Written evidence from The Right Honourable The Lord Burnett of Maldon, Lord Chief Justice of England and Wales (CTS0078)

Introduction

The Committee has asked for evidence focusing on questions concerning access to justice in the context of the reform programme. The first question seeks information touching on the changes being made in each jurisdiction and the second on court closures. A third question asks for evidence on the nature of consultation engaged in by HMCTS and the fourth on the evaluation of projects.

In this short submission I seek to provide an overview of the judicial approach to the reform programme and provide in three annexes additional jurisdiction specific commentary from the Master of the Rolls (civil – Annex 1), President of the Queen’s Bench Division (crime – Annex 2) and President of the Family Division (family – Annex 3). The Senior President of Tribunals is providing separate evidence regarding reform related issues in the tribunals.

I have spoken publicly about reform on a number of occasions.¹ It is better understood as overdue modernisation much of which should have taken place long ago had resources been made available.

The judiciary welcomed the commitment of the Government in 2015 to provide ringfenced funding in support of the reform programme and expects that commitment to be maintained. The reform programme is transforming the way in which our courts and tribunals operate, improving efficiency to the benefit of those who use them and the public purse. The goals include improving access to justice.

The all too frequent problems with the aging technology used in the courts and tribunals are well known. It is impossible to guarantee technology that is never free from problems, but the success of the reform programme depends upon HMCTS developing or purchasing systems and technology which are reliable and adaptable to change. That is the underlying foundation.

The case for reform is strong. It is imperative that outdated, paper-based systems are modernised to make all jurisdictions operate more smoothly and efficiently for the benefit of those who use our courts and tribunals and at the same time reduce unnecessary cost. Modernisation of the system must also improve access to justice. Any well-functioning, efficient and effective justice system must harness modern technology in support of the rule of law.

**Access to justice**

Access to justice has two distinct features. First, the ability of those who are in dispute to gain access to the courts or tribunals should it be necessary to resolve a dispute. That itself has different aspects. Access to the court process and, for those cases which need hearings, appropriate access to a judge. The second feature is reflected in open justice – the public resolution of criminal and civil disputes.

Access to justice in the first sense is likely to be enhanced by the reform programme. By making it easier for people to initiate claims in the civil and family courts, and to dispute administrative decisions in the tribunals, many who currently do not bother because of complication (and possibly expense) will be empowered to do so. In the criminal context the work of the Magistrates and Crown Courts is entirely demand led. It depends on the rate at which the police investigate crime and the Crown Prosecution Service (and other prosecuting authorities) prosecute it. The aim of the criminal reforms includes a system which will link all involved in the process and thus reduce administrative and procedural complication. To that extent this aspect of access to justice should be enhanced.

The physical extent of the court and tribunal estate is a matter for ministers, not the judiciary. We await the Government’s response to the consultation on the principles to be applied when considering further court closures. The question of the extent of the physical estate is linked to the issue of the use of remote hearings. For decades many procedural hearings have been conducted by telephone. More are now done in all jurisdictions using video facilities. Video links are frequently used to facilitate the evidence of witnesses who otherwise could not attend without massive inconvenience. The same is true in short hearings, including final appeals, to facilitate the attendance of counsel. The reform programme should also encourage out of court resolution of more disputes with a resultant reduction in the need for
final hearings. All these factors, as well as personal accessibility, bear upon the question of the extent of the physical estate.

The judiciary have pressed the view, which is being worked into the projects by HMCTS, that the principle of open justice means that the courts must remain as open to public scrutiny after reform as they are now. HMCTS are developing technical solutions to enable public and press access to remote hearings.

The use of fully video hearings, that is all participants attend using technology, is being developed and tested. In all cases the use of hearings by video will remain under judicial control and be supported by Rules and Practice Directions where appropriate. The legislation which fell at the last general election would have provided some parameters in crime. The ultimate question will be whether it is in the interests of justice to use a particular type of video hearing. This is an area which will require piloting, testing and the use of practical experience. I would welcome proper research into the impacts of using technology in court processes. It is better than anecdote and guesswork.

Digitisation and introduction of improved IT systems are fundamental elements of modernisation across all jurisdictions. The judiciary will continue to use its knowledge and experience to help HMCTS develop those new systems. We will continue to advise on what is required of new systems and will be closely involved in the testing of the elements, collectively known as Common Components, that will make up the system in Civil, Family, and Tribunals, and of the Common Platform in Crime. HMCTS has committed to providing robust, fit for purpose technology that will not be rolled out until it has been proved to work through extensive testing and pilots.

