I am a member of Central Kent Bench, one of three magistrates’ Benches in Kent. All three Local Justice Areas include areas of significant economic deprivation, most notably in Sheerness and Thanet, and serve both urban and rural communities. Public transport links are patchy, with travel within the county frequently expensive and time-consuming.

My comments should be regarded as being my own personal submission, although I believe that my submission reflects the views of the majority, if not the entirety of my colleagues.

I do not propose to reiterate at length the findings of the Judicial Ways of Working Consultation (JWOW) undertaken in 2018, but wish instead to respond to the questions posed by the committee, from a ‘coal-face’ perspective one year further on from that consultation and deeper into the realities of the process of court and tribunal reform.

It is for others to state the advantages of the work undertaken to date: while there are undoubtedly some improvements that can be identified in the criminal justice system, these are, so far, in my respectful submission, principally cost-driven rather than service-driven gains.

We are seeing a continued decline in magistrates’ court caseload as a result of a number of factors, including a greater use of out-of-court disposals by the police, and the increased number of cases processed through the Single Justice Procedure. While there are clearly identified cost and timeliness benefits for moving ‘victimless crime’ offences through a digital system, as well as safeguards for those who wish instead to appear in person, there can be delays for those who do request a court hearing, often due to lack of court hearing slots.

The ongoing impact of court closures, legal team reductions and brigading of ‘types’ of work, while perhaps justifiable on economic grounds, risk reducing the court system to a level at which it would not be able to function in a timely or just manner; the very antithesis of the reform purpose.

Each defendant needs to understand the process and consequences of their plea. Any vulnerabilities or disabilities (including language limitations) must be identified at the earliest opportunity. This can be difficult to do via a digital system. Given that a very high proportion of court users in the criminal justice system have complex emotional, educational and physical needs, including DDA relevant difficulties, any online system must have the ability to identify equivocal pleas and inconsistencies, and sufficient checks and balances to give the public confidence that justice is being delivered on an even handed basis to all. All first hearings for not-guilty pleas should be heard in court.
Many magistrates have yet to be convinced about the benefit or efficacy of call-centres as a method of providing assistance to vulnerable court users. Furthermore, the move towards greater use of video-link hearings and online processes means that justice is no often longer visible; more consideration needs to be given to balancing the right of the public to watch proceedings in an adult criminal court with the greater use of virtual technology. As a minimum, live transmission should be considered to maintain public access.

I remain greatly concerned about the rapid reduction in HMCTS staffing at all levels. In Kent court sessions are still vulnerable to closure when legal staff fall sick and there is no available cover. There is a great deal of pressure on staff at all levels. I am concerned that further court reductions are being driven at least in part by the economic constraints, and that a future backlog of cases is entirely possible; and that alternatively the use of out of court disposals for serious offences may rise, thereby undermining confidence in the judicial system.

There has been extensive consultation by the Ministry of Justice and HMCTS, not least through the JWOW consultation process undertaken in 2018, but also with other court users. There is however a high degree of cynicism amongst the judiciary in that the process of consultation is generally regarded as being little more than window dressing for unpalatable decisions that are already taken.

There continues to be a cumbersome and hierarchical consultation process involved in the estates rationalization project. This is a key platform of reform, and its slow progress is undermining many of the financial calculations. It is disappointing that magistrates and judges, as well as other court users, are continuing to work in dilapidated and run-down buildings which give the public a continued impression of neglect and decay. In one of our courthouses we have no disabled toilet access at all (despite having responsibility for a disabled magistrate), while another toilet is permanently locked because there is no money to achieve the significant repair needed. Another courthouse suffers from excessive heat because the ancient boiler system cannot be reprogrammed. Courthouses have significant bandwidth problems that impact upon the effective running of digital services and can disrupt work. Money that could be spent on good maintenance at a local level is instead diverted through service level agreements with contractors at national and regional level: only recently local admin staff were quoted more than £1000 simply for a contractor to remove and dispose of ten office chairs. Bench meetings and training meetings are purchased though a central source, with venue choice significantly restricted by the very small budgets available, while magistrates are increasingly having to travel greater distances (as much as two hours each way by car), with a consequent increase in mileage claims.

It is difficult to argue against fewer buildings, properly resourced and maintained, but if ‘access to justice’ is to replace local justice then much more attention needs to be paid to the needs of rural court users, many of whom already feel remote from local policing – the increasing remoteness of the justice system is of therefore of great concern, and in my view, these reforms are being pushed forward in a way which could do permanent damage to public confidence and support.