



House of Commons
Justice Committee

**Court and Tribunal
reforms**

Second Report of Session 2019

*Report, together with formal minutes relating
to the report*

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Justice Committee

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Contents

Summary	3
1 Introduction	5
Development of the court and tribunal reform programme	5
Our inquiry into the court and tribunal reform programme	6
2 Digital justice processes	8
Views on digital justice processes	9
Criminal justice	9
Civil justice	11
Family justice	11
Tribunals	12
Barriers to accessing digital services	12
Internet usage and digital skills	12
Literacy barriers	13
Access to technology	14
Disadvantaged and vulnerable groups	15
Overcoming digital exclusion	17
Parallel paper processes	17
Assisted digital support	17
Legal capability	19
Public legal education	20
3 Video links and video hearings	23
Use of video in criminal cases	23
Use of video in other jurisdictions	26
Research on video links and video hearings	28
4 Court and tribunal buildings	30
Impact of court closures	32
Views of judicial office holders	32
Views of other witnesses	33
Evaluating the impact of court closures	36
The condition of court and tribunal buildings	36
Travel time to court	38
Supplementary provision	42

5	HMCTS reductions in staffing	44
	The impact of staffing reductions	44
	Closure of public counters at courts	46
	Impact on staff morale	46
	Future staff reductions	48
6	Open justice and the rule of law	50
	Open justice	50
	Preserving open justice in online and video processes	51
	Open justice and the media	54
	Rule of law	54
7	Engagement and evaluation	57
	Stakeholder engagement	57
	Judicial engagement in the reforms	59
	Evaluation of the reforms	61
	“Agile” design technique	63
	The views of academics	64
8	Final Points	66
	Conclusions and recommendations	68
	Annex	73
	Formal minutes	77
	Witnesses	78
	Published written evidence	79
	List of Reports from the Committee during the current Parliament	82

Summary

Serious concerns exist about the effect on access to justice and its efficient despatch of the current court and tribunal modernisation programme, led by the Ministry of Justice and the senior judiciary of England and Wales.

Courts service modernisation, including use of better IT to be more efficient, is long-overdue. But we have found that poor digital skills, limited access to technology and low levels of literacy and legal knowledge raise barriers against access to new services provided by digital means. The HM Courts and Tribunals Service (HMCTS) has not taken sufficient steps to address the needs of vulnerable users, who lack adequate legal advice and support. Face-to-face support is essential. We recommend that by April 2021 the network of assisted digital Online Centres be extended to deliver comprehensive national coverage with walk-in access.

We received powerful evidence of a court system in administrative chaos, with serious staff shortages threatening to compromise the fairness of proceedings. HMCTS must not proceed with planned much deeper staffing cuts unless it is confident of being able to provide acceptable service. We are concerned about delays, for example in processing divorce petitions, and we call on HMCTS to publish ambitious targets for divorce completion times.

Between 2010 and 2018, half of magistrates' courts closed, along with more than one third of county courts. These closures have created alarming difficulties for many court users, who are now expected to travel too far to attend court and to spend too many hours of their days or weeks in doing so. There should be no further court closures without robust independent analysis of the effects of closures already implemented. We recommended earlier this year that HMCTS urgently establish more supplementary venues (such as pop-up courts in non-traditional courts buildings), and these should be established in every area where there has been a court closure in the past 10 years.

Existing court buildings are dilapidated and sometimes lack the basics, such as facilities for disabled users. This is unacceptable and must be addressed.

The interests of justice are not served by unreliable video equipment and WiFi facilities throughout the criminal courts estate; HMCTS must expedite planned investment upgrading these. There is not enough research on the impact on justice outcomes of video hearings and video links in the UK; the MoJ should commission this. Existing access to online justice processes only via the gov.uk website should be discontinued and replaced without delay.

Open justice—that is, the public resolution of criminal and civil disputes—must not fall by the wayside. HMCTS should, in consultation with the senior judiciary, develop technological solutions to support open justice. We recommend that the senior judiciary convene a working group to consider how to protect and enhance media access to proceedings. The Government should commit to piloting public legal education within its action plan for legal support, with a view to rolling out a national programme by 2022.

HMCTS has struggled to explain its vision for the reform programme, and needs to be more rigorous in engaging with and responding to stakeholders. The MoJ should also do more to evaluate the reforms, especially their impact on vulnerable and excluded groups.

1 Introduction

Development of the court and tribunal reform programme

1. Three years ago, the Ministry of Justice and the senior judiciary of England and Wales began the biggest programme to modernise a court system ever attempted anywhere. In the joint vision they set out for the programme in September 2016, the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals aimed to provide a just, proportionate and accessible system while transforming how people obtain access to justice through greater use of technology rather than paper-based processes, moving some cases online and introducing some virtual hearings. Technological improvement would include development of a single online system for starting and managing cases across the criminal, civil, family and tribunal jurisdictions. Fewer courts would be needed, and closing buildings, and reducing staff numbers, would fund a smaller, more modern estate. The Government had committed to investing more than £700 million in courts and tribunals modernisation, and more than £270 million more in the criminal justice system.¹

2. The senior judiciary emphasised their commitment to the programme in evidence to our inquiry. The Lord Chief Justice, Lord Burnett of Maldon, said the judiciary saw the programme as “long-overdue modernisation of our systems” to keep pace with developments in technology.² The Senior President of Tribunals, Sir Ernest Ryder, referred to the need for “transformational change”, and set out six principles by which the judiciary seeks to judge the transformation:

- ensure justice is accessible to those who need it;
- design systems around the people who use them;
- create a financially viable system using a more cost-effective infrastructure (better and effective use of IT, buildings and new working practices);
- eliminate the most common causes of delay;
- retain the UK’s international standing as a world-class provider of legal services and the judiciary’s as world leaders in the delivery of justice; and
- maintain the constitutional independence of the judiciary.

3. HM Courts and Tribunals Service (HMCTS) is an Executive Agency of the Ministry of Justice (MoJ) and responsible for administration of courts and tribunals. It reports to the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals through

1 [“Transforming our Justice System” statement by the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals, September 2016](#). Alongside the joint statement, the MoJ published a document summarising the approach that the Government would take to the reforms: [Transforming our justice system: summary of reforms and consultation](#). Ministry of Justice, 2016. Cm 9321 The document also included a public consultation on three issues: assisted digital facilities, automatic online convictions and the composition of tribunal panels

2 [Q245](#)

an independently chaired Board. In 2018–19, HMCTS employed around 16,100 full-time equivalent staff (of which 2,000 are contractors), operated 341 courts and tribunal centres that heard 4.4 million cases and spent £1.9 billion.³

4. The National Audit Office 2018 report: *Early progress in transforming courts and tribunals* noted “significant financial and operational pressures” on the Government to improve the administration of the justice system.⁴ Many activities depend on outdated IT systems and/or paper-based processes that lead to inefficiencies and delays. Lord Justice Briggs highlighted the need for substantial investment in digitisation in his review of the civil courts in England and Wales. He recommended the development and launch of an online court for money claims of up to £25,000 by 2020.⁵

5. The court and tribunal reform programme consists of more than 50 projects, and HMCTS provides regular updates on progress on its website. It originally structured the programme into three parts: Court Reform, the Common Platform Programme, and the Transforming Compliance and Enforcement Programme (TCEP), but the last of those was suspended in September 2018 after being in development for nearly three years.⁶ Reform is now organised under three headings: Crime; Civil, Family and Tribunal; and Cross-cutting projects and services.⁷

Our inquiry into the court and tribunal reform programme

6. The NAO report *Early progress in transforming courts and tribunals* outlined in May 2018 what HMCTS expected its change portfolio to deliver, considered early progress against plans and explored risks to delivery. The NAO found that HMCTS faced “a daunting challenge in delivering the scale of technological and cultural change necessary to modernise the administration of justice, and achieve the savings required.”⁸ Although HMCTS had responded to early concerns by extending the delivery timetable from four years to six, it was still under significant pressures and—according to the NAO—there was a real risk that “the full ambition of the change portfolio will prove to be undeliverable in the time available.” The NAO highlighted three fundamental areas of risk: sustaining commitment from stakeholders; managing the system-wide consequences of change; and adopting a realistic approach to benefits that the programme could deliver.⁹

7. The Public Accounts Committee (PAC) concluded in July 2018 that it had little confidence in successful delivery of the transformation programme, and raised concerns that HMCTS had not adequately considered the impact of the reforms on access to justice for vulnerable people or on the wider justice system.¹⁰ In March 2019, the Government

3 [Transforming courts and tribunals – a progress update. National Audit Office, September 2019](#)

4 [Early progress in transforming courts and tribunals. National Audit Office, May 2018](#)

5 [Civil Courts Structure Review: Final Report. Lord Justice Briggs, July 2016](#)

6 According to the Law Society Gazette (15 October 2018), the Ministry of Justice said that its TCEP plans were ‘no longer affordable’ within its funding allocation for the 2015 spending review period. <https://www.lawgazette.co.uk/news/revealed-hmcts-had-already-spent-18m-on-axed-debt-scheme/5067939.article>

7 <https://www.gov.uk/guidance/hmcts-reform-programme-projects-explained#completed-or-suspended-projects>

8 [Early progress in transforming courts and tribunals. National Audit Office, May 2018, HC 1001, Para 19](#)

9 On 12 September 2019, the National Audit Office published its follow-up report, “[Transforming courts and tribunals - a progress update](#)” (HC 2638).

10 House of Commons Committee of Public Accounts. [Transforming courts and tribunals](#), Fifty Sixth Report of Session 2017–19, 20 July 2018, HC 976

put back the programme's completion date by a further year to 2023, partly because of feedback received from the PAC and the NAO; this means that the programme will now take seven years to complete.

8. The PAC's concerns about access to justice were a factor in our decision to launch our own inquiry on 10 January 2019, focusing on the effects of the reforms on people's access to justice.¹¹ We have published 87 submissions and held four public evidence sessions. We are grateful to all who provided written and oral evidence. We thank Dr Joe Tomlinson, our academic fellow, who with other academics, attended an informal, private evidence session on 9 July 2019 to help us review approaches to evaluating the reform programme (see Annex).

11 Some of the evidence that we received addressed concerns about shortages of judges in the lower courts, an issue that has also been covered in media reports. While we acknowledge these concerns, we did not address them in this inquiry.

2 Digital justice processes

9. The court and tribunal reform programme includes development of a range of digital justice services that, according to HMCTS, “will help strip away the complexity and confusion that can get in the way of accessing our courts and tribunals system”, thereby increasing access to justice.¹² Among the most important projects are Online Civil Money Claims (OCMC), currently for small claims under £10,000; online divorce and probate applications; continuous online resolution of social security appeals; and the Common Platform project, a digital infrastructure for the criminal courts that will be shared between the police, HMCTS and the Crown Prosecution Service (CPS) and designed to be accessible by other participants in the criminal justice system.

10. HMCTS and the senior judiciary have expressed some confidence and optimism about new online processes. The Master of the Rolls, Sir Terence Etherton, “an unapologetic enthusiast for digitisation”, told us “the public have voted with their feet” on Online Civil Money Claims (OCMC): since March 2018, 70,000 small claims had been voluntarily processed online with a satisfaction rate of just under 90%.¹³

11. Sir Terence emphasised, however, that OCMC was not an “online court”: if settlement is not achieved via the online process, disposal of the claim is still undertaken in a physical setting—although claims may be determined in future by video hearing.¹⁴ The Lord Chief Justice added that OCMC offered streamlined processes rather than only digitisation of existing processes; as with online insurance renewal, the OCMC system would block a claimant from moving on through the system if part of the online form had not been completed.¹⁵

12. In family proceedings, HMCTS has hailed as a success its new facility for unrepresented applicants to apply for a divorce online, citing digital uptake of 54%, a user satisfaction rate of 82%, and a significant reduction in return rates. It cited a comment from a service user, who had previously abandoned a paper divorce application several years ago after several rejections and who referred to experience with the online service as “marvellous, pain free.”¹⁶ Many witnesses also welcomed this innovation. As one of the first four firms in the pilot project for online divorce, the International Family Law Group argued that digital innovation was crucial for the future of family justice.¹⁷

13. The Senior President of Tribunals, Sir Ernest Ryder’s 2019/20 Innovation Plan summarises modernisation projects, several involving online processes, across tribunal jurisdictions.¹⁸ Appellants can already complete and submit Employment Support Allowance (ESA) and Personal Independence Payment (PIP) appeals online and upload supporting evidence. “Continuous online resolution” for these cases is in development, allowing parties to communicate digitally with the tribunal judge at the earliest stage of the case and resolve appeals online, where appropriate, without the need for a hearing.

12 HM Courts & Tribunals Service ([CTS0064](#))

13 [Q262](#). It should be noted that the use of the OCMC is optional and that these satisfaction rates apply to users who have voluntarily engaged in the OCMC process.

14 [Q263](#). In addition, there is a pilot for online resolution of disputes relating to claims under £300.

15 [Q274](#)

16 HM Courts & Tribunals Service ([CTS0064](#))

17 The International Family Law Group ([CTS0020](#))

18 [The Modernisation of Tribunals Innovation Plan for 2019/2020. Senior President of Tribunals](#)

The judge will ask a series of structured questions until enough information has been gathered to go to a hearing or to issue a decision. However, the online process is not mandatory. Sir Ernest explained:

Our default position is that our users must be able to access justice by a method that is appropriate to their needs. However successful new digital process may be, some users will need to be able to take advantage of a paper process. We will provide new paper processes that reflect new digital processes.¹⁹

The Lord Chief Justice emphasised that no litigant in person would be forced to use digital processes in any court or tribunal. HMCTS gave the same assurance, explaining that its staff would scan paper “on the way in” so they can handle everything digitally.²⁰

Views on digital justice processes

14. We heard support for the introduction of well designed digital services into courts and tribunals. Professor Richard Susskind argued that online courts that included “online judging” offered justice at a proportionate cost, so long as traditional hearings were available for complex cases and there remained a right of appeal to a physical court. He promoted the idea of “extended courts” that integrate guidance, advice and perhaps alternative dispute resolution to facilitate early settlement.²¹ The Bar Council of England and Wales thought that practitioners and clients welcomed practical changes such as “the removal of unnecessary hearings and the move away from an unwieldy and inefficient paper-based system in the civil courts in particular.”²² However, evidence from other witnesses made it clear that support was, for many, tempered by a good deal of caution.

Criminal justice

15. Penelope Gibbs from Transform Justice raised concerns about the impact of allowing defendants (from April 2018) to enter online pleas for some Single Justice Procedure (SJP) matters, including Transport for London fare evasion and TV licensing cases.^{23,24} She thought that any consequential changes in the proportion of guilty pleas should be researched, and questioned whether defendants making online pleas understood defences or mitigations that might be available to them or the implications of acquiring a criminal record.

16. Subject to legislation, the Government has longer-term plans to introduce automated online convictions, as a voluntary option for certain summary, non-imprisonable offences, such as fare evasion.²⁵ Defendants who decide to plead guilty could opt into an automatic

19 Senior President of the Tribunals ([CTS0076](#))

20 HM Courts & Tribunals Service ([CTS0064](#))

21 [Q190](#); Professor Richard Susskind ([CTS0039](#)), paragraph 22.

22 The Bar Council ([CTS0058](#)). See also Citizens Advice ([CTS0016](#)); JUSTICE ([CTS0068](#)); Ms Amanda Finlay ([CTS0055](#)); Richard Miller ([Q90](#)); Equality and Human Rights Commission ([CTS0075](#)); Resolution ([CTS0051](#)); Family Law Bar Association ([CTS0042](#)).

23 Under the Single Justice Procedure, introduced in April 2015, cases involving summary-only non-imprisonable charges are dealt with on the papers by a single magistrate sitting in private with a legal adviser.

24 According to the Lord Chief Justice of England and Wales ([CTS0078](#)), the response rate to SJP notices has increased from 16% to 23% over the period from April to November 2018

25 See [Transforming our justice system: assisted digital strategy, automatic online conviction and statutory standard penalty, and panel composition in tribunals: Government response. MoJ, February 2017](#)

system that would issue an online conviction and take payment of a fine. This proposal came in for particular criticism from Fair Trials, a global criminal justice organisation, which argued that such a system would fall foul of the requirements of Article 6 of the European Convention of Human Rights (the right to a fair trial) because of the absence of effective judicial review of the conviction.²⁶

17. Several witnesses commented on HMCTS proposals which would—again subject to legislation—permit defendants to indicate an advance plea online in more serious cases. The then President of the Queen’s Bench Division, Rt Hon Sir Brian Leveson, acknowledging that “defendants would require access to legal advice” before advance online pleas could be introduced, said that “[c]hanges would be needed to the way that legal aid is currently provided.”²⁷ The Magistrates Association thought that individuals might indicate a plea without receiving appropriate legal advice, possibly failing to realise the seriousness of the case so that, if they misunderstood the process, they would be more likely to change their plea at a later stage, creating delays and losing the benefits of an early guilty plea.²⁸ Transition to Adulthood argued that young adults were prone to make impulsive decisions instead of taking time to make a fully informed choice.²⁹ Matt O’Brien from the Criminal Law Committee of Birmingham Law Society pointed out that a lack of opportunity to obtain advice before going online to complete the form could lead to:

people pleading guilty to offences to which they have a defence, or there is an alternative plea to a lesser charge that could have been canvassed, or they are pleading not guilty to matters where what they are advancing is mitigation.³⁰

18. We received evidence expressing doubts about the scope and operation of the Common Platform, currently used in the Crown Court, referring to difficulties faced by unrepresented litigants in getting hard copies of electronic documents.³¹ It was pointed out that juries could not access electronic case files and had to be provided with printed copies or use police laptops to view documents electronically.³² HMCTS’s plans to extend the Common Platform to magistrates’ courts will inevitably be affected by the quality of WiFi available in courtrooms. Describing current WiFi as “wholly inadequate”, the Legal Committee of HM Council of District Judges (Magistrates’ Courts) told us:

This prevents papers being sent/received, often the CPS will have to stop in the middle of a case because they can no longer access their files ... and District Judges often cannot access their papers as the wi-fi has stopped working or is exceptionally slow. There is no evidence that HMCTS is addressing this issue.³³

26 Fair Trials ([CTS0079](#))

27 Lord Chief Justice of England and Wales ([CTS0078](#)), Annex 2. Criminal legal aid is subject to both a means test and an “interests of justice” test based on the merits and gravity of the case. Many cases tried in the magistrates’ court are deemed not to satisfy the interests of justice test.

28 Magistrates Association ([CTS0031](#))

29 Dr Peter Reed ([CTS0082](#))

30 [Q60](#)

31 Including Yorkshire Union of Law Societies ([CTS0067](#)); Lady Emma Arbuthnot ([CTS0014](#)); Leeds Law Society ([CTS0011](#)). Mr David Sarwar ([CTS0002](#)) referred to the challenges faced by some defendants in remembering the number that will enable their chosen solicitor to access the case information in the Common Platform.

32 Thames Valley Police ([CTS0028](#))

33 Legal Committee of Her Majesty’s Council of District Judges (Magistrates’ Court) ([CTS0032](#))

Civil justice

19. Some witnesses were worried about the implications for unrepresented litigants of the planned expansion of OCMC to claims up to the value of £25,000, because of the risk of adverse costs if the claim failed. Richard Miller from the Law Society said:

when you start to talk about making it much easier for litigants in person to issue proceedings above the small claims limit, you are significantly increasing the risk that people who are insufficiently advised will bring ill-advised proceedings.³⁴

The Master of the Rolls assured us that, if and when the OCMC limit is increased to £25,000, the computer screen would carry a warning to claimants that they might be at risk of a costs order and would advise them to obtain legal advice if they had any concerns.³⁵

Family justice

20. Frances Judd from the Family Law Bar Association and Jo Edwards from Resolution welcomed the introduction of online divorce applications, as well as the prospect of representatives being able to file applications and documents online in family law cases.³⁶ However, Resolution said that its members were increasingly consulted by clients who had become confused when making online divorce applications. Inadequate signposting within the online tool was identified as a problem, particularly for applicants who have been victims of domestic abuse or who need to understand at an early stage the importance of addressing complex child arrangements or financial issues within the divorce process.³⁷

21. We are not aware that the Ministry of Justice has set any management targets for processing divorces. Slow processing of divorce petitions, once issued, was raised as a concern. In a recent survey of Resolution members, 64% of respondents said that the processing time had become worse or much worse;³⁸ Jo King JP confirmed that, citing HMCTS statistics.³⁹ The Association of HM District Judges (representing 420 family and civil judges) said that regional divorce centres were unable to cope with the volume of work:

The delay to decree can be important as a final order in divorce money claims cannot be made until a decree has been obtained. Waiting times were significantly less when the work was spread across the whole of the courts with a family jurisdiction. This is a vivid example of centralisation making matters worse.⁴⁰

34 Q71. Similar concerns were expressed by Ms Amanda Finlay ([CTS0055](#)) and The Bar Council ([CTS0058](#))

35 [Q270](#)

36 [Q128](#)

37 Ms Amanda Finlay ([CTS0055](#)); Family Law Committee - Birmingham Law Society ([CTS0034](#)); Law for Life ([CTS0047](#))

38 Resolution ([CTS0051](#))

39 Mrs Jo King JP ([CTS0025](#)). In April to June 2019, the median time to Decree Nisi was 27 weeks and 41 weeks to Decree Absolute, each up 6 weeks compared to the same period in 2018. Source: [Family Court Statistics Quarterly, England and Wales, April to June 2019. Ministry of Justice, September 2019](#)

40 The Association of Her Majesty's District Judges (ADJ) ([CTS0084](#))

22. We are concerned about delays in processing divorce petitions after the initial digital application, as this slows down parties' ability to resolve arrangements for children and financial disputes. *We recommend that HMCTS set and publish ambitious targets for divorce completion times.*

Tribunals

23. Witnesses with experience of tribunals sometimes saw the complexity of the law as particularly problematic for digital processes. Wendy Rainbow, from IPSEA,⁴¹ described the law applicable to Special Educational Needs and Disability (SEND) tribunal cases as “immensely complicated for parents who are usually unrepresented trying to navigate the legal basis of their claim as well as the tribunal procedure.”⁴² Ken Butler, from Disability Rights UK, said:

social security is seen as just benefits, whereas it is one of the most complicated areas of law and is becoming increasingly complicated. [...] Digitisation risks turning the process into a simplified one: “Thank you very much. Can we just ask you a few more questions online? Thank you very much; here’s our decision,” which is the complete opposite of seeing a face at an oral hearing.⁴³

24. HMCTS has achieved some successes in developing user-friendly digital processes. However, our evidence raises important questions about accessibility and indicates potential barriers to access to justice, even for users who have good digital skills.

25. There are clear risks to fairness in inviting unrepresented defendants to enter pleas online in criminal cases. *We recommend that this facility, should it be introduced, be restricted to defendants who have obtained legal advice and that the legal aid rules be changed to allow access to advice in all such cases.*

Barriers to accessing digital services

26. HMCTS clearly has some way to go in reassuring stakeholders that barriers to accessing digital justice are being addressed. Witnesses commented on low rates of internet usage and poor digital skills, as well as literacy barriers and other disadvantages faced by particular groups.

