

1. Our programme to reform the courts and tribunals system seeks to provide new routes to the just outcomes for which the UK has an outstanding global reputation, and to improve how justice is delivered. It is the most ambitious of its kind in the world. Given the centrality of the justice system to our democratic society, our work rightly demands open scrutiny (and rigorous evaluation). We welcome the committee's inquiry.

Introduction

2. It is common ground that access to justice is fundamental to the rule of law. Sir Ernest Ryder, Senior President of Tribunals and member of the HMCTS board, set out the key principles neatly in [his 2018 address at Keele University](#)¹. The broader set of rights we deem essential to a democratic society – from freedom of speech to freedom from violence – are underpinned by the right to access to justice. The ready ability of a wronged individual or organisation to access a court or tribunal for impartial and peaceful judgment allows rights, obligations, and laws to be enforced and, through open justice, to be understood by the community at large.
3. But the benefit of access to justice extends far beyond the certainty and remedy afforded to the parties in a given case. It is the underlying confidence – notwithstanding one's particular circumstances – that there are peaceful and binding routes to the resolution of disputes and to enforcement of the law more generally, which underpins effective every day social and economic relations. It is this confidence which feeds the understanding each of us has, however implicit, that when a when we take an action we do so in an environment where the law as made by Parliament has practical effect and meaning.
4. HM Courts and Tribunals Service provides the material support and machinery to allow citizens and organisations to exercise this right. Our reform programme is premised on the knowledge that we can provide new, better ways to access justice. We believe we can not only correspond better to modern expectations of a public service but, by designing our services around the needs of the user, open up the justice system more effectively to everyone.
5. Led jointly by the judiciary and the government, the programme, as set out in the [2016 joint statement by the Lord Chief Justice, Lord Chancellor and Senior President of Tribunals](#)², is focused on providing just, proportionate and accessible justice. The principal aims are:
 - To make procedures and services more available and straightforward to use; that reduce complexity in our systems so that they are more accessible; and that are more aligned with the way people want and need to engage with us;
 - To create a greater number and more efficient routes to justice, which in turn enable more proportionate interactions with the justice system and more appropriate investment of resources in the justice system

¹ Sir Ernest Ryder, *Senior President of Tribunals, Assisting Access to Justice, Keele University 2018* (<https://www.judiciary.uk/wp-content/uploads/2018/03/speech-ryder-spt-keele-uni-march2018.pdf>)

² Lord Chief Justice, Lord Chancellor and Senior President of Tribunals, *Joint Statement, September 2016* (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/553261/joint-vision-statement.pdf)

- To provide an estate with fewer but better buildings, and a better, less daunting environment within those buildings;
- To provide services and a support structure that is more responsive to those that need our support;
- To create a more data driven department, providing a better evidence base for decision making, allowing us to better understand the impact of our reforms.

The introduction of digital services

6. We believe that the introduction of digital services will help strip away the complexity and confusion that can get in the way of accessing our courts and tribunals system and will, through the provision of better designed services, increase access to justice.
7. Evidence on the extent of unmet demand for access to justice is necessarily qualitative. But both judicial and academic analysis suggests existing provision is complex and difficult to navigate which can have the effect of dissuading the public (particularly litigants in person) from using courts, a fact arguably reflected in the profusion of ombudsman schemes over recent years which offer accessible resolution of disputes. [In his final report on the Civil Courts Structure Review](#), Lord Briggs argued that unnecessarily complex procedure ultimately acts as a barrier to justice. The view is reinforced by academics [such as Richard Susskind and the Civil Justice Council](#) who perceived the introduction of an online court “*as an innovation that will increase access to justice*”³. Examples of the difficulties faced by those who represent themselves in the courts and tribunals in the face of complex and unintelligible court processes, were recently been examined by [JUSTICE](#)⁴.
8. This proposition is supported by evidence from other jurisdictions. The [Canadian Civil Resolution Tribunal online](#)⁵ system has been operating for over 5 years⁶ and seen a large increase in demand for its online services, with less than 1% of users now choosing to participate by mail. Additionally, around 45% of their users now interact with the system outside of standard court hours.
9. As for the HMCTS programme, all digital services are additional to, rather than substitutions for, existing routes. These routes will continue to be supported as the online court and digital services develop, including paper for litigants in person. Fully video hearings will be supported for suitable types of work, but are not – and never have been – intended as a like-for-like substitute for all types of physical hearing. Our approach to video hearings was outlined in [Kevin Sadler’s 2018 blog](#)⁷.

