systems that has allowed public sector disasters such as those named earlier to continue unchallenged for so long. The problem of oversight and intervention is particularly serious in the public sector given the absence of any independent regulatory oversight of public bodies. This makes the need to strengthen the role of the public ombudsmen even more critical, if future disasters are to be prevented.

3.6 Function H: Monitor the situation

An effective system will not stop at taking or implementing a decision. It will have the ability to monitor whether the actions taken produced the desired changes, whether the underlying problem has been solved or managed adequately, and what further actions may be needed. Such a system should operate continuously, which is why the functions are illustrated in Figure 1 in a circular fashion. This continuous monitoring occurs in some (but by no means all) regulatory systems, but hardly at all in the public sector or justice contexts. There are some limited attempts at monitoring in relation to criminals and criminal activity, but legal contexts primarily just assume that the resolution of cases is the end of the matter. To be effective, the system needs to monitor and control the operation of multiple sub-systems in public and private activities. This is where Professor John Soprabji's recommendation of an overarching Civil Justice Reform Institute is on the right lines, and this proposed institution should cover all types of disputes, not just 'civil justice'.¹⁵²

152 J. Sorabji, *Improving Civil Justice Reform: An Analysis of Major Reviews in England and Wales* (Nuffield Foundation, June 2026).

4 Implications for policy

A new vision of the justice system is required. The system is too complex and disjointed and does not deliver justice often enough or contribute to reducing the future incidence of problems. It is time to reform the multiple different, and sometimes competing, bodies and pathways, integrating and simplifying the existing diversity and complexity to form a single justice system.

In reviewing the design of the system, it is important to consider all the options,¹⁵³ and to found operation of the system on comprehensive reliable evidence. Such evidence has not previously been collected systematically on the justice system.¹⁵⁴

We need a system that delivers three elements for people and organisations: confidence in knowing they will be behaving well; assistance in problem-solving and dispute resolution; and learning and improving. The current system fails to solve the root causes of problems, to support good behaviour and learning, and to prevent future problems from arising. These three elements chime with John Sorabji's characterisation of justice as preventative justice; consensual justice; adjudicative justice.¹⁵⁵

We can no longer allow the justice system to operate in its own vacuum. That does not deliver the functions or outcomes that people, businesses and the state need. Different systems need to be joined up to form an integrated and effective overall system. This includes a dispute resolution system; a system that guides behaviour based on ethical values and norms; and a 'regulatory' system that includes compliance with rules, triggering appropriate support and intervention and, where necessary, formal enforcement. The greater the integration between these three elements, the more effective and efficient they will be and the more cohesive relationships, markets and society will be.

153 See *Professional Policy Making for the Twenty-First Century* (Cabinet Office Strategic Policy Making Team, 1999); *The Green Book: Appraisal and Evaluation in Central Government* (HM Treasury, 2003); H. Bochel and S. Duncan (eds), *Making Policy in Theory and Practice* (Policy Press, 2007); *Principles for Economic Regulation* (Department for Business Innovation and Skills, April 2011); *Recommendation of the Council on Regulatory and Policy Governance* (OECD, 2012); *Guidance: Better Regulation Framework Manual* (Department for Business Innovation & Skills, 2013); *Better Regulation for Better Results: An EU Agenda*, COM(2015) 215 final (European Commission, 19 May 2015).

154 N. Byrom, *Where Has My Justice Gone? Current Issues in Access to Justice in England and Wales* (Nuffield Foundation, 2024). 'Government's Management of Legal Aid: Ministry of Justice, Legal Aid Agency' (National Audit Office, Session 2023–24, 9 February 2024, HC 514), 31, www.nao.org.uk/wp-content/uploads/2024/02/governmentsmanagement-of-legal-aid.pdf; L. Curran, J. Ching and J. Jarman, *Regulatory Leadership on Access to Justice* (Nottingham Law School, for Legal Services Consumer Panel, 2024), stating 'A creative, problem-solving, and evidence-based approach is crucial'.

155 J. Sorabji, *Improving Civil Justice Reform: An Analysis of Major Reviews in England and Wales* (Nuffield Foundation, June 2026).

Would it be complex and expensive to create the system outlined here? The experience of creating and operating similar systems in regulatory and social contexts suggests not. A number of projects around the world have successfully adopted the ‘Outcome-Based Collaborative Regulatory System’ approach.¹⁵⁶ Most of the component ingredients in terms of personnel, institutions and tools already exist. The essential extra ingredient is simply the desire to construct a new approach. Vision is needed to overcome inertia and siloism.

Can the vision set out above be delivered without major, especially legislative, reform? A major barrier is the need for policy decisions to be joined up across government, since different justice, administrative and regulatory systems are subject to oversight by different departments and taking a holistic approach would involve coordinating many of them. But that is merely a job for effective oversight by the centre of government (Number 10 and the Cabinet Office), managing and coordinating cross-governmental actions. In some individual instances, barriers or improvements may be identified that would benefit from legislative modernisation, but, again, that is normal. The transformations that have occurred in various regulatory systems outlined above have not required constitutional changes to scope or deliver: the major drivers are simply the will to identify and effect a transformation to a joined-up system in which multiple parts work together.

Finally, it should be emphasised that what is outlined here is a vision rather than a blueprint. The architecture of (sub-)systems in individual areas (families, consumers, citizens, employees etc.) need to have particular features. Yet each area clearly has gaps in its functions that need to be filled, and each area needs to operate in a connected way with other areas. This needs oversight. It needs proper information to be assembled.

