Introduction

The Citizens Advice service provides free, independent, confidential and impartial advice to everyone about their rights and responsibilities. It values diversity, promotes equality and challenges discrimination.

The service aims:

- to provide the advice people need for the problems they face
- to improve the policies and practices that affect people’s lives

There are around 300 member local Citizens Advice services in England and Wales giving advice from about 2,700 locations including high street offices, libraries, courts, prisons, GP’s surgeries and hospitals. All local Citizens Advice and Citizens Advice are registered charities. Of the over 30,000 people who work for the service, over 23,000 of them are volunteers and nearly 7,000 are paid staff.

Citizens Advice is the membership body for local Citizens Advice services in England and Wales. We provide vital support and training for the local Citizens Advice network, including regular audits to ensure that they provide a high quality advice service to the public.

Our Witness Service, grant funded by the Ministry of Justice, provides practical information about magistrates’ and crown court processes, including details of what giving evidence involves to allow them to feel informed and prepared. We also offer emotional support and a safe waiting space to ensure individuals feel valued and respected. We deliver the service from 242 courts across England and Wales. The service is run by 275 staff and 3,500 volunteers.

- In the previous 12 months to end of January 2019 our local Citizens Advice Network helped with 4.2 million issues.
- Our consumer service helped with 0.6 million issues
- In 2017/2018 our Witness Service provided information and support to 147,176 witnesses.

The top six advice issues were:

- Benefits, Universal Credit and tax credits
- Debt
- Housing
- Employment
- Financial Services and Capability
- Relationship and Family

What will be the likely effects of the reforms, both implemented and proposed, on access to justice?
Our view is based on the current available information about the reforms. There is now more information available about the changes that are being proposed and it is becoming clearer what the immediate work programme is, however, it remains difficult to understand what the end state of the programme is intended to be particularly since the extension of the programme has been announced. This provides some challenges to predicting what the ultimate impact on access to justice will be.

We recognise the benefits that well designed digital services can bring to users and support an approach which enables users to access services in the most appropriate way to meet their particular needs.

As the provider of the Citizens Advice Witness Service (CAWS) which operates from all criminal courts in England Wales under a grant from the Ministry of Justice, we welcome the improved use of technology, reducing unnecessary attendance at court and lessening reliance on poor facilities. Our advice clients are also frequent users of civil courts and we see how improvement to digital services has the potential to substantially widen access to the justice system particularly for litigants in person.

Justice must be accessible to everyone and we are concerned that the needs of more vulnerable users or people who are digitally excluded need to be properly addressed.

Problems dealt with within the justice system are complex and at Citizens Advice, we believe no one should have to face these problems without good quality, independent advice. We give people the knowledge and the confidence they need to overcome their problems. We help people find their way through complicated processes and difficult situations they may never have faced before. With the right information and support, people can make the best choices for themselves.

HMCTS argue that support will be available via Assisted Digital services. We are concerned that the way that assisted digital services as currently envisaged remains focused on providing technical digital help which ignores the reality that court and tribunal users will need help with both understanding the process they are going through in legal terms and using digital tools.

We understand that the pilot of assisted digital has indicated that people often present with digital, information and advice needs. A model of support which does not address all the needs people have risks becoming a barrier to justice rather than a facilitator. Any suggestion that people can simply be referred for advice then return for digital support fails to address the risk of referral fatigue which could increase the chance of people simply giving up. It also fails to address the question of ensuring that there is sufficient capacity in the advice sector to meet demand.

Our research suggests that users of HMCTS services will have very variable levels of digital capability - from people who are very comfortable online, to people who have never used the
internet and have no email address. As a service people with lower levels of digital capability are disproportionately represented in our face to face client statistics.

In February 2016 Citizens Advice undertook a survey of our face-to-face clients to learn more about their digital capability\(^1\). The findings showed that our face-to-face clients are:

- Twice as likely to lack basic digital skills as adults in the UK - 23% of adults in the UK lack basic digital skills. For our face-to-face clients this was 46%
- Twice as likely to lack access to the internet as adults in Great Britain - only 61% of our face-to-face clients had internet access in their home, with a further 11% having access on a smartphone.\(^2\)

Given the importance of the issues at stake, it is right that access to a paper process is maintained where there is any risk that a digital process could prevent or hamper access. Where paper routes are offered, care needs to be taken to avoid them becoming a poor quality alternative to the digital routes. For example, digital services will aim to increase the speed with which services can be delivered, 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.