³ Online Dispute Resolution Advisory Group (Richard Susskind), CJC ODR Group Response, March 2016,

<https://www.judiciary.uk/wp-content/uploads/2016/04/cjc-odr-advisory-group-response-to-lj-briggs-report.pdf>

⁴ JUSTICE, Understanding the Courts, 2019,

<https://justice.org.uk/supporting-exonerates-ensuring-accessible-continuing-and-consistent-support/>

⁵ Canadian Civil Resolution Tribunal website,

<https://civilresolutionbc.ca/about-the-crt/>

⁶ Online dispute resolution and justice system integration: British Columbia’s civil resolution tribunal, (Shannon Slater), December 2017

<https://wyaj.uwindsor.ca/index.php/wyaj/article/view/5008/4272>

⁷ Realising the potential for video hearings, Kevin Sadler (HMCTS), July 2018,

<https://insidehmcts.blog.gov.uk/2018/07/30/realising-the-potential-for-video-hearings/>

10. Evidence from our early digital services strongly indicates that digital justice can be straightforward and accessible. Designed and extensively tested with users, early take-up of these services has been high, and public satisfaction rates consistently positive:

Measure	Divorce Online	Probate Online	Civil Money Claims Online	Social Security and Child Support Online
<i>Number of applications</i>	29,428	11,264	48,975	6,159
<i>User Satisfaction</i>	82%	93%	88%	71%
<i>Digital Uptake</i>	54.18%	27.1%	72%	-

*all data as of 11th February 2019

11. Because they are easier to use, straightforward digital services pay an efficiency dividend in reduced handling friction in cases, less administration, and reduced rework. HMCTS used to return 40% of divorce applications because they were incorrectly filled in. This was infuriating for applicants but also wasteful for administrators who processed almost half of divorce applications at least twice. Fewer than 1% of forms on the new digital service are now returned for these reasons.
12. Importantly, time spent designing the front part of the process around the user has reduced overall error rates in the system even when other parts remain unreformed. The rejection rate for applications at the *decree nisi* phase of the divorce process fell from 16% under the legacy service to under 2% for cases which began digitally, even though the *decree nisi* phase of the process had not yet been digitally re-engineered. We have seen similar patterns in Social Security and Child Support (SSCS) where during the private beta stage rejections fell by 45%. Some worry about a tension between efficiency for HMCTS and improved service for the citizen – but in fact we are showing that we can deliver services that are both better for citizens and more efficient, by making them easier to use, and reducing waste; indeed, it is only through better designed services which the public will choose to use that we can make sensible efficiencies. Better designed services that are ‘right first time’ reduce demand on HMCTS staff time as well as providing a better experience.

“The online divorce [test] has been a triumphant success and shows, to my mind conclusively, that this is – must be – the way of the future.”

- Sir James Munby, President of the Family Division until July 2018

13. The public are the first to make an efficiency gain. New services have reduced the amount of time users spend completing applications and dealing with HMCTS processes:

System	Divorce online (Average application)	Probate online (full process)	Civil Money Claims (issue claim)	SSCS (average response rate)
<i>Digital</i>	25 minutes	10 days	10 minutes	29 days
<i>Legacy</i>	60 minutes	28 days	15 days	32 days

14. With the introduction of a new digital evidence sharing facility with DWP in 2019, we expect the SSCS average response rate will reduce significantly.

“A million times better than the written appeal process and is better for the environment due to less paper wastage.”

– A social security and child support user

“A claim was lodged on-line at 14.02 and had been paid by 16.00. That is the sort of service we should be providing to the public.”

- Lord Chief Justice on Civil Money Claims service

15. Accessibility is also improved for those in receipt of, rather than initiating, a case. In the criminal courts, fare evasion cases prosecuted by Transport for London can now be pleaded for online, instead of by post. Since online pleas were made available in April 2018, engagement by defendants has shown a gradual increase from 16% to 19% in March 2019. Increased engagement from defendants reduces trials *in absentia* and the re-opening of proceedings down the line. The same holds true for civil defendants. The overall defendant engagement rate stands at 35% for Civil Money Claims Online which is an improvement on the 21% engagement rate on the previous system. Since the service went live nationally, there have been examples of claims being issued and either admitted or defended within a couple of hours, which really highlights the efficiency savings of this service longer term. High engagement drives early resolution of cases, which is advantageous both to the parties and to the overall system.

