

Judicial Transparency and Communication

Lord Reed of Allermuir

I am honoured to have been invited to address you. I know that this year – indeed, this month – is the 80th anniversary of the establishment of the Supreme Court of Montenegro. This is a time to celebrate its success and its achievements, and also a time to reflect on how our society has changed over that period and is continuing to develop, and on how the Montegrin Supreme Court, and other courts, should respond to those changes. I have very much in mind the efforts being made to strengthen judicial independence, efficiency and public trust which I understand are being undertaken.

I have been asked to speak about transparency and communication. I want to begin with two fundamental questions. First, what do we mean when we talk about transparency in relation to courts? I would suggest that it means that the court and its work are open and visible to the public. In today's society, that requires more than just allowing public access into court buildings, although that is a part of it. It also means making the work of the court accessible to the public, and having effective means of communication between the court and the public.

My second question is even more fundamental: why does transparency matter? There are a number of reasons, but I would emphasise one in particular. If you ask why the public accept decisions made by the judiciary, the answer, I would suggest, depends on confidence or trust. And trust depends on openness and effective communication with all parts of the community we serve. In the UK, a recent study found that public trust in the Supreme Court is closely connected to knowledge about its work; and public knowledge depends on transparency and communication.

So, considering transparency first, in the UK we normally have oral hearings in all cases, and they normally take place in public. Members of the public are encouraged to step inside the Supreme Court to watch our hearings and tour our court rooms. We are to some extent a visitor attraction. We have around 100,000 visitors a year, and our court rooms are usually busy with visitors. We have an exhibition area, where visitors can learn

more about the court and its case law, and a public café. We also hold open days when more of the building is open to the public. We bear in mind that accessibility includes accessibility to children, and to people with special needs. For example, we hold tours for people with hearing problems, using sign language.

In addition, in the Supreme Court and the Court of Appeal, hearings are live streamed online, subject to a short delay in case anything confidential is accidentally mentioned. They are also made available afterwards on the court's website and on YouTube.¹ The Supreme Court also live streams the delivery of judgments, when the judge who has written the lead judgment gives a short explanation to camera of the court's decision in accessible language. During the last financial year, around 750,000 viewers watched our cases and judgments on our website, and footage was also used on television and on media websites, under contractual terms set by the court in order to prevent misuse.²

This has been a great help in our most controversial cases. For example, in a case concerned with a challenge to the way the government was proceeding with the UK's withdrawal from the European Union, highlights of the hearing were shown on the television news, and were analysed by experts in much the same way as football matches, with replays of the most important moments. When we gave our judgment recently in a controversial case concerned with issues of gender, footage of the delivery of the judgment was shown on the television news. This helped to improve public understanding of what the court was deciding, and to raise the level of confidence that the judges were focused on issues of law and not on controversial political questions.

Televising hearings requires some thought where jurisdictions have a primarily written procedure. For example, in 2023 the French Cour de Cassation decided there was a need to be more transparent, and started to broadcast its hearings. However, the judges of that court were not accustomed to participating in the hearing and sat in silence during the advocates' oral arguments. I have been told that the court then came under some criticism as members of the public gained the impression that the judges were not engaged in the issues that were the subject of the hearings. Careful consideration should

¹ See [UK Supreme Court - YouTube](#) and [Court of Appeal - Civil Division - Court 71 - YouTube](#).

² [The Supreme Court and Judicial Committee of the Privy Council – Annual Report and Accounts 2023–2024](#).

therefore be given to how oral proceedings might be conducted if they are to be broadcast. One possibility is to follow the approach adopted by the European Court of Human Rights, where Grand Chamber hearings are live streamed. In those proceedings, the advocates present their arguments without interruption from the judges. However, at the end of their oral argument the judges then pose questions, after which the advocates are given time to consult with their legal team before providing responses.

We have also adopted the practice, in some controversial cases, of making the most important case papers available through our website, unless publication should be withheld for reasons such as commercial confidentiality or national security, so that they can be viewed alongside the live stream of the hearing.

Considering communication next, most people draw their knowledge of the judiciary and their opinions about the courts from the media, but media coverage of the judiciary is not always accurate or well-informed. To address that problem, the UK Supreme Court employs an expert communications team and uses a number of means to inform the public about our work. We recognise that the court operates in a media environment in which journalists and bloggers are expected to provide an instant response to our decisions. So members of the communications team work with the journalists who cover our work to help them to report it accurately. Where a judgment is likely to attract media interest, they allow journalists to see the judgment and the press summary an hour before they are made public, on a confidential basis. We do not do this in the most sensitive cases, or where prior knowledge of the judgment could be abused. But the confidentiality of the briefing is enforced by our law of contempt of court, and has never been breached.

The communications team also work with the judges to help them to communicate with the public, especially in the summaries that are delivered in court and live streamed on the internet when decisions are announced, excerpts from which may appear on the television news. They help us to ensure, for example, that the language we use in our summaries is understandable by members of the public and, in cases which will be reported in the media, that there is a short sentence or two in our summary which can be played or quoted in the reports, and which explains the essence of our decision.

They also maintain our social media accounts, with X, Instagram and LinkedIn, which have about 400,000 followers.

We also try to connect with the general public through our education and outreach work. For example, we have established a scheme which gives pupils at schools across the UK, aged about 16 or 17, the opportunity to take part in a live question and answer session with a judge of the Supreme Court from their classroom, via the internet. This has proved to be very popular with schools, and it enables the court to make direct contact with ordinary young people in a positive way. I also give occasional media interviews, including interviews for social media podcasts, when I try to explain our work in ways that the public can understand. We also organise an online course on the Supreme Court in partnership with one of our universities.³ About 5000 members of the public have enrolled.

In the context of the UK, it has also been important for the Supreme Court to try to improve understanding in Parliament and in the government of the constitutional role of the courts. With the support of the Speaker of the House of Commons, the Supreme Court has engaged directly with all new Members of Parliament since our general election last year, providing each of them with materials explaining the rule of law and the constitutional role of the courts, taking part in question and answer sessions with Members of Parliament in private meetings, and encouraging them to visit the court and to meet justices and staff. We regard it as important to help politicians to understand the role of the courts, so that they support judicial independence and understand when we decide cases against the government, as sometimes happens.

In the context of the UK, it is also possible for the court to engage with the government in ways that encourage respect for judicial independence. There is generally a good understanding on both sides of the separation of powers. It has proved to be possible, in a context of mutual respect, to find ways of cooperating on projects of law reform and to encourage a sense that protecting the rule of law is a shared responsibility.

We also have an active programme to demonstrate that we are inclusive to all parts of our population, including ethnic and religious minorities. So, we host visits from

³ www.futurelearn.com/courses/inside-the-supreme-court

organisations supporting talented members of minority groups, and we offer internships at the court to young lawyers from disadvantaged backgrounds.

In conclusion, we all need to work to maintain public trust in the administration of justice. I am grateful that we can share ideas and learn from each other as we work to safeguard the rule of law, for the benefit of both our societies.