



House of Commons
Justice Committee

Court and Tribunal Reforms: Government Response to the Committee's Second Report of Session 2019

Second Special Report of Session
2019–21

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Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

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Committee reports are published on the Committee's website at www.parliament.uk/justicecttee and in print by Order of the House.

Committee staff

The current staff of the Committee are Nony Ardill (Legal Specialist), Seb Newman (Second Clerk), Su Panchanathan (Committee Assistant), Liz Parratt (Committee Media Officer), Christine Randall (Senior Committee Assistant), Holly Tremain (Committee Specialist), and David Weir (Clerk).

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Second Special Report

We have received the Government's response to the previous Justice Committee's Second Report of Session 2019, *Court and Tribunal Reforms*, HC 190. The response came in a letter dated 30 January 2020 from the Parliamentary Under-Secretary of State for Justice, Chris Philp MP. In the absence of a Committee until 2 March 2020, we have been unable to formally receive and to publish the response until now, and do so as an Appendix to this Special Report.

Appendix: Government Response

Recommendation 1:

We recommend that HMCTS set and publish ambitious targets for divorce completion times.

1. HMCTS is currently in the process of setting new and ambitious targets for our services which we will publish in early summer 2020.
2. These will not focus on the end-to-end completion time of cases, because, as with many of our services, legislation deliberately builds in time to give parties appropriate time to respond, to ensure the financial aspects of their separation are agreed, and to provide the opportunity to consider if they want to go ahead with their divorce.
3. Measuring the success of the process based on completion times gives a misleading picture of how quickly the process works, given that some users will necessarily wait longer than others to continue with the application. For this reason, we currently do not set targets for divorce completion times. However, we do publish these figures on a quarterly basis, split by paper and digital cases, as part of our official statistics, found here:

<https://www.gov.uk/government/collections/family-court-statistics-quarterly>

4. Our new targets will concentrate on how quickly we respond to our users and process those stages of the case that require our input. In this way, they will help measure and improve our performance rather than reflect changes in case complexity or the time the parties involved spend with the case.

Recommendation 2:

We recommend that this facility [to enter pleas online in criminal cases], should it be introduced, be restricted to defendants who have obtained legal advice and that the legal aid rules be changed to allow access to advice in all such cases.

5. The Single Justice Procedure allows those prosecuted for summary, non-imprisonable criminal offences to choose to enter a plea without coming to court. Since the implementation of Magistrates' Court Act 1957, we have allowed people to enter a plea by post. There has been an online Make a Plea service since 2014 for police traffic offences only, and the online plea service on the Common Platform has been available for TfL cases since 2018, and TVL cases since 2019. This presents an alternative to the postal route.

6. Because the online route asks interactive questions and follows an interactive process, it facilitates better signposting to legal advice. Users are reminded to consider getting advice before entering a plea, though the decision to do so is of course one for them. Whether or not they have sought legal advice, they are always given clear information about the consequences of pleading guilty.

7. Increasing engagement – and making it easier to engage – is important because it means defendants know what is happening and are making active choices, rather than being at the end of enforcement activity because of their inaction. Over 5,400 pleas have been received online to date in relation to Transport for London and TV Licensing cases.

8. We do not currently restrict online pleas only to defendants who have obtained legal advice because many cases in which a defendant may want to make an online plea are minor charges such as non-payment of fares. In these cases, a defendant is unlikely to require legal advice.

9. For more serious cases, it is not currently possible to enter a plea online. This is subject to legislation. Provisions in the Prisons and Courts Bill introduced in Parliament in 2017 (but which fell when the 2017 General Election was called) were proposed to enable defendants voluntarily to indicate a plea online if they chose to do so. The Bill provided that a defendant or their representative will only be able to indicate their likely plea online, not actually enter a formal plea.

Recommendation 3:

We recommend that HMCTS establishes a Freephone service for members of the public, similar to the Freephone system for Universal Credit.

10. Calls to HMCTS telephone numbers are already included in the vast majority of home and mobile phone plans. Once someone has got through to an adviser, we also offer a call-back service for those who would otherwise have difficulty paying for the call.