“Perfect, if only all government and other services worked like this!”

- Single Justice Service user

16. Benefits to users go beyond savings of time. Simpler, more intuitive ways of doing things remove barriers and empower people to do things they might previously have considered too difficult. Changing perceptions widely will take time; but we have already seen examples of feedback that directly contrast the straightforwardness of our new ways of doing things with people’s current expectations that court processes will be impenetrable. This goes directly to access to justice – because where people worry that they will not be able to understand or navigate a process, they are less likely to engage even if they have just cause.

‘This is pretty straightforward, it’s good, it’s clear, its quite easy really. I’m quite impressed with it really. Its easier than expected, I was worried there were parts I was not going to be able to do’

- SSCS User

“This is a totally new experience for me, and I never thought I could do it by myself, but I am so pleased at how easy it was”

- SSCS User

“It was marvellous, pain free and less stressful than the paper form which I tried several years ago to complete but got fed up of it being rejected.”

-Divorce User

17. While not yet in deployment, similar principles hold for the higher criminal courts. Digital working will enable all participants in the system to work from the same information to reduce duplication of effort and introduce greater consistency and certainty about what is happening when. Accessibility and efficiency will also be improved by ensuring that issues that do not require court time are dealt with more swiftly and effectively. For these and other parts of the system where reformed services are not yet widely available, [we have set out what the changes will mean for all users of the system in practice](#)⁸ as well as providing [regular updates on forthcoming changes](#)⁹ on a jurisdictional basis.

“The user experience has been overwhelmingly good – screens are easy to navigate and intuitive.”

– Common platform user

Providing better support for people using our services

17. The principal aim of our new digital services is to add new routes to justice, not to take others away. Our paper processes will remain for individuals and for some this will still be the best route into our courts and tribunals (we will scan paper on the way in so that within the organisation we can handle everything digitally). But for those who want to engage digitally but have trouble doing so, [we are providing a range of support to help ensure the process is accessible to all](#)¹⁰. For most of the people who use our service this will be best done through telephone support or webchat (via a Courts and Tribunals Service Centre). Others will need face-to-face support, for which we have partnered with the Good Things Foundation network of centres.

18. But accessibility starts at the design phase. To build our specific understanding of the needs of vulnerable and excluded groups of users, HMCTS is receiving support from a

⁸ HMCTS, Response to recommendation 2 of the Public Accounts Committee, January 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/775594/Public_Accounts_Committee_Recommendation_2_31_Jan_2019.pdf

⁹ HMCTS Reform Update: <https://www.gov.uk/guidance/hmcts-reform-programme-reform-update>

¹⁰ HMCTS, Helping people use online services, June 2018: <https://insidehmcts.blog.gov.uk/2018/06/28/helping-people-to-use-online-services/>

specialist organisation, Revolving Doors, with whom we have engaged with a wide range of individuals including people with low digital literacy skills, disabilities (including mental health conditions), English as a second language, and repeated contact with the criminal justice system. Our public service groups such as the Litigant in Person Engagement Group and the Equality and Inclusion Engagement Group have also enabled us to receive detailed advice at each stage of design from external organisations such as the Personal Support Unit, Disability Rights UK and AGE UK.

“The service was a lot easier because I use a wheelchair and didn’t have to go out; I also found it very easy as an autistic person to get support from the team.”

