



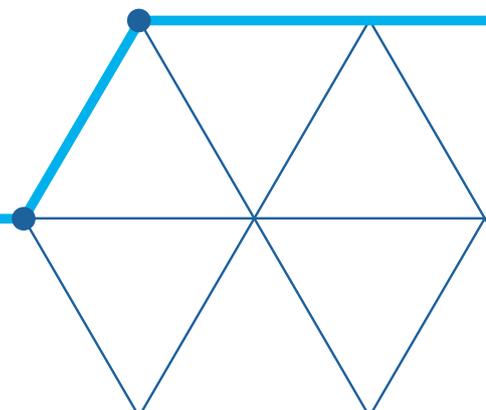
Ministry
of Justice

Evaluating our reforms

Response to

PAC recommendation 4

January 2019



Public Accounts Committee - Recommendation 4 - Evaluation

PAC recommendation 4 (“Transforming courts and tribunals”, 20 July 2018, HC 976):

HMCTS should write to the Committee by January 2019, setting out how it will identify and evaluate the impact of changes on people’s access to, and the fairness of the justice system, particularly in relation to those who are vulnerable.

Government response (Treasury Minutes, 9 October 2018, Cm 9702):

- 4.1 The Government agrees with the Committee’s recommendation.
Target implementation date: January 2019.
- 4.2 HMCTS will write to the Committee by January 2019 with further information (including scope and timing) on how it will identify and carry out a formal evaluation of the impact of its changes.
- 4.3 In addition to formal evaluation, HMCTS has adapted an agile methodology and works with users during the design and testing stages of each new service to ensure the process is accessible and as clear and simple as possible. HMCTS use phased implementation of changes so that re-designed services can be tested in practice and any emerging issues rapidly addressed. HMCTS regularly monitor reformed services and use this feedback to make continuous improvements to the services. HMCTS share lessons, learning and components with other projects across the programme, to build good straight forward services. Feedback on HMCTS reformed services has been extremely positive and over 90% of users of the new online divorce, civil money claims and probate services are satisfied or very satisfied with the service.
- 4.4 In terms of vulnerable users, HMCTS also provide ‘assisted digital’ support by telephone and is piloting face-to-face support with its partner The Good Things Foundation.

Introduction

1. This note provides an update to the Public Accounts Committee (PAC) on the evaluation of the courts and tribunals reform programme. This is one of three responses we are submitting at the same time in response to the Committee’s recommendations: the Chief Executive of Her Majesty’s Courts and Tribunals Service (HMCTS) has written separately responding to recommendations 1 and 2 of the PAC’s report.
2. The Committee’s specific recommendation on evaluation was:
HMCTS should write to the Committee by January 2019, setting out how it will identify and evaluate the impact of changes on people’s access to, and the fairness of the justice system, particularly in relation to those who are vulnerable.
3. In the Treasury minute setting out the Government response¹ published in October, the Government confirmed that it would respond providing further details on the timing and scope of evaluation.

¹ Treasury Minutes on the Forty -third to Fifty -Eighth reports from the Committee of Public Accounts, Session 2017 – 2019, CM 9702, 12 October 2018.

