

REPHRAIN

National Research Centre on Privacy, Harm Reduction
and Adversarial Influence Online

Using legal databases to study tech-enabled harms

Wednesday, 9th of March 2022

bristol.ac.uk



Who We Are



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Tech Abuse



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Policing



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Law



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This Masterclass will cover:

1. Background on our **research project** on tech abuse.
2. Overview of the **legal system** in England and Wales.
3. Introduction to **legal databases** such as Westlaw.
4. **Walk-through** to showcase to you how the databases work.
5. Explain their **relevance** to the REPHRAIN community
6. Hands-on **exercise** to get a feel for their usage.

(1) Background

Our Project:

The applicability of the UK Computer Misuse Act 1990 for cases of technology-enabled domestic violence and abuse

Technology-Facilitated Abuse

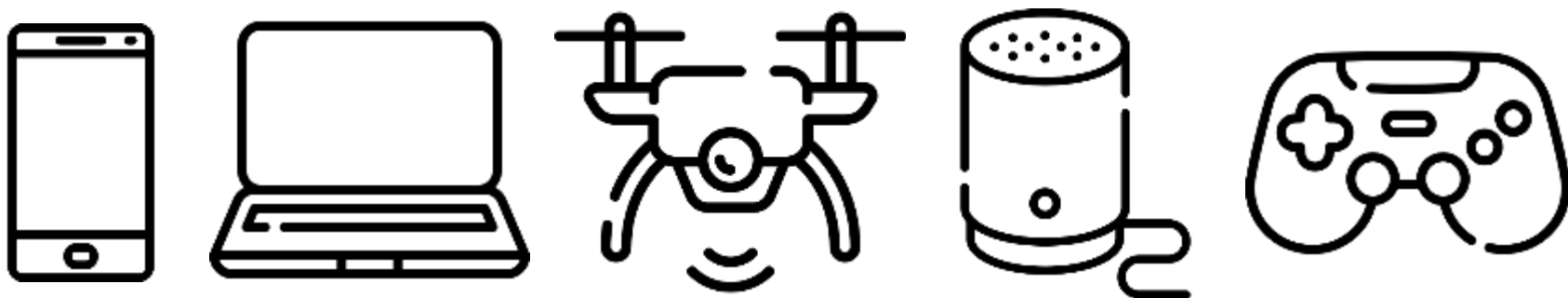


“Big Bucket”

Tech abuse includes:

- Excessive **text messaging**
- The use of **malicious software** so-called “stalker-/spyware”
- The deployment of (car) **trackers**
- The **impersonation** of an individual
- **Image-based abuse** offenses
- **Unauthorised access** to accounts/devices/systems
- ...

Range of **Devices**



National Stalking Helpline

100%

involve “**cyber**” element

However:
**Tech abuse is not a domestic
abuse/stalking offense *per se*.**

Common Legislation:
Criminal Justice Act 1988
Protection of Harassment Act 1997
The Serious Crime Act 2015
Criminal Damage Act 1971
Public Order Act 1986

Instead:
**Activities such as hacking into
someone's phone or installing malicious
software can fall under the
UK Computer Misuse Act 1990.**

Computer Misuse Act 1990



**5 Criminal Offences – Focused on
“Unauthorised Acts/Access”**

What we want to understand:

The **applicability** of the UK Computer Misuse Act 1990 onto cases of technology-facilitated domestic abuse/IPV

- Analyse the **nature and scope of tech abuse** cases that have been dealt with through the CMA in courts.
- Evaluate the possible **benefits and drawbacks** of deploying the CMA in the context of tech abuse cases (e.g., impact on sentence length).
- Examine the **technological enablers** of domestic abuse as well as victim/survivor and perpetrator characteristics.