Internet usage and digital skills

27. Statistics for 2019 on internet usage in the UK from the Office for National Statistics (ONS) demonstrate that 91% of adults in the UK were recent internet users, while 7.5% had never used it. Some 99% of adults aged 16 to 44 were recent users, but this fell to 47% of those aged 75 and over, and 78% for disabled adults.⁴⁴ Professor Richard Susskind, who strongly supports the move to digital provision, suggested that, taking “proxy users” into account—for example, grandchildren assisting a grandparent—drops the percentage of adults excluded from the internet to below 5%.⁴⁵

41 Independent Provider of Special Education Advice

42 [Q148](#)

43 [Q148](#)

44 <https://www.ons.gov.uk/businessindustryandtrade/itandinternetindustry/bulletins/internetusers/2019>

45 Professor Richard Susskind ([CTS0039](#))

28. Other evidence suggested that statistics such as these did not present a sufficiently detailed picture of how individual users may fare in using new digital court and tribunal systems. The Equality and Human Rights Commission (EHRC) highlighted the 2018 UK Consumer Digital Index, which shows that 46% of those aged 65 and over did not have all the assessed digital skills: managing information, communicating, transacting, problem solving and creating (which includes completing online forms).⁴⁶ A survey of face-to-face clients conducted by Citizens Advice in 2016 found that 46% lacked basic digital skills; only 61% had internet access in their home, with a further 11% having access only on a smartphone.⁴⁷ Lisa Wintersteiger from Law for Life argued that both skills and the motivation to use them are necessary to navigate the internet.⁴⁸ Amanda Finlay pointed out that people who are normally confident with digital interaction may be vulnerable when faced with a “justiciable issue” (that is, a problem that could be taken to a court or tribunal).⁴⁹ The Magistrates Association observed that the justice system could not offer inducements for digital uptake without undermining the fundamental fairness of the system.⁵⁰

29. Many of those who wrote to us question assumptions about levels of digital engagement and inclusion.⁵¹ Revolving Door Agency’s focus group research, commissioned by HMCTS in 2017, looked into the needs of digitally excluded and underserved populations, including: people with multiple and complex needs; women who had experienced domestic abuse; recipients of disability benefits; people who speak English as a second language; and older people living in care homes. The research identified a range of barriers to digital inclusion, including competence in using a computer (often a result of poor access to technology); communication barriers, including dealing with technical language and legal jargon; and psychological barriers relating to lack of trust between users and digital services and concerns about online privacy. Several participants in the research had experienced problems using the websites of public bodies and other agencies, such as “not knowing how to switch between pages, how to complete online forms [...] as well as difficulties uploading pages and submitting information on time.”⁵²

Literacy barriers

30. Revolving Doors Agency pointed out that 15% of the population are “functionally illiterate”—that is, they can understand short, straightforward texts but have difficulty reading information from unfamiliar sources or on unfamiliar topics. Other witnesses agreed that literacy issues were highly relevant to the question of digital inclusion, including Professor Richard Susskind;⁵³ the Bonavero Institute of Human Rights;⁵⁴

46 Equality and Human Rights Commission (CTS0075), referring to [Consumer Digital Index 2018, Lloyds Bank](#)

47 [Digital capability: Understanding the digital needs of face-to-face clients of Citizens Advice. Citizens Advice, 2016](#)

48 [Q194](#)

49 Ms Amanda Finlay (CTS0055)

50 Magistrates Association (CTS0031)

51 For example, Crown Prosecution Service (CTS0074); Magistrates’ Leadership Executive (CTS0017); Mrs Jo King JP (CTS0025)

52 Revolving Doors Agency (CTS0073)

53 [Q195](#)

54 Bonavero Institute of Human Rights (CTS0024)

LawWorks/Litigant in Person Support Strategy;⁵⁵ and a prisoner who pointed out that many women in prison did not have the most basic literacy or numeracy qualifications.⁵⁶ Lisa Wintersteiger from Law for Life commented:

There is real concern about the idea that technology will move things along and everybody will be fine, as our young people are more equipped. That is not the case. We have 9 million adults who lack very basic numeracy and literacy skills. They cannot read the back of an aspirin bottle. Many of them are young people.⁵⁷

The extent of literacy problems is illustrated by figures from the National Literacy Trust:

Figure 1: Rates of literacy in England and Wales



Source: National Literacy Trust

Access to technology

31. The reform programme may also affect access to justice for particular groups with limited access to technology. JUSTICE's *Preventing Digital Exclusion* Working Party identified homeless people as a highly excluded group needing a specialised approach, as they often face barriers in accessing services that others might use, such as internet

55 LawWorks and LIPS Strategy ([CTS0089](#))

56 A prisoner ([CTS0094](#))

57 [Q195](#)

access in coffee shops. The JUSTICE Working Party recommended that HMCTS identify “trusted services” that might make their infrastructure available to homeless court users to allow them to get online.⁵⁸

32. One magistrate noted, however, that her local Job Centre had reduced its number of available computers and that the library network was under threat.⁵⁹ Libraries also do not offer private spaces people may need for legal work.⁶⁰ In relation to those facing eviction from their home, Shelter observed that if someone has stopped paying their rent, it is also likely that they have been unable to afford a broadband bill.

33. Rising ownership of smartphone may imply that barriers to technology should not be exaggerated,⁶¹ but Sara Lomri from the Public Law Project told us that her organisation had clients “so poor that they cannot afford any data on their telephone.”⁶² Young Legal Aid Lawyers thought it indicative that the Universal Credit online journal system has proved difficult to use for low-income claimants who cannot afford internet access or smartphones.⁶³

Disadvantaged and vulnerable groups

34. Conventional processes and face-to-face hearings may remain preferable for disadvantaged and vulnerable groups. The EHRC said that judges play an important role in identifying imbalances between the prosecution and the defendant in criminal cases—for example, where someone has learning difficulties or mental health issues. Difficulties in assessing the credibility of witnesses were a concern for the Public Law Project and others.⁶⁴ Disability Rights UK noted that around 80% of welfare benefits appeals are made by disabled people challenging decisions relating to ESA or PIP appeals. In 2018, these appeals had a 72% success rate;⁶⁵ some 90% of those hearings are conducted face to face.⁶⁶ Based on its experience of representing clients at these appeals, the Free Representation Unit considered that a key factor is often “the ability of tribunal members to see the appellant in the flesh and to make their own assessment of the medical issues and the degree of functionality.”⁶⁷ Law Works and Litigant in Person Support Strategy suggested that many claimants appealing ESA and PIP decisions have physical or mental health problems “which can impair their ability to use an online process effectively.”⁶⁸

35. We heard it argued that people facing housing possession proceedings should not have cases dealt with online, or by video hearing. The Housing Law Practitioners Association (HLPAs) said that such cases frequently involve vulnerable individuals; that housing law is complex; and that possession claims often have disputed evidence or defences raised only at the initial hearing. In addition, the Housing Possession Court Duty Scheme provides face-to-face assistance to defendants, as well as to the court itself, and could not realistically

58 JUSTICE (CTS0068). See also [Preventing Digital Exclusion from Online Justice: A Report of JUSTICE, April 2018](#)

59 Magistrate Jackie Hamilton (CTS0038)

60 South London Law Society (CTS0030)

61 HH John Tanzer (CTS0018)

62 Q163. A similar point was made by Rhona Friedman, Sue James and Simon Mullings (CTS0085) in their joint submission

63 Young Legal Aid Lawyers (CTS0069)

64 Public Law Project (CTS0027)

65 Disability Rights UK (CTS0015)

66 Q147

67 Free Representation Unit (CTS0080)

68 LawWorks and LIPS Strategy (CTS0089)

function online. HLPa also noted that, in the report of his review of the structure of civil courts, Lord Justice Briggs accepted that housing possession claims should be excluded from the Online Court that he was proposing.⁶⁹ Hammersmith and Fulham Law Centre supported this view, pointing out that the removal of legal aid for early housing advice meant that more people are in crisis when they come to court.⁷⁰

36. The Family Law Bar Association (FLBA) said that many parties and witnesses to family law cases are vulnerable and/or have limited financial resources. Echoing others, FLBA commented:

They may not have access to a computer, tablet or smartphone, or indeed to wifi. It is not unusual for [them to]lack the funds to pay for a bus fare to court or top up the credit on their pay-as-you-go mobile telephone. It is also common for parents to have difficulties with literacy or language, or indeed cognitive or psychological problems. All these issues can mean that participation in a digital hearing is extremely difficult if not impossible for them.

Women's Aid was concerned that survivors of domestic abuse who use online justice systems would not be able to access support from the Citizens' Advice witness service or the Personal Support Unit, notwithstanding £900,000 in extra Government funding recently awarded to these services.⁷¹

37. HMCTS has acknowledged the importance of building understanding of the needs of vulnerable and excluded groups. In its response to the PAC's report, it explained that it has been working with the Revolving Doors Agency to develop awareness of barriers to digital participation among service users. The findings of this research have shown that assisted digital services may not be suitable for some users:

These findings have helped to inform the design of our services which offer users a choice of channels, including traditional paper-based methods of access to the courts and tribunals, so they can choose the one that is most suitable for their needs.⁷²

38. Poor digital skills, limited access to technology, low levels of literacy and personal disadvantages experienced by particular groups create barriers to access to digital justice services. HMCTS has not taken sufficient steps to address the needs of vulnerable users, particularly as regards an absence of adequate legal advice and support.

39. We are concerned that some people contacting HMCTS about their court or tribunal case, particularly on pay-as-you-go mobile phones, may incur significant call charges that they cannot afford. We recommend that HMCTS establishes a Freephone service for members of the public, similar to the Freephone system for Universal Credit.

69 [Civil Courts Structure Review: Final Report. Lord Justice Briggs, July 2016](#), Para 6.95

70 Hammersmith & Fulham Law Centre ([CTS0083](#))

71 Rhona Friedman, Sue James and Simon Mullings ([CTS0085](#))

72 [Evaluating our reforms: Response to PAC recommendation 4. Ministry of Justice, January 2019](#)

Overcoming digital exclusion

Parallel paper processes

40. HMCTS has promised that parallel paper processes will remain available to unrepresented court users—a commitment emphasised by three senior members of the judiciary. It is not entirely clear how users will be aware that they may still insist on paper-based processes. Sir Ernest Ryder said that post-pilot versions of the digital processes “[will tell] you that you can use a paper alternative and ... how to find it.” This appears to imply, however, that users will need to go online to find out that paper processes remain available to them.

41. Doubts have also been raised about how access to parallel paper processes will operate in practice. For example, Mrs Jo King JP commented:

litigants in person need to be able to submit evidence, receive court papers and request/respond to enquiries in non-digital environments. This may require equipment (printers in court) and amendments to processes, but these are not integrated in the new ways of working being proposed.⁷³

Citizens Advice saw a risk of paper routes becoming a poor-quality alternative to the digital routes:

the paper process may prove to be slower due to the physical constraints of processing paper, but focus needs to be maintained on avoiding unnecessary divergence in services standards.⁷⁴

42. We welcome HMCTS’s commitment to maintaining paper processes in parallel with new digitised justice processes but it is unclear how, in practice, users can obtain and complete necessary documents without using the internet or having access to a printer or the support of a legal adviser. We recommend that HMCTS make it clear how it will ensure that people can access court forms in paper format without using a computer to do so.

Assisted digital support

43. HMCTS has pledged to support digitally excluded groups by providing “assisted digital” support to members of the public (including unrepresented litigants) who have limited digital capability or digital access. Support will be given by means of web-chat, telephone and/or face-to-face engagement; the latter will be provided by the Good Things Foundation, a social change charity, which told us:

Good Things Foundation is working with HMCTS to pilot face-to-face Assisted Digital support for HMCTS customers. Online Centres who have signed up to be part of the pilot support individuals who lack digital skills, ability or access to provide access to a digital device, help people understand the HMCTS service they need to complete, understand the online guidance provided, help people navigate the online form and get to the point of completion.

73 Mrs Jo King JP ([CTS0025](#))

74 Citizens Advice ([CTS0016](#))

44. The Foundation described itself as “working collaboratively” with HMCTS, using an open, design-led approach to the project, with a focus on testing and learning from service users and its community-based Online Centres; as of August 2019, the number of centres was expected to increase to 25.⁷⁵ Insights from the pilot suggested that guidance is an important part of the assisted digital process, to help users understand “the service they are applying for and the legal process that this entails.” Experience gained so far also indicates that some people need assisted digital support even when they use the internet in their daily life “because the stakes are high when interacting with Government services.”

45. Several witnesses expressed doubts about the effectiveness of the assisted digital service. Citizens Advice suggested that it could create barriers to getting legal advice if it failed to address the risk of “referral fatigue”.⁷⁶ It was also suggested that access to telephone support may involve people with pay-as-you-go mobile phones incurring high call costs; and that there had been poor feedback on the quality of the service itself.⁷⁷ However, this was contradicted by Sir Ernest Ryder, who described the quality as being “very good.”⁷⁸

46. Susan Acland-Hood, Chief Executive Officer of HMCTS, explained that call handlers spend a lot of time talking people through what they need to do to deal with court processes, and HMCTS was not “trying to force people who would rather use a paper process into assisted digital.”⁷⁹

47. Assisted digital was designed for the relatively small group who want to use a digital service but for whom phone advice and support is not enough. However, uptake has been low: as of July 2019, the service had seen 98 people. Ms Acland-Hood accepted that more could be done to encourage its use. As well as extending the number of Online Centres, the service was making it easier for people to walk into the centres and get advice, “as opposed to getting a phone appointment from us when they ring us up.” The introduction of webchat and screen-sharing was planned as “part of the wider spectrum of support for people.”⁸⁰

48. We also heard how tribunals were integrating support for appellants into their administrative infrastructure. Sir Ernest Ryder, the Senior President of Tribunals, explained the role of case officers in tribunals, who are:

authorised officers, working with judges at their delegation, helping people to construct their paper documents in a digital form. We have had that before in the Court of Appeal, with the deputy masters. We are now using it across all our tribunals in the reform process.⁸¹

Similarly, the Traffic Penalty Tribunal (TPT) told us that the introduction of its Fast Online Appeals Management System in 2016 “has freed up the TPT’s customer services team from routine administrative tasksto offer enhanced Assisted Digital Support

75 We understand that the increase to 25 centres went ahead as planned.

76 Citizens Advice ([CT50016](#)). “Referral fatigue” can happen when someone seeking advice is signposted one or more times to another agency; each time this happens, the person is more likely to give up their quest for advice.

77 Transform Justice ([Q200](#)); Fair Trials ([CT50079](#)) and Richard Miller ([Q88](#))

78 [Q252](#)

79 [Q289](#)

80 [Q289](#)

81 [Q252](#)

for those who need it—retaining a ‘human touch’ to complement the online system.”⁸² This allows the TPT to help appellants by “walking them through” the online appeal submission process, or by completing it on their behalf. Contact with the TPT customer services team is available throughout the process.

49. **We welcome the intention behind the HMCTS assisted digital service but note that take-up so far has been low. We recommend that, by April 2021 the network of assisted digital Online Centres be extended to deliver comprehensive national coverage. Centres must provide walk-in access, and where possible be co-located with advice agencies to facilitate referral for legal advice and support.**

50. **We commend the initiatives within the tribunal system that have enabled tribunal staff to provide personalised support for applicants using digital processes and recommend that this standard of customer care be adopted within Court and Tribunal Service Centres.**

Legal capability

51. Many witnesses mentioned the importance of legal capability, which Law for Life described as having three broad elements: knowledge, skills and confidence.⁸³ The Bingham Centre saw legal capability as linked to equal access to justice, a key principle of the rule of law.⁸⁴ According to the Law Centres Network, legal capability helps litigants “to assess their options and prospects and competently to conduct themselves against a legal adversary who is likely to be represented.”⁸⁵ The distinction between digital capability and legal capability was highlighted in a research report by Catrina Denvir commissioned by the Civil Justice Council. She concluded that users undertake a range of activities online, but this is not to say that they have the capability to undertake legal processes online. Both digital capability and legal capability are likely to be needed to successfully navigate an online court.⁸⁶

52. Research based on data from the 2010 and 2012 waves of the English and Welsh Civil and Social Justice Panel Survey (CSJPS) explored areas of legal capability including public understanding of law and legal services and how these relate to people’s experience of legal problems. The report described a “substantial knowledge deficit” in the public’s understanding of the law, and evidence that erroneous beliefs about the law are likely to prove stubborn to dislodge.⁸⁷

53. Lisa Wintersteiger, Chief Executive of Law for Life, told us about barriers that those with low legal capability might experience when using online justice systems without legal advice:

We know that there is an enormous problem around legal information for the public. There are very low levels of legal capability in the public realm.

82 Traffic Penalty Tribunal ([CTS0086](#))

83 Law for Life ([CTS0047](#))

84 Bingham Centre for the Rule of Law ([CTS0065](#))

85 Law Centres Network ([CTS0081](#))

86 [Assisted digital support for civil justice system users. Final research report prepared by Catrina Denvir for the Civil Justice Council. April 2018](#)

87 [How People Understand and Interact with the Law. Professor Pascoe Pleasence, Dr. Nigel J. Balmer and Dr. Catrina Denvir, 2015](#)

People are now being asked to access an increasingly digital-by-default system with very low capacity and no access to lawyers, and are expected to navigate that system.⁸⁸

She explained that legal capability ranged from having very basic knowledge of rights and procedures, through to knowing whether one could submit evidence or speak in court, and illustrated this point by stating that “lots of people do not understand that there is a civil justice system at all [T]he vast majority of people would not know if there had been a breach of contract”.

54. The Senior President of Tribunals, Sir Ernest Ryder, accepted that there were “serious issues relating to legal capability”, an issue that the judiciary had to deal with daily to ensure access to justice for vulnerable users. He confirmed the judiciary’s commitment to reforming process and language for the benefit of ordinary users: “[y]ou change that process first, before you digitise it, as otherwise you end up ossifying a poor, ancient service that is not usable at the moment by litigants.”⁸⁹

55. According to Lisa Wintersteiger, a wide range of support was required to address low legal capability; people might need somebody to sit alongside them and help them perform a basic task or more substantive assistance with a critically important life decision such as an application for divorce involving a financial settlement and arrangements for children.⁹⁰ A similar view was expressed by Jodie Blackstock, from JUSTICE, who thought that two things had to be provided: online guidance integrated into online forms “to give people their own legal capability to understand the process”, and legal assistance, whether from an advice agency or a solicitor. This raised the question of how signposting to advice would be built into online systems.⁹¹

56. The role of legal advice in supporting users’ access to digital processes was emphasised by many witnesses, coupled with concerns about shortfalls in advice provision since legal aid changes were introduced by the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012.⁹² The then Secretary of State, Rt Hon David Gauke MP, accepted the importance of identifying the best way of signposting users to access the legal advice they need, and said that his Department was working with the advice sector to develop its signposting approach.

Public legal education

57. Public legal education has been defined as providing people with awareness, knowledge and understanding of rights and legal issues, together with the confidence and skills they need to deal with disputes and gain access to justice. It also helps people recognise when they may need support, what sort of advice is available, and how to go about getting it.⁹³

88 [Q189](#)

89 [Q252](#)

90 [Q211](#)

91 [Q222](#)

92 For example, Bonavero Institute of Human Rights ([CTS0024](#)); Dr Peter Reed ([CTS0082](#)); Equality and Human Rights Commission ([CTS0075](#)); Free Representation Unit ([CTS0080](#)); The Bar Council ([CTS0058](#))

93 See: [Developing capable citizens: the role of public legal education. The report of the PLEAS Task Force July 2007](#)

58. The role of public legal education in supporting access to his proposed Online Court online was recognised by Lord Justice Briggs in his 2016 report on the structure of civil courts. He considered it would be “quite wrong” to think that support for users should be limited to online assistance and assisted digital services; in his view, the success of the new online court in extending access to justice would depend on progress being made with public legal education. He went on to suggest that reductions in the scope of legal aid had had a negative impact, because private lawyers were no longer able to provide legal education for those unable to afford it:

It is not therefore surprising that, now that Legal Aid has largely been withdrawn in relation to civil litigation, we are generally less well advanced in the provision of public legal education than some countries where there has never been Legal Aid at a comparable level.⁹⁴

59. Support for public legal education also came from Law for Life among other witnesses.⁹⁵ Research by its Advicenow project concluded that litigants in person needed to adopt attitudes such as objectivity and confidence and required information, to help them:

- understand the role of the court, and understand and follow process, legal language and the law;
- apply the law to their case and evaluate it;
- identify, obtain and fill in the correct form;
- develop skills, for example, preparing, filing and serving documents, engaging and negotiating with the other side, and speaking succinctly and confidently in court;
- know where to get more help and support.⁹⁶

60. The Ministry of Justice action plan for legal support, published alongside the Post-Implementation Review of the LASPO Act 2012, recognises the role of legal information within the spectrum of legal support services, especially at the early stages of a legal problem.⁹⁷ However, this appears to refer to providing information about specific legal problems rather than building a broader knowledge and understanding of legal rights and supporting legal confidence and skills. While the Government has committed to undertaking a pilot to explore how legal support can be better co-ordinated and signposted, its action plan does not specifically mention public legal education, or acknowledge any shortfall in the skills and attitudes that, according to our evidence, underpin legal literacy.

61. Digital literacy must not be confused with legal capability, which gives users the skills and confidence to deal with legal processes and helps them recognise when they need to seek legal advice; equally, the role of public legal education in supporting legal capability needs to be better understood. *The Government must acknowledge the role*

⁹⁴ [Civil Courts Structure Review: Final Report. Lord Justice Briggs, July 2016](#) Paragraph 6.116

⁹⁵ Including Professor Sue Prince ([CTS0061](#)) of Exeter University and The Transparency Project ([CTS0021](#))

⁹⁶ [Meeting the information needs of litigants in person; Law for Life's Advicenow project, June 2014](#)

⁹⁷ [Legal Support: The Way Ahead: An action plan to deliver better support to people experiencing legal problems. Ministry of Justice, February 2019](#)

of public legal education in building legal capability and should make a commitment to piloting public legal education within its action plan for legal support, with a view to rolling out a national programme by 2022.

3 Video links and video hearings

62. In parts of the justice system, the use of video links or “video-enabled” hearings (in which one party is connected remotely to a conventional court hearing) has been established for some time; for example, for many remand hearings in the criminal courts, the defendant is connected by video link from a police station. As part of the reform programme, HMCTS plans to develop and expand the use of video links and to pilot the use of hearings fully by video:

Giving courts the option of using fully video hearings, where appropriate, has real potential to open justice up further, save time and expense for all those taking part, and enable vulnerable witnesses to give evidence confidently and safely.⁹⁸

63. HMCTS ran a small-scale pilot of 11 fully-video tax tribunal hearings between March and July 2018; more are planned using more robust software, testing additional hearing types and on a larger scale. Work is also under way to improve the systems and processes that underpin video remand hearings in the criminal courts, eventually enabling them to be done fully by video. In Manchester Civil Justice Centre, HMCTS is testing applications for injunctions by victims of domestic abuse where the applicant and their solicitor appear by video from the law firm’s office. HMCTS is also piloting applications by video link to set aside default judgments in Manchester and Birmingham Civil Justice Centres.