Overview

4. The Courts and Tribunals reform programme is an ambitious programme which provides much needed investment to modernise our courts and tribunals. Our response to the Committee's second recommendation, which is provided alongside this response, sets out how the £1 billion investment programme will transform users' experiences of the courts and tribunals system.
 5. The Ministry of Justice's overall approach to evaluating, assessing and reviewing the reform programme is built into a multi-tiered design:
 - i. an overarching evaluation of the reform programme, assessing the key objectives of fairness and accessibility;
 - ii. the use of performance information and the assessment process that is built into the design of individual reform projects to give us much more timely, accessible and shareable data on impact, including people's effort (the time things take, and how easy or hard they were to do and to understand), experience, and perception;
 - iii. there will be ongoing monitoring of high impact and/or high-profile reforms once implemented; and
 - iv. we will be regularly reviewing the costs of the reform programme and the savings it generates against the approved business case.
 6. For each of these tiers, we are reviewing the data and metrics we currently collect, and designing new data streams and metrics to help us better explore the effect of these reforms. For example, we will do more to collect data on the protected characteristics of those who use the courts and tribunals in a way that will make it far easier to identify and tackle disproportionalities. Further details are set out below.
- ## Overarching evaluation
7. Much of the work we will be doing to assess the effect of reforms will be undertaken at the individual project reform level, the details of which are set out below. We will, however, also be undertaking an overarching evaluation during the course of the reform programme. The purpose of this evaluation will be to understand the effect of the programme as a whole. The evaluation will focus on the programme's main principles: ensuring fairness and accessibility. To do so, we will seek to answer three principal questions:
 - i. Has reform altered outcomes (fairness e.g. case/hearing outcomes, sentencing and financial awards)?
 - ii. Has reform changed the ability of users to pursue a case effectively (access to justice e.g. ability and speed at which court users can access and pursue a case)?
 - iii. Has reform had an effect on costs including those incurred by those who use courts and tribunals (e.g. travel costs, costs of time wasted)?
 8. Currently, the overarching evaluation is at the scoping stage. Once completed, this stage of the work will: set out all of the detailed questions that underpin a full assessment of the broad principles of fairness, accessibility and cost; set out what data we currently collect that may help us to answer these questions; and identify what further information we need to answer these questions fully. As part of this work, we will consider the best way to fill the gaps in our understanding, including whether we need to commission external research (which we expect to do for certain aspects of the evaluation). Evaluating the effect of reformed services on vulnerable users will be a particularly important consideration in evaluating fairness and accessibility of the overall programme, and the scoping work will look specifically at the definition of vulnerability, and how this is factored into the evaluation.
 9. We will aim:
 - i. to have completed the scoping stage of this work, and have the advisory panel (further details below) in place, by the end of Spring 2019;
 - ii. to have commissioned any further research for the evaluation, and publish a call for relevant evidence from academics by the end of the Summer 2019, if required;
 - iii. on that basis, we would be aiming to complete an interim report by Summer 2021. There will also be regular updates throughout the evaluation, as findings become available.
 - iv. The intention would then be to continue to evaluate the programme at regular intervals as the reform programme is concluded.
 10. We will be establishing an advisory panel to support analysts as well as Ministers on the evaluation. Our intention is to draw on a wide range of external expertise, including academics and legal practitioners, as well as those who have practical experience in the delivery of significant reform programmes. The Panel's role will be to ensure that analysts and Ministers benefit from a wide range of external, expert advice on how the evaluation can best be undertaken. We will also be seeking the views of the senior judiciary to explore how we can make the best use of the expertise they can bring to the evaluation. Full details of the panel, and their terms of reference, will be published in Spring 2019.

11. As the PAC acknowledged in its report, the courts and tribunals reform programme is hugely ambitious and is on a scale that has not been undertaken anywhere else. We do not underestimate the difficulty and degree of challenge that evaluating a programme of this scale and ambition will present. It could potentially cover a very wide range of information and measures across a full range of jurisdictions, and a very wide range of court and tribunal users. It will therefore be necessary to ensure that the evaluation is tightly focused on the key issues and questions the reform programme raises. The evaluation is also likely to raise two specific challenges:
 - a. Establishing baselines of pre-reform performance for new measures we need to put in place. Where possible we will use proxy measures for certain metrics. (Proxy measures are indirect ways of measuring outcomes, used where directly relevant data is unavailable). However, it is likely, at least in some cases, that we will be limited to measuring actual performance as new data collections become available and will not be able to make comparisons with the baseline performance before the reform programme commenced; and
 - b. It is likely to be particularly challenging to control external factors which may also have an impact on the performance of the courts and tribunals. For example, during the reform programme, there are likely to be wider policy initiatives introduced, either within the MoJ, among our justice partners, or within other government departments, which are unrelated to the reform programme. There may also be factors external to government. These may have an impact on key metrics, for example, the volumes of cases before the courts and tribunals, the complexity of those cases or the length of time they take to reach completion. We will assess the action we can take to adjust for these factors or provide further insight, including possible complementary research, but it is likely to be the case that in some circumstances, we will not be able to be certain that any performance impacts we identify through the evaluation can be fully attributed to the reform programme.
12. We will provide the Committee with an update on the progress of the evaluation when we have completed the scoping work and have settled the details of how it will be undertaken. We will aim to write to you with further details by the end of July 2019.