11. Nevertheless, we know that some people on limited plans may be caused difficulty by the waiting time itself. We are currently evaluating the cost of introducing an 0800 number, which would be free to call from all consumer landlines and mobile phones, and options for more 'call-backs' that kick in before someone has waited on the line, which will also have other advantages at busy times. We expect to make a decision on changes by May 2020.

Recommendation 4:

We recommend that HMCTS make it clear how it will ensure that people can access court forms in paper format without using a computer to do so.

12. New digital services are not being created at the expense of those members of the public who need, or want, to use paper. Paper forms are available in local courts and tribunals. They can also be requested by telephone via our new Courts and Tribunals Service Centres.

13. HMCTS will continue to support members of the public who want hard copies of paper forms, or who prefer to use the paper channel rather than online services.

14. We are also working with those who support litigants – including Support Through Court, Citizens Advice, Advice UK and others - on the best ways to help them support users, including those who wish to use paper forms. As we improve digital systems, we are also updating and improving paper forms to make sure they are accessible, easy to understand and to fill in, and can be managed easily and efficiently by HMCTS. This includes making Easy Read versions of top downloaded forms available, as well as making it easier to access and request forms in alternative formats.

Recommendation 5:

We recommend that, by April 2021 the network of assisted digital Online Centres be extended to deliver comprehensive national coverage. Centres must provide walk-in access, and where possible be co-located with advice agencies to facilitate referral for legal advice and support.

15. The current pilot of assisted digital support centres is contracted until September 2020, with 25 sites providing support services via the Good Things Foundation. HMCTS has chosen sites where the local population is known to be likely to have lower digital accessibility. The analysis for this was based on levels of digital exclusion, demand for HMCTS services, centre expertise and geographical coverage. Sites included in the pilot include a variety of locations such as community centres, libraries and Citizens Advice and so cover a range of support models. The pilot phase will then be evaluated in order to establish how best we can meet the needs of the public over the longer-term. There will continue to be provision for those who need assisted digital support after September 2020, and the pilot will help inform what form that support should take to best meet user need.

16. The service already includes walk-in access. Over 300 appointments have been made so far, and we recently made it easier for those working in the pilot to bring this together with wider legal advice and support.

Recommendation 6:

We commend the initiatives within the tribunal system that have enabled tribunal staff to provide personalised support for applicants using digital processes and recommend that this standard of customer care be adopted within Court and Tribunal Service Centres.

17. High standards of customer care are central to our future service plans. Tribunal caseworkers work in conjunction with the Tribunals Judiciary and use delegated judicial powers to ensure that both digital and paper appeals are efficiently progressed through the system. In doing so, they provide support, guidance and direction to both appellants and respondents. HMCTS is continuing to expand the role of the tribunal caseworker across all tribunals in both the service and hearing centres and expect to recruit additional caseworkers in 2020 and beyond. Furthermore, we are working with the Department for Business, Energy and Industrial Strategy and others to bring forward the necessary legislation to introduce tribunal caseworkers into the Employment Tribunal in 2020.

18. We are currently evaluating similar opportunities across other jurisdictions. In the civil jurisdiction we have begun to use legal advisers perform a range of functions to support more effective management and support of cases through our new services. In the Online Civil Money Claims service, we have worked with the judiciary to delegate

the allocation of cases and issuing of directions order from members of the judiciary to legal advisers for cases with a value under £300. Legal advisers now consider these cases digitally, producing orders which provide users with clear guidance and information about the next steps required in their case.

19. Within the Courts and Tribunals Service Centres, we are providing assisted digital support. Learning from the assisted digital support pilot, and through call quality analysis we will continue to build better digital support in Courts and Tribunals Service Centres. We have a small pilot team made up of representatives from each service line to test ways we can improve further ahead of any wider roll-out.

Recommendation 7:

The Government must acknowledge the role of public legal education in building legal capability and should make a commitment to piloting public legal education within its action plan for legal support, with a view to rolling out a national programme by 2022.

