

Legal participation for litigants in person



Litigants in person in Northern Ireland: barriers to legal participation

Gráinne McKeever, Lucy Royal-Dawson, Eleanor Kirk and John McCord



Executive Summary

Using human-centred design to develop empathy and supports for litigants in person

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The ten descriptors of legal participation – a Q methods study

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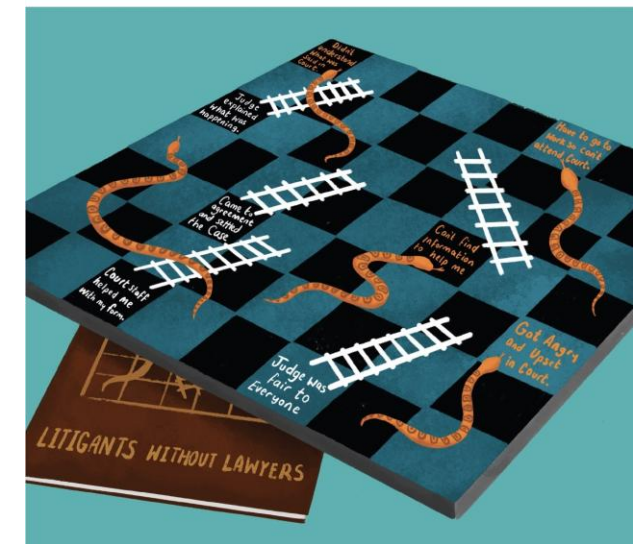
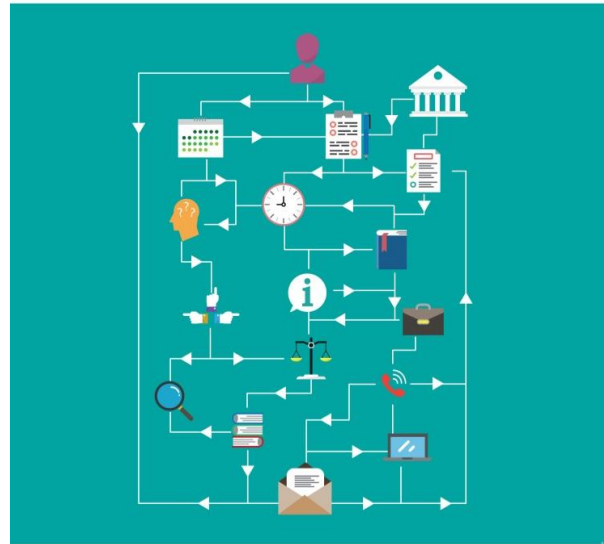


Policy Briefing

Litigants in Person in Civil and Family Courts in Northern Ireland

Overview of research & policy developments

Gráinne McKeever, Lucy Royal-Dawson, John McCord



Developing supports for Litigants in Person through Human-Centred Design

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www.ulster.ac.uk/litigantsinperson

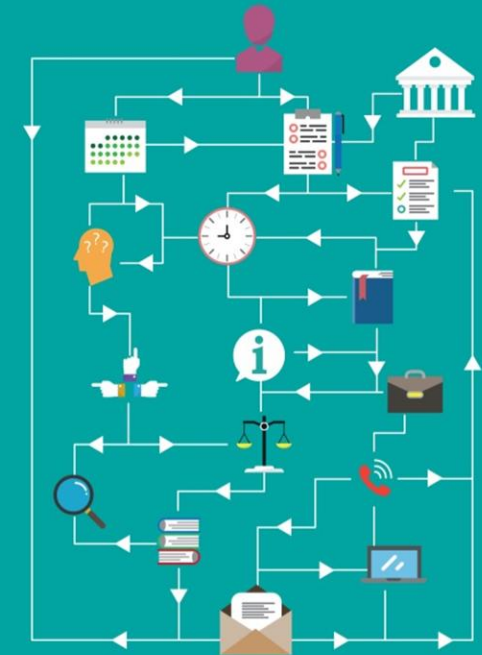


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COMMISSION



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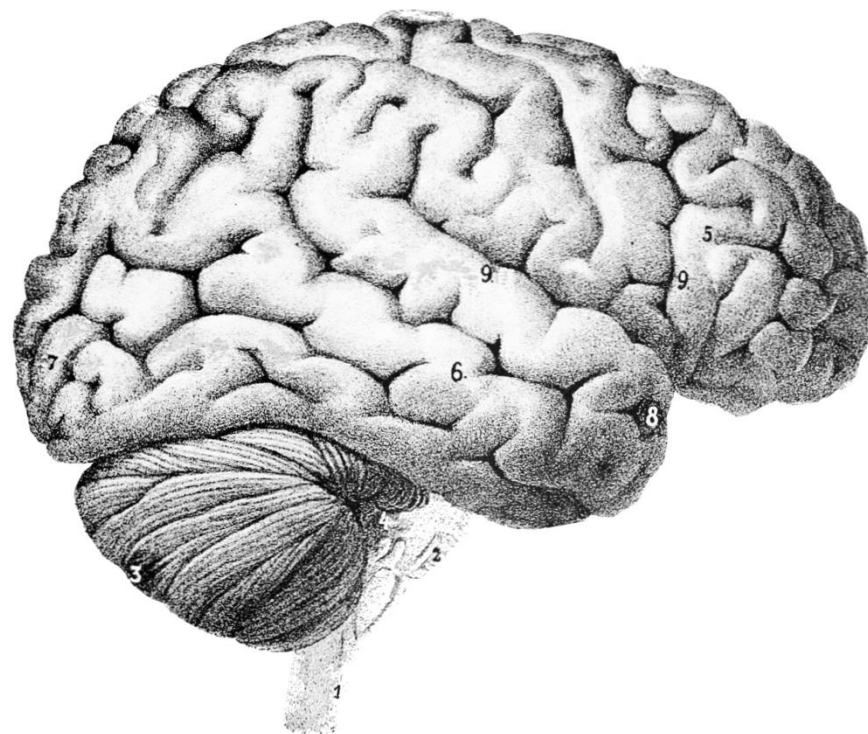