Project level assessments

13. The overarching evaluation is designed to evaluate the reform programme as a whole. However, the process of review, assessment and adaptation is built into the design of reform at an individual project level. The courts and tribunals reform programme is being designed and implemented using the "agile" technique. This builds in a system of continuous review and testing of reforms into the design of individual projects. Once the need for reform has been established, a small-scale prototype for the reformed service is designed around the needs of users (the alpha stage). The prototype is then tested in a controlled, private environment by invitation to a selected group of users (known as the private beta stage). Through a process of testing and learning, those services are reviewed against key metrics and refined and adapted as necessary.
14. Once a project has successfully passed this private beta stage, it moves to piloting (or public beta). At this stage, the reformed services are tested in a controlled, but public environment, to ensure that the services meet users' needs and deliver the intended benefits. Again, through a process of test and review, the piloted service can be refined as necessary.
15. It is only once a pilot has successfully passed this stage that it can be launched into full service.
16. The agile approach adopted by the courts and tribunals reform programme follows the Government's best practice in project and programme management. The HMCTS executive board is responsible for the successful delivery of the programme, and the assurance that the programme is on track to deliver its objectives, as well as being implemented efficiently and effectively. Oversight is provided by the Infrastructure and Projects Authority.
17. A practical example of this approach is the way that HMCTS has been developing the use of video hearings to enable users to participate in a hearing without needing to travel to a court centre. Video links, where a party appears via video link to the court room, have been used in courts and tribunals proceedings for many years. The reform video project is testing whether hearings can be undertaken where all parties participate via video, without the need for specialist technology. Through developing the technology to allow participants to sign into their hearing from their own computer our early user research identified that we also needed to provide support services before, during and after the hearing.

18. This service is being developed iteratively, using the agile approach. During the development stage, we shared designs, draft screens, email content and prototypes with users and the system was tested under controlled conditions, and also in workplaces and homes. By testing and observing how people interacted with our service, we were able to explore how users act and feel at various points in proceedings, and what they understand
19. During small-scale live testing in the First-tier Tribunal (Tax Chamber) in July 2018, we sought to address needs we had identified earlier by providing a pre-hearing call with an HMCTS Video Hearing Administrator. During the call we checked the user's equipment, surroundings and answered any questions the participant had. An independent evaluation by academics from the London School of Economics (LSE) found that appellants and representatives felt that pre-hearing calls played a valuable role in preparing them for their video hearing.² HMCTS researchers and the independent evaluators observed participants placing great value on the pre-hearing calls, largely because it built their confidence and they were able to ask questions before their hearings
20. Since the first round of testing, we have been focusing on how to scale up the support service around a video hearing, which was cited in the process evaluation recommendations. We have also been exploring what information users need and when they need it in the build-up to a video hearing – and how we can provide this information most effectively. Rather than offering extensive guidance in a single block, we now provide information at the point users tell us they need it, and we provide it in context – an approach known as progressive disclosure.
21. Another development in the design of the video hearings project involved the 'journey in' to a video hearing. Before a video hearing can take place, we need to find out whether video will be suitable for a case and for an individual. We ask participants some questions about themselves and their access to the equipment they would need for a video hearing. In our initial testing, we sent participants these questions as an PDF document. We have now developed an online questionnaire with relevant guidance on each page, which our user research suggests will be a significant improvement. The online questionnaire is now being used in our current round of small-scale testing and will be evaluated independently to find out whether it is working well for our users.
22. The current round of small-scale testing is taking place in two locations, Manchester Civil and Family Justice Centre and Birmingham Civil and Family Justice Centre and across two hearing types; set aside judgements in the civil Jurisdiction and first direction appointments where parties are legally represented in the family jurisdiction.
23. Other good examples of the way reforms have been developed include:
 - a. The civil money claims pilot, which was launched in March 2018. Under this pilot, a person can use the online system to issue proceedings for the recovery of a specified debt up to £10,000. The system also allows parties to acknowledge service, defend, admit or partially admit a claim. It also allows parties to make and accept or refuse offers of settlement online. So far, the results have been promising, with over 43,000 claims issued, and an overall satisfaction level of 89%. Over time, the ambition is to extend the online system so that it can be used for all types of money claim, including personal injury cases. Further details of our vision for this pilot are set out in the response to the PAC's second recommendation.
 - b. Similarly, the online divorce and probate application pilots, which were also launched last year, are delivering positive results, and have learnt iteratively from large-scale feedback given by users.
 - c. We have introduced a new digital end-to-end case management system Automated Track Case Management (ATCM) for processing Single Justice Procedure (SJP) cases. SJP applies to defendants aged 18 or over who are charged with summary non-imprisonable offences and have either pleaded guilty or failed to respond to the SJP Notice issued by the prosecutor. SJP removes the requirement to try the case in open court and the case is tried on the papers by a single magistrate. A key element of ATCM is a new online plea service which enables the defendant to enter a plea online rather than respond by post. ATCM was initially limited to Transport for London fare evasion cases in London, but we have recently extended it to cover TV licensing offences in Warwickshire. Eventually the system will be used for all SJP cases. To date over 28,000 cases have been dealt with using ATCM. Over 1,500 pleas have been received online for TfL cases since it was introduced. 43% of all pleas are now done online rather than by post and importantly the engagement rate has improved from 17% to 20%, demonstrating that digital routes can increase access to justice compared to paper alone.