20. In February 2019 the Ministry of Justice (MoJ) published a review of LASPO and, alongside this, the Legal Support Action Plan setting out the vision for resolving legal problems earlier by ensuring that people can access the right legal support services at the right time, and in the right way for them. As part of this work MoJ committed to undertake an awareness campaign of legal support services (including legal aid). One aspect of this campaign may include Public Legal Education (PLE) initiatives, recognising its role in helping people identify their legal problems, understand their rights, and the steps to take to resolve their problems. MoJ is liaising with the Attorney General's Office (who lead on PLE), to jointly explore the role of PLE could play within our awareness campaign – which will launch across England and Wales in 2020.

Recommendation 8:

We recommend that, by April 2020, HMCTS develop guidance in consultation with stakeholders on recognising and addressing communication barriers that may affect vulnerable defendants in court.

21. HMCTS is committed to accessible justice for all. We want everyone who attends court to be – and to feel that they have been – treated swiftly, fairly and with respect. We have already made progress in providing easy read information, improving staff understanding of reasonable adjustments and providing an accessible physical environment.

22. We are currently working with stakeholders to on the needs of vulnerable defendants and we will issue guidance in April 2020.

Recommendation 9:

HMCTS must expedite planned investment in upgraded video equipment and Wi-Fi facilities throughout the criminal courts estate, as well as expanding video conferencing facilities for the defence.

23. HMCTS installed Wi-Fi in the criminal courts in 2015. We have already begun a crime Wi-Fi upgrade and 94 out of 223 criminal courts now have both improved performance and better coverage, as the next generation Wi-Fi covers all areas of the court, not just

hearing rooms and chambers. Wi-Fi is available through Professional Court User (PCU) Wi-Fi for registered users or via GovWifi, which is available to all through a simple registration process.

24. There are currently 26,000 users registered for PCU Wi-Fi and, on average, 20,000 users access the service each week exchanging c60TB of data.

25. In video, we have been looking at defence requirements as part of the 5 Force activities we have been undertaking in the South-East Region. We will use the Proof of Concept work there and our own piloting activity this year to inform future requirements. This will then allow us to ensure future equipment and facilities are suitable. The quality of technical infrastructure is also being tested as part of the video remand pilots (see recommendation 10).

Recommendation 10:

We recommend that HMCTS does not introduce fully video remand hearings before robust piloting and evaluation have been carried out, alongside sufficient investment in video equipment and reliable Wi-Fi.

26. HMCTS does not plan to introduce wider use of fully video hearings in remand until our latest pilots are complete, and this will be done with full collaboration and agreement with the judiciary. These pilots include external evaluation and will allow us to determine how to take forward the use of video hearings in courts. The pilots that we conduct will also include the testing of video hardware and connectivity (Wi-Fi or ethernet) needed to conduct a video hearing successfully, and that will then be built into any roll out that follows.

27. The Video Enabled Justice Programme led by the Sussex PCC and funded by the Home Office has commissioned the University of Surrey to conduct an independent evaluation of video enabled remand hearings which will conclude in March 2020. The scope of this evaluation does not extend fully into the impact of video on hearing outcomes but will provide data around bail in non-video courts across postal requisition cases.

28. In order to provide additional evidence to the limited global research, HMCTS will commission a separate independent evaluation of Video Remand Hearings ("VRH") in pilot sites which have not previously undertaken video remand hearings, taking into account judicial discretion and ethical considerations. We plan to commission the independent evaluation in early 2020.

Recommendation 11:

While judicial discretion in use of video hearings provides important protection, we recommend that all litigants in civil, family and tribunal cases have the right to decline to give evidence by video.

29. The Lord Chief Justice has said that: "The extent to which video hearings will be used in all jurisdictions will be a matter for judges to determine applying the rules and practice directions, and where necessary hearing submissions ... Where the use of video links is not appropriate, they will not be used."

30. The fully video hearing process enables all users to provide the court with information to support the judge in determining the mode of hearing. Litigants will be able to raise concerns relating to the type of hearing, or any other relevant matters. The judiciary will, as now, give these views due weight. It will always be at judicial discretion whether a fully video hearing is deemed appropriate for any given hearing. In line with current practice, we do not believe that there should be an absolute right to decline a particular mode or type of hearing against the determination of the judge.