And to do this:

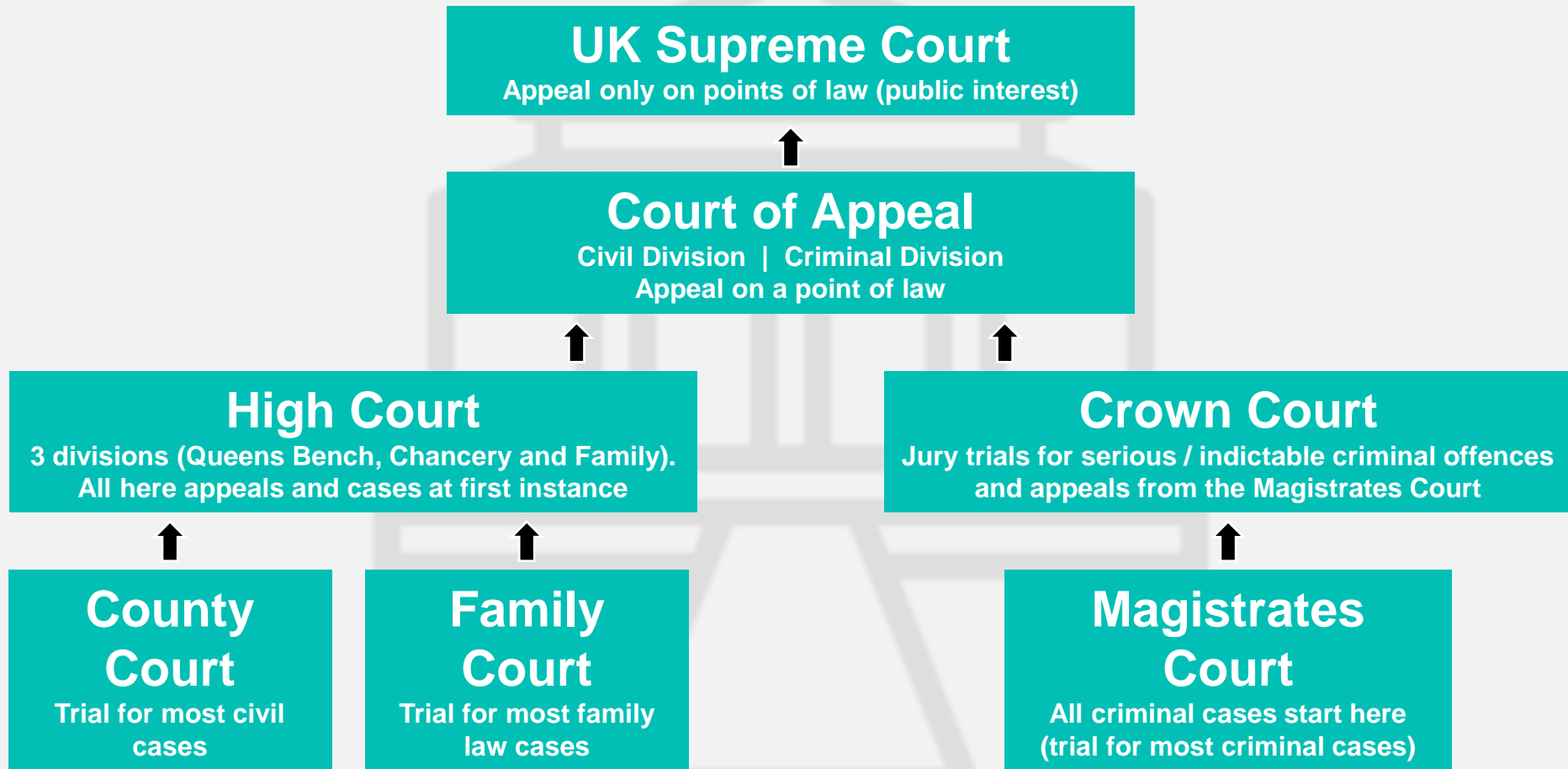
- Conduct a **systematic legal analysis** of court cases drawing on legal databases
- Pursue **one-to-one, semi-structured interviews** with academics and legal professionals (i.e., judges, barristers)
- Engage in a **news media analysis** of UK newspapers

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(2) Legal System

England and Wales



Individual vs. State

- **Criminal Cases** = Public / state prosecuting and individual in most cases (so individual vs. state) i.e., when the state prosecutes someone for an offence such as a robbery;
 - **Outcome:** Sentence / punishment or acquittal.
- **Civil Cases** = Private (individual vs. individual) i.e., an action for negligence or breach of contract. Family cases include child arrangements orders.
 - **Outcome:** Civil remedies include damages, injunctions, specific performance.