64. It is broadly accepted that video links can be useful in appropriate cases. Use of video links for witnesses, as well as fully video hearings, will remain at the discretion of the judiciary and subject to practice directions and procedure rules.⁹⁹ The Lord Chief Justice noted that procedural hearings in all jurisdictions increasingly use video facilities and that video links often enable evidence from witnesses who could not otherwise easily attend trial. The ultimate question will be whether it is in the interests of justice to use a particular type of video hearing. However, he commented:

This is an area which will require piloting, testing and the use of practical experience. I would welcome proper research into the impacts of using technology in court processes. It is better than anecdote and guesswork.¹⁰⁰

Use of video in criminal cases

65. The senior judiciary suggested that certain types of Crown Court hearings could be handled fully by video, including bail applications; legal argument (including applications to stay cases for abuse of process); ground rules hearings governing how the evidence of young and other vulnerable witnesses is given; and some straightforward “fitness to plead” hearings. However, “[t]rials will not be conducted by fully video hearing either in

98 [Raising the potential for video hearings; Inside HMCTS blog, July 2019](#)

99 Civil Procedure Rule 32.3 governs the use of video for giving evidence. Practice direction 32PD states that the court must make a judgment in every case in which the use of video is being considered as to whether its use is likely to be “beneficial to the efficient, fair and economic disposal of the litigation.” The court is reminded that the degree of control it can exercise over a witness at a remote site may be more limited than it can exercise over a witness physically before it.

100 Lord Chief Justice of England and Wales ([CTS0078](#))

the Magistrates' Court or the Crown Court.”¹⁰¹ Subject to legislation, an exception might be possible in SJP cases—for example, where the defendant lives some distance from the alleged offence.¹⁰²

66. Legislation has provided for the introduction of video-recorded cross examination of vulnerable witnesses; this is currently being piloted.¹⁰³ The Council of HM Circuit Judges considered the pilot to have been “very successful” and said that Circuit Judges could see “a real potential for these to be used in other jurisdictions.”¹⁰⁴ NSPCC and Victim Support thought that this measure would have positive consequences for children and other vulnerable witnesses, although Victim Support commented that the national rollout of the pilot had been “beset by delays”.¹⁰⁵

67. However, other witnesses with direct experience of the criminal justice system suggested that video links could create barriers to effective communication with defendants, particularly if the video equipment were unreliable, and thought that defendants were often disengaged “and do not behave as though they are in court”.¹⁰⁶ In addition, it was more difficult to read body language.¹⁰⁷ Several witnesses argued that a defendant appearing by video link faced barriers in developing and maintaining a relationship with their lawyer, especially if vulnerable because of physical or mental ill-health, substance dependency, or language/literacy barriers. No HMCTS guidance was available on adjustments that should be made to facilitate a defendant's participation.¹⁰⁸ It was pointed out that certain vulnerabilities may be “hidden”, such as learning difficulties and autism; these may be more difficult to identify over a video link than in person.¹⁰⁹ There was also evidence that video links have a disproportionate impact on young adults.¹¹⁰

68. The Standing Committee for Youth Justice had conducted research on the impact of video links on child defendants, based on testimony from practitioners involved in video hearings. It raised concerns that video links “severely erode levels of communication and support” with children's family, lawyers and Youth Offending Teams and created a risk of negative justice outcomes. The report concluded the use of video links exacerbates problems children already experience in engaging in court processes.¹¹¹

69. The practical restrictions of communicating by video link in the criminal courts were also noted, as was the unreliability and poor quality of much existing video equipment; for example, problems with video connections, sound quality and visual quality;¹¹² poor camera and screen angles;¹¹³ and overall technical unreliability—sometimes leading to adjournments.¹¹⁴ Defendants appearing by video link may find it more difficult to consult

101 Lord Chief Justice of England and Wales (CTS0078), Annex 2. Other witnesses expressed agreement with this, including the Crown Prosecution Service (CTS0074) and the Magistrates Association (CTS0031)

102 Lord Chief Justice of England and Wales (CTS0078), Annex 2.

103 The Youth Justice and Criminal Evidence Act 1999 (YJCEA) brought in several measures to facilitate the evidence of vulnerable/intimidated witnesses; these are known as “special measures.”

104 NSPCC (CTS0087); Council of Her Majesty's Circuit Judges (CTS0091)

105 Victim Support (CTS0003)

106 Public and Commercial Services union (CTS0010) and Dr Peter Reed (CTS0082)

107 John Bache JP, of the Magistrates Association (Q55); Mrs Melanie Benn (CTS0043)

108 Criminal Law Committee - Birmingham Law Society (CTS0033); Mrs Jo King JP (CTS0025); JUSTICE (CTS0068);

109 Criminal Justice Alliance (CTS0050)

110 Transition 2 Adulthood (T2A) Alliance (CTS0037), citing evidence from *Transform Justice*.

111 *A report on child defendants and video links*. Standing Committee for Youth Justice, April 2018

112 Magistrates Association (CTS0031)

113 Mrs Jo King JP (CTS0025)

114 Mrs Melanie Benn (CTS0043); Public and Commercial Services union (CTS0010)

with their lawyer while the hearing is in progress.¹¹⁵ Defence lawyers lack facilities to confer with their client after the hearing to explain what has happened “which means that a client who has received a knockback can be left frustrated and angry”.¹¹⁶ It was also more difficult for defendant and lawyer to share documents by video link, and booths provided for video conferencing at courts and prisons are often not sound-proofed, giving rise to concerns about confidentiality.¹¹⁷

70. Several lawyers commented on restricted time slots allocated for pre-hearing conferences with detained clients, which can be shortened if the prison fails to get the prisoner to the video booth on time.¹¹⁸ Susan Acland-Hood explained that time constraints were related to the nature of the video link, which is a closed-loop system, but HMCTS is testing whether legal professionals in Norfolk and Suffolk can give video advice to clients from their own laptops, and she saw this as a possible solution to the difficulties that we raised.¹¹⁹

71. We are concerned by evidence suggesting that some defendants appearing by video link face communication barriers with the court and their legal representatives, and that there appears to be no guidance on facilitating participation. We recommend that, by April 2020, HMCTS develop guidance in consultation with stakeholders on recognising and addressing communication barriers that may affect vulnerable defendants in court.

72. We do not consider that the interests of justice are served by HMCTS providing video equipment that is unreliable or of poor quality, nor by providing inadequate video conferencing facilities for defendants and their legal representatives. HMCTS must expedite planned investment in upgraded video equipment and WiFi facilities throughout the criminal courts estate, as well as expanding video conferencing facilities for the defence.

73. Some witnesses questioned the planned introduction of fully video remand hearings. At remand hearings, which take place in the Magistrates’ Court, the defendant is asked to enter a plea and the question of bail is decided. Jo King JP argued that:

Remand hearings are some of the most complex in the criminal justice system, occurring at short notice [...] and often within a day or so of the offence having been committed. It is equally important for both the defendant and the criminal justice system that there is the fullest engagement possible between the parties. Decisions at this stage will determine if the (as yet unconvicted) defendant will lose their liberty and also dictate the time and resources needed to progress the case to a conclusion.¹²⁰

74. Mrs King went on to point out that effective remand hearings require the collaboration of a range of agencies (including police, defence advocates, Crown Prosecution Service, HMCTS, judiciary, liaison and diversion services, probation, drug intervention teams and interpreters). Different parties must be able communicate outside the courtroom at short

115 Criminal Law Committee - Birmingham Law Society ([CTS0033](#))

116 Mrs Melanie Benn ([CTS0043](#))

117 Criminal Law Committee - Birmingham Law Society ([CTS0033](#))

118 Mrs Melanie Benn ([CTS0043](#)); Criminal Law Committee - Birmingham Law Society ([CTS0033](#)), Leeds Law Society ([CTS0011](#)), The Criminal Bar Association ([CTS0063](#)); South London Law Society ([CTS0030](#))

119 [Q293](#)

120 Mrs Jo King JP ([CTS0025](#))

notice to resolve problems as quickly as possible. She also observed that it was increasingly common for defendants to be unrepresented at remand hearings.¹²¹ The Senior District Judge (Chief Magistrate), Emma Arbuthnot, referred to “a very strong view held” that the first hearing in a not guilty case cannot be held by video link, as it was not possible to have the necessary case management.¹²² Expressing similar concerns, the Prison Reform Trust urged the Government to “put its plans for video hearings on hold until it has gained a clear understanding of the impact... on bail decision making and established clear criteria and systems for assessing suitability.”¹²³ The Magistrates Association asserted that fully video hearings were not appropriate for any cases involving litigants in person, vulnerable parties, cases where children have to attend, or contested hearings.¹²⁴

75. *We recommend that HMCTS does not introduce fully video remand hearings before robust piloting and evaluation have been carried out, alongside sufficient investment in video equipment and reliable WiFi.*

Use of video in other jurisdictions

76. Some legal professionals in the fields of civil and family law recognised the value of video links. For example, the Family Law Bar Association suggested that video hearings would be useful for professionals attending court hearings of an administrative nature. Richard Miller from the Law Society thought being able to deal with uncontested applications by video link from a solicitor’s office would be a positive development, but that this would be “more problematic when you move on to contested cases.”¹²⁵

77. Others had concerns, though, about the use of video links for unrepresented litigants. The Association of HM District Judges said a video facility for housing possession cases provided by a local authority following closure of Scunthorpe County Court had not been a success, in part because tenants, many of them vulnerable, did not have access to advice and assistance from the county court duty adviser and because the link often failed.¹²⁶ Sir Terence Etherton, the Master of the Rolls, expressed greater confidence about unrepresented litigants at video hearings, as he considered that judges would be able to provide assistance:

If there is a litigant in person, the rules specify that the judge must do whatever is appropriate to try to assist. There is absolutely no reason why that cannot be done in a visual setting that is not a physical setting. There will have to be precautions and care taken, but I do not accept that it would produce necessarily an unjust—or more unjust—system.

78. The senior judiciary recognised the limitations of fully video hearings for final, evidence-based family law hearings, partly because this would reduce the likelihood of parties and their representatives having “potentially valuable discussions outside the court setting” and the chance of negotiations and pre-hearing agreements. Other limitations

121 Mrs Jo King JP ([CTS0025](#))

122 Criminal Law Committee - Birmingham Law Society ([CTS0033](#))

123 Prison Reform Trust ([CTS0046](#))

124 Magistrates Association ([CTS0031](#))

125 [Q83](#)

126 The Association of Her Majesty’s District Judges (ADJ) ([CTS0084](#))

included an undermining of “the gravitas of proceedings” and the ability of judges to assess non-verbal signals. All this underlines the importance of judicial discretion in determining the scope and extent of video-enabled hearings in all jurisdictions.¹²⁷

79. Concerns were also raised about using video hearings for domestic abuse cases without giving survivors a choice.¹²⁸ Women’s Aid said that, while some survivors may prefer a fully resourced virtual process, others may want to give their evidence face to face “and see their abuser face justice.”¹²⁹ DCI Kirby from Thames Valley Police provided an example:

we found that a domestic abuse victim we were supporting wanted to give evidence in person. It was important for them to be able to say what they wanted to say in front of the defendant. We thought victims would be better served by having video-link evidence in those cases, but we were wrong.¹³⁰

South London Law Society reported that one solicitor had seen surprising withdrawals of applications for non-molestation orders by survivors giving evidence by video link. They cautioned that a person giving evidence by this means may be under duress from another individual off-screen in the same room.¹³¹

80. As with criminal cases, video hearings in civil and family matters and tribunals were thought to be particularly problematic for vulnerable clients—even those who had legal representation. For example, Tessa Buchanan from the Housing Law Practitioners Association told the Committee:

Vulnerable people may struggle with them; they may need face-to-face interaction with their lawyer, they might come along with a plastic bag of documents to set out their case. I stress the importance of negotiations outside court. Often, matters can be settled. If the matter is being dealt with by video, that is much more difficult to achieve.¹³²

81. The Association of HM District Judges argued that there was “no substitute” for being able to see a vulnerable or apparently vulnerable person in the flesh and making an assessment on this basis.¹³³ Ken Butler from Disability Rights UK doubted whether face-to-face hearings for ESA appeals could be replaced by video hearings on a regular basis. He thought that appellants would not be able to give the evidence they could otherwise provide “and the tribunal may not be able to weigh the veracity [of the evidence] and test it, which is what a face-to-face hearing does quite well.”¹³⁴ Wendy Rainbow from IPSEA warned that testing video hearings with short, uncomplicated cases where nobody attending had any vulnerabilities “does not translate at all to the kinds of cases that come before the SEND tribunal.”¹³⁵

127 Professor Richard Susskind ([CTS0039](#)), Annex 3

128 NB Where criminal charges are involved, domestic abuse cases may be heard in the criminal courts.

129 Women’s Aid ([CTS0006](#))

130 [Q55](#)

131 South London Law Society ([CTS0030](#))

132 [Q85](#)

133 A prisoner ([CTS0094](#))

134 [Q160](#)

135 [Q160](#)

82. **Video links and fully video hearings have value for administrative hearings in civil, family and tribunal cases involving legal professionals, but may compromise justice for vulnerable people, especially those unrepresented. *While judicial discretion in use of video hearings provides important protection, we recommend that all litigants in civil, family and tribunal cases have the right to decline to give evidence by video.***

Research on video links and video hearings

83. Like the Lord Chief Justice, other witnesses pointed to limited research available on the use of video in court hearings. For example, Penelope Gibbs from Transform Justice commented: “Video hearings in the criminal sphere are used every day for practically everything, apart from criminal trials, yet our evidence base for the effect on defendants, juries, judges and witnesses is incredibly thin.”¹³⁶ Her own organisation had conducted qualitative research indicating that video hearings impair the relationship between lawyer and client and the ability of defendants to participate effectively in proceedings.¹³⁷ The Bar Council expressed concern about the lack of evidence on the impact of the expansion of video hearings on outcomes such as witness credibility, clarity of communication and the preservation of necessary formality—all matters “highly material to judicial decisions as to how and when video should be used.”¹³⁸ On the basis of emerging findings from its own research, the Institute for Criminal Policy Research suggested that the implications of attendance at court by video link are a vital area of inquiry, in particular to assess whether these hearings are associated with differential outcomes.¹³⁹

84. As noted above, HMCTS has piloted fully video hearings in the Tax Tribunal. The pilot allowed appellants to participate from a location of their choice using a web browser. It was on a small scale, involving 11 hearings which were carefully screened for suitability and eligibility. Although users reported that they were for the most part happy with the experience, the majority faced technological difficulties, including WiFi issues, visibility of parties on the screen or access to documents. While many problems were quickly dealt with by users or by the video hearings team at HMCTS, in some cases the hearing had to be paused and restarted. In three cases the hearing was abandoned because of technology failures.

85. In her submission to our inquiry, Dr Meredith Rossner from the London School of Economics, who conducted independent evaluation of the pilot, suggested that this type of case—where users report no vulnerabilities, where there is little documentation and where evidence is not examined—might be suitable for fully video hearings, but the findings of the pilot “cannot be generalised to video-enabled hearings or video hearings in other jurisdictions such as criminal and immigration and asylum.” Dr Rossner also noted the number of HMCTS staff members who were available to provide support and technical help to users, which she described as “a key reason for the high levels of satisfaction.”¹⁴⁰

86. In 2009–10, the Ministry of Justice piloted video-enabled hearings in London and Kent for defendants in police custody, who would appear at their first hearing in the

136 [Q225](#)

137 [Defendants on video – conveyor belt justice or a revolution in access? Penelope Gibbs, Transform Justice, October 2017](#)

138 The Bar Council ([CTS0058](#))

139 Institute for Criminal Policy Research ([CTS0005](#))

140 Dr Meredith Rossner ([CTS0029](#))

magistrates' court by means of a secure video link. Defence representation was provided at the police station or in court. The evaluation of the pilot used a comparison with non-pilot courts and focused on outcomes such as cost efficiency, judicial decision-making, fairness and procedural justice. Evidence was gathered through semi-structured interviews with criminal justice practitioners and observations in police stations and magistrates' courts, together with a survey of victims and detailed analysis of criminal justice data.

87. The evaluation found that that the pilot did not deliver substantial cost savings, although expansion of the programme could lead to future savings. While the evaluation recognised that there are many variables to consider, its findings indicated concerns about differential outcomes when defendants appeared via video:

- the physical separation of defendants (and sometimes their solicitors) from the courtroom caused some concern to practitioners, as well as making it harder for defence and CPS advocates to communicate;
- some magistrates and District Judges thought that the time pressures resulting from the court's fixed 15-minute slots for hearings risked delivering 'hasty justice', or a perception of such;
- some magistrates and District Judges thought that the court had more difficulty in imposing its authority 'remotely', and that defendants took the process less seriously than if they had appeared in person;
- the rate of guilty pleas and custodial sentences was higher in the pilot than in traditional courts (although the evaluation's analysis was not able to control for possible differences in defendant characteristics).¹⁴¹

88. Research on the use of video hearings and video links in the UK is limited. What there is raises many questions as to its suitability for anything other than straightforward cases. We recommend that, as a priority, the Ministry of Justice commissions independent research on video hearings and video links with a primary focus on justice outcomes. This research should be completed before HMCTS makes more widespread use of video technology in courts and tribunals.

¹⁴¹ [Virtual Court pilot outcome evaluation. Matthew Terry, Dr Steve Johnson and Peter Thompson. Ministry of Justice Research Series 21/10, December 2010.](#) See also the literature review by Dr Joe Tomlinson ([CTS0092](#))

4 Court and tribunal buildings

89. HMCTS spends around £400 million a year on running the court and tribunals estate. Its programme to consolidate the estate has focused on closing buildings assessed as being underused or in poor condition, in favour of sites in better condition with modern facilities in locations that allow a better match between capacity and demand. HMCTS, which was established in 2011, explained that it:

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. [...] 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.¹⁴²

HMCTS uses proceeds from the sale of court buildings to help fund reform projects. According to the NAO, receipts from sales have contributed more than 22% of the total cost of reform programme.¹⁴³

90. There are two phases in the estates reform programme, the first of which involves disposing of sites where there is capacity for work to be handled elsewhere. The second phase largely depends on successful delivery of other reform projects and on moving cases out of court and improving efficiency.¹⁴⁴ Between 2010 and 2018, 162 of 323 magistrates' courts closed along with 90 of 240 county courts, 28 of 83 tribunal buildings, 17 of 185 family courts and 8 of 92 Crown Court buildings.¹⁴⁵ The following map indicates the impact of closures on distances to the nearest magistrates' court.

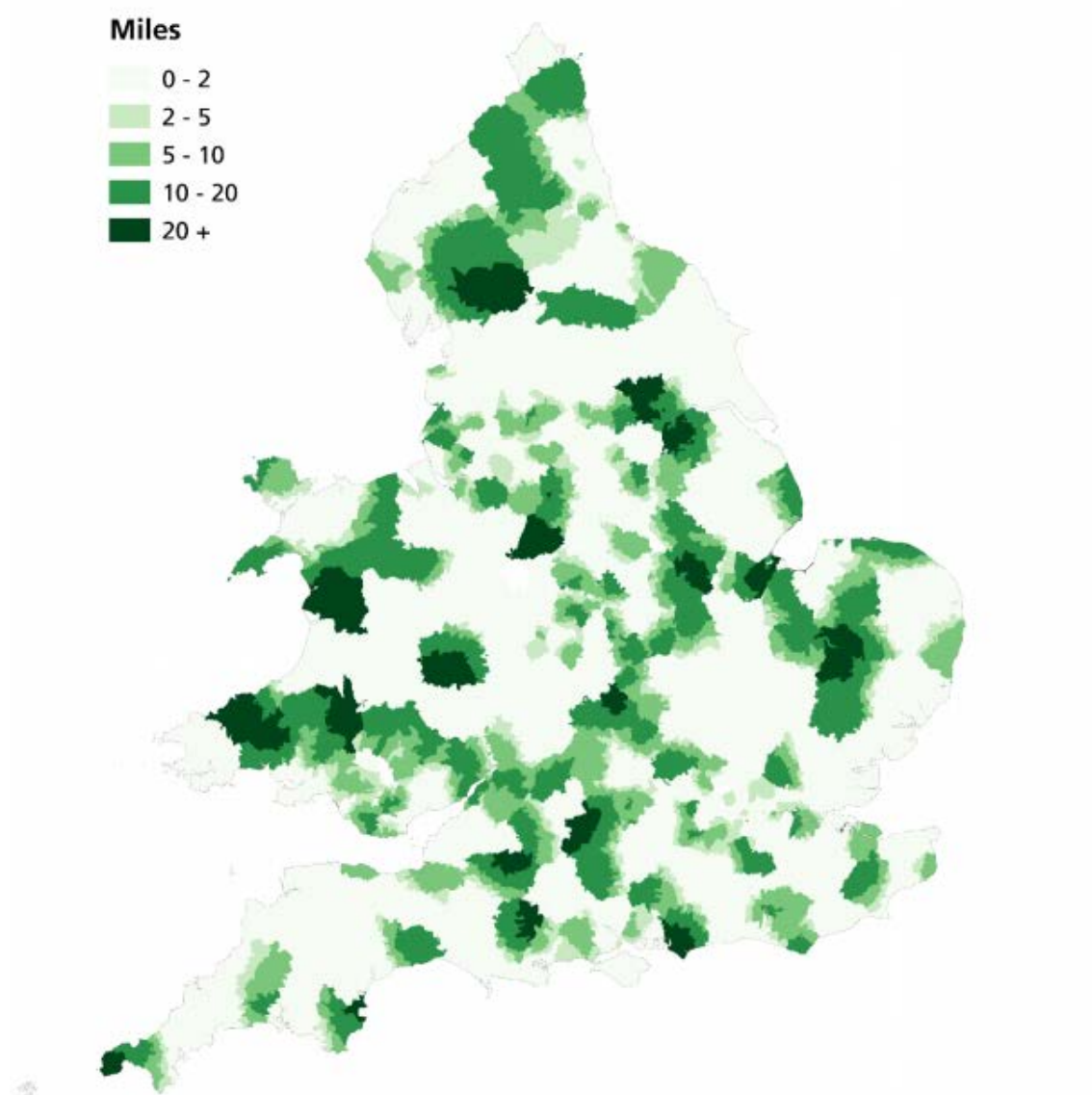
142 HM Courts & Tribunals Service (CTS0064)

143 National Audit Office, [Transforming courts and tribunals – a progress update](#), September 2019 (para 2.1)

144 National Audit Office, [Transforming courts and tribunals – a progress update](#), September 2019 (para 2.2)

145 House of Commons Briefing Paper CBP 8372, [Court Statistics for England and Wales](#), 27 November 2018

Figure 2: Change in distance from output area to nearest magistrates' courts, England and Wales: 2010–2018



Source: HC Library Briefing Paper CBP 8372, Court statistics for England and Wales (November 2018)

91. In its progress update on the court reform programme, the NAO noted that HMCTS has “scaled back and delayed its plans to close further sites”, having reduced the indicative number of future disposals from 96 to 77 sites. Future closures will depend on the extent to which HMCTS can reduce demand “by moving hearings out of court and improving efficiency”.¹⁴⁶

146 National Audit Office, [Transforming courts and tribunals – a progress update](#), September 2019 (para 3.9)

Impact of court closures

92. Most of the extensive evidence we received on court closures, including from judicial office holders and their associations, argued that closures had had an adverse effect, in urban as well as in rural areas where there are more obvious travel challenges.¹⁴⁷

Views of judicial office holders

93. The Lord Chief Justice acknowledged that “the physical extent of the court and tribunal estate is a matter for ministers, not the judiciary.”¹⁴⁸ He emphasised that ministers decide on court closures only after consultation, making decisions against published criteria. Highlighting negative impacts in many different regions of the country, the Association of HM District Judges was particularly concerned about the decision to close five county courts in Greater Manchester, leaving a single hearing centre for the whole city that caters for all cases within a 30-mile radius.¹⁴⁹ In addition, they argued that the planned introduction of a new flexible listing system in the remaining court (with 22 courtrooms shared between 27 District Judges) would undermine judicial health and morale. The Association also expressed concerns about the closure of Rotherham county court, which has led to work being transferred to Sheffield; analysis of attendance figures showed that 41% of Sheffield tenants turned up for housing possession hearings, compared to 30% of tenants from Rotherham—a train journey of only 15 minutes from Sheffield.¹⁵⁰

94. The Association’s observations on court closures were endorsed by the Council of HM Circuit Judges, which stated:

Physical court buildings are necessary unless and until appropriate alternative working systems are in place that ensure that access is not reduced (this will include appropriate provision for members of the public who wish to access the courts but do not have the relevant equipment or are digitally excluded in some other ways).

