

**Written evidence submitted by Professor Dr Royston Flude FRSA FRSM FRGS (OPJ0046)**

- How the media's coverage of courts has changed, and what the implications are for open justice;
- What barriers there are to the media obtaining information from the courts;
- What could be done to make information on court cases more transparent and accessible;
- The implications of social media for court reporting and open justice; and
- The effect of court reform and remote hearings on open justice.

“Justice must not only be done, but must also be seen to be done”.

Lord Hewart, the then Lord Chief Justice of England in the case of Rex v. Sussex Justices, [1924].

## Ministry of Justice (MoJ) Overview

- courts and tribunals in partnership with the independent judiciary
- prisons
- probation
- a range of services to help victims of crime, children, vulnerable people, and those seeking access to justice

### Criminal Justice System

#### **Impact minority communities**

- Whole generations condemned to a vicious cycle of incarcerations.
- Also aggravates social economic and racial inequalities
- Disastrous Mental Health consequences over multiple generations

### **Sir Keir Starmer (Former Chief Prosecutor)**

- The justice system in England and Wales “is not fit for purpose for victims”
- “The more vulnerable you are as a victim, the less able the criminal justice system is to protect you”

### Court Case Nodes

Judge  
Prosecutor  
Council defense  
Admin  
Other

## STATISTICS (2020/21)

### UK MINISTRY OF JUSTICE BUDGET

9.15bn GBP

### NUMBER OF NEW CROWN COURT CASES IN ENGLAND AND WALES Q3 2021

23,261

### AVERAGE TIME FROM OFFENCE TO CROWN COURT CONCLUSION IN ENGLAND AND WALES Q3 2021

708 days

### NUMBER OF NEW MAGISTRATE COURT CASES IN ENGLAND AND WALES Q3 2021

285,241

### NUMBER OF NEW FAMILY COURT CASES IN ENGLAND AND WALES Q3 2021

224,902

### NUMBER OF ADOPTIONS IN ENGLAND AND WALES 2021

45,000

### LEGAL SERVICES SECTOR TURNOVER

36.8bn GBP

### EXPORTS OF LEGAL SERVICES

7bn GBP

### IMPORTS OF LEGAL SERVICES

1.1bn GBP

### PRISON PLACE

44.6 thousands GBP per year

### POLICE & CRIME

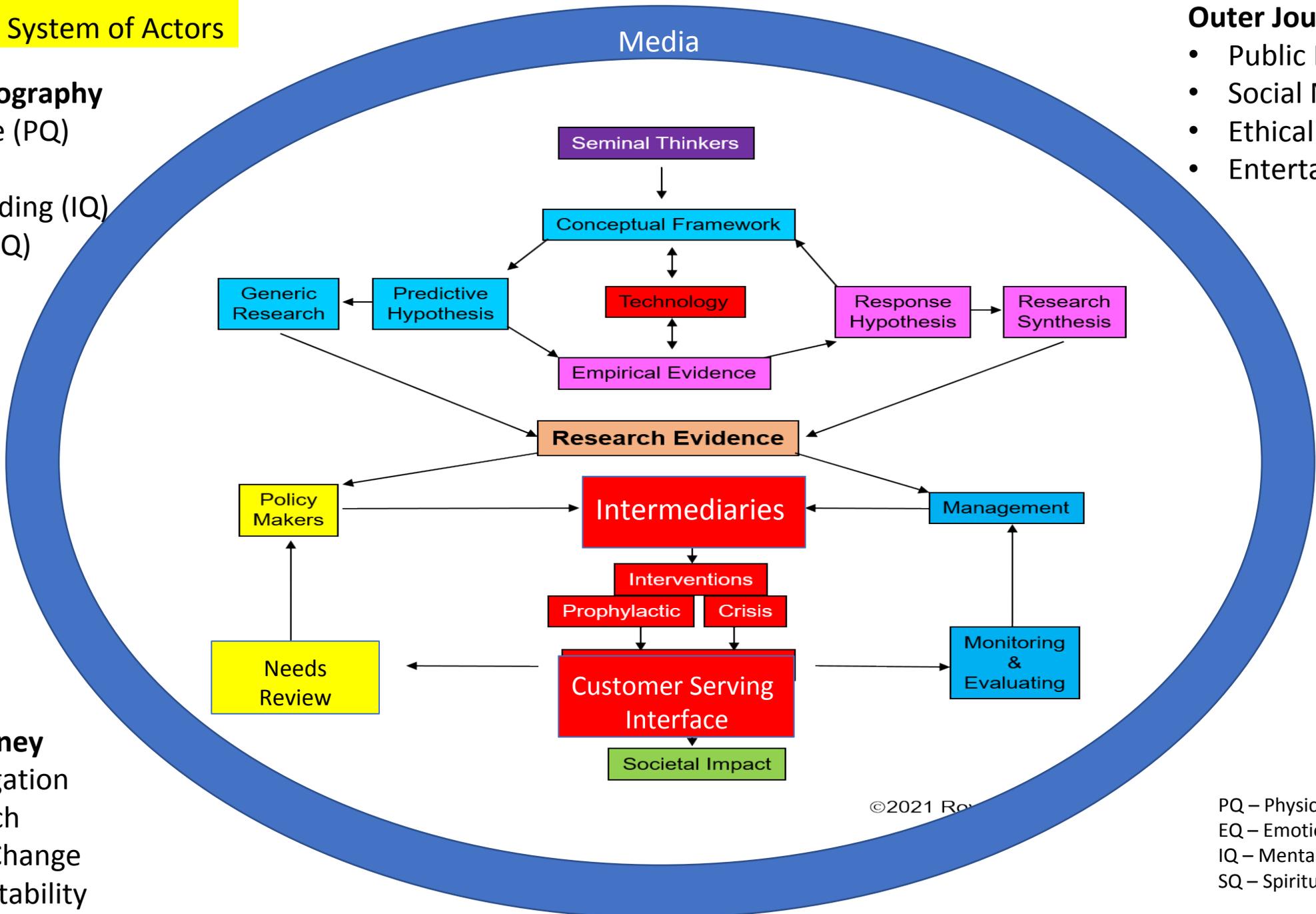
8 bn GBP per year

For 533,404 New Cases  
Say 2.7 million nodes

**A Complex System of Actors**

**Human Geography**

- Knowledge (PQ)
- Joy (EQ)
- Understanding (IQ)
- Wisdom (SQ)



**Outer Journey**

- Public Interest
- Social Movements
- Ethical challenges
- Entertainment

**Inner Journey**

- Investigation
- Research
- Policy Change
- Accountability

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PQ – Physical Intelligence  
 EQ – Emotional Intelligence  
 IQ – Mental Intelligence  
 SQ – Spiritual Intelligence