The centralisation of many administrative functions in Courts and Tribunals Service Centres will result in the reduction of the numbers of HMCTS staff located in court buildings. But it is vital that sufficient numbers of staff remain in the courts to support the sittings of the courts and tribunals and to provide necessary assistance to the judiciary, the public and professionals using the courts. HMCTS will make sure that all Courts are staffed to minimum
levels, including retaining Listing Officers as now; that any listing work performed at the Service Centres is fully integrated with the listing at the relevant court; that everything will be designed to ensure the judges retain proper judicial control of listing functions and that judges are able to work effectively and efficiently.

The digitalisation of the systems in our courts and tribunals raises questions about those who are unable to access computers and the internet, either for economic reasons or because of a lack of ability.

Unlike professional users, no litigant in person will be required to use digital process in any court or tribunal.

A news report in the Times on 5 March 2019 suggested that 10% of the adult population had not used the internet. There is international experience of digital processes and whether digital exclusion is a real problem. The online property and small claims court in British Columbia is a good example. It appears that the problem is not as great as might be imagined. The Committee might be assisted with evidence of the experience in other jurisdictions. Those who struggle with computers often have friends and family who can help; and, as HMCTS will no doubt explain, a contract has been let to The Good Things Foundation to provide digital support to the excluded. It is likely that the digitally excluded may largely overlap with a cohort of potential court users who are now excluded without significant help from others, nevertheless individuals will still have the option to use a paper form if they wish.

Consultation and communication with the judiciary on reform

The judiciary have been fully engaged with HMCTS in the reform programme from its inception. At every level, judges have contributed a substantial amount of time and energy to help shape the details of the programme, to bring to bear their unrivalled knowledge and experience of every different type of proceeding, to pilot evolving projects and thereby help to make sure that what emerges works and improves the administration of justice.

Members of the judiciary sit on the various boards and groups with HMCTS considering the detail of different aspects of reform. The judicial input into the reform programme is
 overseeing by a Judicial Reform Board led by Thirlwall LJ with the Senior President and District Judge Tim Jenkins. The Judicial Executive Board discusses reform at almost all its meetings.

In Autumn 2017, we began a substantial exercise of engagement with the entire judiciary which resulted in May 2018 in the publication of four jurisdictional documents designed to inform the judiciary about reform (‘Judicial Ways of Working’ [J WOW] documents). All judicial officer holders were encouraged to read the documents relevant to the jurisdictions in which they sat and respond to questions via an online survey. We received responses from or on behalf of 10,000 judicial office holders. 38 reform events were delivered by senior and leadership judiciary across England and Wales providing the opportunity to discuss the JWOW material and ask questions. Almost 800 attended local meetings to express their views. The responses to the survey, along with and the views expressed at the events, have been used to inform the senior judiciary’s approach to reform.

The JWOW responses have informed discussions at a senior level between the judiciary and HMCTS. The views of the wider judiciary help shape the direction of the programme. Recent discussions have been followed up with jurisdictional summaries from Heads of Division to all judicial office holders in December (these are now publicly available on the judiciary website).

In addition to JWOW, a network of judicial groups is in place to ensure judicial input into the design of new products and services. These include Judicial Engagement Groups for all jurisdictions whose members are selected for their professional expertise (as opposed to seniority), and Judicial Working Groups which are attached to specific Reform projects (for example the Single Justice Service project and Public Family Law & Adoption project). Most members are recruited by expressions of interest exercises which are advertised openly to all eligible judicial office holders.

The involvement of the judiciary in the detail of the reform programme is vital to ensure its success. We provide the most ready source of expertise and are particularly sensitive to

---

2 https://www.judiciary.uk/about-the-judiciary/the-justice-system/jurisdictions/
issues such as access to justice and open justice. There is much expertise in HMCTS but in a
alarge project with many strands many who have been drafted in to the reform project have
little direct experience of the administration of justice. It is therefore welcome that the senior
management in HMCTS is receptive to the input from the judiciary and acknowledge its
importance. From the outset the judiciary has been supportive of the need for modernisation
and the aims of the programme. We will continue to help shape it and play our part in
improving the administration of justice for the benefit of the public and the rule of law.
Question: What will be the likely effects of the reforms, both implemented and proposed, on access to justice in relation to civil justice?