How will a system be created and managed that involves many government departments, some with exclusive responsibility for a sectoral ombudsman? Is the structure, culture, leadership and funding of both the Ministry of Justice and its multiple component agencies and siloed responsibilities configured to deliver what is needed?

A better approach to design and management of the system would be to delegate these functions to a permanent representative group of all stakeholders, as prescribed in my ‘Outcome-Based Collaboration’ model for a Stakeholder Council¹⁵⁷ and Sorabji’s justice model for a Civil Justice Reform Institute. Such a permanent body would bring together management of all functions needed to deliver the required outcomes in different areas of education, data, disputes and learning, recognising that individual contexts require different arrangements.

156 C. Hodges, *Regulation That Works: Transforming the Future of Regulatory Systems* (Hart, 2026); C. Hodges, *Outcome-Based Cooperation: In Communities, Business, Regulation, and Dispute Resolution* (Hart, 2022); *Final Report: Outcome Based Collaborative Regulation Project* (SEPA, HSE and Falkirk Council, 2025); *Open Consultation: Single Construction Regulator Prospectus* (Ministry of Housing, Communities and Local Government, 2025).

157 C. Hodges, *Regulation That Works: Transforming the Future of Regulatory Systems* (Hart, 2026); C. Hodges, *Outcome-Based Cooperation: In Communities, Business, Regulation, and Dispute Resolution* (Hart, 2022). J. Sorabji, *Improving Civil Justice Reform: An Analysis of Major Reviews in England and Wales* (Nuffield Foundation, June 2026); though I would argue this should wider than just civil justice, that would be a good place to start.

4.1 Recommendations

1. Create a governance authority with responsibility for designing, managing and reforming the whole system. This 'Justice Institute' or 'Justice Council' should comprise all stakeholders, basing decisions on adequate data and research.¹⁵⁸
2. Create a single, independent regulator for legal professionals to replace the existing eight frontline regulators,¹⁵⁹ also including other professionals such as Ombudsmen.
3. Create a comprehensive complaints landscape that produces relevant data.
4. Review what changes are needed in relation to each type of dispute and in each major sector in order to create the holistic system of functions. The system should:
 - a. support information and education on what constitutes good behaviour;
 - b. identify problems and be capable of taking positive actions so as to improve behaviour and reduce risk;
 - c. deliver effective protection from multiple and mass harms; and
 - d. innovate through accepting risk but managing it; and thereby
 - e. grow social cohesion and economic growth.
5. Establish a single, uncomplicated portal, readily identifiable to users, behind which individual pathways and techniques are provided as required for particular disputes and their types.
6. For each sector or type of problem, ensure that pathways are user-friendly, cost-effective, strongly digital and usually investigative rather than adversarial, and that they automatically deploy relevant techniques. For example:
 - a. In the NHS, urgently switch from a medical negligence regime to a 'no blame' administrative injury and care scheme – essential in supporting information sharing in an outcomes-focused culture involving constant learning.
 - b. For consumers, establish a single integrated network of consumer ombudsmen, coordinated with (national and local) regulators and support functions, with coverage gaps filled and individual alternative dispute resolution (ADR) schemes upgraded into ombudsmen functions that contribute to an integrated database of relevant information.
 - c. In relation to property and housing, create a simplified, integrated pathway combining tribunals, the county court, ombudsmen and ADR schemes.
 - d. For neighbour disputes, establish a system that delivers local integrated expert support, based on feedback and coordinated local expertise.

158 J. Sorabji, *Improving Civil Justice Reform: An Analysis of Major Reviews in England and Wales* (Nuffield Foundation, June 2026).

159 R. Lloyd, *The Legal Services Board: Independent Public Bodies Review* (Ministry of Justice, 2026).

- e. Families, debt and social issues: a fresh arrangement that starts with integrated support from multiple local and charitable organisations and leads directly to relevant pathways of problem resolution and change.
 - f. Review which victim compensation systems need a 'front door' with personnel trained in mental health and ensure data collected once can be used for multiple subsequent purposes, without re-traumatising victims.
 - i. For employment disputes, create an integrated pathway of ACAS/ombudsman/tribunal plus local experts, that collects and feeds back relevant data to support collaborative workplace culture and behaviour, with an agreed code to resolve disputes in a positive atmosphere.
 - g. Public sector: upgraded public ombudsmen and a fresh solution to investigating facts, reducing the need for huge public inquiries (which operate only in relation to major scandals anyway) and ensuring that appropriate change occurs. Redress processes could be more efficient and less acrimonious through the establishment of a permanent compensation authority.
7. Establish a single database (or linked databases) that maximises the volume of data collected while avoiding the confusion produced by having multiple unconnected pathways, organised within a single national pan-sectoral framework as created by the consumer ombudsmen Belgium.
 8. Appoint trusted data controllers with the ability to analyse and investigate the data, signals and facts. There are particular implications here for endowing public ombudsmen with additional powers and increased accessibility to them.
 9. Establish independent bodies with the authority to instigate or oversee appropriate action that ensures that two categories of responses occur:
 - a. Prospective, or regulatory: ensuring whatever effective changes are necessary to stop and prevent harm are taken. Some of the responses may be formal enforcement actions, others may support changes of various types, such as involving education or behavioural changes.
 - b. Retrospective: repair, redress, compensation.
- A major example is in the public sector: there is a need for a performance of functions overseeing the operation of the system and ensuring that change occurs, equivalent to an independent regulator in private sectors: absent this, more disasters in the public sector will inevitably occur.
10. Ensure coordinated delivery of support services, differentiated from but alongside traditional enforcement, such as multi-disciplinary problem-solving forums and local support networks for e.g. SMEs and the housing sector.

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