Recommendation 12:

We recommend that, as a priority, the Ministry of Justice commissions independent research on video hearings and video links with a primary focus on justice outcomes. This research should be completed before HMCTS makes more widespread use of video technology in courts and tribunals.

31. The use of video is a long-standing practice in our justice system, including in the criminal courts. It has grown organically over time, including in response to demand from practitioners and the public.

32. HMCTS will continue to use video to bring individual parties, or professionals, into hearings where most of those present are in court (video-enabled hearings). The Committee itself recommends expanding video conferencing facilities for the defence in criminal proceedings, recognising that this is increasingly an expected part of how we should work. When we look internationally, we can also see that almost all jurisdictions are rapidly expanding the use of video in court in response to this kind of demand. We do not propose to curb the growth in use of video while we evaluate it, as many users have expressed support for its increased use, but we will do more to support this evaluation by capturing clearer and more comparable data from the video-enabled hearings that take place.

33. HMCTS is also developing technology to support fully video hearings (where all parties join a hearing remotely). We have set out where we think fully video hearings could be of use, across civil, family, and tribunal cases and in the criminal jurisdiction (<https://insidehmcts.blog.gov.uk/2018/07/30/realising-the-potential-for-video-hearings>). Small-scale testing has taken place in tax tribunals and was the subject of a process evaluation by the London School of Economics (<https://www.gov.uk/government/publications/implementing-video-hearings-party-to-state-a-process-evaluation>). Further small-scale testing is taking place within the civil and family jurisdictions, and this is also subject to an independent process evaluation by the LSE. We need to undertake larger-scale evaluations in order to establish evidence on fully video hearings, and therefore need to make more widespread use of fully-video hearings so as to evaluate them.

34. The Department is nevertheless planning to commission independent research on video hearings and justice outcomes. Part of the MoJ's overarching evaluation of HMCTS reform will include an assessment of how video has been used across the reform programme. The overarching evaluation will publish an interim report in 2021, and a final report in 2024. Further details on the overarching evaluation are included in the response to recommendation 26.

Recommendation 13:

We recommend an immediate moratorium on further court closures pending robust independent analysis of the effect of closures already implemented, with a particular focus on access to justice.

35. The Lord Chancellor has only agreed to the closure of a court when satisfied that reasonable journeys are available to the locations which will hear cases when the court has closed. We closely monitor the performance of the courts and tribunals and feedback that we receive from those that use our courts, including through formal complaints. As we noted in our response to the Fit for the future: transforming the Court and Tribunal estate consultation, there has been no significant increase in the issuing of failure to attend warrants since 2010. The feedback that we have gathered from court and tribunal users has not shown that an inability to attend court due to travel distance or cost is a significant issue for these users.

36. We will continue to closely monitor performance in our courts and tribunals and have recently introduced data on the number of failure to attend warrants issued in magistrates' courts (on an experimental basis) in our official statistics. Included in the key findings for the July to September 2019 statics was that in the 12 months to September 2019 just over 71,000 failures to attend warrants were issued; this was 4% fewer than in 2016 and 22% fewer than in 2010.

37. The committee has noted in its report research by the University of Suffolk which said that there had been an increase in the issue of failure to attend warrants as a result of the closure of magistrates' courts in Bury St Edmunds and Lowestoft. We reviewed this analysis and identified that the methodology applied is unsound. When comparing failure to attend before and after the closure of the courts, in the 'before' analysis it looks only at those cases heard at Ipswich, not at those heard at Bury St Edmunds and Lowestoft; in the 'after', it looks at cases heard in Ipswich including all those transferred from the closing courts. When you do 'before' and 'after' analysis on a consistent basis, looking at the rates for all those in the postcodes covered by the closing and new courts, there is no increase in rates of failure to attend.

38. Although there are no current plans for further closures, we will continue to keep our operational estate under review. The strengthened estates principles we published last year will guide our decision making. Making sure that we continue to provide effective access to justice for those who need it will remain our top priority.

Recommendation 14:

We recommend that HMCTS accelerate its programme of building repairs, if necessary by increasing its maintenance budget, and that it adopt more ambitious management standards for routine maintenance work in court and tribunal buildings.

