*• The public and all parties involved derive the greatest benefit if all potential suppliers participate and supply is maximised, what steps are TNA taking to ensure participation and maximise supply of judgments to the new site?*

We have sought the widest participation and have designed the procurement to maximise the supply of judgments to The National Archives. The intention is to involve multiple suppliers and we anticipate issuing multiple contracts.

We have been speaking to stakeholders about our work with court judgments generally since the announcement by the Ministry of Justice in June 2021. This has usually been in the form of bilateral meetings. We believe we have developed a good working relationship with those stakeholders.

To ensure awareness of this opportunity, we first advertised a pre-procurement notice and issued invitations to a supplier event at The National Archives in November. That was the subject of a report in The Law Society Gazette and social media coverage by commentators in the sector. We also contacted stakeholders directly. The supplier event was well attended with representatives from the key players in the industry. We have published this opportunity openly and notified all those who attended the supplier event. We have been impressed so far by the willingness of potential suppliers to engage.

*• 1.2 makes reference to “digital transcriptions of extempore judgments” when this content is provided by transcription companies in the opinion of TNA who’s IP is the content and what information needs to be provided?*

For context, the Public Records Act 1958, First Schedule, sets out which court records are public records for the purposes of the Act. The Act list the various Courts and Tribunals which fall within its scope. This is expansive. The Act also contains an expansive definition of records: “*any proceedings in the court or tribunal in question and includes rolls, writs, books, decrees, bills, warrants and accounts of, or in the custody of, the court or tribunal in question*.” Transcripts created by transcription companies are court records, and therefore public records under the Act, and therefore potentially within our scope of interest.

The National Archives is interested in acquiring digital copies of Court Judgments and Tribunal Decisions as public records worthy of permanent preservation, with a view to providing public access, including through publication (where that is appropriate and has been agreed with the judiciary). These are judgments with legal, social and historical value or interest. The National Archives is interested in transcripts of judgments as public records, particularly when published (for example by a legal publisher), particularly in reported or legally significant cases. Transcripts that have been produced just for one of the parties involved in a case are unlikely to be worthy of permanent preservation and therefore not of interest to The National Archives.

The National Archives is not a party to the various contracts let to the transcription companies and is therefore not able to give a definitive view of the intellectual property rights arrangements under those contracts. Where transcripts assert that they are subject to Crown copyright, suppliers should take that as being the case.

The IP arrangements do not affect the status of transcriptions as public records. It is not uncommon for public records to contain third party rights. This has a bearing on the access and re-use arrangements we make for the records concerned. We always respect third party rights in the arrangements we make for access and re-use of public records.

*• 2.6 and 4.2 makes reference to “making the documents available for re-use” what re-use is envisaged and by whom; ie what re-use will you permit? And is there any re-use you will not permit? It would be very helpful to know this BEFORE tendering.*

Under the Re-use of Public Sector Information Regulations 2015 (SI 2015/1415, “*re-use means the use by a person of a document held by a public sector body for a purpose other than the initial purpose within that public sector body's public task for which the document was produced*”). For reference, The National Archives public task is at: <https://cdn.nationalarchives.gov.uk/documents/statement-of-public-task.pdf>. The regulations do not apply where a third party owns relevant intellectual property rights in the document.

It follows we can only permit re-use where the intellectual property rights in the documents is owned by the Crown. We will not issue a licence for the re-use of material that grants use of third party rights (without explicit permission).

We are currently working with the Ministry of Justice and the judiciary to develop a licensing approach for Court Judgments and Tribunal Decisions, covering Crown and judicial rights. Our goal is to develop a licencing approach that facilitates open justice whilst protecting and supporting the proper administration of justice and the rule of law.

*• 3.6 lists the formats and versions you will accept; will you accept RTF?*

Yes, we will accept RTF.

*• 3.7 itemizes the metadata you would like to receive associated with each judgment, what metadata will the new judgment site be providing to users?*

We envisage providing metadata that has been extracted from the documents (the Court, the date, the parties) or arrived at by processing this data. The metadata will include identifiers (such as the neutral citation and The National Archives catalogue reference) and a content hash so users can identify the currently published version of the judgment. There will be metadata about the source or supplier of the documents, about ownership of the documents (copyright) and re-use of the document (whether re-use is permitted or not, and when permitted, the licensing arrangements).

*• 3.8 makes reference to provenance and adaptions, what happens if we cannot supply these details for some judgments supplied? Do you still wish to receive this content?*

Yes. We are interested in judgments where there is little or no provenance information beyond knowing who supplied the material to us under this procurement. We are seeking to corroborate the records, by obtaining digital copies of judgments from multiple sources.

*• 3.10 requires the supplier to grant a perpetual licence to TNA in respect of rights the supplier has acquired in the judgment: what rights do you expect the supplier to grant by this licence?*

We would like the supplier’s permission to publish the judgments, where the supplier has rights in the documents supplied. We may not exercise this right (we may decide not to publish some or all of the judgments we receive).

*• 3.11 requires the supplier to outline what rights they are claiming, can the TNA state what rights they’d anticipate the supplier to be claiming? And what would or wouldn’t be acceptable?*

The National Archives can envisage several scenarios where suppliers will state they have intellectual property rights in the material they offering to supply.

Suppliers may have intellectual property rights (copyright and/or database right) that have arisen through the selection and arrangement of judgments. Suppliers may have intellectual property rights in the data model they have used to encode the documents. Suppliers may have intellectual property rights in transcriptions if they have produced transcriptions from digitised images of paper copies of judgments. Suppliers may have created and be offering to supply derivative works, in which they have rights, for example by anonymising judgments for publication.

Any reasonable explanation of the rights the supplier is claiming in the material they are offering to supply will be acceptable. The National Archives will respect the supplier’s rights. We are seeking a perpetual licence from suppliers in relation to publishing the documents, as part of providing access under the Public Records Act 1958.

*• 5.2 references how TNA wishes to be advised of the data available and requests court, years covered and format. What happens if the supplied can't breakdown it’s supply like this? But instead, can only offer judgments by year? Or can't state provenance on a judgment-by-judgment basis?*

We will accept any reasonable explanation the supplier is able to provide, that allows us to understand the coverage, scope and scale of the judgments being offered.

*• 5.4 references sub-contracting arrangements, do you wish to know about these in relation to the supply of judgments to TNA under this ITT or in the original capture and styling of the judgment?*

Only in relation to this ITT and the supply of digital copies of judgments to TNA (not in relation to the original capture or styling of the judgments).