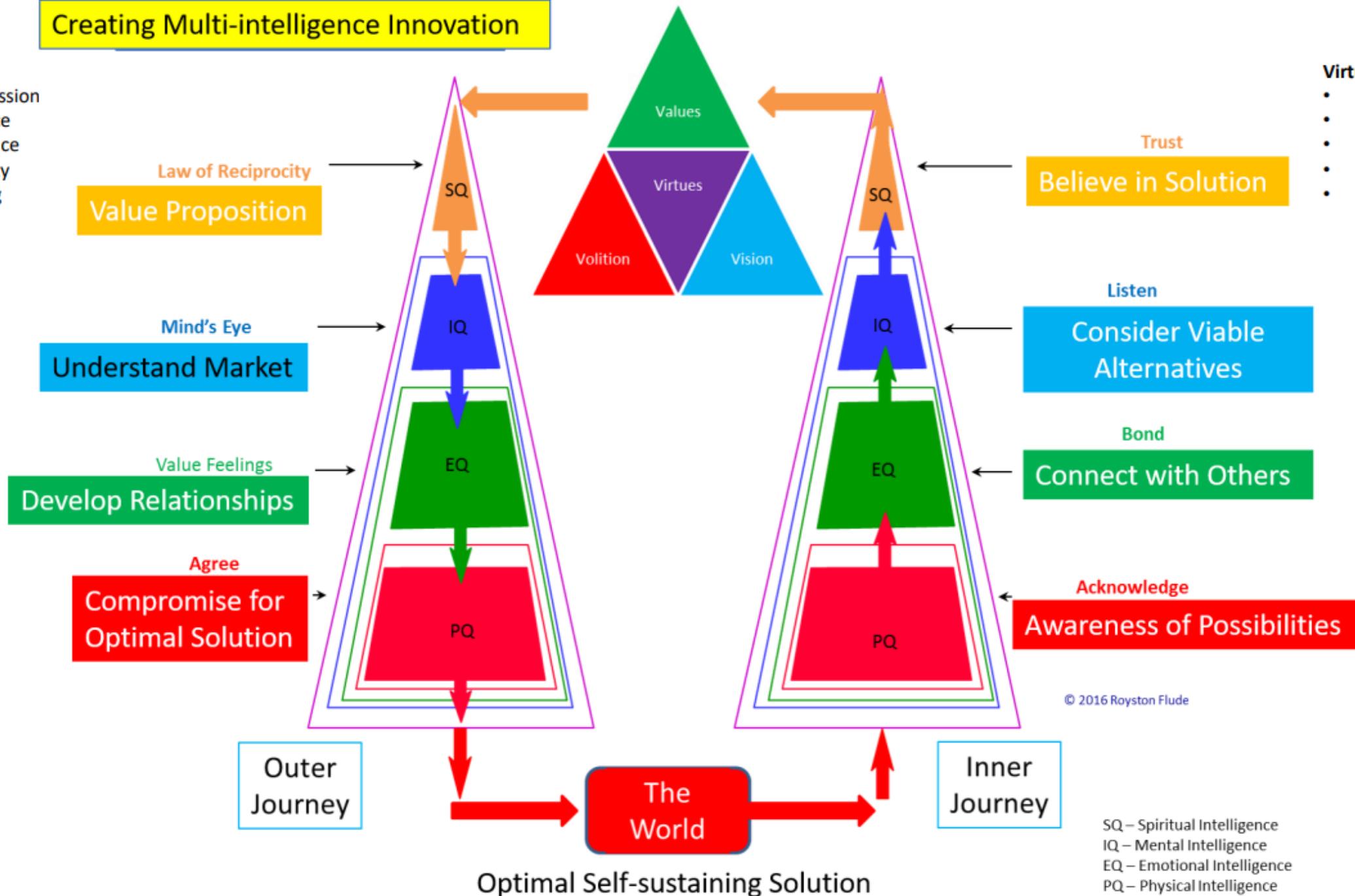
# Creating Multi-intelligence Innovation