95. The Senior District Judge (Chief Magistrate), Emma Arbuthnot, was particularly worried about the impact of court closures on rural areas. She commented:

Whilst metropolitan areas have accessible public transport systems, the same cannot be said of other parts of the country. Currently defendants and witnesses end up travelling great distances to attend court. Some may be deterred from attending completely. Video link hearings will address the issue of court closures but only if this is from accessible locations and if video equipment works as it should.

96. Concerns were also voiced by the lay magistracy. The Magistrates Association said that the option to attend court in person should always be made available, and thought that “[a]ccess to justice is not just a geographical consideration. The cost of travel must also be considered, with defendants on low incomes disproportionately affected.”¹⁵¹ The

147 As the ‘Fit for the future’ consultation response was not published until May 2019, we did not receive written evidence commenting on the revised principles for further court closures.

148 Lord Chief Justice of England and Wales ([CTS0078](#))

149 Manchester Law Society - Civil Litigation Committee ([CTS0004](#)) thought that HMCTS had under-estimated journey times across Manchester by assuming direct routes were possible.

150 The Association of Her Majesty’s District Judges (ADJ) ([CTS0084](#))

151 Magistrates Association ([CTS0031](#))

Magistrates' Leadership Executive observed that "courts have been closed before the promised safe satellite places have been fully developed and able to be used."¹⁵² They also considered that getting to a Family Court hearing centre up two hours away presented "serious difficulties" for families faced with child care responsibilities, poor public transport and schooling commitments, and commented:

Add to this those that are not digitally competent and some will be put off or give up making or resisting an application for seeking access to their children.¹⁵³

Views of other witnesses

97. Among non-judicial witnesses, there was consensus that closure of court and tribunal hearing centres posed threats to access to justice. The Criminal Law Committee of Birmingham Law Society commented:

The reduction in court buildings has undoubtedly increased travel and associated cost for parties in proceedings before the Magistrates' Courts. The impact disproportionately affects those in lower socio-economic groups. [...] Disincentives to the attendance of defendants or witnesses interfere with the rule of law.¹⁵⁴

Likewise, the Crown Prosecution Service was concerned about the impact of court closures on victims and witnesses and thought that this might lead to an increase in non-attendance—although its own management data had not shown this risk materialising so far.¹⁵⁵ Victim Support feared that court closures could lead to victims and witnesses travelling further to attend court, potentially having to share long public transport journeys with the defendant and their supporters, especially in rural areas with infrequent buses. Gerwyn Wise from the Criminal Bar Association said that "more and more people are talking about witnesses not turning up and cases being dropped as a result." He also thought more defendants were failing to appear, so that "police resources are being wasted on chasing people who are not going to court."¹⁵⁶

98. The impact of court closures on police time required to support victims and witnesses was highlighted by Detective Chief Inspector Craig Kirby from Thames Valley Police. In his area, victims and witnesses were facing longer travel times, particularly because of the closure of two local magistrates' courts, including the combined magistrates' and county court at Banbury.¹⁵⁷ All parties now had to travel to Oxford city centre (a 30-mile journey) for a 10 am start, which he described as "very challenging".¹⁵⁸ He went on to say:

Because of public transport issues, we are seeing a lot of work having to go into delaying hearings, negotiating with the prosecutors and then liaising with the court. At times, cases have to be adjourned because victims and witnesses are simply unable to get to the court at the right time.¹⁵⁹

152 Magistrates' Leadership Executive ([CTS0017](#))

153 Magistrates' Leadership Executive ([CTS0017](#))

154 Criminal Law Committee - Birmingham Law Society ([CTS0033](#))

155 Crown Prosecution Service ([CTS0074](#))

156 [Q33](#)

157 Thames Valley Police ([CTS0028](#))

158 [Q28](#)

159 [Q32](#)

99. Thames Valley Police also told us that, following the closure of Banbury Combined Court, HMCTS had moved traffic cases from Banbury to Oxford. This had had a direct impact on police resources because the organisational approach they had adopted was based on managing these cases at Banbury. Echoing the concerns of Gerwyn Wise, they thought there was likely to be an increase in defendants who fail to appear at the first court hearing, which would mean police resources being required to locate these individuals.¹⁶⁰

100. Some witnesses drew attention to unusually lengthy journeys to court that would result from certain closures, such as that of Northallerton Magistrates' Court.¹⁶¹ The Ministry of Justice/HMCTS consultation on this closure indicates journey times of up to three and a half hours from Northallerton town centre to courts that might be expected to receive the Northallerton cases.¹⁶² Harriet Bosnyak from Shelter told us that, following the closure of the county court in Morpeth, people facing eviction who live 10 or 15 miles north of the town have to travel south to Newcastle; bus travel to the city is "expensive" and "takes a very long time" and for these vulnerable people the journey is a forbidding prospect:

they have to go to a city that, believe it or not, they do not know very well; they do not go there very often. They have to find their way not just from the bus stop but down to the county court on the quayside, and navigate their way through the building, too. It makes an incredibly stressful situation even harder, which is why we see quite large levels of non-attendees.¹⁶³

The Housing Law Practitioners Association (HLPa) supported this view. Many of its members' clients have mental and/or physical disabilities and, for them, a long journey to an unfamiliar area—usually undertaken on public transport—is extremely difficult. Other clients have caring responsibilities which make the journey challenging for them.¹⁶⁴ Shelter's written evidence observed that, if a tenant defending possession proceedings was not able to attend court in person, this was likely to lead to their becoming homeless—with implications for public services, including the local housing authority, social services, and the Department for Work and Pensions.¹⁶⁵

101. There were also examples of court closures being followed by more closures in the same area, so that work was relocated more than once. Hammersmith and Fulham Law Centre said that, although their local county court had been closed only two years, the receiving court in Wandsworth was now facing closure too; cases were likely to be relocated to courts much further away in Clerkenwell and Kingston. They pointed out that the majority of their housing possession cases involved clients on welfare benefits who are "already on reduced or no income and are often using foodbanks". These clients did not have the money to make long and expensive journeys across London.¹⁶⁶

102. In the experience of HLPa members, the closure of some court centres had led to other courts being "overwhelmed" when business was transferred to them, leading to floating

160 Thames Valley Police ([CTS0028](#))

161 Including the Equality and Human Rights Commission ([CTS0075](#)) and The Criminal Bar Association ([CTS0063](#))

162 Note that these estimates do not include travel time from the outskirts of Northallerton to Northallerton town centre.

163 [Q77](#)

164 Housing Law Practitioners Association ([CTS0090](#))

165 SHELTER ([CTS0062](#))

166 Hammersmith & Fulham Law Centre ([CTS0083](#))

lists and adjournments of cases.¹⁶⁷ In a joint submission, Rhona Friedman, Sue James and Simon Mullings, all from the legal advice sector, argued that courts had been closed at least in part on the “false premise” that court buildings are under-utilised; they had heard from HMCTS officials that utilisation rates were based on information obtained from court ushers, which they considered unreliable. They reported that the court manager at Brentford County Court was not allowed to list hearings in three empty courtrooms as she did not have the funds to employ Deputy District Judges.¹⁶⁸

103. Resolution’s survey of its members asked for views on court closures. Of those who responded, 49% said that courts they had historically used for family cases had been closed; many said that their clients’ travel time to court had increased by 30 minutes to two hours each way.¹⁶⁹ Jo Edwards from Resolution pointed out that, where solicitors incur additional travel costs to a more distant court, these costs are passed on to their clients.¹⁷⁰ When giving evidence previously to PAC on the court and tribunal reform programme, Ms Edwards described the regional impact of the planned closure of Chichester combined court on family cases:

According to one of my colleagues in Chichester [...]the court has been massively under threat and there has been fighting, or I ought to say discussion, going on for three years about the future of the provision there. In the meantime, some of the cases are already being shipped off to courts 80 miles away. We are hearing stories of people who just cannot make a half-hour appointment over in Brighton or Hastings when they have childcare responsibilities. So our predominant concern is access to justice.¹⁷¹

104. The Chartered Institute of Legal Executives referred to the impact on access to justice of what they described as premature court closures; they considered that court buildings act as “justice hubs” in their local communities, and are “the setting where out of court settlements are agreed, pre- and post-hearing meetings with clients take place, and people receive information and access to wider community services.”¹⁷² Families Need Fathers expressed a similar view about the value of court corridors in assisting dispute resolution in family cases.¹⁷³

105. We received less evidence on the access to justice impact of closing tribunal hearing centres. The Free Representation Unit, which provides representation at tribunal hearings, concluded that it was premature to close centres before assumptions had been tested about the take-up of digital services; the organisation was concerned that “access to physical spaces has been removed before alternatives are ... established as providing effective access to justice.” It noted “extensive delays” in listing tribunal hearings, and that outstanding caseloads were rising.¹⁷⁴ IPSEA thought that there were already access to justice pressures in the SEND tribunal system, caused by the lack of hearing venues and the capacity of administrative staff, as well as the year-on-year increase in the number of SEND appeals.¹⁷⁵

167 Housing Law Practitioners Association (CTS0090)

168 Rhona Friedman, Sue James and Simon Mullings (CTS0085)

169 Resolution (CTS0051)

170 Q122

171 [Public Accounts Committee. Oral evidence: Transforming Courts and Tribunals, HC 976, Wednesday 6 June 2018. Q7](#)

172 Chartered Institute of Legal Executives (CTS0049)

173 Families Need Fathers (CTS0088)

174 Free Representation Unit (CTS0080)

175 IPSEA (CTS0041)

Evaluating the impact of court closures

106. Witnesses criticised HMCTS’s failure to evaluate properly the effect on users of proposed court closures, or to consider the impact of closures that had already taken place.¹⁷⁶ HMCTS does not hold comprehensive data on court users, but assumes that their characteristics reflect the populations local to the proposed closures.¹⁷⁷ The EHRC pointed out that HMCTS had not assessed the impact of recent closures on groups such as women caring for young children, nor had it assessed the potential impacts on children and young people—for example, arising out of the closure of Youth Courts.¹⁷⁸ Similar concerns were raised by the Junior Lawyers Division of the Law Society.¹⁷⁹ The EHRC noted that the Public Sector Equality Duty (PSED) requires public bodies to consider whether they have sufficient evidence to consider effectively the impact of proposals on people with protected characteristics:¹⁸⁰

bodies must determine where there are gaps in their evidence base and identify how to address them. This could include collecting new sources of data, engaging with people with certain protected characteristics, or using external sources of information.¹⁸¹

107. The only academic study on the effect of court closures of which we are aware examined the impact of closing Bury St Edmunds magistrates court and one other in Suffolk, leaving the county with only one magistrates’ court, in Ipswich. The research found that court users faced more costs in time and money, including overnight hotel stays to attend court. More warrants for “failure to appear” were issued.¹⁸² Informal relationships between the court and defence advocates were weakened, as was magistrates’ local knowledge.¹⁸³

108. Court closures in urban and rural areas have created serious difficulties for many court users, with worrying implications for access to justice. We recommend an immediate moratorium on further court closures pending robust independent analysis of the effect of closures already implemented, with a particular focus on access to justice.

The condition of court and tribunal buildings

109. Many witnesses told of concern about the dilapidated state of court buildings. In January 2018, the Ministry of Justice and HMCTS accepted that maintenance of buildings in the courts and tribunals estate had been spread too thinly, with funding focused “almost exclusively on reactive responses to problems” rather than putting in place a programme of planned maintenance. At that time, the estimated maintenance backlog was around £400 million and HMCTS had started a programme of building surveys to obtain accurate data

176 For example, Bonavero Institute of Human Rights ([CTS0024](#)); Disability Rights UK ([CTS0015](#)); Junior Lawyers Division ([CTS0013](#)); Standing Committee for Youth Justice ([CTS0036](#))

177 See for example [MoJ/HMCTS Proposal on the future of Banbury Magistrates’ and County Court and Maidenhead Magistrates’ Court](#), January 2018; Annex A

178 Equality and Human Rights Commission ([CTS0075](#))

179 Junior Lawyers Division ([CTS0013](#))

180 [Section 149 Equality Act 2010](#)

181 Equality and Human Rights Commission ([CTS0075](#))

182 Preceding the closures, warrants for failure to appear issued for defendants based in the area of the closed court were only 2.7%, but post-closure warrants issued had risen to 12.8%.

183 [O. Adisa, Access to Justice: Assessing the impact of the Magistrates’ Court Closures in Suffolk \(University of Suffolk, 2018\)](#). See also the literature review by Dr Joe Tomlinson ([CTS0092](#))

on the extent of disrepair and the cost of putting it right. It was also seeking to improve its response to routine maintenance by appointing 320 “building champions” who would provide a single point of contact for facilities management contractors.¹⁸⁴

110. The Lord Chief Justice told us:

The condition of the estate feeds into difficulties at every level. First, and importantly, it seems to me completely unreasonable to expect members of the public who have to visit courts for all sorts of reasons to have to put up with dilapidated and uncomfortable buildings, and buildings that are, frankly, an embarrassment, as I have put it before. Secondly, it is not reasonable to expect the staff of HMCTS and other public servants who have to work in the courts to endure those conditions. Neither is it reasonable to expect the judges to do so.¹⁸⁵

111. Evidence to our inquiry supported this assessment. Dennis Fuller JP told us of a courthouse that suffered from excessive heat “because the ancient boiler system cannot be reprogrammed.”¹⁸⁶ Jo King JP referred to “the enormous backlog of essential maintenance that the court estate needs in order for it to be fit for purpose and safe to work in.”¹⁸⁷ Young Legal Aid Lawyers reported that, last winter, heating control in both Manchester and Bradford Immigration and Asylum Chamber (IAC) hearing centres was so inadequate that users had to wear coats and use space heaters. They commented:

Vulnerable appellants often giving evidence of previous torture and their fear of being killed if returned home should not have to appear in such conditions, nor should the representatives and judges responsible for the demanding task of ensuring they receive a fair hearing.¹⁸⁸

112. Some commented on poor facilities in court buildings. Victim Support said a number of courts have “special measures” screens that do not ensure the privacy and protection of victims and witnesses and that, in the majority of courtrooms, TV screens cannot be moved to ensure the privacy of those giving evidence. The organisation considered it vital that separate spaces were made available for defendants and victims in all criminal courts, including separate entrances, toilets and waiting areas.¹⁸⁹ Women’s Aid criticised the lack of protection equivalent to special measures in the criminal courts for those involved in civil proceedings; the organisation said survivors of domestic abuse can often feel highly unsafe while on the court estate.¹⁹⁰

113. Disabled facilities were also raised as an issue: Dr Jenny Birchall from Women’s Aid said that one disabled survivor of domestic abuse had had to wait seven hours before she could use the bathroom, because facilities in the court were not accessible.¹⁹¹ Dennis

184 [Fit for the future: transforming the Court and Tribunal Estate. Ministry of Justice/HMCTS, January 2018](#)

185 [Justice Committee Oral evidence: The Lord Chief Justice’s Report for 2018, HC 1651, Tuesday 20 November 2018, Q4](#)

186 Dennis Fuller JP ([CTS0057](#))

187 Mrs Jo King JP ([CTS0025](#))

188 Young Legal Aid Lawyers ([CTS0069](#))

189 Women’s Aid ([CTS0006](#))

190 Magistrates Association ([CTS0031](#))

191 [Q111](#)

Fuller JP told us that one of his courthouses had no toilet with disabled access—in spite of the bench having a disabled magistrate—while another toilet remained permanently locked because there is no money for the “significant repair” required.

114. We agree with the Lord Chief Justice that it is wholly unreasonable to expect judicial office holders, HMCTS staff and external court users to put up with dilapidated and uncomfortable court buildings. We are alarmed by evidence that disabled facilities are not reliably available in court buildings. We recommend that HMCTS accelerate its programme of building repairs, if necessary by increasing its maintenance budget, and that it adopt more ambitious management standards for routine maintenance work in court and tribunal buildings.

Travel time to court

115. The “Fit for the future” consultation included proposals for a new court and tribunal “design guide”.¹⁹² It also presented a modified approach to the travel standard used to determine decisions on court and tribunal locations: that nearly all users should be able to attend a hearing on time and return within a day.

116. We wrote to the Minister, Lucy Frazer QC MP, on 27 February 2018, questioning the proposed travel standard, for which no convincing policy justification had been offered, and pointing out the potential indirectly discriminatory impact on older people, women with young children and people with mobility impairments. We expressed concerns about virtual hearings increasingly taking the place of physical access to hearing centres, in the absence of any evaluation of pilot projects.¹⁹³ Ms Frazer said she would ensure that these points were taken into account as part of the decision-making process following the consultation.¹⁹⁴

117. On 10 May 2019, over a year after the consultation closed, HMCTS published the Government’s response.¹⁹⁵ It revised the principles that it will apply when considering any further reductions to the court estate, making them “stronger, and provid[ing] greater assurance that, when we make changes to our estate, we maintain effective access to justice, provide value for money to the taxpayer and make sure that our courts and tribunals are as efficient as possible”.¹⁹⁶ In summary, in relation to user access to courts, the revised principles provide that:

¹⁹² [Fit for the future: transforming the Court and Tribunal Estate. Ministry of Justice/HMCTS, January 2018](#)

¹⁹³ [Letter dated 27 February 2018 from Bob Neill MP, Chair, Justice Committee to Lucy Frazer QC MP, Parliamentary Under-Secretary of State for Justice, on Ministry of Justice consultation: Fit for the future.](#)

¹⁹⁴ [Letter dated 15 March 2018 from Lucy Frazer QC MP, Parliamentary Under-Secretary of State for Justice to Chair of Justice Committee, on Ministry of Justice consultation: Fit for the future](#)

¹⁹⁵ [Response to ‘Fit for the future: transforming the Court and Tribunal Estate’ consultation. HMCTS, May 2019.](#) The consultation attracted nearly 250 responses. Alongside the consultation response, HMCTS published its [guide](#) to the design of courts and tribunals, setting out its vision, principles, and minimum standards for refurbishment and new building projects.

¹⁹⁶ *Ibid*, page 5

- everyone who needs to access the court and tribunal estate should be able to do so;
- journey times to court should be “reasonable”; **the overwhelming majority of users should be able to leave home no earlier than 7.30 am to attend their local court, and return home by 7.30 pm, by public transport if necessary.** “Real world” models will be used to calculate journey times;
- HMCTS will also take into account the cost and complexity of the journey, including the frequency of public transport and the number of changes required, the cost of travel and the needs of vulnerable users; and
- mitigations may be available to reduce the impact on court users with longer journey times, such as varying the start/finish times of cases, changing the location (including to a supplementary venue if appropriate), or providing video links.¹⁹⁷

118. Annexed to the Government response is an independent review of HMCTS estates strategy by Professor Martin Chalkley of the University of York, who examines HMCTS’ analysis of court capacity. Professor Chalkley argues that the *accuracy* of the model used to estimate capacity is only one criterion for judging it; its *relevance* to the real world of court processes may be more important. High-capacity operation is not necessarily “cost effective”: for example, hospitals with high bed occupancy rates have been found to lead to increased infections, cancelled operations, and wasted time and resources when patients have to be moved between wards. He expresses concern that attempts to reduce the costs of the court estate may in fact increase the costs of delivering justice overall.¹⁹⁸ Responding to his report, the consultation response stated that HMCTS would not close court buildings in anticipation of workload reductions, only when there is clear evidence to support the closure; it will aim to consult on a proposed closures in good time “where we see evidence that patterns are changing, and that a building is ceasing to be needed, and could reasonably be closed without reducing access to justice.”¹⁹⁹

119. The consultation response included an assessment of what the new travel benchmark means for users of the current court estate. The analysis was based on Google travel time data and census-based population areas, and looked at the proportion of people in England and Wales who are able to get to and from their nearest court (taking into account closures that have been announced) by car or by public transport. The table, reproduced below, shows the proportion of the population who can arrive at different types of court by 9.30am, 10.30am and 11.30am by public transport leaving no earlier than 7.30am; and who can arrive home by 7.30pm when leaving the court at 3.30pm, 4.30pm and 5.30pm.