39. HMCTS budgets are set through the MoJ allocations process, depending in turn on discussions with HM Treasury, and so HMCTS cannot unilaterally increase our maintenance budget. From the allocation given for maintenance, HMCTS prioritises the budget allocated to maintenance by the Ministry of Justice to meet the areas where maintenance is most needed. HMCTS's building maintenance surveys have identified a substantial backlog in the maintenance of the estate and discussion on funding for 2020–21

and beyond are in progress with the MoJ and the Treasury. More ambitious maintenance standards are dependent on receiving additional funding, and we are actively making this case.

40. We have re-procured our facilities management contracts to improve the way our buildings are maintained from day to day. From April we will have separate suppliers providing HMCTS security and facilities management services. These new contracts will allow us to be more focussed on the court user, improving their experience. Services will be speedier and consistent across the estate, contracts will impose penalties on our suppliers when they fail to carry out work to a required standard, and we will be responsive to changing requirements as Reform is delivered.

Recommendation 15:

We recommend that HMCTS adopt a revised travel benchmark: that the overwhelming majority of users should be able to reach their nearest court or tribunal hearing centre within 1.5 hours by public transport. No user should be expected to leave home earlier than 8.00 am or return home later than 6 pm and, where necessary, courts and tribunals should be willing to adapt their sitting times to accommodate this. HMCTS should consult on how it will take into account the cost and complexity of journeys to court in addition to travel time.

41. HMCTS has already strengthened our estates principles on journey times and made clear we will not close courts unless the overwhelming majority of people can still travel to their nearest court within the 2-hour timeframe set out, including by public transport.

42. We cannot identify any specific evidence which suggests why 1.5 hours, rather than two hours, would make a significant difference to people using the courts. For the vast majority of the public, attendance at court is an infrequent and exceptional event. We have not seen anything in the evidence presented to the committee which leads us to consider that the updated principles we published last year when applied to the estate would fail to ensure access to justice.

43. Equally, we expect that, for the overwhelming majority of users a reasonable journey would be one that allowed them to leave home no earlier than 7.30am, attend their hearing, and return home by 7.30pm, by public transport if necessary. It is expected that the majority of users will start their journey after 7.30am and finish before 7.30pm, but these have been set as the outer travel time parameters.

44. We will provide robust analysis when making any further proposals regarding our operational estate. Any future consultations will include examining a large number (at least 20–30) of 'real world' journeys which users of the court may need to make to the court we propose receiving the work. We will look at time, cost and complexity of travel (how many changes/modes of transport are required).

Recommendation 16:

We recommend that HMCTS adopt a clear strategy for establishing and using supplementary venues, including a default position that supplementary venues be established in every area where there has been a court closure in the past 10 years.

45. In the response to the 'Fit for the Future' consultation we set out our criteria for how we will consider and apply the use of supplementary provision, in close liaison with the judiciary. Where it is used, we will need to make sure it is safe, secure and accessible, and that it reflects the dignity and authority of the court.

46. With respect to previous court closures, where we considered that supplementary provision was required to maintain effective access to justice this was stated in our response. In all other cases, the Lord Chancellor was satisfied that supplementary provision was not required for effective access to justice to be maintained when the court closed.

47. Of our 337 operational courts and tribunal buildings, 245 of them are within five miles of another court or tribunal building. This clustering of buildings within the same locations was reflected in the 273 closures made since 2010. This is why there has not been significant detriment to the vast majority of people's ability to get to court in a reasonable time. The percentage of people who could get to the nearest court of each type by 9:30, if they left their home after 7:30 by public transport, has changed less than 1.6% in the magistrates' courts and less than 0.8% in all other jurisdictions since 2010.

Recommendation 17:

To support transparency and consistency of approach, we recommend that the suitability of supplementary venues for different types of case be subject to published judicial guidance.

48. In the response to the 'Fit for the Future' consultation we set out our criteria for how we will consider and apply the use of supplementary provision, in close liaison with the judiciary. Where it is used, we will need to make sure it is safe, secure and accessible, and that it reflects the dignity and authority of the court.