The initial focus in the first part of the reform project for civil justice has been on Online Civil Money Claims (“OCMC”), which is intended to provide an end-to-end digital service for court users. OCMC is currently available to litigants in person (and some legal representatives) relating to money claims under £10,000. This service was made public in March 2018 and was in fact the first civil, family and tribunal reform project to be made available to the public.

One of its aims is to provide a more user-friendly and efficient way to bring a small claim. OCMC will be faster, more accessible, and use less technical legal language than other options currently available. It also affords greater flexibility to both court users and the judiciary alike when compared to a court process based on paper and the existing Money Claim Online.

OCMC is currently limited to the issue and defence of claims, requests for a judgment in default and digital admissions and part admissions of claims. Alternative dispute resolution methods will be used more widely, where suitable, to secure speedier and fair outcomes. For example, OCMC will shortly be arranging an opt-out mediation pilot, which will identify mediation as a default setting and require the parties to opt-out of it if they do not want to resolve their differences outside of a formal court process.

There are high hopes for the mediation pilot. Most civil money claims are better settled out of court, particularly given the questions of costs and proportionality. If the pilot is successful, it will be introduced in a wider range of civil claims.

Of course, if parties are unable to resolve their differences and have followed the process in the online system as far as it will eventually go, then, necessarily, there will be a hearing/trial.

There is also an upcoming pilot relating to the work of Legal Advisers within OCMC, allowing them to give directions in any claim for up to £300. These (like all other decisions taken by Legal Advisers) will be subject to an automatic right of reconsideration by a judge. This builds on the role of the Legal Advisors which has been developed at the Business Centre in Salford over the last 5 or 6 years, and which has seen legally qualified officials undertaking certain limited and less contentious work, always subject to an automatic right of consideration by a judge. Legal Advisers are legally qualified and trained and supervised by
local judges. Requests for reconsideration are currently consistently at 1% or less of all decisions made by Legal Advisers.

Through the Civil Procedure Rule Committee and the Working Group it set up to deal solely with this service, the judiciary has played a leading role in the development of OCMC.

In order to improve efficiency within the civil jurisdiction, the next stage of reform will be to take the positive elements of the OCMC project and apply them more widely. This will be the start of the process whereby civil courts become fully digitised for online filing and judicial case management.

One of the aims is to introduce an improved ‘case management system’ across Civil, Family and Tribunals and to reduce the amount of paper and paper files that are used in civil work. Court users will be able to access the digital file for their case, and judges will be able to undertake case management and case progression tasks digitally.

An effective digitised system promises a major improvement in the ways of working for all judges in the civil jurisdiction. They will benefit from any time savings associated with a robust and fit for purpose digital system.

A pilot for Video Hearings, limited to applications to set aside default judgments (which do not involve witnesses) in Manchester and Birmingham will shortly be starting and is due to finish in Autumn 2019. This follows the pilot in the First-Tier Tax Tribunal. It will be independently evaluated before decisions as to the further use of video hearings will be made. The potential benefit of using Video Hearings where there are vulnerable parties, and if there are parties or witnesses who cannot travel to court, is plain. Prior to allocation for a video hearing, the service will be checked to ensure that there is digital compatibility between the litigants and the Court Service. It is recognised that the need to maintain open and accessible justice must be satisfied.

The judiciary believe, that if there is to be greater use of digital technology, assistance must be available for litigants in person who have difficulty with that technology (for whatever reason). This support should be made available through the ‘assisted digital’ service provided by HMCTS, either face-to-face, or by telephone. HMCTS recognise that in the case of those users for whom there is no alternative to paper, HMCTS must provide for scanning so the papers can form part of the digital case file.
Crime

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

1. Reform/Modernisation must provide the robust and effective infrastructure necessary to support access to justice and the administration of justice so as to uphold the Rule of Law.

2. The criminal courts judiciary have been using technology for some years. Hearings in the Crown Court are almost all paper free as a result of the introduction of the Digital Case System (DCS). In the magistrates’ courts the lay bench views case papers on iPads via Court Store, District Judges (Magistrates’ Courts) view them via laptops. Evidence such as police bodycam footage and CCTV is routinely displayed in court via Clickshare. Video links are used for vulnerable witnesses. At the court’s discretion defendants may and often do appear at directions hearings via video link from custody. Defendants in custody are also sentenced via the video-link at the discretion of the judge.

