1.1 Introduction

1.2 Minster Law welcomes the opportunity to submit evidence to the Justice Select Committee in respect of its inquiry into the access to justice implications of the programme of reforms underway in Her Majesty’s Courts and Tribunals Service (HMCTS), including the increasing use of digital and video technology and the closures of courts and tribunal hearing centres. We strongly support the Committee’s work in this arena, given the implications of these reforms on access to justice.

2.1 About Minster Law

2.2. Minster Law, founded in 2003, is one of the UK’s largest personal injury solicitors, with particular expertise in Road Traffic Accident claims. We are headquartered in Wakefield and employ a team of 483 professionals, including 301 legally qualified staff, whose focus is on improving the lives of our clients.

2.3 Minster Law has opened cases for over 700,000 people in the UK since 2006 and has to date secured damages of £1.1 billion for our clients. Minster law has, since 2006, helped 660,000 motorists, 32,000 bikers, and 25,000 people suffering from other types of accidents. Minster Law typically settles 2,200 cases every month.

3.1 What will be the likely effects of the reforms, both implemented and proposed, on access to justice in relation to civil justice?

3.2 The Civil Liability Act is the trigger for moving the processing and settlement of minor RTA claims online. The proposed portal, sponsored by MoJ and being built by the insurance industry, is due for implementation in April 2020. Indications are that the MoJ is determined to meet that deadline for a fully functioning system, but we are mindful of Minister’s assurance given during the Third Reading of the Bill that “the Government do not always have an unblemished record when it comes to the delivery of IT systems. It is important to ensure that the system really works and that we have tested it again and again before rolling it out, because otherwise a system designed to increase access to justice may inadvertently decrease that access through the malfunctioning of the online portal.” (i)

3.3 Minster Law believes technology has the potential to reduce the costs of civil justice, but not at the expense of ensuring access to justice for all, and acknowledging that not all parts of our society are able to adapt at a similar pace.

3.4 Minster Law commissioned research in September 2018 (ii) to understand consumer sentiment towards the use of technology, particularly in the claims process. We have presented the results to the MoJ and welcome the chance to update the Committee.

3.5 The use of technology in managing and settling claims is nothing new. Many of the more forward-thinking insurers have been digitising certain aspects of the process for many years now – using AI and robotics to automate the screening process, encouraging customers to submit supporting evidence digitally and using technology to make instant payments to customers for example.
3.5 But where this evolution has the potential to go wrong and damage access to justice is in the proposed road traffic accident (RTA) claims portal. The Government is introducing an entirely online system that claimants must use to progress their claim if the value is under £5,000. Efficiency and cost savings are at the heart of this policy, but forcing individuals, when they are often at their most vulnerable, to use an online process regardless of their abilities, enthusiasm or the accessibility of the technology risks unintended and severe consequences.

3.6 The survey of over 2,000 members of the public shows that the demand for an entirely digital process is just not there. Of course, there are some who are more than happy to never speak to another human being throughout the management of their claim but there are many others who still value, indeed insist upon, the input of a human being. Neither approach is right or wrong. The point is that an entirely digital journey does not meet the needs of everyone and in the field of compensation, it is vital that the process works for everyone. If it doesn’t, we risk locking people out of the judicial process.

3.7 It seems that there is an assumption that because people are happy shopping or banking digitally, that they will be happy doing everything online. But an entirely digital experience is not necessarily what people want when it comes to making a claim. Our research shows that speed and efficiency are what matter, however that is achieved.

3.8 **Headline findings**

3.9 Four out of ten respondents rated simplicity within the claims process as the most important factor but it would be a mistake to equate digital with simplicity as there does appear to be a lot of ambivalence as to whether their claim is managed digitally or manually.

3.10 Being able to settle a claim 100% online was important to many: 22% said they had a strong preference for doing so. But 17% strongly agreed that they would prefer to deal only with a human with no digital element. 61% had no strong view either way. Getting the claim settled with the minimum of fuss is the priority.

3.11 When we look at how most of these claims were generated, 21% of respondents had had a motor claim during the last five years. Of those, 5% had made a motor personal injury claim with nearly half (47%) dealing only with a human and a further 33% experiencing a mix of digital and human interaction in their claim. The role of human interaction in personal injury claims thus remains vital.

3.12 In 68% of personal injury claims, the claimant went one step further and engaged a lawyer to help them settle with the insurer. Legal support is still vital to many, particularly amongst the 18-24-year olds. In that demographic, 15% said support from a legal professional was the most important aspect of the claim. Making a claims process 100% digital simply does not meet those needs and for the Government to pursue such a strategy in something as important as bodily injury compensation is very short sighted indeed.

3.13 The 35-54-year-old demographic is most open to settling a claim entirely online. This is broadly the same demographic which is responsible for setting public policy. Minster Law argues that policymakers avoid groupthink and assume that because they believe this is the right thing to do, because they have the digital knowhow and access to digital tools, that this is necessarily the right approach for all.
What will be the likely effects of the reforms, both implemented and proposed, on access to justice in relation those who are digitally excluded or require support to use digital services?

4.1 Those in lower socio-economic demographics are less likely (46%) to be enthusiastic about the prospect of digital-only claims experience, potentially because of the inaccessibility and affordability of digital tools.

4.2 Over 55s (43%) are the least likely age group to embrace an online-only claims experience. Although the data is not granular enough to elicit individual explanations for this, perhaps they don’t have the confidence in or experience of digital tools to trust their claims process to a digital world.

4.3 In general, the sentiment towards digitalisation is positive. Half of respondents said they believed that technology would change the world for the better, 33% said they were unsure and only 17% felt it would change our lives for the worse.

4.4 But despite the fact they are positive about the role of technology, they are still cautious about its influence in the claims process. The age group with the greatest concerns are the 55-65 year olds (39%). 25-34 year olds (35%) and 18-24 year olds (33%) follow close behind. High on the agenda of concerns are the misuse or theft of data and not being able to make a claim without legal support.

4.5 What this shows, clearly, is that this reluctance to dive head first into an all-digital claims world is not driven by a fear of technology among the older generation alone. The concerns are shared by the younger generation too.

4.6 And if government persists down the digital road, without due consideration to the concerns clearly held by the public, rather than improve the RTA claims process, the Government could end up locking large swathes of the population out of the civil justice process altogether.

Summary and conclusion

5.1: Minster Law believes that ministers are right to explore digital solutions to the administration of civil justice. Our own in-house pilot shows that many customers are happy to use a digital interface when it comes to processing their claim, and it is sensible to seek efficiencies where volume claims are concerned. However, our research strongly underlines our own experience that online-only claims is not supported by the general public as a whole, and there is a preference for interaction with a human being if a customer needs assistance.

5.2 Ministers must guard against the threat of significant numbers of people being locked out of the civil justice system because there is no alternative to processing claims online. While digital may be ‘cheap,’ the administration of civil justice should not be solely predicated on cost.

(i) Hansard Vol 6: Col 231 23.10.18
(ii) 2018 Consumer Attitudes towards Artificial Intelligence

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