I am asked for a response to the following questions:

1. What will be the likely effects of the reforms, both implemented and proposed on access to justice in relation to:

   a. civil justice?

      N/A

   b. family justice?

      The family courts are looking forward to the arrival of the Crown Court DCS which will replace a digital system which has its weaknesses. I do not sit as frequently as I used to in family so I can give very little detail.

   c. criminal justice?

      Unrepresented defendants do not have access to the secure CJSM email accounts which have to be used to receive the case papers. They are unable to access the papers which have to be printed out for them on the day.

      It was clear that during development of the new systems for the magistrates’ courts little thought had been given to how the many digitally disadvantaged defendants could access their cases. The original model for video links first appearances, for example, was based on the tribunal system and therefore it was thought that 85% of defendants would engage digitally at first hearing. It is now realised that in the tribunals there are powerful incentives for engagement. This is not the case in the magistrates’ courts. A more realistic view is now being taken of the use of video links for first appearances.

      As to access for the professionals, court staff or judiciary, the digital case filing system in the magistrates’ courts, “Court Store” is getting better and more accessible. When it goes wrong now it is because documents are not being uploaded on to it or the court wi-fi is weak. The court then either has to revert to paper files or matters are put back for emails to be sent to the court and/or defence advocates. This is only possible when there is a “CJSM” email address available. Unrepresented defendants are digitally excluded from this process.

      Part of the function of Legal Advisers is to advise unrepresented defendants. The new in-court resulting system (“DMU” or digital mark-up) is such a difficult system to use that the focus of the legal advisers is now often on their screens and not on what is happening in court. There is less opportunity for them to give advice to the unrepresented and furthermore they are missing things said and done in court. DMU has had a negative impact on efficiency and has led to delays in court particularly in the busy ones. A recent
A survey conducted amongst some judges and magistrates confirmed this was a national picture.

Common Platform at some point will replace DMU. The professionals and judiciary working in the magistrates’ courts are very much looking forward to that.

Fortunately, the Crown Court has had the excellent DCS system. Defendants are very rarely unrepresented in the Crown Court where if they are, papers have to be printed out too. DCS gives good access to all professionals involved in a Crown Court case.

d. administrative justice, particularly as delivered by the tribunals system?

N/A

e. those who are digitally excluded or require support to use digital services?

Please see above. With a reduction in staff in HMCTS, there is very little support available for unrepresented defendants. The most that can be done is to print out the papers and hand them over. There is some concern that the needs of the most vulnerable and socially excluded in society are not being taken into account in HMCTS’ digital plans.

2 What are the effects on access to justice of court and tribunal centre closures, including the likely impact of closures that have not yet been implemented; and of reductions in HMCTS staffing under the reform programme? For users, how far can online processes and video hearings be a sufficient substitute for access to court and tribunal buildings?

Impact of Court Closures

The effects on access to justice of court centre closures are most apparent in rural areas. 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. Video hearings are unlikely to be suitable for trials unless there is a much greater investment in technology.

There is a very strong view held that the all-important first hearing in a not guilty case cannot be held by video link. The remoteness of the defendant and representative means it is not possible to have necessary case management. The physical presence of the defendant at court along with his representative encourages cooperation between parties in a way that online processes cannot; at the same time advice can be given about pleas, evidence and issues at trial. Problems with video equipment are not uncommon and this only adds to delays.

Reduction of staffing under the reform programme

The reduction in staff in some areas took place too quickly and the vacancies were filled with agency staff. This is still happening. For a period of time of about a year the
telephones were not being answered at Westminster Magistrates’ Court. A great improvement was the use of a telephone centre but there are still regular complaints from the professional users of the court that emails are not answered.

For users, how far can online processes and video hearings be a sufficient substitute for access to court and tribunal buildings?

In short, they cannot, except in non-contested cases. Subject to defendants being able to get on line, online processes work well with bulk applications.

3 Have the Ministry of Justice and HMCTS consulted effectively on the reforms, and maintained sufficient communication, with:

a. Judicial office holders at all levels of seniority?

Yes.

b. The legal professions and the advice sector?

N/A.

c. Other relevant stakeholders?

N/A

4. Have the Ministry of Justice and HMCTS taken sufficient steps to evaluate the impact of reforms implemented so far, including those introduced as pilots; and have they made sufficient commitment to evaluation in future?

Sometimes they do but often they do not.

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