- Divorce User

‘I am 71 years old and not quite computer friendly but I think it is a very good web site and quite easy to use ‘

-Civil Money Claims User

Likely effects of court closures, reductions in staffing and use of video hearings on access to justice

19. HMCTS was created in 2011 and, in doing so, inherited a physical estate developed by different organisations over a long period of time. Many of our buildings had long been underused, or were inappropriate for modern use, and many towns and cities hosted a number of buildings. For example, Leeds has five court buildings within a two mile radius. As a result, our estate has been expensive to run and hearings have been held in buildings not fit for a 21st century justice system.
20. The joint statement launching the Reform Programme in 2016 by the then Lord Chancellor, Lord Chief Justice and Senior President of the Tribunals set out clearly our approach. It said:

“...we will need fewer buildings, used more efficiently with courtrooms which are more adaptable... Many will be closed over the next four years to fund investment in fewer, more modern buildings that can better serve people’s needs.”
21. We do not, however, believe technology – whether through video hearings or online processes – provides a like-for-like substitute for physical hearings. There are – and will always be – circumstances when a physical hearing is best; there will likewise be circumstances in which digital or virtual working is a better solution. Procedural rules and practice directions will set out a framework for these considerations, underpinned by the enduring judicial discretion over the management of cases. It follows that courts and tribunals buildings must be suitably accessible and appropriate for use.
22. The *Fit for the Future: Transforming the Court and Tribunal Estate* consultation set out proposals for our strategy and principles on which we will make decisions regarding the court and tribunal estate. We listened carefully to the responses we received to the consultation and in our response we will set out changes to our estates principles which strengthen our decision making and provide further reassurance that effective access to justice will be maintained.
23. We regularly evaluate the impact court closures have on average travel times. To date, our analysis indicates that there has been limited change to the proportion of people who have reasonable journeys to court as a result of court closures. In recent analysis we

modelled the proportion of people in England and Wales able to leave home after 07:30 and arrive at court by 09:30, using public transport, for the current estate. We have also looked at the same measure for the court and tribunal buildings which were open in 2010 (in both HM Courts Service and the Tribunals Service). As the table below shows, the changes are modest and – though no closure is taken lightly – this serves to demonstrate that the courts that have been closed since 2010 were poorly used or located in relative proximity to another building which could accommodate the work of the closing court, or both.

	Mags	County	Crown	Tribunal
<i>Dec-10</i>	96.7%	96.3%	93.6%	94.5%
<i>Jan-19</i>	95.1%	95.5%	92.8%	94.2%
Difference	-1.6%	-0.8%	-0.8%	-0.3%
% of people who could get to the nearest court of each type by 9.30, if they left their home after 7.30 by public transport				

In this period, the number of court buildings reduced from 605 to 332 (as at end December 2019).

24. The Ministry of Justice will soon be publishing its response to last year’s consultation paper, “Fit for the Future”, which will reflect the measures we will take to ensure that the small number people who may fall outside a reasonable travel time have appropriate support to access justice.
25. While maintaining a suitable footprint of buildings, providing courts and tribunals with the option of using fully video hearings has the potential to increase access to justice and provide better alternatives to physical hearings for some types of cases and hearings.
26. An [independent academic evaluation of an early, small-scale pilot of fully video hearings](#) in the Tax Tribunal last year¹¹ found that users – public and professional – “*reported high levels of satisfaction with video hearings, particularly due to the practical advantage of not having to travel to a physical court. They reported that the hearing was clear, easy to navigate, and user-friendly.*”

One appellant located outside the UK said:

“I couldn’t even believe it when they told me they could do it online, it’s amazing. I’m in a foreign country... I’m satisfied all this could happen without having to jump on plane and pay a fortune to come to UK.”

Another appellant had recently become a parent and was very pleased to have the opportunity to present their case via video and not have to travel to a physical court hearing: They said:

¹¹ Implementing video hearings (party to state), London School of Economics, 2018: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740275/Implementing_Video_Hearings_web_.pdf

“I have a couple of weeks old baby... it would be a nightmare... [a video hearing] makes life much easier”.

27. HMCTS has been clear that fully video hearings would not be appropriate for non-summary criminal trials and that their use will always be a matter for judicial discretion. We anticipate they will prove particularly effective for conducting procedural and administrative hearings to which parties will be able to join from their place of work rather than from the courtroom. Further information on the use of video hearings was recently published on the HMCTS blog ([HMCTS, Realising the potential for video hearings, July 2018](#)).

Consultation, communication, and adapting our workforce

28. Consultation, engagement and communication with users and stakeholders and our staff are critical elements of the design, development and delivery of reform. HMCTS plans – set out in a document, Engaging with our stakeholders ([HMCTS, Engaging our stakeholders, November 2018](#)), published in November 2018 – are to increase the impact and effectiveness of the three strands of its approach, including:

- Communication to provide regular information and updates about reform;
- Dialogue to enable HMCTS to share its reform plans and exchange and views with representative organisations, particularly among legal professional and public user groups;
- Collaboration with users and stakeholders at a project level to design and develop new services.