## Values

- Compassion
- Patience
- Tolerance
- Humility
- Sharing

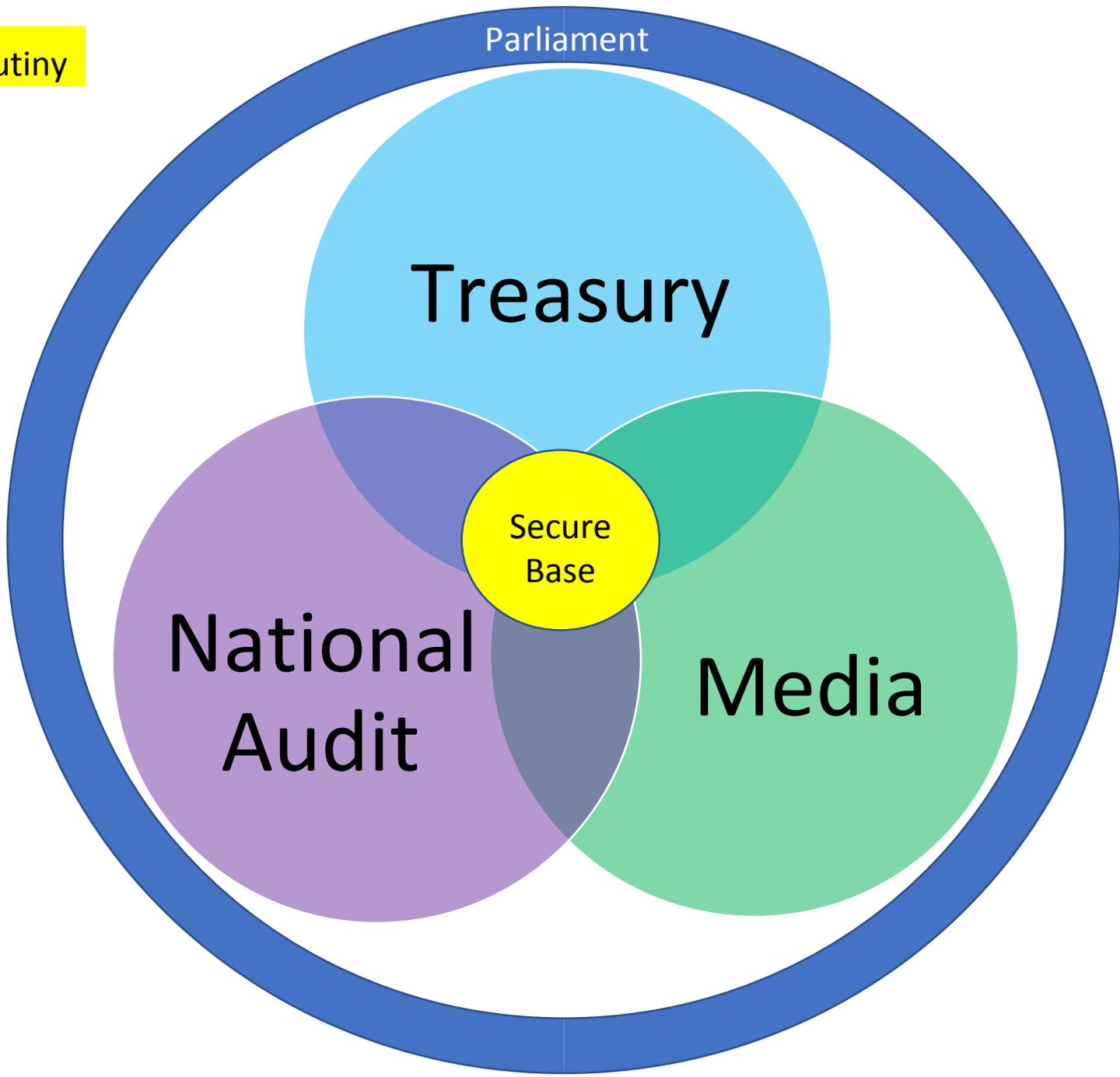