What laws apply?

- The **Crown Prosecution Service** (CPS) make the decision whether to prosecute. The police investigate an offence and, in most cases, simply pass on the evidence to the CPS to make a charging decision.
- There is a "**2 Stage Test**" which is used to decide whether to charge:
 1. Is there enough **evidence** that there is a reasonable chance of prosecution?
 2. Is it in the **public interest** to prosecute?

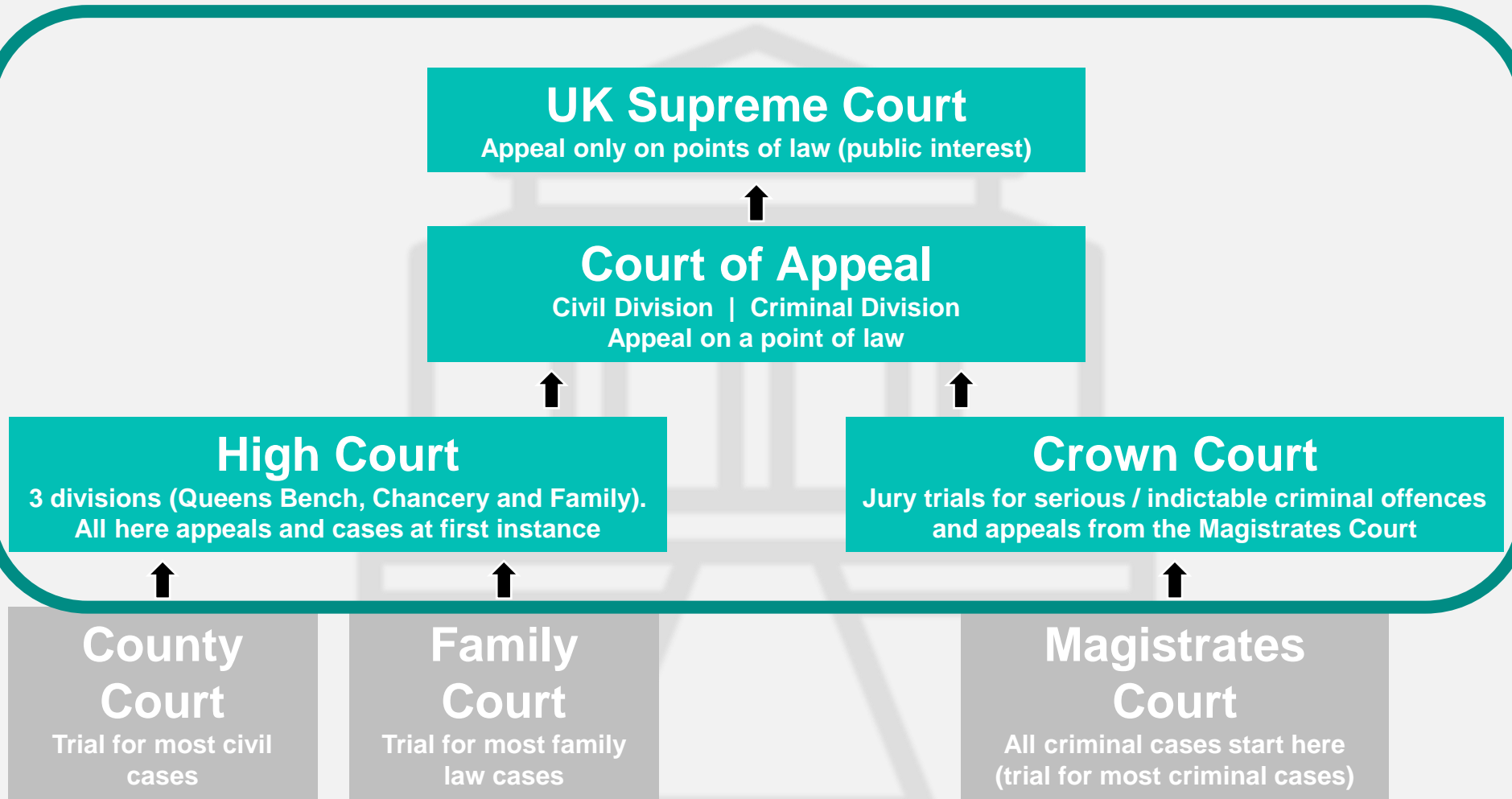
(3) Legal Databases

And to do this:

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The most common ones:

- **Westlaw**: Commercial – Paywall
- **LexisNexis**: Commercial – Paywall
- **British and Irish Legal Information Institute (Bailii)**: Charity – Open



The most common ones:

- Westlaw: Commercial

**Careful: Duplication of
cases across databases!**

- British and Irish Legal Information Institute
(Bailli): Charity

Terminology

- **Case Law:** A decision made on a case by a court (as opposed to legislation passed by Parliament)
- **Case Report:** Report of that decision made in court.
- **Judgement:** A judges' ruling on a particular point within the case or appeal.
- **Case Overview:** A summary of a case.
- **Law Report:** More than a judgement. Contains names of parties, dates, judges and courts.
 - Report often has summary of arguments before judgement.

(4) Walk-Through



Case Analytics

Next level research functionality to speed up cases research, uncover new insights and assist both case strategy and the preparation of arguments.



Legislation Comparison Tool

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Our Findings So Far:

- Identified **390 results** from three legal databases, culminating in **184 cases** (January 2020 – October 2020).
- Tech abuse **continues to be prevalent and common** within the domestic abuse court cases we are analysing including via:
 - **Phone** (such as abusive text messages, phone calls, monitoring messages and contacts), **Social media**, **Recording devices**, **CCTV** in the home, and Threats to **release private sexual images**.