3. Section 28 of the Youth and Criminal Evidence Act 1999 is a special measure that allows a child or mentally vulnerable victim and/or witness to be cross-examined via live link some time before the trial hearing itself. This recording is then played at the trial. Its use has been piloted at Liverpool, Leeds and Kingston Crown Courts since 2014. It has reduced the strain on witnesses and the guilty plea rate for some offences has increased. Now that longstanding technical difficulties have been overcome we understand that the phased national roll out of this procedure will begin in the next few months. We will then pilot the use of section 28 for intimidated witnesses (adult complainants of sexual offences and modern slavery offences) starting at Liverpool, Leeds and Kingston Crown Courts. This will be evaluated in due course.

Common Platform

4. The Common Platform is central to the modernisation of criminal courts. The aim is to replace existing CPS and HMCTS IT systems (including DCS, Court Store and Digital Mark-
Up) with a single integrated system which will hold all the case material and to which, with appropriate permissions, parties to the criminal process will have access. It is intended that the software will permit more efficient administration of cases (reducing the number of staff) and will facilitate the work of case progression officers. Case management is a judicial task and it is hoped that when the technology is developed it will make the task less time consuming. Since 2015 the judiciary has worked with other limbs of the Criminal Justice System in developing the principles of Better Case Management (BCM) and Transforming Summary Justice (TSJ) which have improved the efficiency of the courts. Those principles will form the basis of the systems developed for case progression in the Common Platform.

**Automated Track Case Management (ATCM)**

5. This is part of the Common Platform. It has been introduced into the Magistrates Courts for use in some Single Justice Procedure (SJP) cases. ATCM is live for Transport for London (TFL) cases at Lavender Hill Magistrates’ Court and for TV Licencing (TVL) cases at Warwickshire Justice Centre. It will be extended to other TVL courts and other prosecuting bodies. It allows prosecutors to upload cases digitally. Where the defendant pleads guilty the case can be decided on the digital papers by a single magistrate working with a legal adviser who records the decision and sentence digitally. The process is efficient and easily accessible. A hearing before a lay bench will always be possible where a defendant requests it or pleads not guilty, or if a magistrate believes it is necessary.

**Online Plea**

6. The option to enter a plea online for ATCM SJP cases has been available since April 2018. There is a low response rate for SJP notices but this has increased (from 16% to 23% over the period from April to November 2018) as the online option is increasingly taken up.

7. There are proposals which would (subject to legislation) permit defendants to indicate a plea online (or in writing) in more serious cases. Before such a system could be implemented defendants would require access to legal advice. Changes would be necessary to the way that Legal Aid is currently provided. The magistrates in particular are concerned that proposed
new systems do not overestimate the engagement of defendants and compliance of parties, nor should they disadvantage the defendant.

**Unrepresented defendants**

8. Increasing numbers of defendants appear before the courts without legal representation. Robust arrangements will need to be in place to ensure that the defendant is able to receive and serve material digitally (if they have suitable technology) and that they will be helped to present material in court. We understand that defendants who do not have suitable technology will receive the papers in hard copy.

**Video Hearings**

9. Fully video hearings are hearings where no party is in the conventional courtroom. All join via digital video links. Subject to legislation, current proposals would permit fully video hearings to be conducted in the criminal courts, including, where appropriate, first hearings in a magistrates’ court where the defendant is in custody. Open justice will be preserved. This could readily be achieved by the use of a live link from the video courtroom where the judge is sitting to the court building where the case is listed.

10. Assuming there is robust technology and the principle of open justice is met, the senior judiciary consider that the following types of hearing could be dealt with by fully video hearing in the Crown Court:

   a. Further case management hearings. (This does not extend to compliance hearings.)
   b. Bail applications.
   c. Legal argument including dismissal applications and applications to stay cases for abuse of process.
   d. Ground rules hearings governing how the evidence of young and other vulnerable witnesses is given. e. Similarly, pre-trial hearings to determine the admission of evidence of the previous sexual behaviour of a complainant in a trial of sexual assault.
   e. Some straightforward fitness to plead hearings, relieving the need for busy psychiatrists to have to travel to court.

11. Trials will not be conducted by fully video hearing either in the Magistrates’ Court or the Crown Court. Subject to legislation it may be possible for there to be an exception in some SJP cases where there could be scope for the defendant to seek a fully video trial rather than
come to court, for example where a defendant lives some distance away from the site of an alleged offence (such as speeding). The detail of this needs careful consideration.