Participative barriers

1. Intellectual
2. Practical
3. Emotional
4. Attitudinal



Intellectual



- How dispute resolution process works, what is required and how to progress disputes
- What information decision makers require
- Understanding the decisions
- Awareness of legal issue under dispute

Practical



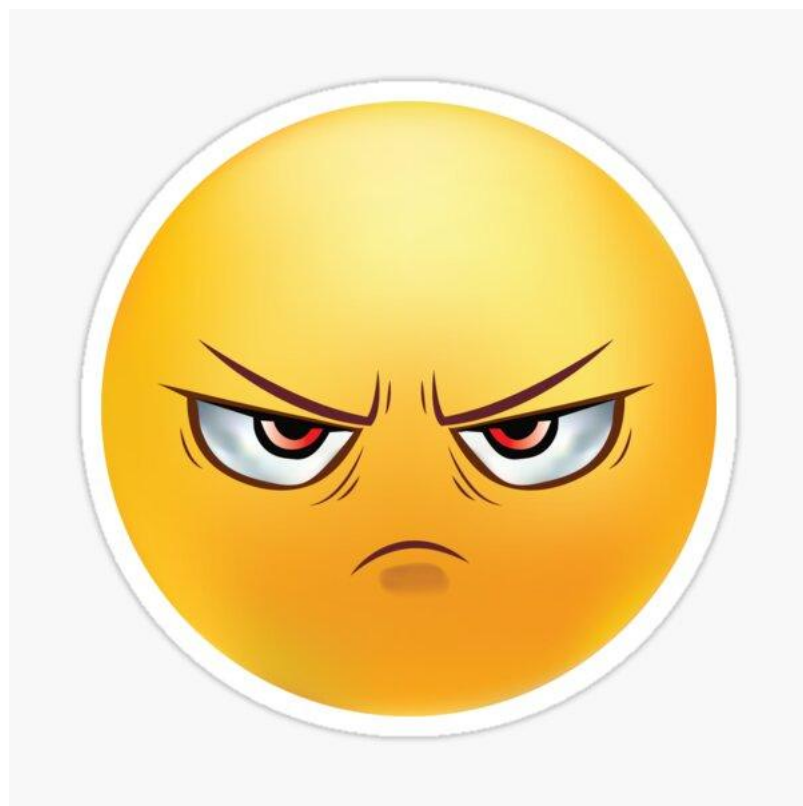
- Knowing where to get help and advice
- Accessing legal/specialist support – inequality of arms
- Securing independent evidence

Emotional

- Critical issue at stake
- Disputes generate significant (negative) emotions
- Support can alleviate anxieties and instill confidence



Attitudinal

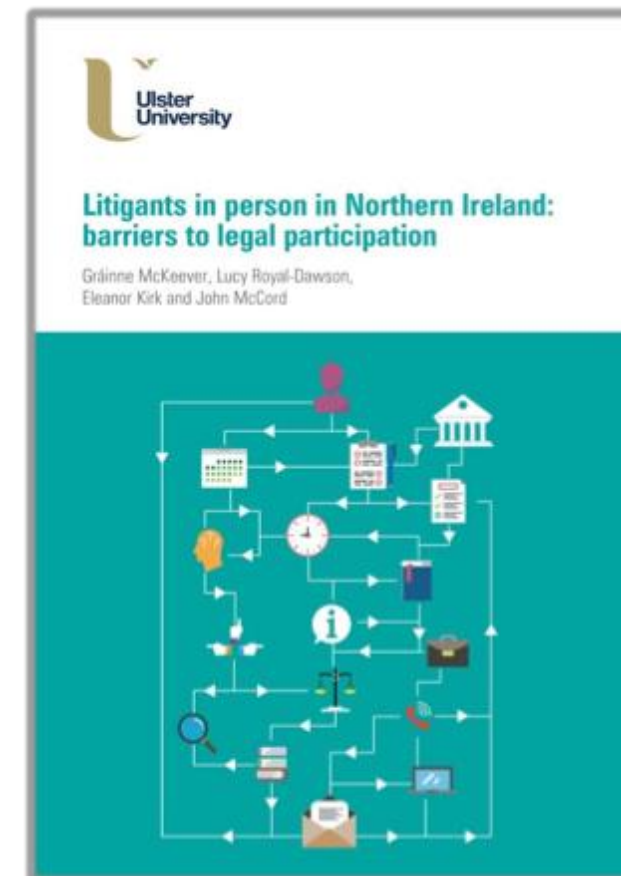


- Cultural entrenchment - court actors adopt negative attitude to LIPs & assume difficult to deal with
- LIPs adopt negative attitude to court actors
- Each see the system as one that is being held back by the demands to accommodate the other.