## Virtues

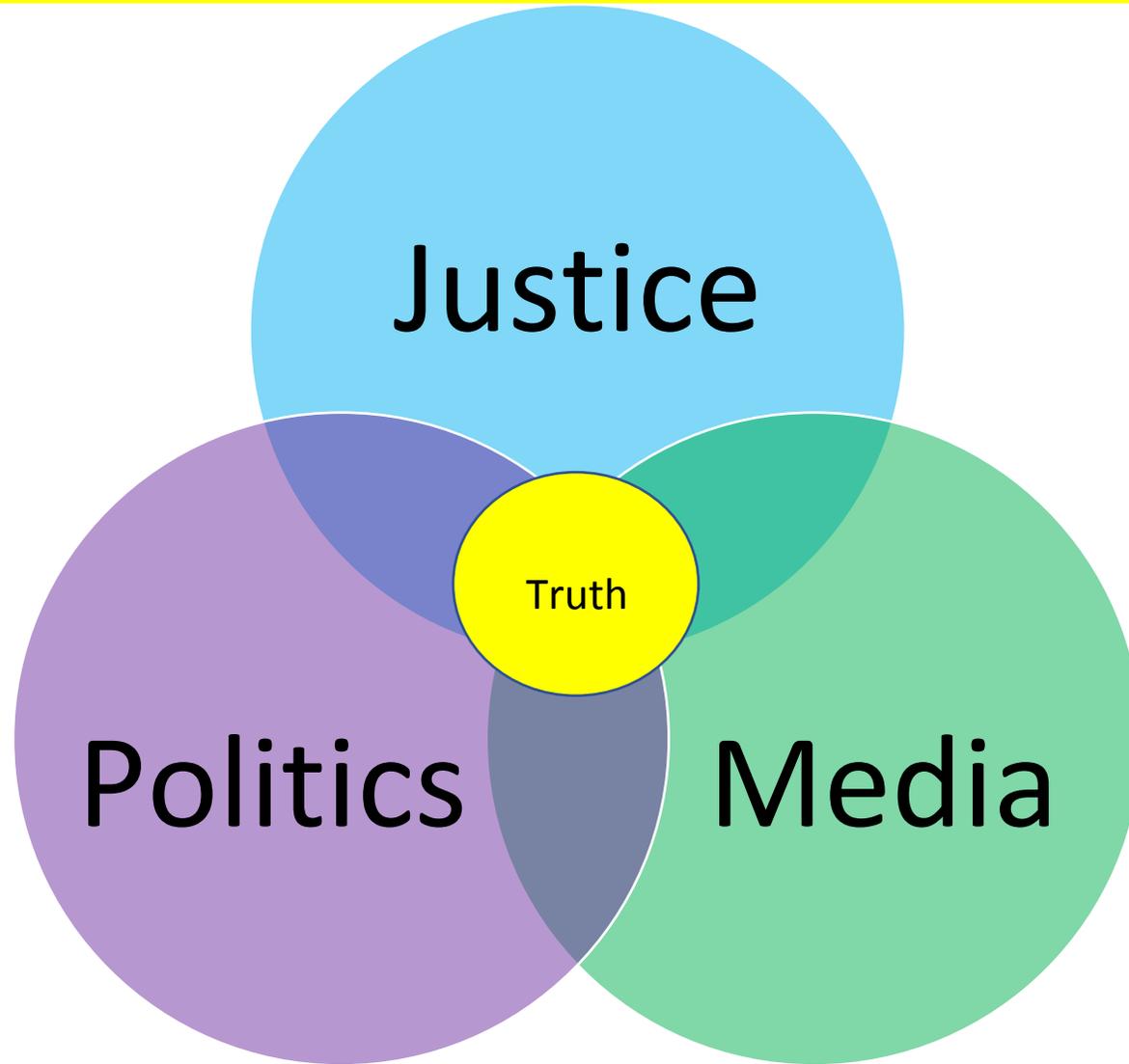
- Safety
- Trust
- Joy
- Respect
- Responsibility