- The CMA 1990 **could have been applied** to various of the cases:
 - **Unauthorised access** to their partner's messages and social media accounts, and
 - **Manipulated** partner's social media account including deleting 'Facebook friends' and **impersonating** other men.

(5) Relevance

Why should the **REPHRAIN** community care?

- Understand **emerging trends** in crime facilitated by technology
 - How are legal cases portrayed in the legal system and how much detail is provided?
- Obtain an **abundance of information and context**
 - What are the different perpetration contexts or historical and geographical developments?
- See the **law in context**
 - What works how?

Why should the REPHRAIN community care?

- Stay **up-to-date** with legislation
 - LexisNexis has a traffic light system that shows the status of legislation and cases
- Possible **machine learning/NLP challenge** to scholars
 - How could the extraction/analysis of judgements/law reports be automated?



(6) Activity

Our Method:

- **Inclusion Criteria:** Firstly, that the cases were of relevance to domestic abuse; Secondly, that they took place in a court within England and Wales.
- **Search Term:** We used “Domestic Violence and Abuse” as our core search term across the three databases.
- **Evaluation Template:** Allows us to look at trends over time.

Looked at Westlaw from: 08.11.21 – 24.11.21

60 results (each result was a different case)

Some not available to access (9 cases) and some not in England and Wales (6 cases)

Final no. of cases = 45

Looked at Lexis Library from: 29.11.21 – 17.01.22

194 results (each result was not necessarily a different case)

Some not in England and Wales (46 results) and same as on Westlaw (27 results)

Some results = the same case, so no. of extra documents of same case after included the first result as a new case (49)

Final no. of cases = 72

Looked at Bailii from: 18.01.22 – 12.02.22

136 results (each result was not necessarily a different case)

Some not in England and Wales (51 results) and same as on Westlaw and Lexis (49)