197 Ibid, page 6

198 Ibid, Annex C

199 Ibid, paragraph 7.22

Table 1: Travel time to court

Public transport	Mags	County	Crown	Tribunals
9:30am	95%	95%	92%	93%
10:30am	98%	98%	97%	97%
11:30am	98%	98%	98%	98%

Public transport	Mags	County	Crown	Tribunals
3:30pm	98%	98%	98%	98%
4:30pm	98%	98%	97%	97%
5:30pm	95%	96%	93%	93%

Source: Response to 'Fit for the future: transforming the Court and Tribunal Estate' consultation. HMCTS, May 2019 (P13)

120. The Lord Chief Justice thought the new travel benchmark for future court closures had brought “greater clarity about the parameters to be applied.” He recognised that a relatively small number of people would find travelling to a tribunal or court hearing very time-consuming; however, he did not doubt that the Government had struck a balance “to try to achieve a proportionate outcome in circumstances where, as we have to recognise, money is far from limitless.”²⁰⁰ The then Secretary of State, Rt Hon David Gauke MP, defended decisions already taken to close “underutilised” court buildings, explaining that the Government had a responsibility to use resources carefully. He pointed out that HMCTS analysis suggests that changes to the estate since 2010 have made only a marginal difference to travel times. He continued:

no other round of court closures is imminent, but we always have to ensure that we use our resources sensibly. We have to take into account the fact that people will make greater use of technology that does not mean that they are necessarily going to be physically present, as has been the case in the past. We have to ensure, within our very strong desire to make sure that people can attend when they need to, in a reasonable way, that we use our resources effectively.²⁰¹

121. By contrast, John Bache JP, the Chair of the Magistrates Association, described the 12-hour window as “a huge timeframe” and pointed out that, unlike in London, public transport may not be available in places such as Cornwall, the west of Wales or Northumberland; many people do not have private transport.²⁰² Gerwyn Wise from the Criminal Bar Association thought that inadequate consideration had been given to those who would need extended childcare, or to other vulnerable court users:

There are people with other caring responsibilities. There are people with low incomes. How are they paying for this travel? There are people with physical disabilities that mean that long journeys are near impossible. There are people with mental health difficulties.²⁰³

200 [Q278](#)

201 [Q297](#)

202 [Q23/Q25](#)

203 [Q28](#)

Jo Edwards from Resolution observed that, as well as time, the cost and complexity of the journey was important. She spelled out the implications of the new travel benchmark for people with children:

If they have childcare responsibilities and school runs to do, it is not practical [...] If you are in a 10 am listing, there is an expectation that you are at court by 9 am, so that you can have negotiation, discussion and conciliation. I am not sure quite how that is going to work with a 7.30 to 7.30 test.²⁰⁴

122. Wendy Rainbow from IPSEA said that, at present, the SEND tribunal tries to list hearings within two hours of parents' travel time; many had children with serious health issues and complex health needs and any extension of that time would cause huge problems. Sara Lomri from the Public Law Project pointed out that a recipient of ESA whose benefit is regularly reviewed may well have to travel to the tribunal every year. The impact of poverty on the costs of travel concerned Lisa Wintersteiger from Law for Life, who regretted the apparent lack of assessment of the costs of travel, the viability of transport or "the real-time challenges that people have."²⁰⁵ Penelope Gibbs from Transform Justice thought that applying the new travel benchmark would mean "closing half the magistrates courts in our country." She drew attention to the implications of a potential 12-hour day for people with physical or mental disabilities or learning difficulties, as well as children and young people.²⁰⁶ She was also worried about the impact on witnesses:

We have to remember as well that, in criminal, we are asking witnesses to give up their own time. Frequently, they come to court, it is not ready and they have to come back another day. That is four hours in a day.²⁰⁷

123. As part of the reform programme, HMCTS is currently piloting flexible court operating hours in Brentford County Court and Manchester Civil Justice Centre "to test whether operating courts and tribunals at different times of the day offers more open and accessible justice for citizens." The pilot involves court sessions that start at 8am and others that close at 7pm.²⁰⁸ Richard Miller from the Law Society questioned whether this had been considered in the assessment of the travel times. He asked:

Does it mean, for example, that, instead of having to leave home at 7.30, we are now saying that people would have to leave home at 5.30 to get to court in time, and would not get home until 11.30 at night? Insufficient account seems to have been taken of the interaction of different strands of the programme.²⁰⁹

204 [Q114](#)

205 [Q239](#)

206 The impact on child defendants of lengthy journeys to court was also mentioned by the Standing Committee for Youth Justice ([CTS0036](#))

207 [Q238](#)

208 [Flexible Operating Hours Pilots: Prospectus for Civil and Family Court Pilots Justice matters. HMCTS November 2018](#). Several submissions to the inquiry were critical of the flexible hours model, suggesting that it created practical problems for solicitors and had potentially discriminatory impact on particular clients: for example, Manchester Law Society, Crown and Magistrates Committee ([CTS0012](#)); Hammersmith & Fulham Law Centre ([CTS0083](#)); Manchester Law Society - Civil Litigation Committee ([CTS0004](#))

209 [Q70](#)

124. Notwithstanding the possibility of “mitigations”, application of the new HMCTS travel benchmark to potential future court closures could create access barriers for an unacceptably high proportion of court users, including many who live in poverty, who have caring responsibilities or who are otherwise vulnerable.

125. *We recommend that HMCTS adopt a revised travel benchmark: that the overwhelming majority of users should be able to reach their nearest court or tribunal hearing centre within 1.5 hours by public transport. No user should be expected to leave home earlier than 8.00 am or return home later than 6 pm and, where necessary, courts and tribunals should be willing to adapt their sitting times to accommodate this. HMCTS should consult on how it will take into account the cost and complexity of journeys to court in addition to travel time.*

Supplementary provision

126. “Supplementary provision” is the term used by HMCTS to refer to court sessions held in non-traditional venues. The Fit for the Future consultation response noted that respondents generally supported the use of supplementary venues, provided suitable security was provided and the dignity of the court preserved. The response concluded that some civil, tribunal and non-contested family hearings would typically be the most appropriate for hearings in non-traditional buildings, together with lower-level criminal cases; however, custodial cases would not be appropriate.²¹⁰ The document went on to set out HMCTS policy for assessing the appropriateness of supplementary provision: for example, the venue must be appropriate (that is, maintain the integrity of justice and the dignity of the court); it must meet minimum security standards; it must be cost effective; and it must be accessible.²¹¹

127. In 2016, the national charity JUSTICE published the report of its working party that looked at the question *What is a court?* The report called for reconception of court and tribunal rooms as ‘justice spaces’, designed to adapt to the dispute resolution process taking place within them and the needs of users, rather than the other way around. It also called for a flexible and responsive court and tribunal estate, including “pop-up courts”.²¹² In oral evidence, Jodie Blackstock of JUSTICE spoke positively about the potential for supplementary court venues, suggesting it was only in cases involving defendants remanded in custody that traditional court rooms were needed:

The only important ingredient you need for a court hearing for the vast majority of cases is two entrances and exits, so the judge can go out one way and the public and witnesses can go out another. You have to think about the design of it to keep witnesses and parties apart, and you have to think about vulnerabilities and tensions between the parties and how they get into the building, of course, but that can be arranged in a flexible space.²¹³

128. In June 2019, we published the report of our follow-up inquiry into the role of the magistracy, which was agreed after publication of the Government response to its

210 Paragraphs 3.21 to 3.23

211 Ibid, paragraph 3.28

212 JUSTICE, [What is a court?](#) 2016

213 [Q241](#)

Fit for the Future consultation.²¹⁴ The inquiry had heard evidence on the potential for supplementary court venues, and we concluded that—apart from limited pilot projects—there had been little progress in developing these since the Committee’s 2016 report on this issue.²¹⁵ We recommended:

The new principle for identifying supplementary venues is a valuable starting point, but we recommend that HMCTS take urgent steps to put this principle into practice, with a particular focus on locations where court closures have had the greatest impact.²¹⁶

129. We recommend that HMCTS adopt a clear strategy for establishing and using supplementary venues, including a default position that supplementary venues be established in every area where there has been a court closure in the past 10 years.

130. To support transparency and consistency of approach, we recommend that the suitability of supplementary venues for different types of case be subject to published judicial guidance.

214 [House of Commons Justice Committee: The role of the magistracy: follow-up. Eighteenth Report of Session 2017–19, 18 June 2019](#)

215 [House of Commons Justice Committee: The role of the magistracy. Sixth Report of Session 2016–17, 19 October 2016](#)

216 [House of Commons Justice Committee: The role of the magistracy: follow-up. Eighteenth Report of Session 2017–19, 18 June 2019](#) Paragraph 101

5 HMCTS reductions in staffing

131. Staffing reductions are integral to the HMCTS reform programme. In 2014–15, HMCTS employed more than 17,000 FTE employees;²¹⁷ this had fallen to around 16,000 by July 2019 and is expected to fall to 11,300 by the end of the reform programme.²¹⁸ This represents a planned reduction of about one third. We considered what effect existing reductions in HMCTS staff numbers had had, and what might be expected when greater reductions take place during the next phase of the reform programme.

132. HMCTS staff reductions are happening as a consequence of court closures, as well as the introduction of Courts and Tribunals Service Centres, which centralise services to the public and administrative functions. HMCTS explained that some roles will no longer exist, while others will change—“typically becoming more skilled”. This would 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).”²¹⁹

The impact of staffing reductions

133. Many submissions to our inquiry expressed strong concerns about the impact of existing reductions in court staffing. These came from across the full range of stakeholders who responded to our call for evidence, including the judiciary, lawyers, court users and HMCTS staff themselves. There was consensus across experience in criminal, civil and family courts.²²⁰ We heard again and again about cuts leading to overworked staff and serious administrative problems.²²¹ Typical complaints included:

The reduction in court staff has led to delays in hearings; telephones unanswered; missing files; administrative delays; and delays in billing.²²²

The reductions in HMCTS staff [mean that]... many courts are simply overburdened. Paperwork is not dealt with expeditiously. Telephones are not answered. Files are lost and documents do not make their way to the judge in time for the hearing.²²³

It was difficult if not impossible to get a reply from a simple telephone call made to a court or alternatively, even if emails were sent ... they were routinely not being answered for five or more days. It would appear that any technology would be limited by insufficient staff being available to utilise it.²²⁴

217 HMCTS Annual Report 2018–19, p83

218 HM Courts & Tribunals Service ([CTS0064](#))

219 Ibid

220 There was less evidence available on tribunals, where the case officer system is in place. However, recent reports have indicated inadequate levels of staffing in the Employment Tribunal, where the number of applications has significantly gone up following the abolition of Employment Tribunal fees.

221 Deepa Veneik ([CTS0095](#)), Ms Diane Astin ([CTS0066](#)), Criminal Law Committee - Birmingham Law Society ([CTS0033](#)), SHELTER ([CTS0062](#)) Dennis Fuller JP ([CTS0057](#))

222 Rhona Friedman, Sue James and Simon Mullings ([CTS0085](#))

223 Housing Law Practitioners Association ([CTS0090](#))

224 Manchester Law Society, Crown and Magistrates Committee ([CTS0012](#))

134. We were left in no doubt about the scale of the problems. Resolution gave many examples of lost files, unprocessed papers and long waits for correspondence replies. Three quarters of Resolution members responding to their survey said that the ability easily to access the right information in a reasonable timeframe from the court by email or telephone has got worse or much worse.²²⁵ The Chief Magistrate told us that “for a period of about a year the telephones were not being answered at Westminster Magistrates’ Court”.²²⁶ The Legal Committee of HM Council of District Judges was aware of one magistrates’ court where the administration staff often had over 500 unanswered emails in the general administration inbox.²²⁷

135. We asked the HMCTS Chief Executive about performance indicators for answering telephone calls or replying to emails.²²⁸ She told us that the existing telephony system did not allow her to know how many calls had not been picked up in individual courts and tribunals. Some calls go through to the new Service Centres, where the average time to answer them in June 2019 was 8 mins 18 seconds; that month only three quarters of calls were answered at all. She did not provide information on email responses.²²⁹

136. As well as very basic issues of being able to contact a court or service centre successfully, legal practitioners reported worrying difficulties when attending courts. For example, Gerwyn Wise from the Criminal Bar Association told us:

it is quite often the case, when you are doing a Crown court trial, that the judge is the only member of court staff in the room. The ushers and the court clerks have to cover multiple rooms and deal with multiple courts. When things are going well, it is fine, but when issues arise—for example, with digital cases, or CCTV and the like—it can lead to delays. Sometimes it is 15 minutes, but sometimes it is half a day.²³⁰

137. The impact of staffing reductions on vulnerable groups was particularly worrying, including the effect on people facing the loss of their home. A solicitor working for Shelter stated: “I cannot stress enough how random and chaotic the whole thing is”. Shelter went on: “If we, as housing professionals, find it so difficult to communicate with the courts, we can only speculate what it is like for tenants, borrowers and other litigants in person.” The charity commented that the shortage of court staff meant that it was difficult to get updates about a case, which put people at risk of missing crucial deadlines and possibly losing their home.²³¹

138. Women’s Aid highlighted concerns about the effect of staffing reductions on survivors of domestic abuse, arguing that: “court staff are vital in organising special measures [to support and protect vulnerable people], so we feel that it will restrict access to justice if there are fewer staff.” Victim Support described how, owing to staff shortages, victims and witnesses struggled to find out practical information on the day of a hearing. They also pointed out that, without adequate levels of staffing, there was no one to enforce separate waiting areas for victims and defendants.²³²

225 Resolution ([CTS0051](#))

226 Lady Emma Arbuthnot ([CTS0014](#))

227 Legal Committee of Her Majesty’s Council of District Judges (Magistrates’ Court) ([CTS0032](#))

228 [Q299](#)

229 [Letter from Susan Acland-Hood to the Chair](#), 31 July 2019. Figures relate to June 2019.

230 [Q47](#)

231 SHELTER ([CTS0062](#))

232 Victim Support ([CTS0003](#))

Closure of public counters at courts

139. The inquiry found particular concerns about the “almost universal closure of public counters in court buildings”.²³³ Court users were now greeted by security rather than court staff, and were often left confused about where to go and what to do.²³⁴ This had a particular impact on those who cannot afford legal advice and are not eligible for legal aid.²³⁵

140. Housing law practitioners told us about the importance of face-to-face support from court staff for frequently vulnerable clients.²³⁶ Diane Astin, an experienced housing solicitor, reported that the closure of public counters made it increasingly difficult to deal with emergency applications. She explained that tenants applying to have a warrant of possession set aside must apply to the court to prevent an eviction taking place before the date scheduled for eviction, after which the court’s discretion to set aside the warrant comes to an end. Previously, tenants could receive basic help from court staff in making this application, and the court would ensure that a hearing was listed prior to the date of the eviction. However, this is no longer possible because of the closure of the public counters. She concluded that “present levels of service are so poor that the courts are simply not accessible to unrepresented litigants”.²³⁷

141. Susan Acland-Hood told us that HMCTS had put into place “other contact mechanisms that the piece of research we did before the court counters were closed suggested would work better for most people.”²³⁸ However, the centralisation of staff into Service Centres was not a well regarded development. As well as loss of face-to face contact, it was felt to sever valuable relationships with judges.²³⁹ In addition, there were worries that call centre staff lacked sufficient experience of courts to answer questions.²⁴⁰ The evidence was that engagement with staff, especially those who are well trained and familiar, was important. The engagement was not simply transactional: a friendly face puts court users at ease.²⁴¹ From the perspective of the police—engagement with court staff on victim and witness issues could help ensure an effective hearing.²⁴²

Impact on staff morale

142. The Public and Commercial Services Union described the impact of HMCTS staff cuts and centralisation, stating that the “Courts and Tribunals Service is creaking under unrelenting pressure caused by years of chronic underfunding and is largely held together by the goodwill of our members.”²⁴³ The annual staff survey revealed some of the lowest staff engagement levels in the Civil Service: in October 2018, the engagement index was

233 Mrs Jo King JP ([CTS0025](#))

234 LawWorks and LIPS Strategy ([CTS0089](#)), SHELTER ([CTS0062](#)), JUSTICE ([CTS0068](#)), South London Law Society ([CTS0030](#))

235 Jo Edwards, Resolution ([Q124](#))

236 Housing Law Practitioners Association ([CTS0090](#))

237 Ms Diane Astin ([CTS0066](#))

238 [Q303](#)

239 Mr Adam Taylor ([CTS0070](#))

240 Mrs Melanie Benn ([CTS0043](#))

241 [Q127](#) [Frances Rudd QC, Family Law Bar Association], LawWorks and LIPS Strategy ([CTS0089](#))

242 [Q48](#) [DCI Kirby, Thames Valley Police]

243 Public and Commercial Services union ([CTS0010](#))

49%, down four percentage points on 2017–18.²⁴⁴ This is nine percentage points lower than the Civil Service benchmark for operations with over 2,500 staff, and 13 points lower than the Civil Service benchmark. Strikingly, the greatest reduction in score was in Leadership and Managing Change, where the score was only 35%, down 8 points from the previous year.²⁴⁵

143. We heard particular concerns about the employment of temporary agency staff. HMCTS currently has around 16,000 full time roles, of which 3,000 are filled by temporary or agency staff; the service intends to “keep a sizable float of flexible and temporary staff to minimise impact on permanent staff and provide scope for redeployment of existing staff”.²⁴⁶ The Chief Magistrate said: “The reduction in staff in some areas took place too quickly and the vacancies were filled with agency staff. This is still happening.”²⁴⁷

144. The Senior President of Tribunals acknowledged a need to avoid over-reliance on agency staff, telling us that uncompetitive wages were an issue: “We lose some of our best staff—hence we have temporary staff—to other Government agencies. That is a crying shame. They are our most loyal investment in the service, and we would like to see something done about that.”²⁴⁸ Others concurred that staff remuneration was a problem, including the Association of HM District Judges who observed that court staff are paid “less than almost every other government department, they (and agency staff), often leave after a short period of time to take up appointment with another government department at a higher salary”.²⁴⁹

145. Whether it is through planned reductions leading to vacancies or staff moving on to seek better pay and working conditions, the evidence suggested that reliance on agency staff was problematic. For example, Hammersmith and Fulham Law Centre reported that, in October 2018, 70% of staff at Clerkenwell and Shoreditch County Court were agency staff, with the following effects:

Colleagues who have had work transferred from the other courts to Clerkenwell and Shoreditch confirm that: files have been lost in the transfer; some hearings have not yet taken place more than a year later; the telephones are not answered; paperwork has been lost; bailiff warrants are still being executed despite warrants being suspended. The court is essentially in chaos.²⁵⁰

146. Family law practitioners cited “huge cuts” to the number of HMCTS staff in Leeds, leading to the use of agency staff who are not “up to speed” with processes, leading to delays.²⁵¹ The Association of Her Majesty’s District Judges also sounded a warning: “The loss of HMCTS experienced staff is of considerable concern to us, as the Courts are

244 The Engagement Index is the average positive responses to five key questions reflecting people’s personal attachment to HMCTS, striving in the work they do, and speaking positively about working here.

245 HMCTS Annual Report 2017–18, p81, 82

246 HM Courts & Tribunals Service (CTS0064)

247 Senior District Judge Emma Arbuthnot (CTS0014)

248 Q279 [Sir Ernest Ryder]

249 CTS00884. Similar comments were made by HH John Tanzer (CTS0018) and Public and Commercial Services Union (CTS0010)

250 Hammersmith & Fulham Law Centre (CTS0083)

251 Leeds Law Society (CTS0011); Yorkshire Union of Law Societies (CTS0067)

increasingly reliant on agency staff who have little knowledge of how the Court works... All this contributes to delays and mistakes being made by inexperienced court staff which inevitably does impact upon access to justice.”²⁵²

Future staff reductions

147. HMCTS staff reductions are mainly back-loaded—that is, they are scheduled to increase as the programme progresses. Referring to “huge reductions in staff numbers with more to come”, the Association of HM District Judges made a bleak prediction:

If the [HMCTS] service centres cannot cope and the back room staff at the courts are pared back to the bare minimum then chaos and complete inefficiency will ensue, with the effect of reduced access to efficient and timely justice.²⁵³

148. Susan Acland-Hood from HMCTS told us that staff reductions have levelled off, “partly because we have very consciously been trying to make sure that we are managing and thinking about the changes we bring in.”²⁵⁴ She was also “looking to increase the front-of-office presence of people who can help you work out what you need to do in various ways.”²⁵⁵ The Lord Chief Justice appeared confident that HMCTS would make sure its staffing was sufficient. He agreed that it was vital for the courts and tribunals to be sufficiently staffed to support sittings and to provide necessary assistance to the judiciary and to the public and professionals court users.

We will ... work with HMCTS to ensure that the courts have sufficient numbers of suitably trained staff so that the business of the courts is efficiently despatched and those who use the courts are treated with dignity and respect.²⁵⁶

149. We received powerful evidence of a court system in administrative chaos, pointing to the harmful impact of staffing reductions on the experiences of victims, witnesses and legal practitioners as well as litigants and defendants. Staff shortages in many courts are so serious that they may undermine access to justice and threaten to compromise the fairness of proceedings.

150. *We recommend that HMCTS does not proceed with planned and much deeper staffing cuts unless it is confident of being able to provide an acceptable level of service to court users.*

151. Our evidence suggests that the move to centralised service centres is not fulfilling the needs of many court users, particularly the most disadvantaged. We are particularly concerned about the loss of public counters in civil courts. *Sufficient staff should be based in court buildings to provide reassurance and expert, face-to-face guidance for court users.*

252 The Association of Her Majesty’s District Judges (ADJ) ([CTS0084](#))

253 The Association of Her Majesty’s District Judges (ADJ) ([CTS0084](#))

254 [Q286](#)

255 [Q303](#)

256 Lord Chief Justice of England and Wales ([CTS0078](#))

152. Staff in courts are clearly overworked and under-remunerated. We are deeply concerned by HMCTS's over-reliance on agency staff and the low morale rates indicated by its staff surveys. *We recommend that HMCTS seek to retain existing experienced staff, through addressing problems of remuneration, workload and morale as a matter of urgency.*

6 Open justice and the rule of law

Open justice

153. Open justice—the public resolution of criminal and civil disputes—is a fundamental principle of the common law. The Court of Appeal confirmed this principle in 2016, when it stated:

For present purposes and shortly stated, open justice is a fundamental principle of the common law; the test for departure is one of necessity—nothing less will do; that test may be satisfied to avoid frustrating or rendering impracticable the administration of justice.²⁵⁷

Our inquiry considered whether, and to what extent, the principle of open justice would be affected by the court and tribunal reform programme.

154. The Lord Chief Justice told us that open justice is one of two features of access to justice, the other being access to courts and tribunals. He continued:

The judiciary have pressed the view, which is being worked into the projects by HMCTS, that the principle of open justice means that the courts must remain as open to public scrutiny after reform as they are now. HMCTS are developing technical solutions to enable public and press access to remote hearings.²⁵⁸

155. The Senior President of Tribunals, Sir Ernest Ryder, has also placed on record his commitment to preserving open justice. In a speech in 2018, he noted the “staggering” numbers of disputes that are being resolved online by private dispute resolution services, such as those used by eBay and Amazon. He went on to say:

When justice slips out of sight ... the prospect of arbitrary, incompetent or unlawful conduct raises its head. Again, if we simply accept the argument that private online dispute resolution is the way in which the majority of disputes, and in some areas all disputes, may be resolved in future we accept this loss of accountability; we further accept the growth of a democratic deficit. And the same is the case if we divert public justice to an unobservable online forum. Our digital courts must be open courts.²⁵⁹

156. Jodie Blackstock from JUSTICE referred to open justice as being “fundamental to public confidence in the administration of justice” because it demonstrates that the system is fair and the law is being applied properly. She saw scrutiny by the media and legal journals as having an important role to fulfil.²⁶⁰ Likewise, the importance of open justice as a fundamental principle of the common law was emphasised by the Equality and Human Rights Commission²⁶¹ and by Professor Sue Prince.²⁶²

257 Times Newspapers Ltd v Abdulaziz [2016] EWCA Crim 887 (08 July 2016)

258 Lord Chief Justice of England and Wales (CTS0078)

259 Sir Ernest Ryder, Senior President of Tribunals. “Securing open justice”. Max Planck Institute, Luxembourg, 1 February 2018.

