Introduction

The Council of Her Majesty’s Circuit Judges represents the interests of approximately 550 serving circuit judges representing all jurisdictions. The committee has representatives from all jurisdictions and all levels of seniority including specialist and senior circuit judges, resident judges and designated family and civil judges.

The committee is grateful to The Association of Her Majesty’s District Judges for allowing the committee to consider their written submissions to this justice select committee inquiry.

Their submissions are detailed and comprehensive and in a number of respects we agree with them and their response to the specific questions and endorse much of what they say. Many of the issues raised by them apply in equal measure to those sitting on the circuit bench. We specifically endorse their observations in respect of the digitally excluded, the impact of court closures, the impact of reduction in HMCTS staff and the use of online video hearings as a substitute for access to court buildings.

Within this document we seek to supplement their submissions in any areas that we feel that greater emphasis is required or where the position of the circuit bench differs from that of the district bench.

- The Council of Circuit Judges recognises the need for, and welcomes reform which achieves the outcome of modernising systems and improving efficiency and access to justice

- Crown Court Judges have fully embraced digital working and applaud the success of the paperless digital case system which has revolutionised the way the Crown Court works. Case papers are now online with few exceptions and have generally worked very well.
• The pilots for recorded cross examination of vulnerable witnesses have been very successful and will shortly be rolled out across the country. Circuit judges have been heavily involved in ensuring the success of this and can see a real potential for these to be used in other jurisdictions.

• The experience of our judges involved in the pilot scheme in the family jurisdiction in Manchester has been a very positive experience with ebundling and efiling reported to be working well and with good cooperation from HMCTS. The process has been judge led. Ebundling, efiling and the introduction of case finder has had a very positive impact upon the work of family circuit judges.

• Digital working and video hearings are dependent upon technology that is reliable, robust and specifically fit for purpose, with reliable and prompt support in case of malfunction- alternative backup systems should be maintained until the digital systems are fully functioning and well tried and tested. Manchester is one of the pilot courts and again the use of video hearings in a select number of applications where litigants are legally represented is being judge led and will be carefully evaluated.

• The judiciary and staff will need appropriate training and there need to be sufficient staff on site who have received the appropriate training.

• The impact of court closures must be kept under active and regular review. 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).

• In relation in particular to the Circuit Judges jurisdiction in the more complex civil and family cases the importance of presence in a physical court should not be underestimated as the most effective way of ensuring that those who participate appreciate the solemnity and importance of the proceedings; the significance of what is at stake and in addition, physical presence in the court building enables more
effective judicial intervention, assists the assessment of credibility and often facilitates time and cost saving negotiations.

- 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.

- In terms of consultation on the reforms and communication with judicial office holders, the Council of Circuit Judges has identified a potential problem in terms of how representatives on the various engagement groups consult with and feedback to the wider judiciary. The Council, in conjunction with the senior judiciary is exploring ways of improving this communication.

- It is extremely important that evaluation of the reform so far and on an ongoing basis is thorough, independent and robust. It is apparent from our own enquiries that there are many differing views among the judiciary as to the impact and success of the reforms to date. The ebundling and efiling system in Manchester is a specific example. The council propose that rather than consultation simply being through the engagement groups, the judicial associations should be specifically involved in ongoing consultation and evaluation.

- The Council recognises that the funding available for the Reform programme has, at least in part, been raised through some court closures. However, as a fundamental principle the Council is keen to emphasise the point that Reform must not be driven by the price of justice rather than the value of justice. Access to justice must not be compromised by cost-cutting being prioritised over, or with a disregard to, improving access to justice.