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740275/Implementing_Video_Hearings__web_.pdf

24. To support the successful delivery of the reform programme HMCTS have developed a new performance framework, and approach to performance management.
25. HMCTS already measures performance using a host of metrics across departments, including finance, operations and HR. We have existing metrics such as clearance times, outstanding caseload, capital spend, spend against budget, agency staff, and staff turnover. However, at the moment we are better at measuring things like time and cost than at measuring how simple or easy to use people found our services, or how well we provided them.
26. The new performance framework is a programme of work which brings all the existing metrics together as well as designing new metrics that allow us to measure the user experience of reformed courts and tribunals services, including people's perception (what public users think and feel about our service), effort (how hard it is to use our service) and experience (whether we reliably do what we said we would do). Our new systems will also both collect more, and more useable, data, and allow us to bring it together much more quickly and effectively to understand points of failure, opportunities, and things like the detailed experience of users with particular demographics. This will mean that HMCTS can improve its ability to drive evidence-based business improvements to user experience, and track the delivery of business and user benefits through the system. Underneath this consistent performance framework for use across HMCTS jurisdictions, each HMCTS service will have more specific measures.
27. We recognise that not everyone who needs to use the courts and tribunals will want to access digital services, and that others may need some help and support to do so. To support those in this position, we are improving our non-digital channels such as paper and telephone services, and have piloted an in-person Assisted Digital Service. Assisted Digital provides in-person support for those who wish to use the digital service, but lack the skills, facilities or confidence to do so. As our response to the second recommendation sets out, we have been working closely with the Good Things Foundation in developing this service, using their network of Online Centres (which include libraries and other community hubs) to do so. But as the response to the second recommendation makes clear, there will continue to be a need for some people to use traditional paper-based routes, so that any litigant who wishes to submit their claim, application or appeal on paper will still be able to do so.
28. All of our services (including assisted digital services) are informed by extensive user research and user testing by real end users of every transformed service. We have also engaged extensively with other government departments offering similar assisted digital support; this has proved invaluable in understanding lessons learnt which we have considered in the development of our own services. Our public service groups such as the Litigant in Person Engagement Group and the Equality and Inclusion Engagement Group have also allowed us the opportunity to get detailed advice at each stage of design from external organisations such as the Personal Support Unit, Citizens Advice, the Equality and Human Rights Commission, Disability Rights UK, AGE UK, and others.
29. To build our understanding of the needs of vulnerable and excluded groups of users HMCTS has been working with the Revolving Doors organisation to help us understand their barriers to digital participation amongst users of our services. Revolving Doors work with people who have had repeat contact with the justice system, many of whom have multiple and complex needs. In our work with Revolving Doors we have spoken with 70 people who have low digital literacy skills and have one or more of the following characteristics: people with disabilities, including mental health conditions, British Sign Language speakers, people for whom English is a second language, people who have experienced domestic violence, older people (65+), Welsh language speakers and people in repeat contact with the Criminal Justice System.
30. The research conducted with Revolving Doors indicates that assisted digital may not be suitable for some users; for example, they may not want to stay on the telephone to receive support; a centre may not be within reasonable travelling distance; or they may want to share a paper form with trusted friends to complete with them. These findings have helped to inform the design of our services which offer users a choice of channels, including using traditional paper based methods of access to the courts and tribunals, so that they can choose the one that is most suitable for their needs.
31. As our services go live, we will continue to gather feedback from our users and use this to refine and improve the assisted digital service. Further information on assisted digital can be found on our website.³