49. This consultation took into account analysis from the piloted use of supplementary provision in 2016, the views of the judiciary, and those of the police, members of the public, legal professionals, charities and many other stakeholder groups.

50. In our published approach, we explained that we see a case for exploring the possible use of supplementary provision for work that is categorised as low-risk, meaning that it does not require any significant security arrangements such as holding cells. This includes some civil, tribunals, non-contested family and magistrates' hearings. It can continue to be used for tribunal cases where it is already in place but it is not considered suitable for custodial cases.

51. Considering the types of hearing for which supplementary provision might be appropriate, our policy would be to consider its use where:

- it can provide support to courts and tribunals experiencing temporary spikes in workload;
- it can be used for business continuity purposes e.g. flooding;
- it can provide access to justice to communities in areas where access to the nearest court or tribunal is an issue and transport links are poor.

52. In assessing whether a potential supplementary provision venue is appropriate to use in any of the sets of circumstances described above, our assessment will draw on evidence which takes into account the following:

- Appropriateness - any site used for supplementary provision must be consistent with maintaining the integrity of the administration of justice and appropriate dignity of the court;
- Security - any supplementary sites chosen must meet minimum security standards and where supplementary provision is proposed for use, HMCTS should ensure that a governance mechanism is in place to monitor and maintain those standards. We will continue to use HMCTS sites for cases posing the greatest security risks;
- Site-specific considerations - experience suggests that, while there are common lessons in setting up provision successfully, there is not one uniform model for supplementary provision that can be deployed across all locations in an identical way. However, it is important that we establish a standard 'best practice' for such services to ensure they are delivering for users. This means that in setting up a provision we identify a potential facility and work with site managers to make it appropriate and safe for court hearings.
- Cost-effectiveness - supplementary provision can be a cost-effective way of providing access to justice in a location where we are closing a court or tribunal and where it will be more economical than continuing with running costs associated with keeping open an underutilised court building. It may not, however, be the most efficient use of resources in relation to judicial time, if cases do not go ahead as scheduled. Using supplementary provision in remote communities might not always be cost effective in terms of sitting days, due to lack of demand; this should be considered when comparing options; and
- Accessibility - ensuring that we always consider the needs of users with disability very carefully when assessing potential supplementary provision venues.

53. These conclusions were drawn and agreed in close working with the judiciary.

Recommendation 18:

We recommend that HMCTS does not proceed with planned and much deeper staffing cuts unless it is confident of being able to provide an acceptable level of service to court users.

54. Our plans are centred on significantly improving service, not just maintaining acceptable levels. Reductions in staff are enabled through the delivery of more efficient back-office processes that the digital services will deliver. These services reduce the amount of work that needs to be done by people at all (for example, opening post and sorting piles of correspondence) as well as making the overall process more efficient.

55. This is because services which are designed around the public are more efficient to run. Where we have a service which meets the needs of the people who use it, those people do not make repeated enquiries to find out what is happening or what to do next (which is over half our current call volumes). They also do not require large amounts of support

in order to follow the basic steps of the process. They do not have to repeat activities to get to the next step of the process. For example, under the old paper system HMCTS used to return 40% of divorce applications due to error, which was both frustrating for users and wasteful for administrators. The new digital service returns less than 1% of forms because the process is designed around the needs of the people who use it. It is for this reason that more efficient services do not come at the cost of quality.

56. In terms of staffing levels, the profile of the reduction in staff is intrinsically linked to the deployment of these new digital services and the more efficient processing of case load they enable. While we are making the transition to new services we monitor the performance of our current operation closely and therefore the reduction in staff is dependent on us seeing the expected performance increase in new services and a corresponding decrease in work.

57. This also means that if demand increases at the same time we make efficiencies we will retain staff as we need them, and will be able to process greater caseloads without having to hire new or agency staff.

Recommendation 19:

Sufficient staff should be based in court buildings to provide reassurance and expert, face-to-face guidance for court users.

58. HMCTS is completely committed to ensuring that people using our courts and tribunals, especially those who are vulnerable, are reassured and supported in a way that is appropriate for them, whether they are coming to our court buildings or accessing our services in other ways. We are currently in the process of developing our future operating model for our courts and tribunals buildings which will look at support, reassurance and face to face guidance when people come to hearings. We work closely with court users, including through public user events, as well as the judiciary.