1. R. v Featherstone (Ashley Robert) Court of Appeal (Criminal Division) [2020] EWCA Crim 58 17 Jan 2020 **Unknown**
2. JH v MF (Child Arrangements: Domestic Abuse: Appeal) Family Division [2020] EWHC 86 (Fam) 22 Jan 2020 **Yes**
3. R. v Katira (Tarang) Court of Appeal (Criminal Division) [2020] EWCA Crim 89 29 Jan 2020 **Unknown**
4. R. Ritson (Kriss) Court of Appeal (Criminal Division) [2020] EWCA Crim 152 5 Feb 2020 **Yes / Maybe**
5. R v B Family Division [2020] EWHC 1041 (Fam) 7 Feb 2020 **Maybe**
6. OA v Secretary of State for Education Queen's Bench Division (Administrative Court) [2020] EWHC 276 (Admin) 13 Feb 2020 **N/A**
7. R. v Sweeney (Sean John) Court of Appeal (Criminal Division) [2020] EWCA Crim 838 20 Feb 2020 **Yes**
8. R. v Grant (Quincy Jerome) Court of Appeal (Criminal Division) [2020] EWCA Crim 345 25 Feb 2020 **Unknown**
9. Depp v News Group Newspapers Ltd Queen's Bench Division [2020] EWHC 505 (QB) 6 Mar 2020 **Maybe / Unknown**
10. R. v Nicholson (Daniel Craig) Court of Appeal (Criminal Division) [2020] EWCA Crim

27. R. v Ellis (Lee Anthony) Court of Appeal (Criminal Division) [2020] EWCA Crim 992 3 Jul 2020 **Maybe (for a previous partner)**
28. R. v Chappell (Ryan Andrew) Court of Appeal (Criminal Division) [2020] EWCA Crim 903 7 Jul 2020 **Yes**
29. Z v D (Refusal of Return Order) Family Division [2020] EWHC 1857 (Fam) 14 Jul 2020 **Yes / Maybe**
30. R. v TG Court of Appeal (Criminal Division) [2020] EWCA Crim 939 14 Jul 2020 **Unknown**
31. R. v Reynolds (Jordan) Court of Appeal (Criminal Division) [2020] EWCA Crim 1024 14 Jul 2020 **Yes**
32. NP v A Local Authority Court of Appeal (Civil Division) [2020] EWCA Civ 1003 31 Jul 2020 **Unknown**
33. R. v Berry (John Paul) Court of Appeal (Criminal Division) [2020] EWCA Crim 1052 6 Aug 2020 **Unknown**
34. A Local Authority v M Family Court [2020] 8 WLUK 284 11 Aug 2020 **Yes**
35. W v Spain Divisional Court [2020] EWHC 2278 (Admin) 21 Aug 2020 **Unknown**
36. H (A Child), Re Family Court [2020] 8 WLUK 370 28 Aug 2020 **Unknown**
37. R. v Belcher (Scott) Court of Appeal (Criminal Division) [2020] EWCA Crim 1192 4 Sep 2020 **Unknown**

Summary Template (2020)

Cases combined from three legal databases:

Documents extracted from the following databases for the following cases:

- Cases 1 – 45 = Westlaw
- Cases 46–117 = Lexis Library
- Cases 118–184 = Bailii
- **Yes** = Tech-abuse was involved. **[31 cases]**
- **Unknown** = Does not mention any specific involvement of tech-abuse in the documents. **[51 cases]**
- **Maybe** = Tech-abuse suspected to be involved. **[11 cases]**
- **N/A** = Not involving a case of domestic abuse. **[32 cases]**
- **Case of Interest** = A case of interest that needs to be investigated further. **[2 cases]**
- **Yes / Maybe** = **[9 cases]**
- **Maybe / Unknown** = **[3 cases]**