260 Q233

261 CTS0075

262 CTS0061

157. The value of open justice was also explained by Mark Hanna, a journalist and senior university teacher, who listed several factors: publicity about a court case could lead to additional evidence coming forward; holding proceedings in public helps to ensure they are conducted appropriately, with honest testimony; and greater scrutiny generates public trust in judicial proceedings and supports public education. Jo King JP considered open justice essential to maintaining public confidence in the administration of justice by ensuring accountability, facilitating public censure, educating the public and deterring crime.

158. In contrast, Professor Richard Susskind argued that open justice is not an overriding principle, but one of seven aspects of justice that can pull in different directions. In a low-value claim, it may be contrary to the principle of “proportionate justice” to have parties take time off work to appear in court and incur legal costs worth more than the amount in dispute. Because many people cannot afford lawyers and court fees, there was “a pervasive problem of distributive justice”, in that the social goods of legal and court services are unevenly distributed and generally available only to those of considerable means. According to Professor Susskind, what matters is that court decisions are fair (substantive justice), that the processes are fair (procedural justice) and that participants feel that they are so:

If online courts deliver substantive and procedural justice, I cannot find any countervailing principle of justice that insists we should always favour our traditional system which is accessible to very few and too often disproportionate when it is invoked.²⁶³

Preserving open justice in online and video processes

159. HMCTS has stated that it accepts that open justice is fundamental.²⁶⁴ However, the PAC noted concerns among journalists about the impact of the reforms on the concept of open justice and the importance of public and media access to court proceedings, particularly practical issues relating to how journalists access information, court staff and hearings when activities are conducted online.²⁶⁵ HMCTS has stated that it would make lists of forthcoming cases available online and that the results of cases would be available from its Courts and Tribunals Service Centres on request. For proposed fully video hearings, journalists and the public would be able watch using “observation terminals located in viewing areas inside court buildings”.²⁶⁶

160. The then President of the Queen’s Bench Division, Rt Hon Sir Brian Leveson, supported this approach for fully video hearings in the criminal court, suggesting that open justice could be preserved by installing a live link from the video courtroom where the judge is sitting to the court building where the case is listed. As noted previously, case management hearings and bail applications are among the cases that he considers suitable for fully video hearings—but fully video criminal trials are not envisaged.²⁶⁷

263 Professor Richard Susskind (CTS0039)

264 See HMCTS press release: [New media guidance issued to all court staff, 24 October 2018](#).

265 House of Commons Committee of Public Accounts. [Transforming courts and tribunals](#), Fifty Sixth Report of Session 2017–19, 20 July 2018, HC 976, para 22

266 [Putting people at the heart of reform: Response to PAC recommendation 2](#). HMCTS January 2019

267 Lord Chief Justice of England and Wales (CTS0078), Annex 2

161. Within the Tribunals system, much thought has been given to preserving open justice. In an Appendix to his report on *The Modernisation of Tribunals 2018*, the Senior President of Tribunals summarised the views of the tribunal judiciary that emerged from the Judicial Ways of Working consultation and which now underpin his plans for tribunal modernisation. One of the agreed principles is that tribunal judges “must strive to ensure that our decision making is no less open to public scrutiny than it is at present”. The solution to this issue, now agreed by the Tribunals Change Network and HMCTS, can be summarised as follows:

- to record all Tribunal hearings as the primary ‘record of proceedings’, to identify a recording solution for video hearings and continuous online resolution and to identify which hearings are to remain face to face and open and which are to be digitally open; and
- recordings will be made available to be watched or listened to by members of the public. A protocol for transcript provision will be agreed.²⁶⁸

162. Our inquiry received several submissions raising concerns about the risk of open justice being compromised by online processes and fully video hearings. The Council of HM Circuit Judges stated:

It is extremely important that the progress that has made in terms of transparency of the justice system is not lost through the reform process. The importance of the courts being open to public scrutiny in order to maintain the public’s faith and trust in the system and the judiciary is a fundamental principle of the rule of law.²⁶⁹

163. The Transparency Project accepted that the Reform programme offered huge opportunities to increase transparency and understanding of the justice system. It was, though, critical of lack of public consultation specifically addressing “legal and practical questions of access, observation and publicity of proceedings”. It did, however, note that there had been discussions with small stakeholder groups, such as the HMCTS Open Justice group that advised on guidance for HMCTS staff (published in October 2018) which was restricted to members of the media.²⁷⁰ Taking into account the fact that Supreme Court hearings are available to watch online, as are many Court of Appeal hearings, the organisation stated:

The digital court reform programme has never clearly articulated how the principles of open justice will be addressed when physical courts are replaced by online and virtual processes.²⁷¹

164. Similar observations were made by Professor Sue Prince from the University of Exeter, who thought it was unclear how the HMCTS Reform Programme intended to preserve open justice. She commented that little detail was available of how public observation terminals would function in practice, and doubted whether these devices would “meet the weighty demands of the principle of open justice.” The Bar Council echoed these concerns:

268 [The Modernisation of Tribunals 2018: A Report by the Senior President of Tribunals](#)

269 Council of Her Majesty’s Circuit Judges (CTS0091)

270 The Transparency Project (CTS0021) and [Guidance to staff on supporting media access to courts and tribunals, HMCTS](#)

271 The Transparency Project (CTS0021)

This throws up many questions about where these terminals will be situated when space is so limited already, about how capacity will be managed when there is high demand from the public to view a particular case, how judges will continue to manage attendance at hearings by those who should not be present [...], about the increasingly difficult question of information security, and even about the future of the Rehabilitation of Offenders Act 1974 in a world where a conviction may live permanently online.²⁷²

165. The Magistrates' Leadership Executive, as well as Transform Justice, thought that the principles of open justice had already been compromised by the introduction of the Single Justice Procedure, under which pleas are entered online/on paper and defendants are sentenced on the papers in a closed court.²⁷³ Transform Justice expressed concerns about compromises to open justice from online social security appeals and the potential introduction of virtual hearings.²⁷⁴

166. The former Secretary of State, Rt Hon David Gauke MP, told us by contrast that new developments provided an opportunity to enhance open justice:

I do not see that there is inconsistency between using video hearings and having transparency and openness, but we may need to do things differently. We need to take the opportunity, to make it more convenient for people to be able to follow hearings, for example.²⁷⁵

Mr Gauke confirmed the Government's thinking that people would be allowed to observe fully video hearings from within a court building—although this would be subject to judicial agreement and successful integration of software with courts. While there were sensitivities as to what could and should be shown, “we are clearly moving in the direction of greater openness.” Susan Acland-Hood added: “we will absolutely not tolerate less openness than now, when we have a choice.”²⁷⁶ She illustrated this point by explaining that HMCTS had decided to publish single justice procedure lists centrally online, rather than relying on hard copy print-outs and displaying them at a single court.

167. Open justice is a centrally important principle, and one which helps to maintain the rule of law. We do not doubt the Government's preference for maintaining public and media access to courts and tribunals, but this appears to be a secondary consideration within its drive for modernisation, and one that we fear may fall by the wayside because of competing priorities in delivering the reform programme.

168. *We recommend that, in consultation with the senior judiciary, HMCTS prioritises the development of effective and accessible technical solutions supporting open justice to keep pace with the evolution of digital and video-enabled processes that take justice out of conventional courtrooms.*

272 Crown Prosecution Service ([CTS0074](#))

273 Magistrates' Leadership Executive ([CTS0017](#)); Transform Justice ([CTS0022](#))

274 Transform Justice ([CTS0022](#))

275 [Q287](#)

276 [Q288](#)

Open justice and the media

169. Public access to the justice system is only one aspect of the open justice principle. The Transparency Project argued that courts should be accessible to the media, as well as to academic researchers and public interest organisations.²⁷⁷ The University of the West of England expressed concerns that the reform proposals would create further barriers preventing the reporting of the courts by the local media. They noted that: “[t]he number of dedicated Court Reporters on local newspapers is shrinking, and given the distances reporters would have to go to listen in on an online hearing at a booth at Court [this] can impose a further deterrent.”²⁷⁸ Mark Hanna, a journalist and senior university teacher, emphasised the important role of the news media in maintaining the openness and transparency of the justice system; he described journalists who report court and tribunal proceedings as acting as “the eyes and ears of the public.” He argued that, against the background of declining reporters covering court proceedings, particularly in regional newspapers, it was even more important for the HMCTS reforms not to diminish media coverage of judicial proceedings.²⁷⁹

170. Mr Hanna pointed out that there had not yet been any testing of whether journalists could cover fully video hearings as easily as hearings in physical courtrooms; in a physical setting a reporter can ask lawyers or legal advisers when they need to check the spelling of names or the wording of charges, and can also make contact with the parties and their lawyers after the case has concluded. In a virtual setting, this would also be more difficult. He was also concerned about potential tension between journalists and members of the public if they had to share the same viewing area/observation terminals. He suggested that, for criminal cases, accredited journalists might have limited access to key case information on the Common Platform (such as the prosecution summary), subject to any reporting restrictions that might apply. He drew attention to the PACER (Public Access to Court Electronic Records) system in the USA, through which most electronically filed documents in appellate, district, and bankruptcy courts are made available, and suggested that, in civil and tribunal cases in this jurisdiction, journalists could have access to the digital record of evidence and case management decisions, subject to privacy safeguards.

171. Media access to court and tribunal proceedings, an important element of open justice, is likely to become more challenging because of digital and video processes. We recommend that the senior judiciary convene a working group to consider how to protect and enhance media access to proceedings, taking into account approaches used in other jurisdictions such as the PACER system in the USA.

Rule of law

172. The rule of law is accepted as a fundamental constitutional principle. The late Lord Bingham of Cornhill, former Senior Law Lord, established eight principles which secure the rule of law, including:

- the law should be accessible and predictable;
- the law must afford adequate protection of fundamental human rights;

277 The Transparency Project ([CTS0021](#))

278 Hammersmith & Fulham Law Centre ([CTS0083](#))

279 Mr Mark Hanna ([CTS0072](#))

- means must be provided for resolving bona fide civil disputes without prohibitive cost or inordinate delay; and
- adjudicative procedures provided by the state should be fair.

173. Several witnesses raised concerns about the potential impact of reforms on the rule of law. The Law Society thought some projects in the programme gave insufficient weight to the need for legal advice or representation, which they feared would impact on the principle that everyone be treated equally and fairly.²⁸⁰ The Criminal Justice Alliance pointed to digital exclusion and suggested that digitisation of the justice system may, without careful planning, undermine the rule of law.²⁸¹ According to Law for Life, the independence of the justice system, together with low levels of trust in government, make it important that an online justice system presented through gov.uk should signpost to independent sources of information and support.²⁸² The Bingham Centre for the Rule of Law suggested that a user's perception of the justice system's independence from government and trust in the system might be undermined by their having to set up an online account via gov.uk, using a webpage with a design similar to those used for government services.²⁸³

174. In relation to the reform programme, the legal commentator Joshua Rozenberg has referred to the “legislative drip-feed” that replaced the Prisons and Courts Bill, which fell when Parliament was dissolved in 2017. This Bill would have introduced statutory underpinning for several reforms, including procedure rules for the online court, and provisions for online indications of plea and automatic online convictions.²⁸⁴ The Bingham Centre argued that the court and tribunal reform programme had a “paramount constitutional significance,” and referred to a “democratic deficit” created by failing to underpin the programme by legislation or give it sufficient Parliamentary scrutiny—particularly after the loss of the Prisons and Courts Bill.²⁸⁵

175. The Senior President of Tribunals, Sir Ernest Ryder, accepted that the Bingham Centre had “an interesting hypothesis” and agreed that the transformation programme had significant constitutional implications. However, he did not consider that splitting the Prison and Courts Bill into three or four discrete Bills changed “the overall effect of the legislative umbrella within which we will work.” He also thought that the reform programme had sufficient parliamentary scrutiny—including from the Justice Committee and the PAC.²⁸⁶ He continued:

If you were to put in more scrutiny, you would risk inconsistent and overbearing pressure on those who have to run reform operationally. They are spending a huge amount of their time on that scrutiny already.²⁸⁷

280 The Law Society of England and Wales ([CTS0040](#))

281 Criminal Justice Alliance ([CTS0050](#))

282 Law for Life ([CTS0047](#))

283 Bingham Centre for the Rule of Law ([CTS0065](#))

284 Two bills have been introduced into Parliament. The Courts and Tribunals (Judiciary and Functions of Staff) Bill, which received Royal Assent in December 2018, introduces greater flexibility in the deployment of judges, and allows suitably qualified court and tribunal staff to handle straightforward matters under judicial supervision. The Courts and Tribunals (Online Procedure) Bill would establish a new Online Procedure Rules framework to support the use of online procedures in civil, family or tribunal cases, together with an Online Procedure Rule Committee (OPRC).

285 Dr Jack Simson Caird from the Bingham Centre elaborated on the Centre's thinking at the seminar that we held on the evaluation of court and tribunal reforms. A note of this event is appended to this report.

286 [Q254](#)

287 [Q254](#)

176. Former Secretary of State, Rt Hon David Gauke MP considered that the role of the court system as part of the rule of law was sufficiently central to thinking and communication on the reform programme, but stressed that the court system had to change in response to new technology:

Ensuring that we improve the system and that it is one that works for members of the public is an important part of the rule of law—that there is a means to seek redress or deal with a particular issue in a way that is effective, efficient and user-friendly.²⁸⁸

177. Modernisation of the court and tribunal system has potential constitutional implications which merit the scrutiny of Parliament.

178. Given the importance of preserving and communicating the independence of the justice system from the Executive, we recommend that existing access to online justice processes only via the gov.uk website be discontinued and replaced without delay.

7 Engagement and evaluation

179. HMCTS recognises the value of communication and engagement with its stakeholders in development of the reform programme and the importance of evaluating the programme's impact. However, our evidence suggested that HMCTS has not engaged well enough with its stakeholders, and that its approaches to evaluation are unlikely to maximise objective scrutiny.

Stakeholder engagement

180. The NAO's first report on court and tribunal reforms found that the programme's tight timetable created challenges for stakeholder engagement; it recommended that HMCTS allow more time to engage with affected parties.²⁸⁹ Developing this theme, the PAC recommended that: "By November 2018, HMCTS should publish plans on how and when it will engage with stakeholders and be clear about how it will act on the feedback received and adjust plans if necessary."²⁹⁰

181. In response, HMCTS accepted the need for greater, and more active, stakeholder engagement and published a plan in November 2018, which describes the three strands of its approach:

- 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; and
- collaboration with users and stakeholders at a project level to design and develop new services.²⁹¹

182. A minority of witnesses thought that they had been adequately engaged in the reform programme.²⁹² Much of our evidence indicates dissatisfaction with the quality and frequency of HMCTS's stakeholder engagement and the transparency of the programme. Many witnesses thought that there had not been enough public consultation on reform proposals, with few mechanisms for those with experience of the court and tribunal system to become involved.²⁹³ It was suggested, for example, that self-represented defendants in housing possession cases be consulted about their experiences of making emergency applications for warrants of possession to be set aside.²⁹⁴ Ken Butler from Disability Rights UK reflected:

If you stopped anybody in the street and asked them if they had heard about this, most people would not know about it. I am not even sure that people

289 [Early progress in transforming courts and tribunals](#). National Audit Office, May 2018 (paragraph 21a)

290 House of Commons Committee of Public Accounts. [Transforming courts and tribunals](#), Fifty Sixth Report of Session 2017–19, 20 July 2018, HC 976, P6

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

292 For example, Crown Prosecution Service ([CTS0074](#)); Victim Support ([CTS0003](#)); Women's Aid ([CTS0006](#)); JUSTICE ([CTS0068](#))

293 Including Centre for Justice Innovation UK ([CTS0008](#)); Criminal Justice Alliance ([CTS0050](#)); Right2Justice ([CTS0054](#)); The Criminal Bar Association ([CTS0063](#)); Transition 2 Adulthood (T2A) Alliance ([CTS0037](#)); Revolving Doors Agency ([CTS0073](#))

294 Ms Diane Astin ([CTS0066](#))

who are current users of the tribunal have had their opinions asked for. For example, if someone has had their face-to-face appeal hearing for PIP, does anybody ask them afterwards, “What do you think of this? This is what we are thinking of doing.”²⁹⁵

183. Others accepted that engagement was taking place, but thought that it was insufficient. Witnesses from the legal profession were particularly unhappy. The Law Society had not been directly informed about key HMCTS announcements.²⁹⁶ The Chartered Institute of Legal Executives (CILEx) accepted that HMCTS had recently increased its engagement on the progress of reforms, but had experienced this as being limited to strategic and communications elements, not engagement on individual projects.²⁹⁷ The Bar Council was unhappy about engagement meetings scheduled during court hours. Hammersmith and Fulham Law Centre complained about being “left in the dark” on the testing of reforms carried out by the Government, and said that HMCTS “roadshows” had not had sufficient capacity or geographical spread to ensure access for stakeholders. The Public Law Project was among those who commented that much of the design for the programme was taking place “within closed focused groups and similar processes.”²⁹⁸

184. Some witnesses from the legal profession doubted whether HMCTS consultations were of any real value, suggesting that policy decisions had already been made and that consultation was therefore “lip service”.²⁹⁹ Matt O’Brien from the Criminal Law Committee of Birmingham Law Society said defence practitioners doubted whether their views were really considered. He complained of a wider sense of consultation fatigue:

We have had so many consultations from the MoJ, the LAA and the SRA on different issues, not specifically the subject of court reform, where people have become very engaged and submitted detailed responses but there is no evidence that they have been taken into account at all, so I think a sense of fatigue creeps in.³⁰⁰

185. Similar misgivings about HMCTS engagement were expressed by other witnesses, including NGO agencies providing advice and representation. IPSEA said it had not been consulted directly on the reforms, nor had consultation taken place via the local Tribunal User Groups which it attended.³⁰¹ The Free Representation Unit accepted that there had been improvements in communication with their own organisation, but thought that information was still limited.³⁰² Citizens Advice had experienced communication largely taking place through updates from individual HMCTS project teams:

This methodology has however sometimes made [it] difficult to keep track of so many parallel changes and to get a big picture view of how the reforms will ultimately come together.³⁰³

295 [Q167](#)

296 The Law Society of England and Wales ([CTS0040](#))

297 Chartered Institute of Legal Executives ([CTS0049](#))

298 Public Law Project ([CTS0027](#)). Similar complaints were made by other witnesses including Rhona Friedman, Sue James and Simon Mullings ([CTS0085](#)) and Transform Justice ([CTS0022](#))

299 Leeds Law Society ([CTS0011](#)); Housing Law Practitioners Association ([CTS0090](#)); Manchester Law Society - Civil Litigation Committee ([CTS0004](#))

300 [Q62/Q63](#)

301 IPSEA ([CTS0041](#))

302 Free Representation Unit ([CTS0080](#))

303 Citizens Advice ([CTS0016](#))

186. The consequences of failure to co-ordinate HMCTS initiatives with police IT systems was illustrated by Detective Chief Inspector Kirby from Thames Valley Police, who commented that it sometimes felt change was being “directed upon us, rather than us being involved in supporting it”. To fulfil its commitment to providing evidence digitally by 2020, his force had invested in new technology—only to find that this system did not connect with the court IT infrastructure.³⁰⁴

187. The PCS Union saw the involvement of court and tribunal staff in the reform programme as key to the programme’s credibility. PCS described Government consultation with trade unions on behalf of staff as “virtually non-existent” and pointed out that staff members “understand the legal system and deal with the most vulnerable of users”. The union expressed concern about the impact of the loss of staff expertise on the quality of justice, as well the effect on communities of job losses arising from centralisation of roles within HMCTS.³⁰⁵

Judicial engagement in the reforms

188. The Lord Chief Justice emphasised that the involvement of the judiciary in the detail of the reform programme was seen as central to its success and confirmed that the senior management of HMCTS was receptive to judicial input. He commented:

We provide the most ready source of expertise and are particularly sensitive to issues such as access to justice and open justice. There is much expertise in HMCTS but in a large project with many strands many who have been drafted in to the reform project have little direct experience of the administration of justice.

He explained that all levels of the judiciary have been engaged with HMCTS from the beginning of the reform programme. Judicial input is overseen by a Judicial Reform Board led by Lady Justice Thirlwall, along with the Senior President of Tribunals and District Judge Tim Jenkins. The Judicial Executive Board discusses reform at almost all its meetings.³⁰⁶

189. He also explained that the senior judiciary’s “Judicial Ways of Working” (JWOW) project has sought to achieve engagement with judicial office holders at all levels. In April 2018, four JWOW documents were published, relating to reform plans for crime, civil, family and tribunals. All judicial office holders were encouraged to respond to documents relevant to their areas of work via an online survey and attend local reform events to express views. Responses were received from or on behalf of 10,000 judicial office holders, and 800 people attended 38 events. Survey responses, along with views expressed at events, were used to inform the senior judiciary’s approach to reform and discussions with HMCTS.

190. In addition to JWOW, a network of judicial groups was set up to ensure judicial input into the design of new products and services, including:

304 [Q12/Q14](#)

305 Public and Commercial Services union ([CTS0010](#))

306 Together with the Tribunals Judicial Executive Board, the Judicial Executive Board is the most senior decision-making forums for providing a judicial view on design or implementation questions relating to the reform programme.

- Judicial Engagement Groups for all jurisdictions, with members are selected for their professional expertise (as opposed to seniority); and
- Judicial Working Groups attached to specific reform projects (for example, the Single Justice Service project and Public Family Law & Adoption project).³⁰⁷

191. The Senior President of Tribunals said that the judiciary had taken a full part in the leadership of change. He has established a Tribunals Change Network that brings together project judges, judges who advise on the Judicial Engagement Groups, leadership judges from the Tribunals Judiciary Executive Board and representatives from judicial associations. The independent Administrative Justice Council, chaired by the Senior President of Tribunals, aims to make the administrative justice system accessible, fair and effective.³⁰⁸ It has set up three expert panels drawn from the academic, pro-bono and advice sectors which are helping to provide external scrutiny for the tribunal reform programme.