Recommendations from LIPNI 1

Cultural change: future reforms should be inclusive of multiple perspectives, including court users who should be facilitated to contribute to the re-orientation and development

Changes to the system, including information & materials, should be developed as a co-production between LIPs, NICTS, the judiciary and the legal profession to maximise coherence, relevance and effectiveness

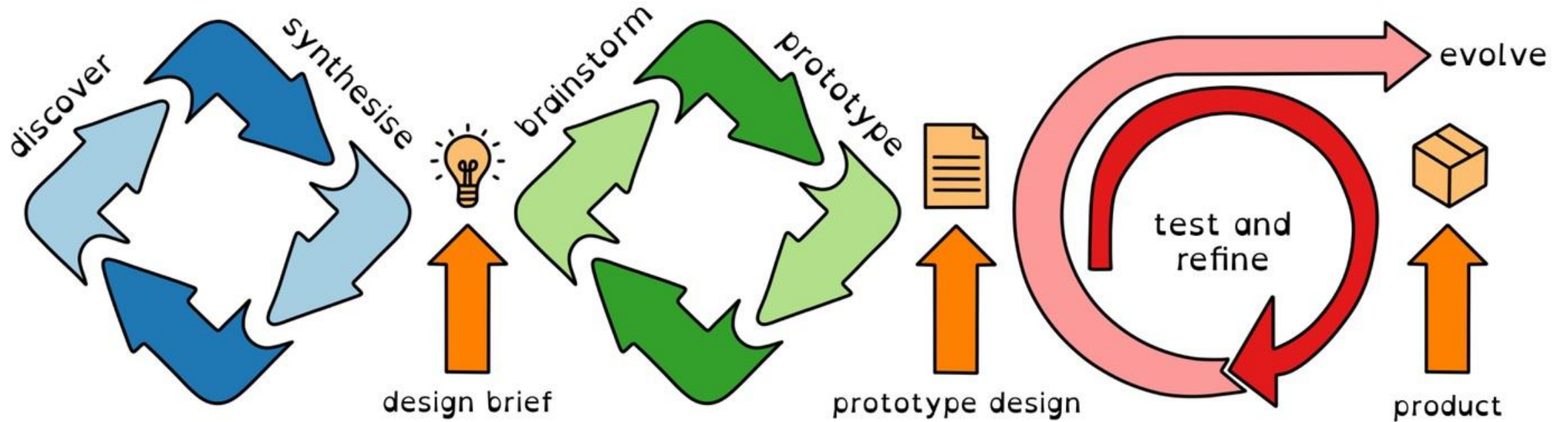


Human centred design

- **Hypothesis:** creating support materials for LIPs through a co-productive process, which centres the LIP as the user, has the potential to develop a foundation for cultural change
- **Methodology:** human-centred design



Design process



Design brief: personas

- Descriptions of fictitious users (LIPs) which represent real experience and behaviour.
- Enable participants to focus on a common user journey.
- Equalises the status between participants and removes links to actual individuals



Tomass



About

- Age: 32
- Nationality: Latvian
- Lives: Omagh, Co. Tyrone
- Occupation: Radiology technician, Omagh Hospital
- Education: Tertiary level qualification in radiology in Riga.
- Marital status: Divorced with one son, Hugo (6)
- Finances: Doesn't own a car, salary covers living expenses, saves a little
- Personality: Adventurous, out-going, likes to party
- Living situation: Rents a two-bedroomed house in Omagh
- Litigant status: Previously represented in ancillary relief and contact proceedings

Goals

- To work fewer hours so he can see more of Hugo.
- To improve his English.
- When Hugo is 18, to return to Latvia to buy a house.

It was hard to see why we need to go to court every few weeks. My solicitor said this is normal. I didn't have to go every time, but it was difficult for me to know what was happening, as well as with Orla because her lawyer kept blaming me for the delay. At the end I owed the same money to my solicitor as to Orla.

Tomass's story

Tomass and his ex-wife, Orla, divorced two years ago. Both parties were represented by lawyers, but Tomass thought that his lawyer was not very good and the case took too long.

Parties agreed and the court ordered that Hugo, their son, would live with Orla. Tomass has a contact order that allows him to see Hugo three times in every two weeks, including one night when Hugo can stay at his house in Omagh.

One year ago, Orla and Hugo moved to Moira (50 miles away). Tomass's shift work at the hospital and not having a car have prevented Tomass from seeing Hugo for a year.

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1

Tomass's litigant journey

Tomass receives a summons to the Family Proceedings Court

Orla has applied to court for an order to cancel Tomass's contact order.

Tomass gets a letter telling him to come to the Family Proceedings Court at Laganaside Courts, 70 miles from where Tomass lives.

Tomass has decided he cannot afford legal representation.

He struggles to find anything online relevant to his case because he isn't sure what he is looking for. He assumes the application is to make him have contact with Hugo because he hasn't seen him for a long time.