12. The senior judiciary will decide which types of cases can be heard by video. Judges and magistrates dealing with cases will decide whether to conduct individual hearings using technology including video. The judiciary must be provided with the papers to make such decisions well in advance of the hearing so that discretion is not compromised and, where appropriate, defendants may be brought to court. Listing policies will not be permitted to cut across that discretion by (e.g.) the imposition of targets. Many members of the judiciary have commented on the need for a person to be present in court to understand the importance of court proceedings and for the general public to see how seriously they are regarded. This enhances respect for the Rule of Law.

13. We note that HMCTS has made reference to practical arrangements to support access to justice in its response to consultation on the future of Northallerton Magistrates’ Court published on 24th July 2018. We understand that it intends to work with other public bodies to provide a video-link facility from Northallerton which could help some users. It will also consider whether any further mitigations (for example the provision of transport) would assist where long journeys are involved. Workload and hearings will be relocated principally to the four magistrates’ courts of York, Harrogate, Skipton and Teesside but there is potential to list into other courts in the North Yorkshire and County Durham area, such as Scarborough, Newton Aycliffe and Darlington, based on circumstances of the users and cases concerned.

14. The judiciary will continue to innovate in the way cases are managed and will assist in the testing of technology to support that end. We will also work with HMCTS to ensure that the courts have sufficient numbers of suitably trained staff so that the business of the courts is efficiently despatched and those who use the courts are treated with dignity and respect.
Family

Summary

1. The Family Judiciary welcome the opportunities presented by the HMCTS Reform Programme to modernise its systems, and increase the efficiency of Family justice and access to justice.

2. There have been some identifiable achievements already, with the facility for those in relationship breakdown to apply for divorce online; applying for probate online is developing in the same model. Other online and digital programmes are being developed for the Family Court. These developments are supported by the judiciary and should significantly improve efficiency.

3. Reform will depend upon technology that is reliable and robust. Judges will need proper training in the use of new systems. The courts will continue to need adequate staffing levels. There must continue to be scope for the use of paper by those who cannot use digital means of access to the courts, despite support mechanisms being put in place.

4. The Family Courts must be at least as open in the post Reform era as they are now.

5. There is an effective Family Judicial Engagement Group (‘JEG’) which meets with HMCTS approximately every 8 weeks; this provides a forum for the discussion of developments, ideas, concerns, and the implications of reform proposals on access to justice.

Developments in Family Justice

6. The digitisation reforms to the Family Justice system extend across a wide range of proceedings, falling into four categories – divorce, financial remedies following divorce, private law children’s cases (i.e. not involving local authorities), and public law children’s cases (i.e. involving local authorities).

7. Divorce: The online divorce project which became available on GOV.UK on 1 May 2018 has proved to be a success. The online process has reduced the
numbers of petitions which are rejected for errors (40% of paper-based petitions were returned, now fewer than 1%); this is of mutual benefit to the public and the courts. At this stage, the online divorce process is available publicly to a petitioner acting in person and via an invitation only pilot where he or she is represented by a solicitor. People without legal representation can now respond to a divorce application online, and applicants can also make their decree nisi application online. Parties using the new features will receive updates at each stage of the divorce application through automated notifications. When they log into the system, they will also be able to see a progress bar, showing them how far along their application is in the process. These are all material benefits for the public in accessing justice.

8. The judiciary understand that:
   a. Decree nisi outcome and decree absolute features will be introduced by HMCTS during spring 2019 (allowing users to receive their entitlement notices through the online portal and to apply for their decree absolute online);
   b. HMCTS propose, during 2019, to add applications for nullity, applications for dissolution of civil partnership and judicial separation, together with the ability to make an application to bailiffs, and for deemed and dispensed service. When this happens, it will mean that a fully digital divorce service for unrepresented individuals will be in place. All of these online services will also be developed and made available in the Welsh language;
   c. It is envisaged that the ‘apply-for-a-divorce service’ will, during 2019, be available for legal professionals.
   d. These developments enhance access to justice.

9. Probate: The application for grant of probate is now an entirely digital process from submission of the application to the production of the grant of probate. All probate work will soon move away from the existing case management system to the new digital version.

10. Financial Remedy: The Financial Remedy Project, as yet at an early stage, hopes to deliver a transformed end-to-end online service for individuals or their legal
representatives wishing to make an application to resolve financial issues. The project has reached the point where digital submission and approval of financial remedy consent orders is possible where the parties are legally represented. It is due to start a pilot for contested applications shortly.