192. However, not everyone shared the senior judiciary's belief that there were adequate mechanisms for consultation with all levels of the judiciary. The Council of HM Circuit Judges said it was "apparent from our own inquiries that there are many differing views among the judiciary as to the impact and success of the reforms to date"; it thought that judicial associations should be involved in ongoing consultation and evaluation, as well as the Judicial Engagement Groups.³⁰⁹ The Legal Committee of HM Council of District Judges (Magistrates' Courts) thought that judicial office holders had been given adequate opportunities to comment on the reform programme.³¹⁰ By contrast, the Association of HM District Judges questioned whether there had been meaningful consultation with all levels of the judiciary on court closure proposals:

There is a feeling that whilst MoJ/HMCTS consult, they do not listen but proceed simply to implement the decisions taken by them before any consultation took place. Such an approach makes consultation meaningless.³¹¹

193. The quality of communication with magistrates about the reform programme has been criticised. The Magistrates Association has expressed concern about the JWOW consultation process; many magistrates were disappointed by the lack of detail in the published response, leaving them unclear as to whether the consultation process had influenced the reform programme.³¹² John Bache JP accepted that there were engagement mechanisms, including the Magistrates Engagement Group of which he was himself a member. However, he acknowledged that the answers given by HMCTS to the Group's questions "are not always what we would like to hear."³¹³

194. The Judicial Intranet is an important means of communication with magistrates. The Magistrates' Leadership Executive (MLE) thought that there had been difficulties in

307 Lord Chief Justice of England and Wales ([CTS0078](#))

308 The Administrative Justice Council is the successor body to the Administrative Justice Forum which was abolished in April 2017.

309 Council of Her Majesty's Circuit Judges ([CTS0091](#))

310 Legal Committee of Her Majesty's Council of District Judges (Magistrates' Court) ([CTS0032](#))

311 The Association of Her Majesty's District Judges (ADJ) ([CTS0084](#))

312 MAG0001. In evidence to this inquiry, Captain Hugh Daglish JP ([CTS0001](#)) referred to "plenty of anecdotal evidence of worry and discontent" among magistrates, many of whom fear that the reform programme will have a detrimental effect on justice

313 [Q22](#)

keeping this up to date, as a result of which “most magistrates have little idea what reform will look like for them and little appreciation of the value it will bring.” The MLE suggested that the magistracy “has different communication needs to the rest of the judiciary”, and that a new approach was needed to engage magistrates and persuade them of the benefits of reform.³¹⁴

195. The Lord Chief Justice said that he felt “disappointed and, frankly, concerned” that magistrates felt that their communication needs were not being met. He thought that feedback from magistrates into the Judicial Ways of Working project “has profoundly influenced the product of those exercises”, and stressed the important role of the Magistrates Engagement Group. He said the Judicial Office has a new, dedicated communications team to deal with reform, and in his assessment, much information was available on the intranet. However, he accepted that “the very fact that the concern has been expressed—I appreciate that it has been expressed—leads me to conclude that we have to look at that again.”³¹⁵

196. **Our evidence suggests that HMCTS has struggled to explain its vision for the court and tribunal reform programme. *Given the programme’s constitutional, strategic and operational significance, we recommend that the Lord Chancellor and Secretary of State for Justice takes clearer ownership of the programme and assumes the lead in communicating its vision.***

197. **Consultation and engagement should never be mere “lip service.” Early and effective engagement with stakeholders including judicial office holders at all levels is critical to the programme’s success, because this provides external expertise and detailed scrutiny of untested proposals.**

198. ***We recommend that the Ministry of Justice and HMCTS increase the resources dedicated to stakeholder engagement and adopt a more rigorous approach to analysing and reacting to the feedback received.***

Evaluation of the reforms

199. HMCTS has 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.”³¹⁶ The purpose of this evaluation will be to understand the effect of the reform programme as a whole by answering three principal questions:

- fairness: has reform altered outcomes (e.g. case/hearing outcomes, sentencing and financial awards)?
- accessibility: 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)?
- cost: 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)?

314 Magistrates’ Leadership Executive ([CTS0017](#))

315 [Q281](#)

316 HM Courts & Tribunals Service ([CTS0064](#)). The approach to evaluating the HMCTS reforms is set in the MoJ’s [Response to the Public Accounts Committee recommendation 4: Evaluating our reforms, January 2019](#)

200. HMCTS expected to have completed scoping work for its evaluation programme by Spring 2019, setting out detailed questions that will underpin an assessment of the three principles; what data is collected and what further information is needed; and how it will evaluate the effect of the reforms on vulnerable users.

201. The MoJ has acknowledged that evaluation is likely to raise two specific challenges:

- establishing baselines of pre-reform performance for new measures; where possible MoJ will rely on proxy measures, but it may be limited to measuring actual performance as new data collections become available; and
- controlling external factors that may also have an impact on the performance of courts and tribunals—e.g. wider policy initiatives within the MoJ and/or other justice partners: “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.”³¹⁷

202. Richard Goodman, Change Director at HMCTS, explained that evaluation of the programme had several levels. Overarching evaluation was being undertaken outside HMCTS by the MoJ; this would be supported by an independent advisory panel of academic experts.³¹⁸ The other aspects of the evaluation “are happening all the time in the background”; for example, the independent evaluation of the fully video hearings in the Tax Tribunal that was conducted by the London School of Economics.³¹⁹

203. Some who submitted evidence to the inquiry had little confidence in the MoJ’s evaluation of reforms so far, or in its proposals for future evaluation; we have already noted these concerns in relation to video hearings and video links (see Chapter 3). A typical response came from Harriet Bosnyak from Shelter:

There does not seem to have been much evaluation of what has gone on before. What has happened? Are people struggling to make it to the courts because there have been so many court closures? Are people actually using the online processes that are already there? [...] If we are pushing forward further reform, how do we know whether it is going to have the effect we want it to have?³²⁰

Others expressing lack of confidence in MoJ’s evaluation included the Legal Committee of HM Council of District Judges (Magistrates)³²¹ and the Prison Reform Trust.³²²

204. Some witnesses expressed a degree of cynicism. Referring to HMCTS’s “Post Implementation Review” of the decision to close all but one county court in Greater Manchester, the Association of HM District Judges pointed out that no local or national impact assessments had been provided to the review panel, and reported that one participant judge had summarised the review’s apparent purpose as being to consider “what further changes might we make to achieve greater efficiencies from the diminishing staff

317 [Response to the Public Accounts Committee recommendation 4: Evaluating our reforms, January 2019](#)

318 To date, the membership of the advisory panel has not been announced.

319 [Q304/Q306](#)

320 [Q71](#)

321 Legal Committee of Her Majesty’s Council of District Judges (Magistrates’ Court) ([CTS0032](#))

322 Prison Reform Trust ([CTS0046](#))

and judiciary without spending any money?”³²³ Manchester Law Society Civil Litigation Committee had seen no evidence that significant steps had been taken to evaluate the reforms and had the impression that “pilots are run and then adopted without any significant change, irrespective of how the [legal] profession believes the pilot operated.”³²⁴ The Magistrates’ Leadership Executive thought that pilots benefited from the input of extra resources for short periods, leading to false outcomes.³²⁵ There have been reports that the published version of research conducted for the HMCTS Customer Insight Team on user experiences of the justice system omitted findings that suggest people have a more positive experience of the justice system if they attend court in person.³²⁶

“Agile” design technique

205. In developing processes for specific projects within the court and tribunal reform programme, HMCTS is using new “agile” design techniques, pioneered in the UK by the Government Digital Service. This involves iterative testing with user groups to support the design of processes, developing and revising them on an ongoing basis in response to continuous user feedback. HMCTS considers that this gives opportunities to test, refine and improve each change, rather than bringing everything together at a single point at the end.

206. Although there was support for the principle of user engagement, some witnesses raised concerns about the “agile” approach.³²⁷ Dr Joe Tomlinson cautioned that, in placing emphasis on convenience and what users appear to want, care must be taken not to overlook traditional concerns such as procedural fairness.³²⁸ Transform Justice argued that unpublished “user research” of this type, designed to help product design, “does not meet any of the guidelines essential for academic research and does not conform to the protocol on the publication of government social research.”³²⁹ The likelihood that people using HMCTS prototypes lack expert legal knowledge, and thus do not know when they need more information, was considered problematic by Amanda Finlay. She was concerned about HMCTS teams developing projects in isolation rather than working on an “end to end” process.³³⁰

207. The Senior President of Tribunals, Sir Ernest Ryder, thought it inevitable that an agile design technique would involve evaluation of the constituent parts of the programme. However, we were pleased that he emphasised the importance of evaluating the reforms by reference to access to justice principles—an approach also supported by the Administrative Justice Council.³³¹

323 The Association of Her Majesty’s District Judges (ADJ) ([CTS0084](#))

324 Manchester Law Society - Civil Litigation Committee ([CTS0004](#))

325 Magistrates’ Leadership Executive ([CTS0017](#))

326 See blog by Transform Justice ([March 24, 2019](#)) and report in BuzzFeed News ([March 18, 2019](#)). The research was published as [HM Courts & Tribunals Service Citizen User Experience Research](#). HMCTS Customer Insight Team, 2018

327 JUSTICE ([CTS0068](#))

328 Dr Joe Tomlinson ([CTS0092](#))

329 Transform Justice ([CTS0022](#))

330 Ms Amanda Finlay ([CTS0055](#)). Similar concerns were raised by JUSTICE ([CTS0068](#)), Law Centres Network ([CTS0081](#)) and Citizens Advice ([CTS0016](#))

331 [Q256](#)

The views of academics

208. Dr Joe Tomlinson, then of Kings College London, provided a detailed literature review for the Committee, giving an overview of key recent pieces of academic literature relevant to our inquiry terms of reference.³³² His review revealed “a dearth of concrete empirical evidence of the performance of online dispute resolution (ODR) and related technologies (such as video link hearings)”; this meant that much published material was best characterised as “sophisticated speculation and analysis but without an empirical evidence base”—although with some notable exceptions. Dr Tomlinson’s review assisted us in distilling some of the more robust research findings that we refer to in our report. We were particularly interested to hear that there is a growing literature on the evaluation of justice processes and related concepts, including access to justice, including the authoritative handbook produced by the Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems.³³³ We also received submissions from several academics on approaches to evaluating the reforms, five of whom (in addition to Dr Tomlinson) attended an informal evidence session to discuss how the Government should ensure proper and effective evaluation of the programme.

209. Dr Natalie Byrom, on the basis of research conducted on secondment to HMCTS in 2019, makes recommendations for principles for evaluating the impact of reform on access to justice, including:

- ensuring HMCTS’s online processes deliver access to justice according to legal standards established by case law: access to a formal legal system; access to a fair and effective hearing; access to a determination; access to an outcome;
- collecting data about court users’ vulnerabilities, including age, mental and physical disabilities, literacy levels, and gender;
- monitoring outcomes in digital courts, to compare with outcomes under pre-digital processes and evaluate how different groups fare under the new system (for example, represented/unrepresented court users)
- ensuring transparency around ‘nudges’ built into the system, designed to promote or discourage types of behaviour by court users, such as seeking legal advice on a case (say, by positioning of buttons on a screen);
- considering introducing unique identifiers for each court user, allowing researchers and evaluators to have a complete picture of an individual’s experience of the court process; and
- ensuring there are ethical controls over how information is used, to avoid misuse and ensure privacy is protected; publishing HMCTS’s open data strategy, developed in line with legal and ethical principles.

210. We regret that the Ministry of Justice’s plans for evaluating its court and tribunal reforms are not as far advanced as might have been expected at this stage in the programme. We are concerned that reliance on “agile” design techniques in some

332 Dr Joe Tomlinson (CTS0092)

333 [Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems, A Handbook for Measuring the Costs and Quality of Access to Justice \(2009\)](#)

projects may distract from analysis of implications for access to justice. The Ministry could do much more to evaluate the impact of the reforms on vulnerable and excluded groups.

211. *The Ministry of Justice should be as transparent as possible in its evaluation of the reforms. We recommend that the following evaluation approaches are adopted:*

- *projects within the reform programme, and the programme as a whole, should be evaluated against the access to justice standards set out in law: these can be broadly summarised as (a) access to the formal legal system (b) access to a fair and effective hearing (c) access to a decision and (d) access to an outcome;*
- *evaluation should prioritise monitoring the impact on access to justice for digitally excluded and vulnerable people, with a particular focus on justice outcomes rather than on processes alone;*
- *the transfer to digital systems should be used as an opportunity to collect detailed, anonymised data on the operation of courts and tribunals and the experiences of users by reference to their personal characteristics;*
- *the evaluation of the reforms should be seen as a long-term and ongoing commitment, and one for which the investment of resources is required. Evaluation must be robust and objective, using a comparator group where possible.*

8 Final Points

212. It is widely agreed that modernisation of the court and tribunal system is long overdue. Even those who have expressed trenchant criticisms of some aspects of the HMCTS reform programme recognise the need to update IT systems, improve WiFi and video technology in court and tribunal hearing rooms, upgrade court buildings and improve HMCTS administration. In times of fiscal restraint, many have welcomed the Government's investment of more than £700 million in the modernisation of courts and tribunals, with a further £270 million promised for the criminal justice system.

213. HMCTS engagement with stakeholders has been mixed. Some witnesses felt that they had been kept in the dark about developments in the reform programme, or believed they had been encouraged to respond to Government consultations about court closures after decisions had effectively been made. Others found it hard to understand the programme's overall direction. HMCTS has struggled to communicate its overarching vision for the programme and that there is still an unacceptable level of uncertainty in the criteria by which success will be measured. We have recommended, above, that reform projects be evaluated by reference to established access to justice standards.

214. One of our main concerns is that enhancing access to justice appears to be ancillary to the reform programme rather than being adopted as its central goal.³³⁴ Had access to justice been the primary focus of the reforms, we do not think we would have received such a volume of evidence criticising the approach of the HMCTS—in particular, its response to the experiences of those who lack digital or legal capability or who are too poor to afford access to the internet, and the needs of those who are disabled, elderly or caring for young children, making it hard to manage a multiple-bus journey to a courtroom over two hours away. HMCTS's enthusiasm for video links and video hearings is in sharp contrast to the views of people with first-hand experience of using this barely researched technology, who pointed to the communication barriers that it can create. A shortage of front-line staff in many courts has sometimes compromised access to justice.

215. Reductions in the scope of legal aid and difficulties in obtaining first-stage advice and support were mentioned time and again by witnesses. Many argued that the impact of restrictions imposed by the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 and the related phenomenon of “advice deserts” could not be ignored when considering the impact of the reforms and individuals' access to the court and tribunal system.³³⁵ While the Post-Implementation Review of the LASPO Act led to publication of the Government's Legal Support Action Plan in February 2019, progress in implementing that plan appears to have been very slow.³³⁶

334 We acknowledge that the judiciary has established six important principles by which the transformation programme should be judged, including: to ensure justice is accessible to those who need it; and to design systems around the people who use them.

335 For example, Bonavero Institute of Human Rights (CTS0024); Chartered Institute of Legal Executives (CTS0049); Institute for Criminal Policy Research (CTS0005); IPSEA (CTS0041); Law Centres Network (CTS0081); Law for Life (CTS0047); Prison Reform Trust (CTS0046); Public and Commercial Services union (CTS0010); Revolving Doors Agency (CTS0073); The Association of Consumer Support Organisations (ACSO) (CTS0060); The Law Society of England and Wales (CTS0040)

336 [Legal Support: The Way Ahead: An action plan to deliver better support to people experiencing legal problems. Ministry of Justice, February 2019](#)

216. The steps HMCTS has taken to address barriers to accessing digital justice services are insufficient in the absence of adequate legal advice/support and public legal education. Closure of court counters has had a particularly harsh effect on people who cannot obtain legal aid. All this highlights a more fundamental problem within the reform programme: the mistaken assumption that people with limited legal capability will be able to navigate their way through conventional and digital court processes without the benefit of legal advice.

217. **As we noted above, the court reform programme has constitutional importance, and we emphasise that access to justice is a central element of the rule of law. *While cost savings and efficiencies are important, HMCTS must confirm that these take second place to access to justice in the vision that underpins the reform programme.***

218. **We cannot ignore the Government's failure to provide enough publicly funded legal advice and representation to support court users who, for whatever reason, struggle to navigate the justice system without support. The success of many aspects of the reform programme depends on this being addressed as soon as possible. *We urge the Ministry of Justice to ensure comprehensive delivery of its legal support action plan within the time frames stated in the action plan document.***

Conclusions and recommendations

1. We are concerned about delays in processing divorce petitions after the initial digital application, as this slows down parties' ability to resolve arrangements for children and financial disputes. *We recommend that HMCTS set and publish ambitious targets for divorce completion times.* (Paragraph 22)
2. HMCTS has achieved some successes in developing user-friendly digital processes. However, our evidence raises important questions about accessibility and indicates potential barriers to access to justice, even for users who have good digital skills. (Paragraph 24)
3. There are clear risks to fairness in inviting unrepresented defendants to enter pleas online in criminal cases. *We recommend that this facility, should it be introduced, be restricted to defendants who have obtained legal advice and that the legal aid rules be changed to allow access to advice in all such cases.* (Paragraph 25)
4. Poor digital skills, limited access to technology, low levels of literacy and personal disadvantages experienced by particular groups create barriers to access to digital justice services. HMCTS has not taken sufficient steps to address the needs of vulnerable users, particularly as regards an absence of adequate legal advice and support. (Paragraph 38)
5. We are concerned that some people contacting HMCTS about their court or tribunal case, particularly on pay-as-you-go mobile phones, may incur significant call charges that they cannot afford. *We recommend that HMCTS establishes a Freephone service for members of the public, similar to the Freephone system for Universal Credit.* (Paragraph 39)
6. We welcome HMCTS's commitment to maintaining paper processes in parallel with new digitised justice processes but it is unclear how, in practice, users can obtain and complete necessary documents without using the internet or having access to a printer or the support of a legal adviser. *We recommend that HMCTS make it clear how it will ensure that people can access court forms in paper format without using a computer to do so.* (Paragraph 42)
7. We welcome the intention behind the HMCTS assisted digital service but note that take-up so far has been low. *We recommend that, by April 2021 the network of assisted digital Online Centres be extended to deliver comprehensive national coverage. Centres must provide walk-in access, and where possible be co-located with advice agencies to facilitate referral for legal advice and support.* (Paragraph 49)
8. *We commend the initiatives within the tribunal system that have enabled tribunal staff to provide personalised support for applicants using digital processes and recommend that this standard of customer care be adopted within Court and Tribunal Service Centres.* (Paragraph 50)
9. Digital literacy must not be confused with legal capability, which gives users the skills and confidence to deal with legal processes and helps them recognise when they need to seek legal advice; equally, the role of public legal education in supporting legal capability needs to be better understood. *The Government must*

acknowledge the role of public legal education in building legal capability and should make a commitment to piloting public legal education within its action plan for legal support, with a view to rolling out a national programme by 2022. (Paragraph 61)

10. We are concerned by evidence suggesting that some defendants appearing by video link face communication barriers with the court and their legal representatives, and that there appears to be no guidance on facilitating participation. *We recommend that, by April 2020, HMCTS develop guidance in consultation with stakeholders on recognising and addressing communication barriers that may affect vulnerable defendants in court. (Paragraph 71)*
11. We do not consider that the interests of justice are served by HMCTS providing video equipment that is unreliable or of poor quality, nor by providing inadequate video conferencing facilities for defendants and their legal representatives. *HMCTS must expedite planned investment in upgraded video equipment and WiFi facilities throughout the criminal courts estate, as well as expanding video conferencing facilities for the defence. (Paragraph 72)*
12. *We recommend that HMCTS does not introduce fully video remand hearings before robust piloting and evaluation have been carried out, alongside sufficient investment in video equipment and reliable WiFi. (Paragraph 75)*
13. Video links and fully video hearings have value for administrative hearings in civil, family and tribunal cases involving legal professionals, but may compromise justice for vulnerable people, especially those unrepresented. *While judicial discretion in use of video hearings provides important protection, we recommend that all litigants in civil, family and tribunal cases have the right to decline to give evidence by video. (Paragraph 82)*
14. Research on the use of video hearings and video links in the UK is limited. What there is raises many questions as to its suitability for anything other than straightforward cases. *We recommend that, as a priority, the Ministry of Justice commissions independent research on video hearings and video links with a primary focus on justice outcomes. This research should be completed before HMCTS makes more widespread use of video technology in courts and tribunals. (Paragraph 88)*
15. Court closures in urban and rural areas have created serious difficulties for many court users, with worrying implications for access to justice. *We recommend an immediate moratorium on further court closures pending robust independent analysis of the effect of closures already implemented, with a particular focus on access to justice. (Paragraph 108)*
16. We agree with the Lord Chief Justice that it is wholly unreasonable to expect judicial office holders, HMCTS staff and external court users to put up with dilapidated and uncomfortable court buildings. We are alarmed by evidence that disabled facilities are not reliably available in court buildings. *We recommend that HMCTS accelerate its programme of building repairs, if necessary by increasing its maintenance budget, and that it adopt more ambitious management standards for routine maintenance work in court and tribunal buildings. (Paragraph 114)*

17. Notwithstanding the possibility of “mitigations”, application of the new HMCTS travel benchmark to potential future court closures could create access barriers for an unacceptably high proportion of court users, including many who live in poverty, who have caring responsibilities or who are otherwise vulnerable. (Paragraph 124)
18. *We recommend that HMCTS adopt a revised travel benchmark: that the overwhelming majority of users should be able to reach their nearest court or tribunal hearing centre within 1.5 hours by public transport. No user should be expected to leave home earlier than 8.00 am or return home later than 6 pm and, where necessary, courts and tribunals should be willing to adapt their sitting times to accommodate this. HMCTS should consult on how it will take into account the cost and complexity of journeys to court in addition to travel time.* (Paragraph 125)
19. *We recommend that HMCTS adopt a clear strategy for establishing and using supplementary venues, including a default position that supplementary venues be established in every area where there has been a court closure in the past 10 years.* (Paragraph 129)
20. *To support transparency and consistency of approach, we recommend that the suitability of supplementary venues for different types of case be subject to published judicial guidance.* (Paragraph 130)
21. We received powerful evidence of a court system in administrative chaos, pointing to the harmful impact of staffing reductions on the experiences of victims, witnesses and legal practitioners as well as litigants and defendants. Staff shortages in many courts are so serious that they may undermine access to justice and threaten to compromise the fairness of proceedings. (Paragraph 149)
22. *We recommend that HMCTS does not proceed with planned and much deeper staffing cuts unless it is confident of being able to provide an acceptable level of service to court users.* (Paragraph 150)
23. Our evidence suggests that the move to centralised service centres is not fulfilling the needs of many court users, particularly the most disadvantaged. We are particularly concerned about the loss of public counters in civil courts. *Sufficient staff should be based in court buildings to provide reassurance and expert, face-to-face guidance for court users.* (Paragraph 151)
24. Staff in courts are clearly overworked and under-remunerated. We are deeply concerned by HMCTS’s over-reliance on agency staff and the low morale rates indicated by its staff surveys. *We recommend that HMCTS seek to retain existing experienced staff, through addressing problems of remuneration, workload and morale as a matter of urgency.* (Paragraph 152)
25. Open justice is a centrally important principle, and one which helps to maintain the rule of law. We do not doubt the Government’s preference for maintaining public and media access to courts and tribunals, but this appears to be a secondary consideration within its drive for modernisation, and one that we fear may fall by the wayside because of competing priorities in delivering the reform programme. (Paragraph 167)