It has been hard not being able to see Hugo. He is too young to understand why I don't visit. I'm worried he will forget me. I want enough free time to see him every week.

2

Court hearing #1, February 2019

Tomass gets an early bus to Belfast and gets to the courthouse on time. He waits for two hours in the waiting room.

Orla's barrister asks him if he is happy to discharge the contact arrangements.

Tomass says he is as he assumes he is being asked to comply with the existing contact order and doesn't understand the implications of discharging the order.

In court, the judge asks Tomass whether he intends to get a lawyer and if he understands English well enough. Tomass says his English is good. The judge asks him for his views on the application. Tomass tries to explain to the judge why transport and work commitments have made it hard for him to see Hugo, but he could not make himself clear.

The judge explains that discharging the contact order will mean that Tomass no longer has the protection of the court but Tomass doesn't understand 'protection of the court.' After some careful questioning, the judge asks Tomass whether he was happy to discharge the contact order, and Tomass says, 'It is OK.'

The judge asks the Court Children's Officer (CCO) to speak to Tomass and Orla, and a new court date is set for April.

Four weeks later Tomass tells the CCO that he wants to see his son, but it is difficult because of the travel and his work schedule

3

Court hearing #2, April 2019

Tomass waits two and half hours for his hearing. He is getting hungry but dares not leave in case he is called while in the café.

The judge asks for the CCO's report which states that Tomass wants to see Hugo and wants to try harder, that Hugo is happy about seeing his dad and that Orla would like contact to take place in a contact centre in case Hugo is nervous about being with his dad.

The judge checks if Orla's barrister and Tomass agree to weekly contact in a contact centre. Both say yes but Tomass does not know what a contact centre is.

The judge asks Orla's barrister to draw up the contact order and the CCO to make sure Tomass understands it. A new court date for a review hearing is set for June.

Outside Tomass tells the CCO it will be difficult for him to attend the contact centre in Moira every week.

I got a letter about the court date for the first time but no letter came for the second time.

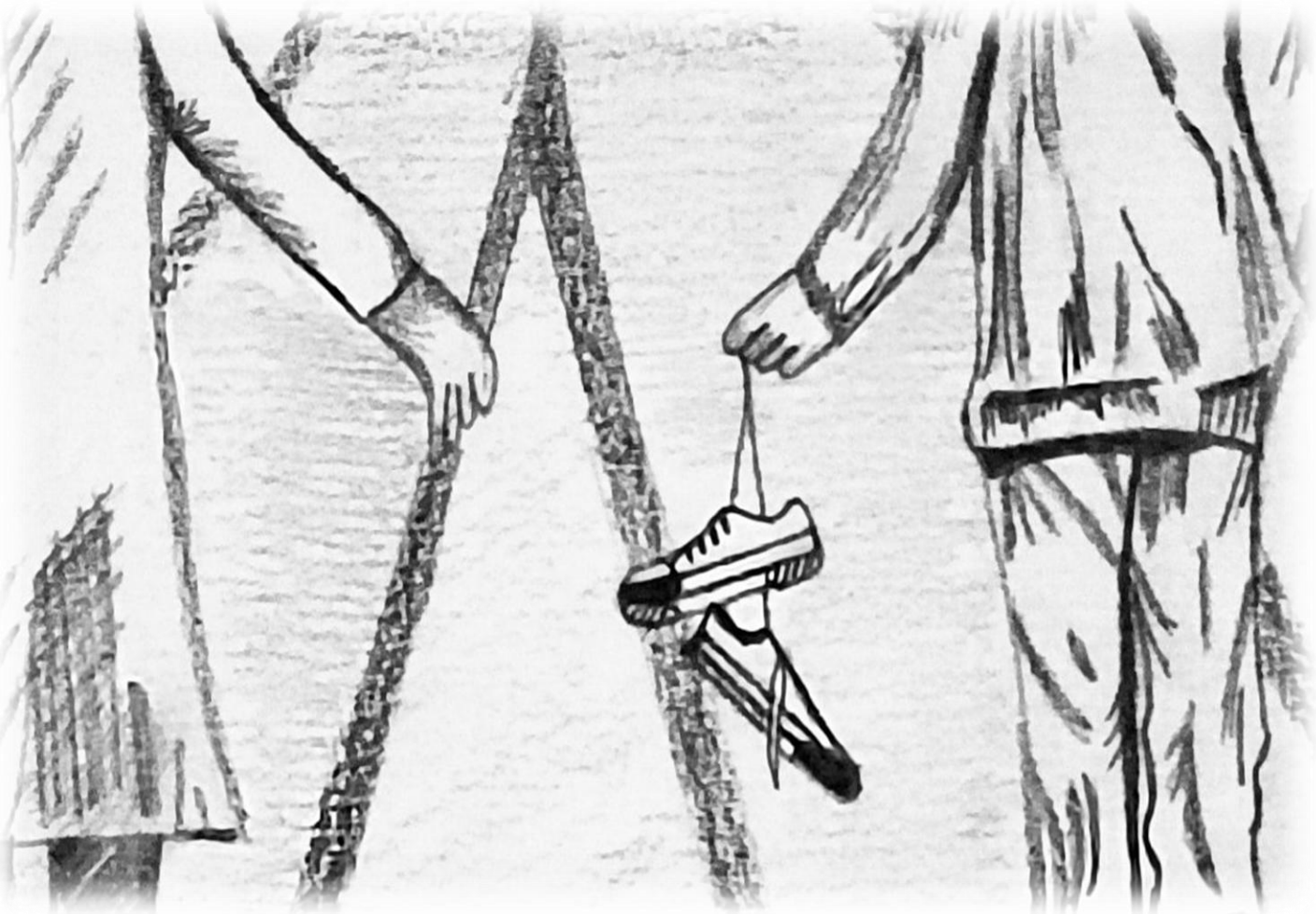
Court hearing #3, June 2019

Tomass does not attend.