SQ – Spiritual Intelligence  
 IQ – Mental Intelligence  
 EQ – Emotional Intelligence  
 PQ – Physical Intelligence

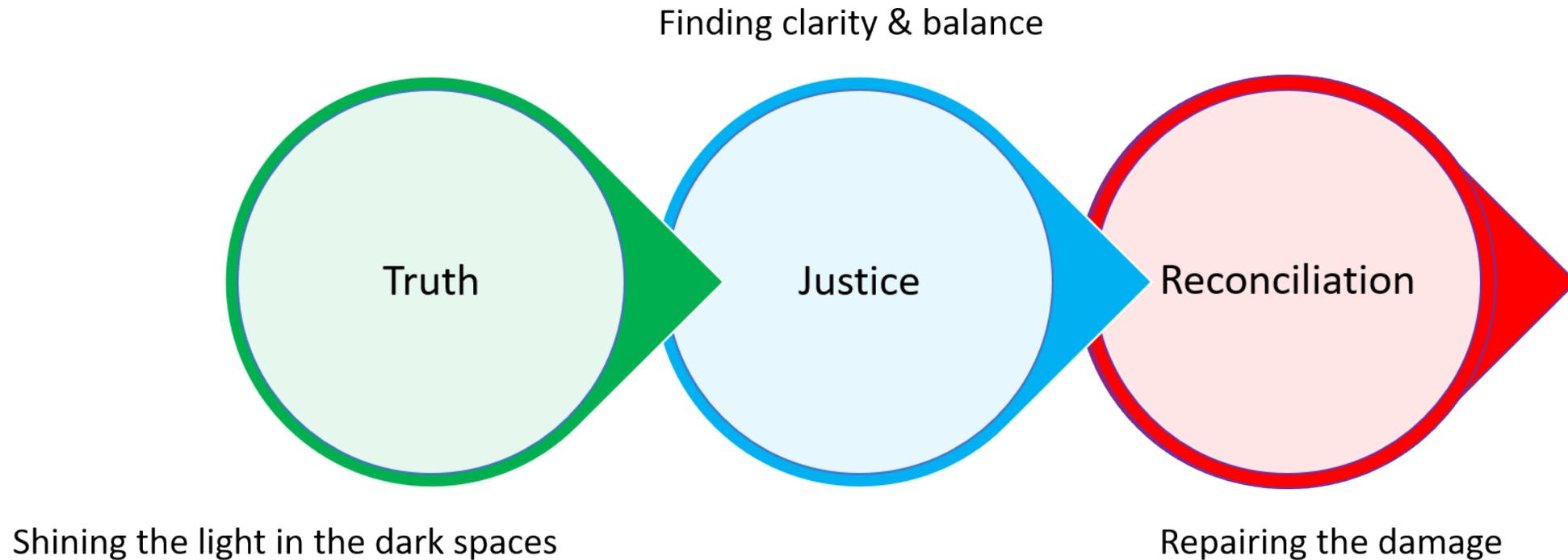
Agents of Public Scrutiny





## WHAT IS TRUTH, JUSTICE & RECONCILIATION

**"Injustice anywhere is a threat to justice everywhere."**



**"Darkness cannot drive out darkness; only light can do that. Hate cannot drive out hate; only love can do that."**

***"The time is always right to do what is right"***

**"Our lives begin to end the day we become silent about things that matter."**

**MEDIA CHALLENGING INSTITUTIONAL HARRASSMENT**

(Suicides)



How the media's coverage of courts has changed, and what the implications are for open justice;

### **Media Coverage Changes**

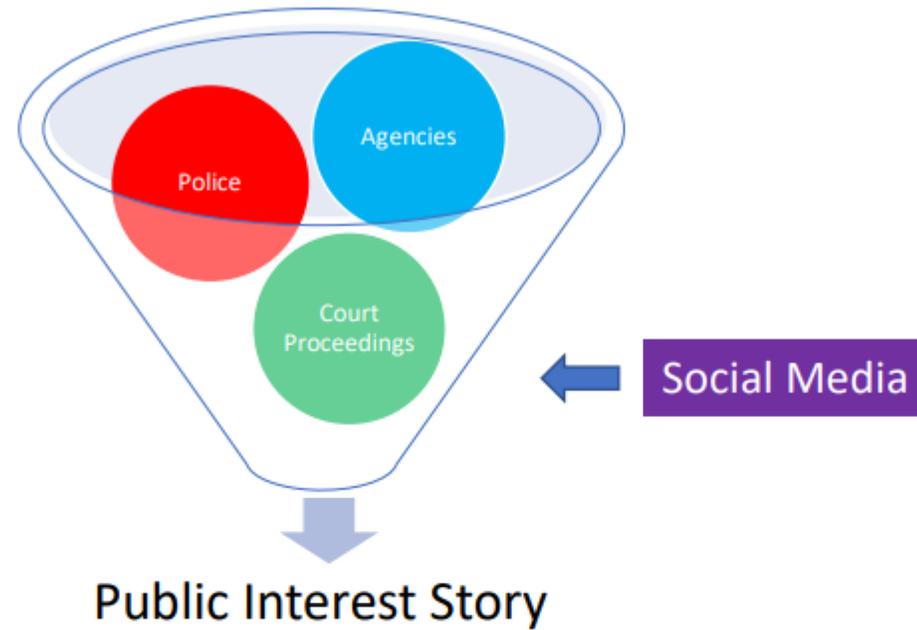
- Multiverse in Media Platforms - Printed Press to online
- Shrinking Budgets for In-person reporting
- Increased use of Agencies
- Fewer legal correspondents
- Restricted access and information overload
- Reporting driven by Value Perception rather than Truth (“will it sell papers”)

### **Implications for Open Justice**

- Access to Truth restricted by limited funds
- Intermediaries may restrict/control the flow of truth
- Difficulties in access Public Interest stories – Police Press release, Sentencing
- Reporting in Family Courts faces significant restrictions leaving many issues unchallenged
- Family Courts are dealing with unhappiness of some sort or another in people's lives “Cinderella of the justice” system
- Administration of Justice Act 1960, a court sits in private dealing with matters to do with children, requires review
- “The level of legitimate media and public concern about the workings of the Family Court is now such that it is necessary for the court to regard openness as the new norm” Sir Andrew McFarlane

The 'precautionary principle' is now widely applied in the regulation of risk

## What barriers there are to the media obtaining information from the courts



### Barriers

- Difficulties in accessing Public Interest stories – Police Press Releases, Sentencing etc
- Feeling that there is a “secret family justice system”
- Timescales & Costs out of control. A criminal case typically concludes in 708 days
- Toxic divorce proceedings that can last many years with very significant costs – too expensive for the media to cover
- Neurolinguistic diversity requires fair & reasonable treatment for all parties – Media are not champions
- Social media allows stories to be picked up and go viral outside the control of the Court “Justice By Influence”
- “Do not allow our information to go out there so we can be identified” CARCASS
- Professional Journalists are responsible and can be trusted
- Consider multilevel reporting with Sensitive Matters contained in a restricted Addendum

