The government Reform Programme will involve a reduction of at least a third in the number of court staff, the physical separation of the administration from the judiciary and, so far as considered acceptable, remote hearings conducted via the Internet. The current plan is for most of the remaining court staff to be located in between six and twelve ‘service centres’; none of which will, for reasons of cost, be situated in the south-east. The programme, which is expected to cost £1bn., is to be financed by the sale of court buildings.

Since the Reform Programme has yet to be substantially implemented, the only evidence presently available is of the centralisation of local administration, intended as a transitional phase. I wrote to the then chief executive to warn of the damage that centralisation was likely to cause and have kept an intermittent note of its day-to-day effects; please let me know if you would like me to send these documents or to speak to this submission.

Plainly, there can be no evidence of the effect of the Reform Programme until it is brought into effect; however, for the following reasons, I think it predictable that it will do irreversible damage to the rule of law and undermine public confidence in the administration of justice.

(1) **Justice will no longer be administered in public**

The principle that ‘Justice should not only be done, but should manifestly and undoubtedly be seen to be done’ is well known (*R v Sussex Justices ex parte McCarthy* [1924] 1 KB 256, *per* Hewart CJ). It is essential that justice be administered in public because publicity ‘is the keenest spur to exertion and the surest of all guards against improbity. It keeps the judge himself while trying under trial’ (Jeremy Bentham). If more courts close, many litigants will find it impossible to attend court; remote hearings will become the norm and the conduct of trials will no longer be under public scrutiny. Justice will become faceless and bureaucratic and may cease to be wholly independent from the executive.

(2) **Equality before the law will no longer be demonstrated**

That a claimant can require a defendant, no matter how rich or powerful, to attend court and answer a claim in person demonstrates the principle of equality before the law in a way that an appearance on a screen never could.

(3) **Evidence cannot be properly evaluated remotely**

In order to determine whether their evidence is reliable, judges keep a close eye on witnesses and listen to them with care. It will be difficult to judge the veracity of a witness who appears, perhaps primped and prompted, as the rich and powerful often are, on a screen.

(4) **Settlements will be more difficult to achieve**

Judges gauge the personal dynamics between parties in court and often intervene to restrict issues or promote a settlement by, for example, directing a brief adjournment. It will be much more difficult to settle litigation when parties no longer share the same physical space.

(5) **Not everyone will be able to conduct litigation digitally**

Not everyone has a computer, the ability to use it and an effective connection to the Internet. Government figures suggest that over 8% of the adult population (and 20% of the disabled) have never used a computer. The Reform Programme is likely to exclude a significant segment of the population from access to justice.

(6) **The hardware & software may not work**
Government has a poor record of digital innovation; there is a risk that, after courts have been sold and the programme becomes irreversible, the money raised will be insufficient to fund and maintain a digital alternative or that the digital alternative will prove faulty.

(7) **Long-term economies may not be achieved**
Not all the court that have been closed have been sold and receipts from many sales have proved disappointing (see *The Guardian* 8th March). If buildings have to be rented to ensure access to justice, the money gained by sales will in time be exhausted; only a short-term gain will have been achieved.

(8) **Staff will be lost**
The most valuable resource of HM Courts & Tribunal Service is its experienced staff. The Reform Programme will waste this resource and sever staff from judges so that they can no longer form working relationships and share their knowledge.

(9) **Cheaper & more effective reform is possible**
A cheaper and more effective reform would:
- Delegate work to staff under judicial supervision so that judges are released from repetitive paperwork and have more time to hear cases;
- Ensure that rules of court are changed so as to reduce the amount of paperwork which parties must provide and HMCTS retain;
- Update the software used by members of staff so that it is compatible with that used by the judges and public;
- Whenever possible, employ staff who can type and encourage judges to type;
- Provide accommodation in court buildings for the Citizens’ Advice Bureaux and other providers of free advice so that there are, nationwide, single, local gateways to justice for members of the public and so that judges, staff and advisors can share resources (for example, court libraries) and information.

March, 2019