The judge sets a date for a new hearing for July.

4

Walking in their shoes



- Mapping the litigation journey
- Identifying pain points to trigger ideas about solutions
- Generating ideas for solutions
- Converge by criteria of impact / ease of implementation
- Selecting and prototype ideas

UNONE

Pain Point

Too Many lawyers
Where do I go?
What is happening?
How long do I have to wait?



How can we help
Don prepare in
advance?

Confused

1st Court appearance (2014)

1st Court appearance (2014)

1st Court appearance (2014)

1st Court appearance (2014)

Lack of
Information
Process

Where do I go?

Ready for District Attorney
Court appearance

Court appearance 2

Are there
systemic issues?

Systemic issues

Systemic issues

Systemic issues

1st Court appearance (2014)

1st Court appearance (2014)

How can we support
them to manage
multiple cases

How do we help them
understand the process
and consequences?

How do we help them
understand the
document review process?

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Additional notes and sticky notes on the right side of the whiteboard.

HIGH IMPACT

EASY →

LOW IMPACT ↓

A virtual reality friend who supports you at court attendance

Interactive app - Communication app through court process

Value engineering - making things better

Deliberative - making things better

Virtual A-force

Employer legally obliged to allow time off work to attend court

Support Officer 1:1 = motivation On-going support from counsellor

A free advice line A person speaks to before going to court

Before trying to cases at trial - to pick up lawyers to participate

Case notes a big sign (or equivalent) that says "Here to help personal litigants"

in one last breath to examine papers

Interpreter allocated

Information that is given out early - understand what happens

Simple explanation - what's the problem? How long will it take? How long will it take to get a decision?

How to explain things that explain why things are in real English

Arrange transport to help someone get to court

Entered into Parenting Programme - implications of father's decision

Breaks set at court - how can court be held in a way for low budget

Court became hearing process where lawyers banned

Easy to read leaflets

Automatically allocated mediator

Improved training for court clerks that help needs using personas (based on lived experience)

A process map - flow of decisions (Case Tracker)

Judgments made outside of court, in local library or community centre

Let the all the court actors particularly the judge see on video the case on video with the child or children

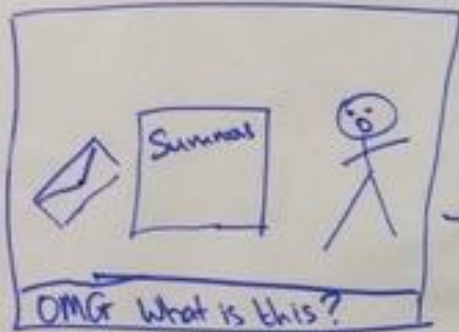
Some judge hearing to see wherever possible