A paper option will be particularly important for people living in rural areas or areas with poor broadband connectivity. Local Citizens Advice delivering services in these areas report continued issues with access to reliable broadband both for their clients and to enable them to provide assistance with digital services to their clients.

The Reform programme is a valuable opportunity to drive a step change improvement in access to justice but if it fails to grasp the opportunities to improve information, guidance, advice and support it will be an opportunity lost. Given the increase in the number of people navigating the justice system without representation getting the reform process right is of vital importance. There is significant risk that the most vulnerable and digitally excluded will not benefit from the reforms and when combined with court and tribunal closures could be left in a worse position.

**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?**

\(^1\) We used an established framework to measure capability in 5 digital skills areas: managing information, communicating, transacting, problem-solving and creating. These skills represent the minimum digital literacy considered necessary to use and benefit from digital technologies. The framework includes tasks such as using a search engine, using email and completing online forms

We are concerned that the closure of courts and tribunal will have a detrimental effect on access to justice. Many people have considerable barriers to attending court already including lack of representation, lack of knowledge about court processes. Additional travel barriers will lead to people not defending their rights, alienating people further from the justice system.

Court hearings impact on the most serious aspects of life, including decisions about the welfare of children or whether a home will be repossessed. If people are unable to get to court to deal with such matter then they cannot be considered to have access to justice.

Travel time will be a considerable barrier to people who need to travel impacting particularly on

a. People with a physical disability where health problems prevent them taking a long journey
b. People with mental health issues
c. Carers who cannot leave the person they are caring for a length of time
d. Parents with school aged children
e. People on low incomes who will lose additional work time and therefore income

Costs of travel will be a barrier, longer journeys will add financial costs both in terms of transport fares, petrol or city centre car park cost. This will impact particularly on:

f. People with a disability who are reliant on taxis for transport making long journeys prohibitively expensive
g. People with a disability who need to travel with a carer and will incur double the transport fares

h. People on low incomes who cannot afford the increased travel expense of taking a longer journey or paying additional parker costs

Longer journeys by public transport will be more complicated involving more connections.

i. This increases the chances that people will miss important court hearings due to transport failures, delays and missed connections

j. It will make travel planning more difficult, particularly for people who are digitally excluded. Increasingly timetables are online and the transport system can be disjointed and confusing.

k. Rural transport is infrequent which can both increase the chance of transport failures and make planning especially-complex additionally, in rural areas different parties to a court case may only have access to one bus making it particularly difficult for witnesses who are concerned about meeting someone from the other side of a case.

l. Where there will be potentially complicated journeys it is even more important that people attending know when and where they need to travel. We have experience particularly from our Witness Service of criminal cases being transferred at a late stage which compounds problems of travel planning.
Looking specifically at the impact on victims and witnesses attending criminal courts the Victims Code of Practice includes a number of key entitlement applicable to all victims that will be impacted upon if the distance they have to travel to Court is increased through court closures.

- In relation to the entitlement to attend a court familiarisation visit prior to giving their evidence this is less likely to be taken up if a victim has to travel a considerable distance.
- In relation to the entitlement of meeting the CPS advocate and ask him or her questions about the court process this is more problematic when a victim or witness gives their evidence from a remote site particularly if not in a Court building.
- The opportunity to read out your Victim Personal Statement aloud if a defendant is found guilty which can influence sentencing will also be impacted upon as victims are less likely to want to travel a distance to sentencing hearings.

The Youth Justice and Criminal Evidence Act 1999 introduced Special Measures so as to enable vulnerable and intimidated witnesses to give their best evidence in court and help to relieve some of the stress associated with giving evidence. If a witness would prefer to give their evidence from behind a screen as opposed to via live link then this should be facilitated. It is important not to assume that witnesses would prefer to give their evidence from elsewhere than a court building and that they can make an informed choice.