11. Private law: The digitisation of private law children’s cases has a long way to go. A trial of the online service to apply for a child arrangements order has been launched in some areas in ‘public alpha’ phase. The applicant completes an online questionnaire carefully designed to tease out all the relevant information in a way which is both user friendly and, so far as possible, fool-proof. This enhances successful access to the courts for the digitally able. No results of the trial are yet available. The online application process is designed to underline the importance to families of appropriate non-court dispute resolution services (by “nudges” embedded in the online process). The judiciary are keen to achieve the diversion of greater numbers from the courts in private law, and this should contribute to that objective.

12. Public law: The digitisation of public law children’s cases is also at an early stage. Earlier this year, HMCTS launched a pilot scheme of a procedure for using an online system to generate and file applications and upload documents in certain public law proceedings relating to children, in a limited number of courts; this also generates an automatic notification to the respective family court and Cafcass /Cafcass Cymru. The judicial gatekeeping teams are reviewing application via the digital system and recording their decisions on the system. These processes enhance the efficiency the public law process. The next stage of this project will include the digitisation of case management procedures.

13. Video Technology. The increased use of video technology has been part of the joint vision for reform since its inception. The scope for Fully Video Hearings in Family proceedings may be limited. The technology to support Fully Video Hearings is still being developed and tested by HMCTS.

14. The Fully Video hearing process may have limitations, especially for final evidence-based hearings, in that it:
a. removes the necessity to be physically in the same place, which may reduce the likelihood of parties/representatives having potentially valuable discussions outside the court setting;
b. Reduces the chance of time saving negotiations and agreement pre-hearing;
c. Reduces the gravitas of proceedings;
d. Reduces the ability for judges to assess non-verbal clues;
e. May increase the risk of breaches of confidentiality of the court process by enabling posting videos onto social media.

With these concerns in mind, and common across all jurisdictions, the scope and extent of video enabled hearings will remain under the control of the judiciary. The technology will be made available and deployed in each case pursuant to an exercise of judicial discretion.

15. Notwithstanding those concerns, with the support of the Family JEG and the local judiciary, HMCTS will be testing the potential for Fully Video Hearings in Family cases in two sites (Birmingham and Manchester). The test is currently limited to First Directions Appointments in Financial Remedy Hearings, where both parties are represented.

16. Agreement has been reached between the Family JEG and HMCTS that ‘without notice’ domestic abuse injunction hearings (where the applicant is legally represented) could be trialled as Fully Video Hearings. There would be considerable advantage to the applicant (and lawyer) being able to conduct the hearing from, say, the solicitor’s office, without the stress of the party having to travel to, and wait at, court.

17. Subject to satisfactory testing, HMCTS and the President of the Family Division have agreed that HMCTS can explore the roll out of this facility in other types of family hearing. These will principally be directions (case management) hearings and ‘without notice’ hearings where the applicant is likely to be represented.
18. At present, the trials of Fully Video Hearings are proposed only for cases where the parties are legally represented, so that the lawyers can participate, and can further facilitate the involvement of the parties; the hearings will take place from offices where the equipment has been pre-tested, and following ‘familiarisation’ calls from HMCTS tech staff. On the assumption that the testing of this process is positive, wider roll-out to cases where the parties are unrepresented is likely to be difficult. Quite apart from the concerns outlined at [14] above, a significant number of parties in proceedings involving relationship breakdown are unrepresented. There could be problems with the technology available to unrepresented litigants and both HMCTS and the judiciary recognise that unrepresented parties may choose not to participate in this way, or avoid participation by claiming last-minute technological difficulties. The senior Family judiciary proposes that unrepresented litigants participating in any Fully Video Hearing should only do so from an ‘authorised place’ such as a CAB office.

19. Reassurances need to be offered that robust security measures will be in place to safeguard against hacking and any other data confidentiality issues in the use of the new technology, otherwise safe access to justice will be jeopardised.

20. Digitally excluded: Work is advancing to create an electronic court file and hearing bundle. This will be made possible by technology to be shared across Civil, Family and Tribunals (CFT) (the “Common Components”), replacing, in stages, old systems like Familyman. The aim is that Judges, staff, and all other participants need only use one common CFT digital court system. This is all very well for those who are digitally competent.

21. The Family judiciary support the view that those members of the public who wish to access the Family Court, but who do not have the relevant equipment, or are digitally excluded in other ways, can nonetheless (a) easily and efficiently issue their applications on paper, (b) obtain the relevant information in a case in an effective way, (c) participate in the process where an electronic bundle is being utilised.
March 2019