Some judge & some CWO

Meet Judge before case - at allocation stage

A pre-meeting outside of court with all officials including the judge

Assessed by psychologist



OMG What is this?
Read it + action



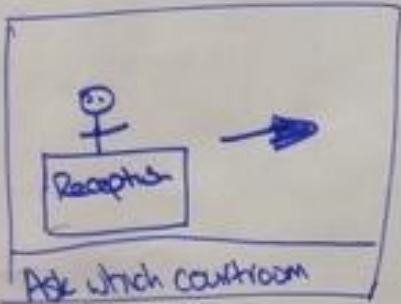
Where can I get help



Research - Contact Court + tell them you are a LIP



Dress code + language



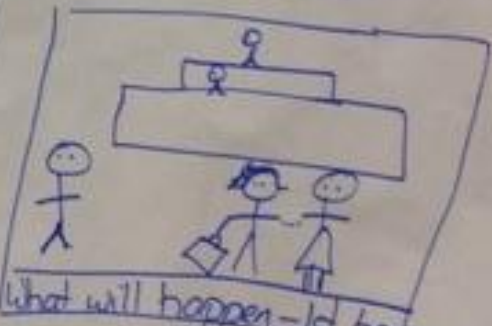
Ask which courtroom



Tell someone you are there



Be prepared to wait



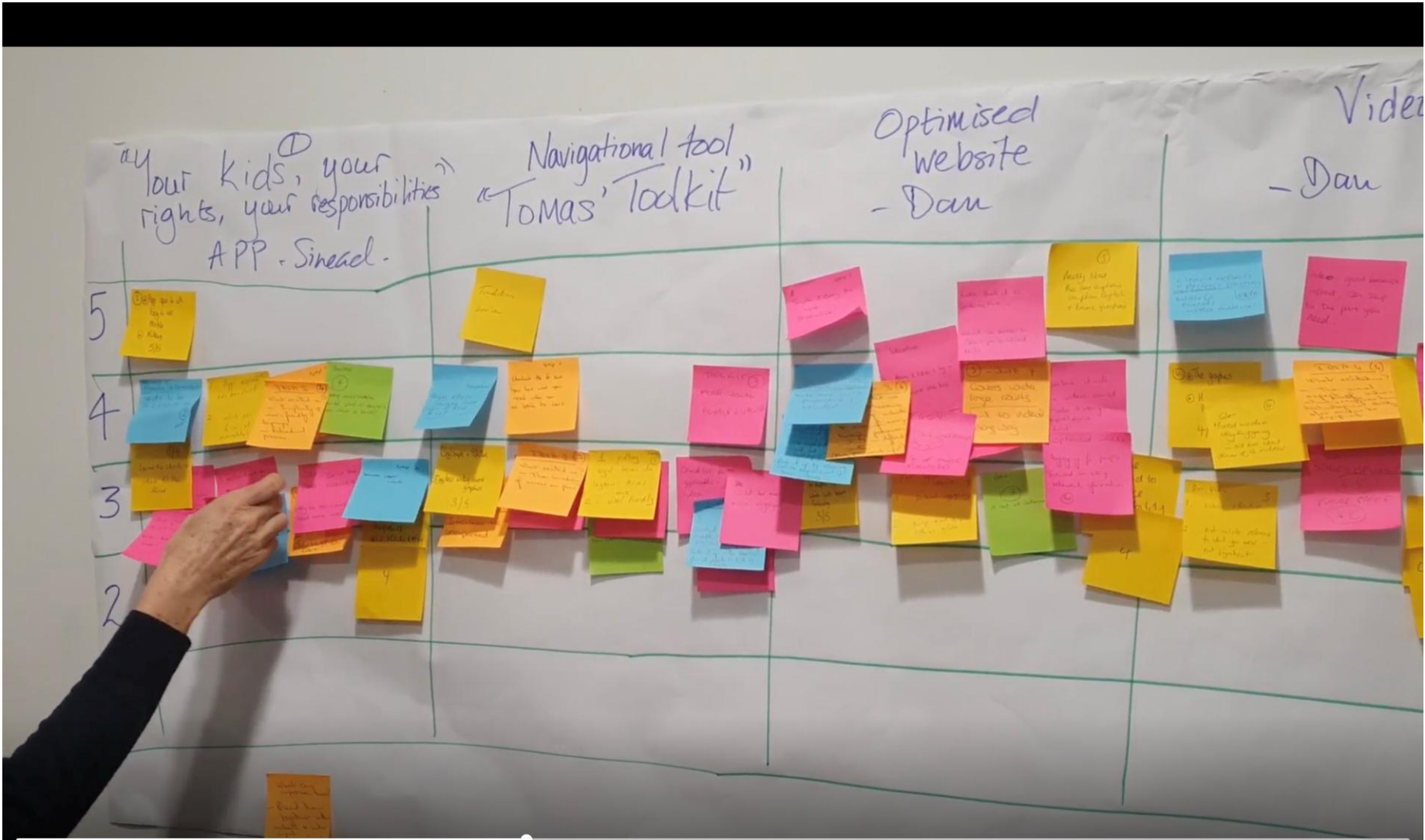
What will happen - let hearing

- | | | |
|-------------|--------------|----------------------------|
| ○ - Judge | ○ - COO | ○ - witness |
| ○ - Counsel | ○ - Clerk | ○ - applicant / other side |
| ○ - LIP | ○ - Security | |
- Who's who + what do they do



Adjourn - what now?

Selecting the designs



www.ulster.ac.uk/familycourtinfo

Ulster University | Family court info

Search Family court information for Northern Ireland

ALTERNATIVES TO COURT | GOING TO COURT | PATHFINDER TOOL | LEGAL JARGON BUSTER | FORMS & LINKS | GET INVOLVED

Family Court Information for Northern Ireland

Web resource for making arrangements for children when parents are no longer together.

UU Home | Global students | Staff Links | Students | Portal | Staff | News | Events