16. X v Y Family Court [2020] 4 WLUK 378 20 Apr 2020 **Unknown**
17. R. v Hart (Stuart Richard) Court of Appeal (Criminal Division) [2020] EWCA Crim 716 28 Apr 2020 **Unknown**
18. A Local Authority v X Family Court [2020] EWHC 36 1 May 2020 **Unknown**
19. A City Council v M Family Division [2020] EWHC 947 (Fam) 7 May 2020 **Yes**
20. R. (on the application of Henry) v National Probation Service Queen's Bench Division (Administrative Court) [2020] EWHC 1246 (Admin) 13 May 2020 **Unknown**
21. AX v CY (Article 12: Settlement) Family Division [2020] EWHC 1599 (Fam) 10 Jun 2020 **Maybe**
22. R. v Gabriel (Gilbert) Court of Appeal (Criminal Division) [2020] EWCA Crim 780 11 Jun 2020 **Yes**
23. R. v Marsden (Damien) Court of Appeal (Criminal Division) [2020] EWCA Crim 1115 12 Jun 2020 **Unknown**
24. R. v Flanagan (Daniel Patrick) Court of Appeal (Criminal Division) [2020] EWCA Crim 1117 18 Jun 2020 **Yes / Maybe**
25. R. v Moses (Paul) Court of Appeal (Criminal Division) [2020] EWCA Crim 1169 25 Jun 2020 **Yes**
26. R. v MT Court of Appeal (Criminal Division) [2020] EWCA Crim 895 30 Jun 2020 **Unknown**
40. R. v Ominbarin (Cliff) Court of Appeal (Criminal Division) [2020] EWCA Crim 1045 20 Oct 2020 **Yes**
44. R. v Edwards (Darren) Court of Appeal (Criminal Division) [2020] EWCA Crim 1444 16 Oct 2020 **Yes**
45. R. v Davey (Shaun) Court of Appeal (Criminal Division) [2020] EWCA Crim 1448 27 Oct 2020 **Unknown**
46. Q v Secretary of State for Justice – Employment Appeal Tribunal – 10 January 2020 – Judgments **N/A**
47. * In re AI M (Assurances and Waiver) – [2020] 1 WLR 1858 – Family Division – 17 January 2020 – Weekly Law Reports (ICLR) **Unknown**
48. JK v MK (E-Negotiation Ltd (trading as “amicable”) and Another intervening) – [2020] 1 FLR 1234 – Family Court – 20 January 2020 – Family Law Reports **N/A**
49. A local authority v M and others – Family Division – 24 January 2020 – Judgments **Yes / Maybe**
50. Regina (TP and another) v Secretary of State for Work and Pensions (Equality and Human Rights Commission intervening); Regina (TP and others) v Secretary of State for Work and Pensions (Equality and Human Rights Commission intervening) – [2020] PTSR 1785 – Court of Appeal – 29 January 2020 – ICLR: Public and Third Sector Law Reports* **N/A**