There is often an assumption that court attendances are a rare event but this is not always the case. Some court cases will require only one attendance, however there will be longer cases which may involve multiple journeys to court, for example witnesses in trials. Our research strongly indicates that pre-trial preparation for witnesses, particularly a pre-trial visit increases the rate of successful trials.

We know that more witnesses who receive our pre-trial support attend trial. Our analysis shows that there was 19% difference in trial attendance between witnesses who had a pre-trial visit and witnesses who did not. The difference is greater in domestic violence trials - there is a difference of 21% in trial attendance. Courts which are challenging to travel to may discourage witnesses from choosing or attending such a familiarisation visit, removing choice and impacting on their ability to give best evidence.

The other impact on witnesses that we believe deserves consideration is journey time and feasibility. Many witnesses, particularly those in rural communities, will need to travel much further to attend court, often through areas with poor public transport provision and poor road infrastructure. Rural areas tend to be particularly vulnerable to delays due to increased traffic in summer months, as well as flooding and adverse road conditions in winter, which could pose witnesses with real difficulties in attending court on time, if at all. Those attending cases with a 9.30am start time may also face having to leave their houses far earlier to arrive promptly to court and as such we that this reinforces the importance of Witness Care Units (WCU) and the Crown Prosecution Service (CPS) proactively notifying court listing departments of instances where this may be an issue for a witness. It should be noted as a
possibility that some witnesses may feel that the extra travel is not worth their while or that they are unable to afford the upfront cost and therefore be reluctant to attend court.

For civil court issues, people will often face a number of problems at the same time and will interact with the justice system with the aim of resolving these issues in the round rather than with a focus on an individual process. The impact of increased travel times should be seen in this context, rather than considering that a court user may only need to undertake the journey to court once, for example their need for multiple attendances to respond to housing and debt issues in civil court, tribunal issues in relation to their benefits or an employment dispute.

Digitisation of the courts and justice system will take time and needs to be evaluated before wide scale reductions in the court estate are implemented. Assessment of the needs for physical court spaces should be made after remote and digital technology have been embedded. This is particularly important given that there are substantial number of potential court and tribunal users who are digitally excluded and that these people will most likely be impacted by the practical issues around transport to physical locations.

**Have the Ministry of Justice and HMCTS consulted effectively on the reforms, and maintained sufficient communication?**

After a difficult start communication has improved in recent times with more information being made available in the public realm. However communication is still a challenge.

The programme is made up of a large number of individual projects which impact on different parts of the justice system. As Citizens Advice and Citizens Advice Witness Service provides assistance for clients across a broad range of justice issues our clients will be impacted by a large number of these.

Communication has to a large degree been delivered though updates from individual product teams. These updates have been very welcome and we would like to thank the product teams for the open and respectful way that they have engaged with us as a stakeholder. This methodology has however sometimes made is difficult to keep track of so many parallel changes and to get a big picture view of how the reforms will ultimately come together.

**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?**

HMCTS has shown commitment to user testing for individual services as they are being developed which we welcome. It isn’t clear though how testing of a customer journey which may well involve interactions across a number of discrete services will be undertaken. Understanding how users interact with a particular web form or process is only part of the picture. Understanding how accessible and integrated the whole system is and therefore how easy it is for someone to deal with a legal problem from beginning to end is just as important.
Evaluation is vital but shouldn’t be limited to individual projects, understanding how the whole system is working is important. For example, has digital access improved one part of the process but structural barriers in others parts remain meaning access isn’t in reality much better than before.

Evaluation should also go beyond simple feedback on the number of users and user satisfaction. This is important but work to understand the needs of people who are not using digital processes and what their barriers are is equally if not more important. As the people not accessing justice online are likely to be excluded in multiple ways already, success criteria need to go beyond aiming for a certain number of digital users and a minimum satisfaction rating.

Evaluation also needs to focus on outcomes. Are court and tribunal users getting appropriate legal outcomes? Disparities between success rates for face to face processes and digital processes will need to be carefully scrutinised to ensure that people are not disadvantaged by opting for a digital route.

Pilots have been undertaken but seem to have involved a small number of users. Care needs to be taken not to over extrapolate the findings of such small studies particularly where participants have been able to opt in or participation criteria have been used to focus on the more digitally able.