Ulster University | Family court info

Search Family court information for Northern Ireland

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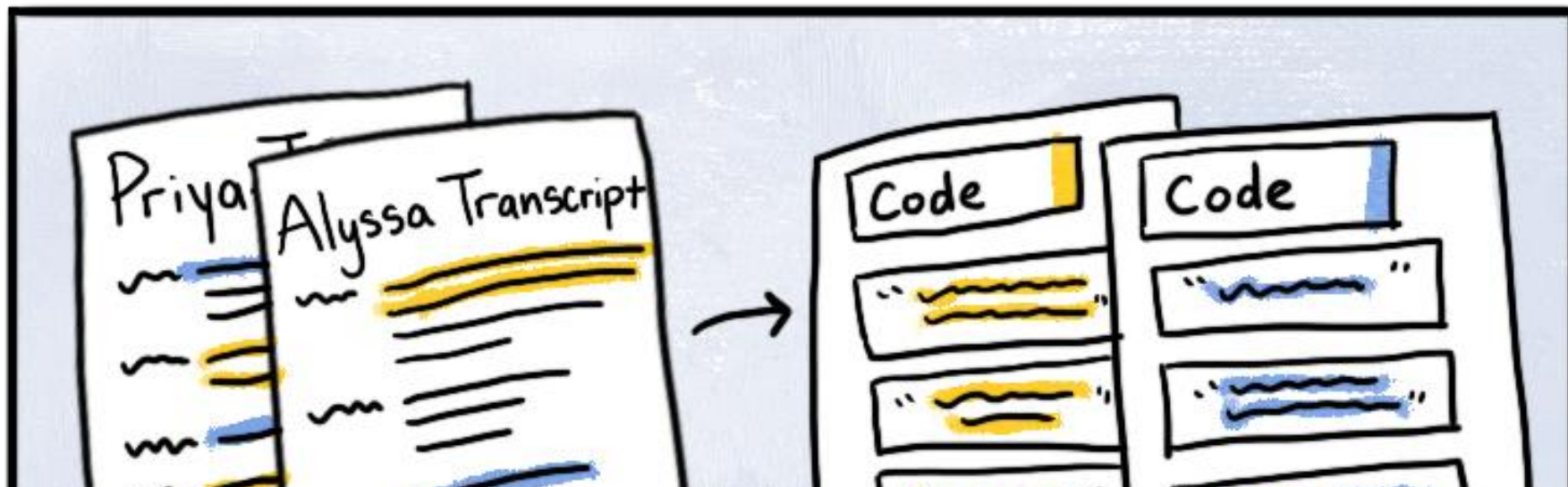
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Pathfinder tool

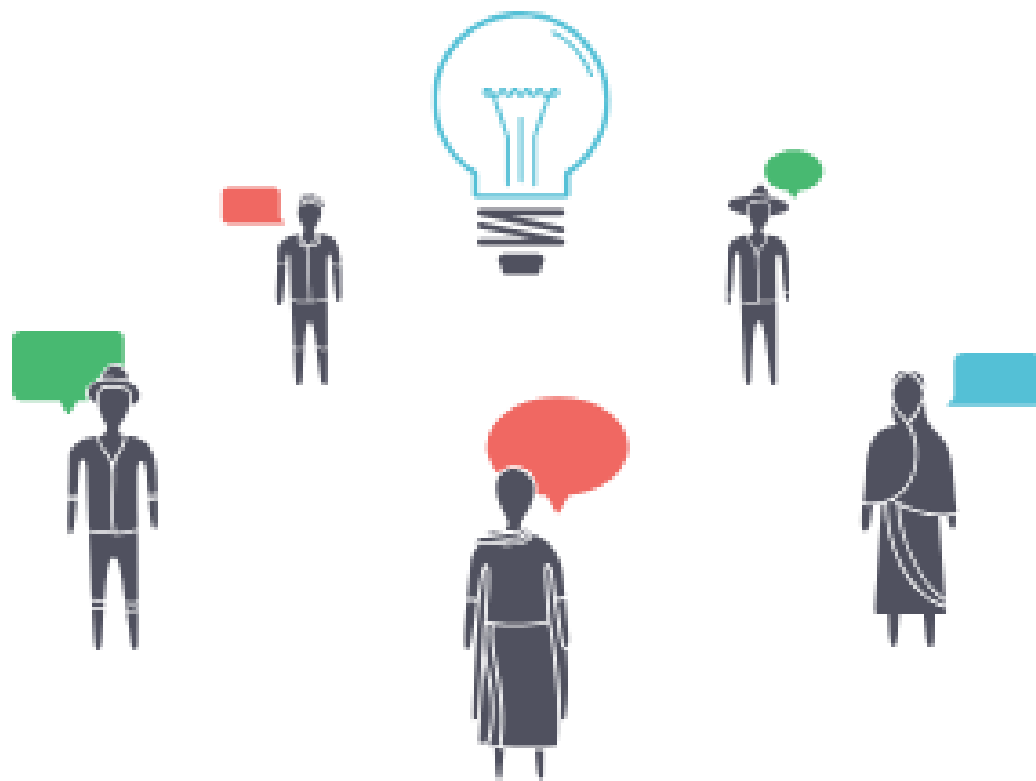
Use this tool to find out what you can do given your current situation.

Data

- Reflective diaries by design group to collect quali data, with reflections prompted by Qs on expectations & experience of working in a group of diverse stakeholders
- 1-2-1 'think aloud' sessions, interacting with the support tools, capturing specific reflections on process
- Coded in NVivo and analysed thematically



Findings



Exposure to different perspectives from Design Group members was critical in challenging thinking and developing understanding and empathy.

Caveat: Design Group members were pre-disposed to wanting change & improvement

Walking in the persona's shoes

Scepticism at idea of 'walking in the shoes' replaced by explicit acknowledgment of the value of being immersed in the persona's perspective:

- Seeing how different people viewed the same scenario from different perspectives
- Being forced to step out of their own "insularity" & group thinking
- Complacency replaced by horror at how far-removed system perspective/procedures are from service users



Commitment to the process



- Intimidating initially because of range/depth of knowledge held by others but clear that there was a genuine interest in feedback from everyone:
- *“Always felt an outsider in proceedings but felt part of the HCD process.”* (LIP)
- Clear evidence of commitment, positivity, energy, hopefulness.