### **Reporting Restrictions Clarity**

- Situations arise in which it is necessary to restrict the openness of legal proceedings for a fair trial • National Security
- Identification of a witness in the case (the safety or reputational rights of a victim or witness who is openly identified in court)
- Publication Ban – High Profile Public Figures (information to be divulged at large)
- Judgements - anonymised versions
- 1981 Contempt of Court Act during Active Court Proceedings
- which creates a substantial risk
- during active legal proceedings (person is arrested, a warrant for arrest is issued, a summons has been issued, or a person has been charged)
- will be seriously impeded or prejudiced

### **Visual Trust Layer**

- transparency & accessibility - that legal proceedings should be conducted openly and held in public
- Digitization of all Court functions and documentation (e.g. [www.kenja.com](http://www.kenja.com) Rooms Manchester Justice System Pilot say 9 million GBP)
- Facilitating segmented information (themes) and a transparent justice pathway (Artificial Intelligence)

### **Social Trust Layer**

- Managing Fear and disabilities proactively
- Consider power imbalances that lead to institutional Harassment
- Ensure participants are properly represented

### **Communication Trust Layer**

- Effective use of video/ audio conferencing
- Real Time translation
- Reduction in forms and administration

Dr Flude was a member of PITCOM and is a member of Global Internet Forum (GIF)

### **Ethical trust Layer**

- Duty of Care
- Do no Harm
- Recognise Diversity & Inclusion needs

Require Public Interest Defence clarity

### **Social Media**

- Social Media is omnipresent and very difficult to regulate
- Political and Social movements may influence justice
- Includes Twitter, Facebook, YouTube, LinkedIn and Podcasts
- Unbalanced – Court System represents impartiality and the obligation of the law not observed by Social Media
- Alternative methods of service – courts legal notice website, posting to social media account
- CoP Open Justice Project, Professor Celia Kitzinger, improving the standards in the Family Court
- Transparency Implementation Group [‘TIG’] - Sir Andrew McFarlane
- The Roadmap to Justice Campaign (NCSC)
- Access and Fairness Campaign
- Civil Justice Initiative
- Family Justice Initiative
- Community Engagement Project

### **Implications**

- Develop and introduce innovative legal and administrative processes that increase access and fairness while reducing the cost, time and complexity of litigation.
- Increase trust and confidence in the Rule of Law by advancing responsive, coherent and collaborative judicial initiatives.
- Expand access to court services while ensuring procedural fairness.
- Continue to provide judicial leaders with additional leadership and governance skills.

Open justice is a legal principle that requires that judicial proceedings be conducted in a transparent manner and with the oversight of the people, so as to safeguard the rights of those subject to the power of the court and to allow for the scrutiny of the public in general

**The general rule is that hearings are held in public and, in principle, anyone, including the press, can attend a hearing that is held in public.**

The High Court has said that 'the rationale of the open court principle is that **court proceedings should be subjected to public and professional scrutiny, and courts will not act contrary to the principle save in exceptional circumstances'**

**Journalists often go to court to report on the cases being heard.** When they are there, a reporter will take notes, recording the trial. Journalists use these notes to make sure that their reports are accurate. A newspaper can use these notes as evidence that they took care to make sure that their article was accurate.

### **Remote Hearings**

- Limit access to the litigants and their representatives (e.g. Stockport, Switzerland & Cyprus)
- Broadcast Streaming would provide real time and review access –e.g. RSA Events
- Third Parties can have restricted function e.g. video & audio only

### **Challenge**

- Digitalised verified information flow with AI enhancement- could use Blockchain
- Audit trail for transactions – including library
- Well-Being and Happiness Approach (Andy Haldane “Levelling Up) . Duty of Care & Do no Harm
- Self-assembling dynamic network based on open and fair justice with time and cost optimisation
- Objective. 10% cost reduction 10% efficiency improvement and 10% Humanitarian response

*April 2022*