29. The delivery of our services, and the changes we plan to make to them, rely on the skill, dedication, and commitment of the outstanding staff which HMCTS is fortunate to employ.

30. There are around 16,000 (full time equivalent) HMCTS staff, of whom 3,000 are temporary or agency staff. At the end of the programme we anticipate there will be around 11,300 people working with the service, of whom about a half will continue to work in local courts and tribunals. The remainder will be employed in Courts & Tribunals Service Centres, providing direct service to the public and carrying out centralised support and administrative functions, with key functions performed by staff in headquarters or regional roles. We talk to our staff openly, honestly, and early about changes that may affect them and regularly seek their feedback on how we can manage reform effectively.

31. Some roles – those predominantly concerned with processing paper or transferring information between legacy systems, for example – will no longer exist, while others will change, typically becoming more skilled and involving less repetitive, routine work (as a result of better digital systems). These movements reflect the efficiencies gained through new digital services either because work has been automated or removed (e.g. the sending of forms and papers; re-keying data between systems), or because there is less demand for that type of work (e.g. calls asking where a case is in the process).

32. New roles in Courts and Tribunals Service Centres will provide the better, consistent national service to the public which is enabled by digital working. Our first two centres (in Stoke and Birmingham) have provided valuable development and promotion opportunities for internal staff.

33. As well as keeping a sizeable float of flexible and temporary staff to minimise the impact on permanent staff and provide scope for redeployment of existing staff, we have launched a career transition service to help those staff whose roles are affected by the changes, and have also worked to re-design roles, provide new routes for career development and progression, and to review, update and develop policies for recruitment, retention and redeployment.
34. Underpinning all of these changes is a significant investment in building the skills and capabilities of HMCTS staff, with strong and effective training including a growing apprenticeship programme, leadership and digital training, and training in what in other organisations would be called 'customer service'.

Evaluating the impact of reform

35. Finally, to ensure that our changes positively affect access to justice we have started a significant research and evaluation programme, which continually seeks the views of the people who use the courts and tribunals system and develops insight from its findings. The extent of this work is [set out in our response to the Public Accounts Committee recommendation 4](#). The purpose of this overarching evaluation will be to understand the effect of the programme as a whole by answering three principal questions:
- has reform altered outcomes (fairness e.g. case/ hearing outcomes, sentencing and financial awards)?
 - 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)?
 - 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)?
36. By the end of spring 2019, we will have completed the scoping work and will set out:
- All of the detailed questions that underpin a full assessment of the broad principles of fairness, accessibility and cost;
 - The data we currently collect that may help us to answer these questions; and identify what further information we need to answer these questions fully;
 - Whether we need to commission external research on certain aspects of the evaluation);
 - How we will evaluate the effect of reformed services on vulnerable users;
 - The membership and terms of reference of a new advisory panel drawing 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.
37. To support this work, we have also brought in external expertise to help us meet our commitments. In November 2018, Dr Natalie Byrom, Director of Research and Learning at The Legal Education Foundation (TLEF), was seconded to HMCTS for three months.
38. We plan to complete an interim evaluation of the report by the summer of 2021. The intention would then be to continue to evaluate the programme at regular intervals until the programme is concluded. There will be regular updates throughout the evaluation, as findings become available.

References

[Sir Ernest Ryder, Assisting access to justice, Keele university, 2018](#)

[Lord Chief Justice, Lord Chancellor and Senior President of Tribunals, Joint Statement, 2016](#)

[Lord Justice Briggs, Civil Courts Structure Review: Interim Report, December 2015](#)

[Online Dispute Resolution Advisory Group, CJC ODR Group Response, March 2016](#)

[JUSTICE, Supporting Exonerees, April 2018](#)

[HMCTS, Response to recommendation 2 of the Public Accounts Committee, January 2019](#)

[HMCTS, Helping people use online services, June 2018](#)

[HMCTS, Realising the potential for video hearings, July 2018](#)

[HMCTS, Engaging our stakeholders, November 2018](#)

[HMCTS, Response to recommendation 4, January 2019](#)