Finding solutions

Inspired by being able to influence the thinking on problems/solutions.

Inspired by the ability to break down a huge task to get through it.

Cross-fertilisation of ideas, working from the persona's perspective.

No hierarchy of ideas, helping maintain equal status between members.

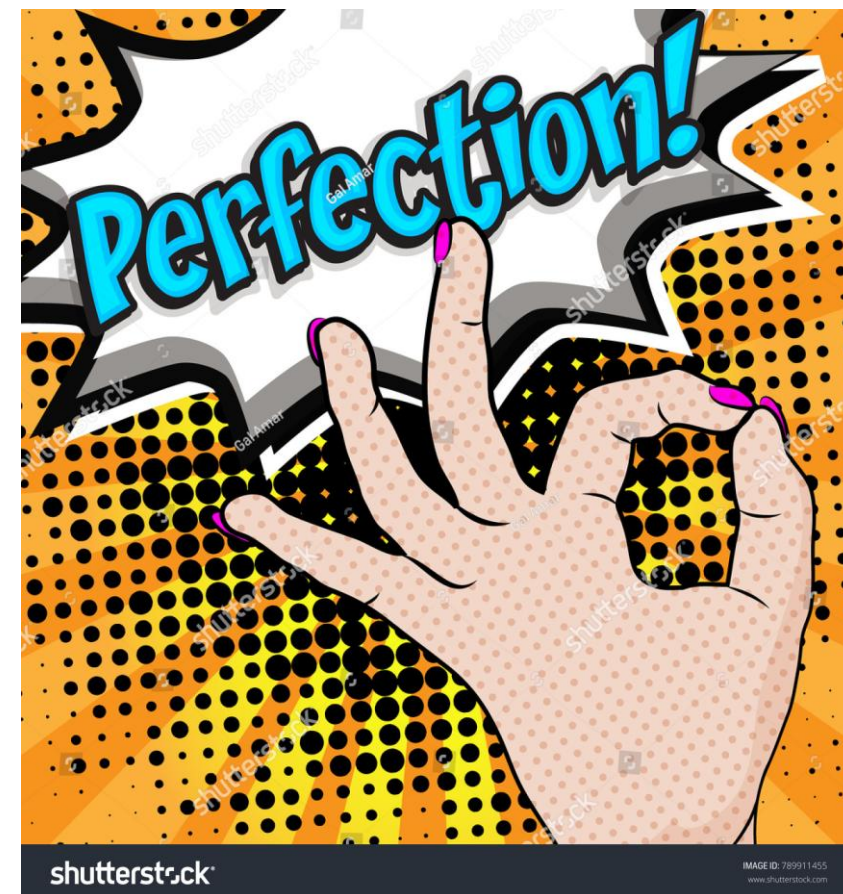


The right design

Clear benefits in making sure we got the right design:

- *“it’s nigh on perfect in terms of what we thought we would get and it’s much more evolved ...”* (Departmental official)

Seeing the potential to use HCD to develop services/programmes in participants’ areas of expertise

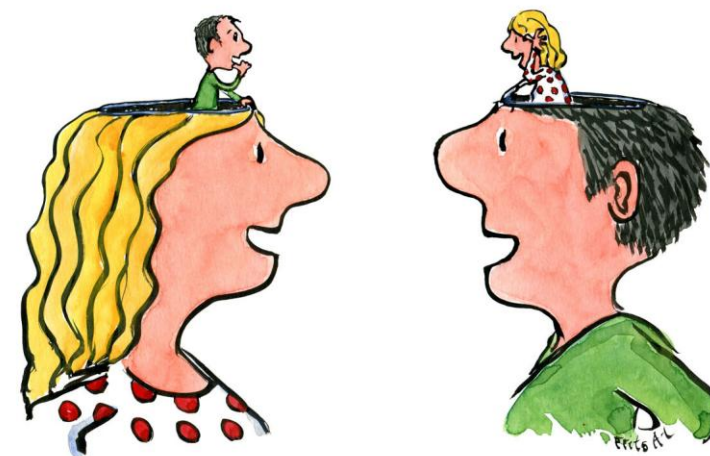


Changing perspectives

Potential for conflicting views/experiences acknowledged from outset – healthy degree of scepticism and honesty helped forge consensus

Self-reported cognitive or affective shifts in perspective:

- “[Persona] has changed my perspective, ie made me think about their motivations ... I have been periodically thinking about them during the week and ways the situation could be improved.” (Departmental official)
- “Learning about family court changed my view on issues I realised I had quite a fixed view on beforehand.” (LIP)



Conclusion

Empathy the main outcome –

Participants reflected on the ‘humanity’, the generosity and the commitment evident within the group.

Ultimately, both process and product endorsed:

“The case has been proved, definitely we can learn from it.” (Departmental official)



HCD in practice



You are warmly invited to the
**LAUNCH OF THE
LITIGANTS
IN PERSON
CHARTER**

 **Tuesday 18 March 2025, 4.30pm**
Location: Law Society House, Belfast
RSVP: ann.mcmahon@lawsoc-ni.org

- Truncated HCD process with the Law Society (NI), LIPs and stakeholders
- Charter for Effective Participation and Communication between Solicitors and Litigants in Person in Northern Ireland
- Launch & evaluation to follow

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