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600	601	602	603	604	605	606	607	608	609	610	611	612	613	614	615	616	617	618	619	620	621	622	623	624	625	626	627	628	629	630	631	632	633	634	635	636	637	638	639	640	641	642	643	644	645	646	647	648	649	650	651	652	653	654	655	656	657	658	659	660	661	662	663	664	665	666	667	668	669	670	671	672	673	674	675	676	677	678	679	680	681	682	683	684	685	686	687	688	689	690	691	692	693	694	695	696	697	698	699	700	701	702	703	704	705	706	707	708	709	710	711	712	713	714	715	716	717	718	719	720	721	722	723	724	725	726	727	728	729	730	731	732	733	734	735	736	737	738	739	740	741	742	743	744	745	746	747	748	749	750	751	752	753	754	755	756	757	758	759	760	761	762	763	764	765	766	767	768	769	770	771	772	773	774	775	776	777	778	779	780	781	782	783	784	785	786	787	788	789	790	791	792	793	794	795	796	797	798	799	800	801	802	803	804	805	806	807	808	809	810	811	812	813	814	815	816	817	818	819	820	821	822	823	824	825	826	827	828	829	830	831	832	833	834	835	836	837	838	839	840	841	842	843	844	845	846	847	848	849	850	851	852	853	854	855	856	857	858	859	860	861	862	863	864	865	866	867	868	869	870	871	872	873	874	875	876	877	878	879	880	881	882	883	884	885	886	887	888	889	890	891	892	893	894	895	896	897	898	899	900	901	902	903	904	905	906	907	908	909	910	911	912	913	914	915	916	917	918	919	920	921	922	923	924	925	926	927	928	929	930	931	932	933	934	935	936	937	938	939	940	941	942	943	944	945	946	947	948	949	950	951	952	953	954	955	956	957	958	959	960	961	962	963	964	965	966	967	968	969	970	971	972	973	974	975	976	977	978	979	980	981	982	983	984	985	986	987	988	989	990	991	992	993	994	995	996	997	998	999	1000	1001	1002	1003	1004	1005	1006	1007	1008	1009	1010	1011	1012	1013	1014	1015	1016	1017	1018	1019	1020	1021	1022	1023	1024	1025	1026	1027	1028	1029	1030	1031	1032	1033	1034	1035	1036	1037	1038	1039	1040	1041	1042	1043	1044	1045	1046	1047	1048	1049	1050	1051	1052	1053	1054	1055	1056	1057	1058	1059	1060	1061	1062	1063	1064	1065	1066	1067	1068	1069	1070	1071	1072	1073	1074	1075	1076	1077	1078	1079	1080	1081	1082	1083	1084	1085	1086	1087	1088	1089	1090	1091	1092	1093	1094	1095	1096	1097	1098	1099	1100	1101	1102	1103	1104	1105	1106	1107	1108	1109	1110	1111	1112	1113	1114	1115	1116	1117	1118	1119	1120	1121	1122	1123	1124	1125	1126	1127	1128	1129	1130	1131	1132	1133	1134	1135	1136	1137	1138	1139	1140	1141	1142	1143	1144	1145	1146	1147	1148	1149	1150	1151	1152	1153	1154	1155	1156	1157	1158	1159	1160	1161	1162	1163	1164	1165	1166	1167	1168	1169	1170	1171	1172	1173	1174	1175	1176	1177	1178	1179	1180	1181	1182	1183	1184	1185	1186	1187	1188	1189	1190	1191	1192	1193	1194	1195	1196	1197	1198	1199	1200	1201	1202	1203	1204	1205	1206	1207	1208	1209	1210	1211	1212	1213	1214	1215	1216	1217	1218	1219	1220	1221	12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[illegible]

Tech Abuse – Our Codes:

- **Yes** = Tech abuse was involved
- **Unknown** = Does not mention any specific involvement of tech abuse in the documents
- **Maybe** = Tech abuse is suspected to be involved
- **N/A** = Not involving a case of domestic abuse
- **Case of Interest** = A case of interest that needs to be investigated further

Activity #1: **Bailii**

Case Name: A and B (No. 2) (SGO) (domestic abuse no direct contact to father) [2020] EWFC B15 (06 March 2020)

Activity #2: LexisNexis

Case Name: R v Dalgarno – CA, Criminal
Division – 25 February 2020

Activity #3: Westlaw

Case Name: General Medical Council v Saeed
Queen's Bench Division (Administrative Court)
[2020] EWHC 830 (Admin) 7 Apr 2020

Some questions for you:

- Who were the **judge(s)** in this case?
- What was the **sentence** in this case?
- What was the **decision**?
- Do you think **tech abuse** was involved?



1. **A and B** (No. 2) (SGO) [2020] EWFC B15 (06 March 2020)
2. **R v Dalgarno** – CA, Criminal Division – 25 February 2020
3. **General Medical Council v Saeed** Queen's Bench Division (Administrative Court) [2020] EWHC 830 (Admin) 7 Apr 2020

- Who were the **judge(s)** in this case?
- What was the **sentence** in this case?
- What was the **decision**?
- Do you think **tech abuse** was involved?

(7) Questions?

Leonie Tanczer
Francesca Stevens
Frances Ridout
Shane D Johnson

To learn more about **REPHRAIN** and how to get involved:



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rephrain-centre@bristol.ac.uk

Thank you!

Additional Activity #4: **Bailii**

Case Name: AB v EM (Jurisdiction Foreign
Custody Order), Re [2020] EWHC 549 (Fam) (12
March 2020)