3 <https://insidehmcts.blog.gov.uk/2018/06/28/helping-people-to-use-online-services/>

Project level evaluation (tier 3)

32. To complement the project development work, we will also be undertaking formal project evaluation of some key elements of the reform programme.
33. One example of this is the Flexible Operating Hours (FOH) project. As part of the HMCTS Reform Programme, the FOH project was set up to look at options to maximise the use of our court rooms by using them at different times of the day, outside of the traditional hours of 10am to 4pm. On 16 November 2018, it was announced that HMCTS will be proceeding with two pilots in the Civil and Family Courts in Brentford County Court and Manchester Civil Justice Centre, and a revised Pilots Prospectus was published outlining the starting proposals for the two pilots.⁴ We will work with the Local Implementation Teams (LITs) in Brentford and Manchester to agree the exact start dates of the pilots, based on listing lead-in requirements; they are likely to begin in Spring 2019 and to run for six months from their start dates (which may be slightly different, according to the precise circumstances in each court).
34. A key objective of the FOH pilots is to evaluate the impact of FOH for all court users. We have appointed an independent organisation to evaluate the FOH pilots, looking at the impact of the pilots on all court users and conducting a cost-benefit analysis for a potential scaling up of the pilots. An Evaluation Advisory Group has been established to ensure a balanced and comprehensive assessment of pilot activity by the independent assessors.
35. We will publish the final evaluation framework before the pilots commence. Once the pilots have concluded, we expect that it will take around three months for all the data to be captured and analysed, feeding into the final evaluation report. We will publish the final evaluation report once it is available. Following the evaluation of the pilots, we will consider the evidence to consider whether flexible operating hours could become part of the way courts and tribunals work in the future, and where and how we could use them. We have not committed to any course of action to introduce FOH, and will not make any decisions until we can see evidence from these pilots.
36. We will be formally evaluating other key projects as the programme is implemented.

Tracking costs and savings

37. In addition to the evaluation, the financial costs and benefits of the reform programme are set out in the business case, which is refreshed periodically in line with funding approvals. Each iteration of the case provides updates on significant changes in delivery progress or plans as well as costs and benefits. In November 2017, we submitted the fourth reform business case (PBC4) and the Common Platform (CPP) business case to HM Treasury (HMT). A checkpoint meeting with the Major Project Review Group (MPRG) was arranged for April 2018 and a subsequent one for July 2018 and funding was approved until Interim State 2 (end January 2019). The next iteration of the business case, PBC5, obtained Investment Committee approval on the 17th of January and a draft has been shared with HMT. Formal submission of the business case will take place after the Major Project Review Group (14 February).
38. The HMCTS Portfolio Finance Team tracks the actual costs incurred and benefits realised by reform compared with those set out in the business case. By the end of 2018-19 we will have spent £546m, £83m less than the spending envelope in PBC4 on reform, and our benefits to date of £158m have exceeded planned levels for this point in the programme. We are refreshing our approach to benefits management to ensure a benefits-led approach across the portfolio, in line with Cabinet Office best practice. Tools, such as benefits dashboards at portfolio and programme levels, are also being developed to facilitate the easier dissemination of benefits information in a timely manner for decision making to drive and enhance a benefits-led approach and also to track the realisation of benefits against the programme's critical success factors and operational metrics.

⁴ <https://www.gov.uk/government/publications/flexible-operating-hours-prospectus-for-civil-and-family-court-pilots>

Conclusion

39. As PAC noted this is an ambitious programme of work, and nothing has previously been attempted on this scale. Evaluating a programme of this type and scale will present particular challenges. We are still at an early stage in developing our plans for the overarching evaluation, but I hope that this response reassures the Committee that we are alive to the concerns about the impact of reform on access to justice and we take this issue seriously. That is why we have built assessment and evaluation into the way we design reform, and we are undertaking a separate exercise to determine how we will evaluate the programme as a whole.
40. I will write to the Committee separately once our plans for the overarching evaluation have been fully developed.