26. *We recommend that, in consultation with the senior judiciary, HMCTS prioritises the development of effective and accessible technical solutions supporting open justice to keep pace with the evolution of digital and video-enabled processes that take justice out of conventional courtrooms.* (Paragraph 168)
27. Media access to court and tribunal proceedings, an important element of open justice, is likely to become more challenging because of digital and video processes. *We recommend that the senior judiciary convene a working group to consider how to protect and enhance media access to proceedings, taking into account approaches used in other jurisdictions such as the PACER system in the USA.* (Paragraph 171)
28. Modernisation of the court and tribunal system has potential constitutional implications which merit the scrutiny of Parliament. (Paragraph 177)
29. *Given the importance of preserving and communicating the independence of the justice system from the Executive, we recommend that existing access to online justice processes only via the gov.uk website be discontinued and replaced without delay.* (Paragraph 178)
30. Our evidence suggests that HMCTS has struggled to explain its vision for the court and tribunal reform programme. *Given the programme's constitutional, strategic and operational significance, we recommend that the Lord Chancellor and Secretary of State for Justice takes clearer ownership of the programme and assumes the lead in communicating its vision.* (Paragraph 196)
31. Consultation and engagement should never be mere “lip service.” Early and effective engagement with stakeholders including judicial office holders at all levels is critical to the programme's success, because this provides external expertise and detailed scrutiny of untested proposals. (Paragraph 197)
32. *We recommend that the Ministry of Justice and HMCTS increase the resources dedicated to stakeholder engagement and adopt a more rigorous approach to analysing and reacting to the feedback received.* (Paragraph 198)
33. We regret that the Ministry of Justice's plans for evaluating its court and tribunal reforms are not as far advanced as might have been expected at this stage in the programme. We are concerned that reliance on “agile” design techniques in some projects may distract from analysis of implications for access to justice. The Ministry could do much more to evaluate the impact of the reforms on vulnerable and excluded groups. (Paragraph 210)
34. *The Ministry of Justice should be as transparent as possible in its evaluation of the reforms. We recommend that the following evaluation approaches are adopted:*
 - *projects within the reform programme, and the programme as a whole, should be evaluated against the access to justice standards set out in law: these can be broadly summarised as (a) access to the formal legal system (b) access to a fair and effective hearing (c) access to a decision and (d) access to an outcome;*
 - *evaluation should prioritise monitoring the impact on access to justice for digitally excluded and vulnerable people, with a particular focus on justice outcomes rather than on processes alone;*

- *the transfer to digital systems should be used as an opportunity to collect detailed, anonymised data on the operation of courts and tribunals and the experiences of users by reference to their personal characteristics;*
 - *the evaluation of the reforms should be seen as a long-term and ongoing commitment, and one for which the investment of resources is required. Evaluation must be robust and objective, using a comparator group where possible. (Paragraph 211)*
35. As we noted above, the court reform programme has constitutional importance, and we emphasise that access to justice is a central element of the rule of law. *While cost savings and efficiencies are important, HMCTS must confirm that these take second place to access to justice in the vision that underpins the reform programme. (Paragraph 217)*
36. We cannot ignore the Government's failure to provide enough publicly funded legal advice and representation to support court users who, for whatever reason, struggle to navigate the justice system without support. The success of many aspects of the reform programme depends on this being addressed as soon as possible. *We urge the Ministry of Justice to ensure comprehensive delivery of its legal support action plan within the time frames stated in the action plan document. (Paragraph 218)*

Annex

Informal note of Justice Committee seminar on evaluation of court and tribunal reforms, 9 July 2019

Committee Members present: Bob Neill, Bambos Charalambous, David Hanson, John Howell, Victoria Prentis, Ellie Reeves, Marie Rimmer, Andy Slaughter

Seminar participants: Dr Joe Tomlinson (Kings College London); Dr Natalie Byrom (Legal Education Foundation); Dr Meredith Rossner (London School of Economics); Professor Abi Adams-Prassl and Professor Jeremias Adams-Prassl (University of Oxford); Dr. Jack Simson Caird (Bingham Centre for the Rule of Law)

1) While evidence to the Justice Committee's inquiry into court and tribunal reforms strongly supported the need for evaluation, few submissions provided specifics on how evaluation ought to be carried out. The Committee therefore convened an expert seminar to provide assistance on this issue. Introducing the session, Dr Joe Tomlinson explained that it would focus on one central question: what steps should the Government take to ensure proper and effective evaluation of the courts and tribunals reform programme?

2) Dr. Natalie Byrom suggested that the government should ensure that the reform programme is evaluated against the minimum standard of access to justice found in the law of England and Wales. This was defined as: (i) access to the formal legal system, e.g. ability to initiate a claim; (ii) access to a fair and effective hearing; (iii) access to a decision; and (iv) access to an outcome.

3) Dr. Byrom thought that this definition of access to justice should be institutionalised as part of the reform programme. Her primary suggestion was that assessments of the programme's impact on access to justice ought to be undertaken and should be based on an evaluation that explores the progression of a full range of cases and individuals through the system from claim initiation to outcome (e.g. settlement, withdrawal etc). If HMCTS/Ministry of Justice wished to depart from the legal definition of access to justice in evaluating reform, they should be required to explain publicly how and why they wish to and do so in primary legislation.

4) Dr. Byrom further proposed that, for each individual service (e.g. Civil Money Claims Online), HMCTS should publish the underpinning logic models and intended outcomes for individuals at each stage of the process, and should:

- a) appoint a Senior Responsible Owner for the ongoing project level evaluation;
- b) confirm that project evaluation is monitoring the impact of services on vulnerable people and access to justice;
- c) detail the specialist resource dedicated to project level evaluation; and
- d) commit to making the findings of these evaluations public.

At a wider level, it was suggested that HMCTS should publish estimates of the impact of cross cutting-projects (such as court closures and fully video hearings) on each of the service-level projects.

5) Dr. Byrom also proposed that HMCTS be required to model the impact of court closures on court users, not the general population (as they have different characteristics). In addition, HMCTS should be required to publish the modelling they have done to calculate what level of travel costs will be deemed “too expensive” for people and what level of “supplementary provision” they have costed to deliver the business case. The need to monitor court closures, as a key part of the whole programme of reform, was supported by the whole panel.

6) Dr. Byrom further proposed that the transfer to digital systems should be seen as an opportunity for HMCTS to collect detailed data on the operation of the courts and tribunals systems, including the experience of users. This proposal was widely supported by all seminar participants. Various precise suggestions were made about how this requirement is operationalised.

7) Professor Abi Adams-Prassl and Professor Jeremias Adams-Prassl suggested that there was a need for the evaluation agenda within the reforms to be conceived of as a long-term programme, into which resources should be invested in addition to those assigned to the reform process itself. This was supported by others on the panel.

8) In line with Dr Byrom’s proposal, they also argued that evaluation must consider the outcomes that individuals achieve within the justice system. The impact of moving to an online system is expected to have an ambiguous impact on improving access to justice. While the digitally capable should find it easier to launch claims, the same conclusion does not necessarily hold for the vulnerable and digitally excluded. This means that overall case load and measures of average user satisfaction are insufficient to determine the impact of the reforms on the full run of litigants. Success rates, withdrawal rates, and the nature of remedies awarded must be analysed. It was suggested that evaluation should consider how reform changes the distribution of outcomes achieved and which types of users are affected. This is likely to require a combination of commissioned surveys to form an adequate baseline and on-going data on users to form a comparable yardstick across time, as well as the use of randomised evaluation in the piloting of new programmes.

9) Professor Adams-Prassl and Professor Adams-Prassl suggested that it is helpful to conceive of evaluation at three levels:

- The micro level: in the context of the agile design testing procedure, how are small trials conducted, on which users, and who is judging success?
- The system level: how are case volumes and the outcomes individuals able to achieve in the justice system affected by reform? Do any conclusions still hold for vulnerable users?
- The macro level: how are other public services affected (e.g. local council, social security provisions)?

10) As regards the appropriate standard by which to assess access to justice, Professor Adams-Prassl and Professor Adams-Prassl suggested that case law provides a framework by which to understand access to justice, further reflecting Dr. Byrom’s proposals. Specifically, there are two key risks to take into account in any assessment: the risk of

futility and costs of futility. In addition, vulnerability is a key feature. Questions were raised in discussions about whether a universal standard may become a “blunt instrument” but there was agreement that clarity, for the purposes of evaluation, was preferable.

11) It was further suggested by Professor Adams-Prassl and Professor Adams-Prassl that the iterative agile design and testing process being adopted by HMCTS must be properly documented and transparently communicated to external stakeholders. Specifically, which design iterations are trialled, the population of claimants that are drawn upon in this iterative trial process, and the precise evaluation metrics used to establish success in user testing must be properly documented and consulted on with external stakeholders.

12) Dr. Meredith Rossner spoke about her experience of undertaking evaluation research with HMCTS. Reflecting points raised by other participants, she suggested that evaluation needs to cover both the process (or implementation) and the outcome (or impact) of a given reform. However, she cautioned that if an outcome evaluations is conducted too early in the reform implementation process then there is a risk that it will evaluate the implementation of the reform rather than the reform itself. Dr. Rossner suggested that indicators of successful outcomes could include well-established procedural justice measures, access to justice (including an analysis of barriers to access), participant satisfaction, cost efficiency and decision-making outcomes (where applicable).

13) Dr. Rossner reiterated that robust evaluation methods are essential. She thought it was vital to have a meaningful comparison group in order to have a robust outcome evaluation; the ideal way to achieve this is through a randomised controlled trial. Echoing other participants, she proposed that a clear description of the methods and measures adopted for evaluation should be made available on the HMCTS website.

14) Reflecting specifically on her own process evaluation of the HMCTS video hearings pilot in the First Tier Tribunal (Tax Chamber), Dr. Rossner outlined that there were positive findings in terms of the user experience. Hearings similar to the ones under study—where users are professionals (as in most HMRC appeals), are able to participate from their homes or workplaces, and where there is little documentation and evidence to examine—may also be suitable for video hearings. However, Dr. Rossner cautioned that findings from evaluations such as this cannot be generalised to video-enabled hearings or video hearings in other jurisdictions such as Criminal or Immigration and Asylum. She pointed out that earlier research on video-enabled hearings consistently reports that vulnerable users, such as defendants appearing from a custody suite or migrants in detention, may be at a disadvantage; this demonstrates the need for high-quality research and evaluation to be embedded within the reform programme.

15) Dr. Jack Simson Caird highlighted the wider constitutional context of the reform programme. He suggested that the reform programme is fundamentally re-designing the justice system of England and Wales and that this is of constitutional significance; the institutional silo in which the programme has so far operated, and the agile development process with which it has been designed, have served to disaggregate the programme from the broader constitutional context in which it exists. According to Dr. Simson Caird, this situation generates two major concerns. First, that there is a democratic deficit as the reforms are not being properly debated and scrutinised. Second, that the long-term impact of these reforms on access to justice (and more broadly, the Rule of Law) has been insufficiently acknowledged.

16) To alleviate these concerns, Dr. Simson Caird suggested that the Committee should examine the institutional framework in which the programme operates and identify mechanisms by which to improve support, communication and collaboration across all governmental departments, including between HMCTS and the Ministry of Justice. He further suggested that the Government ought to bring forward legislation to enable the overall effect of the programme to be democratically scrutinised and debated.

17) Dr. Simson Caird also pointed to difficulties in scrutinising digital processes. He suggested that existing forms of scrutiny are unlikely to give MPs or the public a sense of how the justice system will work in practice. To ensure the transparency and accountability of the justice system, he suggested that parliamentarians and the public should be able to scrutinise the digital interface as well as the law which underpins it. To this end, the programme should increase openness and transparency by making more early-stage ‘draft’ versions of digital system designs available, thus increasing evaluation opportunities and mitigating concerns about clarity, intelligibility, and predictability.

18) In discussion, the issue was raised as to how any evaluation processes are made effective, especially in view of the passage of time, change of HMCTS personnel etc. It was suggested that there may be a need for a “fixed” mechanism of evaluation, such as independent reports on the reforms to be statutorily required at certain points in time. While GDPR had been cited as a potential barrier to data collection, it was felt that the effect of this had been overstated. Committee Members asked about the lack of HMCTS baseline data; while this problem was recognised, participants thought it was more realistic to focus on assessing the access to justice impact of the reforms as they are rolled out.

19) In conclusion, the Chair thanked all the participants for giving up their time to attend the event, and for sharing their expert views with Members.

Formal minutes

Wednesday 30 October 2019

Members present:

David Hanson Marie Rimmer
Andy Slaughter

In the absence of the Chair, David Hanson was called to the chair.

Draft Report (*Court and tribunal reforms*), proposed by the Chair, brought up and read.
Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 218 read and agreed to.

Annex agreed to.

Resolved, That the Report be the Second Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[The Committee adjourned.]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Tuesday 21 May 2019

John Bache JP, Chair, Magistrates Association, Detective Chief Inspector **Craig Kirby**, Thames Valley Police, Matt O'Brien, Chair, Criminal Law Committee of Birmingham Law Society, and **Gerwyn Wise**, Assistant Secretary, Criminal Bar Association

[Q1–68](#)

Harriet Bosnyak, Solicitor, Shelter, **Tessa Buchanan**, Housing Law Practitioners Association, and **Richard Miller**, Head of Justice, The Law Society of England and Wales

[Q69–100](#)

Tuesday 11 June 2019

Frances Judd QC, Chair, Family Law Bar Association, **Jo Edwards**, Chair, Resolution's Family Law Reform Group, and **Dr Jenny Birchall**, Women's Aid

[Q101–141](#)

Sara Lomri, Deputy Legal Director, Public Law Project, **Ken Butler**, Welfare Rights and Policy Adviser, Disability Rights UK, and **Wendy Rainbow**, Legal Team Manager, Independent Provider of Special Education Advice (IPSEA)

[Q142–179](#)

Tuesday 25 June 2019

Jodie Blackstock, Legal Director, JUSTICE, **Penelope Gibbs**, Director, Transform Justice, **Professor Richard Susskind**, and **Lisa Wintersteiger**, Chief Executive, Law for Life

[Q180–241](#)

Wednesday 10 July 2019

Rt Hon Lord Burnett of Maldon, Lord Chief Justice; **Sir Terence Etherton**, Master of the Rolls; and **Sir Ernest Ryder**, Senior President of Tribunals.

[Q242–282](#)

Rt Hon David Gauke MP, Secretary of State for Justice; **Susan Acland-Hood**, CEO, HM Courts and Tribunals Service; and **Richard Goodman**, Change Director, HM Courts and Tribunals Service.

[Q283–310](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

CTS numbers are generated by the evidence processing system and so may not be complete.

- 1 Arbuthnot, Lady Emma ([CTS0014](#))
- 2 The Association of Consumer Support Organisations (ACSO) ([CTS0060](#))
- 3 The Association of Her Majesty's District Judges (ADJ) ([CTS0084](#))
- 4 Astin, Ms Diane ([CTS0066](#))
- 5 The Bar Council ([CTS0058](#))
- 6 Benn, Mrs Melanie ([CTS0043](#))
- 7 Bingham Centre for the Rule of Law ([CTS0065](#))
- 8 Bonavero Institute of Human Rights ([CTS0024](#))
- 9 Centre for Justice Innovation UK ([CTS0008](#))
- 10 Chartered Institute of Legal Executives ([CTS0049](#))
- 11 Citizens Advice ([CTS0016](#))
- 12 Cortes, Professor Pablo ([CTS0023](#))
- 13 Council of Her Majesty's Circuit Judges ([CTS0091](#))
- 14 The Criminal Bar Association ([CTS0063](#))
- 15 Criminal Justice Alliance ([CTS0050](#))
- 16 Criminal Law Committee - Birmingham Law Society ([CTS0033](#))
- 17 Crown Prosecution Service ([CTS0074](#))
- 18 Daglish JP, Captain Hugh ([CTS0001](#))
- 19 Disability Rights UK ([CTS0015](#))
- 20 England and Wales, Lord Chief Justice of ([CTS0078](#))
- 21 Equality and Human Rights Commission ([CTS0075](#))
- 22 Fair Trials ([CTS0079](#))
- 23 Families Need Fathers ([CTS0088](#))
- 24 Family Law Bar Association ([CTS0042](#))
- 25 Family Law Committee - Birmingham Law Society ([CTS0034](#))
- 26 Finlay, Ms Amanda ([CTS0055](#))
- 27 Free Representation Unit ([CTS0080](#))
- 28 Fuller JP, Dennis ([CTS0057](#))
- 29 Good Things Foundation ([CTS0077](#))
- 30 Hamilton, Magistrate Jackie ([CTS0038](#))
- 31 Hammersmith & Fulham Law Centre ([CTS0083](#))
- 32 Hanna, Mr Mark ([CTS0072](#))
- 33 HM Courts & Tribunals Service ([CTS0064](#))

- 34 Housing Law Practitioners Association ([CTS0090](#))
- 35 Institute for Criminal Policy Research ([CTS0005](#))
- 36 The International Family Law Group ([CTS0020](#))
- 37 IPSEA ([CTS0041](#))
- 38 Junior Lawyers Division ([CTS0013](#))
- 39 JUSTICE ([CTS0068](#))
- 40 King JP, Mrs Jo ([CTS0025](#))
- 41 Law Centres Network ([CTS0081](#))
- 42 Law for Life ([CTS0047](#))
- 43 The Law Society of England and Wales ([CTS0040](#))
- 44 LawWorks and LIPS Strategy ([CTS0089](#))
- 45 Leeds Law Society ([CTS0011](#))
- 46 Legal Committee of Her Majesty's Council of District Judges (Magistrates' Court) ([CTS0032](#))
- 47 Magistrates Association ([CTS0031](#))
- 48 Magistrates' Leadership Executive ([CTS0017](#))
- 49 Manchester Law Society , Crown and Magistrates Committee ([CTS0012](#))
- 50 Manchester Law Society - Civil Litigation Committee ([CTS0004](#))
- 51 medConfidential ([CTS0093](#))
- 52 Minster Law ([CTS0052](#))
- 53 Mullings, Rhona Friedman, Sue James and Simon ([CTS0085](#))
- 54 NSPCC ([CTS0087](#))
- 55 Personal Injury Committee - Birmingham Law Society ([CTS0035](#))
- 56 Prassl and Professor Abi Adams, Professor Jeremias ([CTS0026](#))
- 57 Prince, Professor Sue ([CTS0061](#))
- 58 Prison Reform Trust ([CTS0046](#))
- 59 prisoner, A ([CTS0094](#))
- 60 Public and Commercial Services union ([CTS0010](#))
- 61 Public Law Project ([CTS0027](#))
- 62 Reed, Dr Peter ([CTS0082](#))
- 63 Resolution ([CTS0051](#))
- 64 Revolving Doors Agency ([CTS0073](#))
- 65 Right2Justice ([CTS0054](#))
- 66 Rossner, Dr Meredith ([CTS0029](#))
- 67 Sarwar, Mr David ([CTS0002](#))
- 68 Senior President of the Tribunals ([CTS0076](#))
- 69 SHELTER ([CTS0062](#))
- 70 South London Law Society ([CTS0030](#))

- 71 Standing Committee for Youth Justice ([CTS0036](#))
- 72 Susskind, Professor Richard ([CTS0039](#))
- 73 Tanzer, HH John ([CTS0018](#))
- 74 Taylor, Mr Adam ([CTS0070](#))
- 75 Thames Valley Police ([CTS0028](#))
- 76 Thompsons Solicitors ([CTS0059](#))
- 77 Tomlinson, Dr Joe ([CTS0092](#))
- 78 Traffic Penalty Tribunal ([CTS0086](#))
- 79 Transform Justice ([CTS0022](#))
- 80 Transition 2 Adulthood (T2A) Alliance ([CTS0037](#))
- 81 The Transparency Project ([CTS0021](#))
- 82 University of the West of England ([CTS0009](#))
- 83 Veneik, Deepa ([CTS0095](#))
- 84 Victim Support ([CTS0003](#))
- 85 Women's Aid ([CTS0006](#))
- 86 Yorkshire Union of Law Societies ([CTS0067](#))
- 87 Young Legal Aid Lawyers ([CTS0069](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2019

First Report	Prison Governance	HC 191
First Special Report	Transforming Rehabilitation: Follow-up: Government Response to the Committee's Nineteenth Report of Session 2017–19	HC 189

Session 2017–19

First Report	Disclosure of youth criminal records	HC 416 (Cm 9559)
Second Report	Draft Sentencing Council guidelines on intimidatory offences and domestic abuse	HC 417
Third Report	Pre-legislative scrutiny: draft personal injury discount rate clause	HC 374 (Cm 9567)
Fourth Report	Draft Sentencing Council guidelines on manslaughter	HC 658
Fifth Report	HM Inspectorate of Prisons report on HMP Liverpool	HC 751 (HC 967)
Sixth Report	Draft Sentencing guideline on terrorism	HC 746
Seventh Report	Small claims limit for personal injury	HC 659 (Cm 9649)
Eighth Report	Young adults in the criminal justice system	HC 419 (HC 1530)
Ninth Report	Transforming Rehabilitation	HC 482 (HC 2309)
Tenth Report	Draft Sentencing Council guideline on child cruelty offences	HC 892
Eleventh Report	Disclosure of evidence in criminal cases	HC 859 (Cm 9744)
Twelfth Report	Criminal Legal Aid	HC 1069 (HC 1858)
Thirteenth Report	Draft Sentencing Council guidelines on arson and criminal damage and public order offences	HC 1579
Fourteenth Report	Draft Sentencing Council General Guideline for sentencing offences for which there is no specific guideline	HC 2015

Fifteenth Report	Appointment of HM Chief Inspector of Probation	HC 2015
Sixteenth report	Prison population 2022: planning for the future	HC 483 (HC 2308)
Seventeenth Report	Bailiffs: Enforcement of debt	HC 1836
Eighteenth Report	The role of the magistracy: follow-up	HC 1654
Nineteenth Report	Transforming Rehabilitation: Follow-up	HC 2526
Twentieth Report	Sentencing Council consultation on expanded explanations in sentencing guidelines	HC 2170
First Special Report	The implications of Brexit for the Crown Dependencies: Government Response to the Committee's Tenth Report of Session 2016–17	HC 423
Second Special Report	Government Responses to the Committee's Reports of Session 2016–17 on (a) Prison reform: governor empowerment and prison performance (b) Prison reform: Part 1 of the Prisons and Courts Bill	HC 491
Third Special Report	The implications of Brexit for the justice system: Government Response to the Committee's Ninth Report of Session 2016–17	HC 651
Fourth Special Report	HM Inspectorate of Prisons report on HMP Liverpool: Government Response to the Committee's Fifth Report	HC 967
Fifth Special Report	Young adults in the criminal justice system: Government Response to the Committee's Eighth Report of Session 2017–19	HC 1530
Sixth Special Report	Criminal Legal Aid: Government Response to the Justice Committee's Twelfth Report of Session 2017–19	HC 1858
Seventh Special Report	Prison Population 2022: Planning for the future: Government Response to the Committee's Sixteenth Report of 2017–19	HC 2308
Eighth Special Report	Transforming Rehabilitation: Government Response to the Committee's Ninth Report of Session 2017–19	HC 2309