59. For support before hearings, and engaging with the service more generally, we are piloting assisted digital support through the Good Things Foundation as well as giving digital and over-the-phone support through our Courts and Tribunals Service Centres.

Recommendation 20:

We recommend that HMCTS seek to retain existing experienced staff, through addressing problems of remuneration, workload and morale as a matter of urgency.

60. The workload, morale, and payment of our staff are top priorities within HMCTS. We are constrained in our ability to improve staff remuneration by the funding allocation in the latest spending review, as well as cross-government pay controls, but we continue to seek every opportunity to increase pay where possible within these limits, particularly at less senior grades.

61. For example, HMCTS form part of the MoJ pay award for 2019 and this was in line with Cabinet Office pay guidance of 2% of pay bill. The pay award was targeted towards the lower grades in the organisation as below:

- a) Band A – C: Receive a 1.5% consolidated pay award up to the band maximum.

- b) Band D: Receive a 2% consolidated pay award up to the band maximum.
- c) Band E – F: Receive a 2% consolidated pay award up to the band maximum.

62. We also prioritise giving existing experienced staff the opportunity to apply internally for the new roles in our courts and tribunals centres, to ensure we retain as many experienced staff as possible. We have also developed a dedicated career transition service which helps them understand and hone skills, and to be well-suited for applying for roles. Our recent people survey also saw improvements in all of the 9 'themes' covered, and confirmed that the vast majority of HMCTS staff want to continue to work with us.

Recommendation 21:

We recommend that, in consultation with the senior judiciary, HMCTS prioritises the development of effective and accessible technical solutions supporting open justice to keep pace with the evolution of digital and video-enabled processes that take justice out of conventional courtrooms.

63. The principle of open justice is fundamental to our justice system and will be maintained as we move to digital services. We are committed to ensuring that our reformed courts and tribunals continue to be at least as open as they are currently. We agree that effective and accessible technical solutions will be part of this.

Recommendation 22:

We recommend that the senior judiciary convene a working group to consider how to protect and enhance media access to proceedings, taking into account approaches used in other jurisdictions such as the PACER system in the USA.

64. HMCTS established a media working group in January 2018. It includes representatives of the media, including from the News Media Association and Society of Editors, and has focused on improving media access to courts and tribunals. The Judicial Office is also represented in the group. The group has improved the guidance to HMCTS staff and has considered issues such as possible future arrangements to ensure video hearings are accessible to the media and public. It is also helping to shape new ways of providing digital information to the media to support their important work. This commitment is reflected in the legislation recently laid in government that will allow the filming and broadcasting of crown court sentencing remarks.

Recommendation 23:

Given the importance of preserving and communicating the independence of the justice system from the Executive, we recommend that existing access to online justice processes only via the gov.uk website be discontinued and replaced without delay.

65. HMCTS has already moved those services that involve direct judicial decision-making, such as Continuous Online Resolution, off the gov.uk website. We agree that justice processes must be distinct from those run by the Executive.

66. We are currently in conversations with the Government Digital Service about the appropriate use of the GOV.UK domain and banner on HMCTS services.

67. Judicial independence is fundamental both to the constitution and to public confidence in the courts. We are committed to reflecting this in our digital services.

Recommendation 24:

Given the programme's constitutional, strategic and operational significance, we recommend that the Lord Chancellor and Secretary of State for Justice takes clearer ownership of the programme and assumes the lead in communicating its vision.

68. The Lord Chancellor is committed to the vision of reform as a key part of enabling access to justice, as are the Lord Chief Justice and the Senior President of Tribunals, to whom HMCTS also jointly reports. This was first laid out in September 2016 when the Lord Chancellor, Lord Chief Justice and Senior President of Tribunals set out their shared commitment and leadership of the programme in their joint statement, Transforming our Justice System:

<https://www.gov.uk/government/publications/transforming-our-justice-system-joint-statement>

69. Subsequent Lord Chancellors and the current Lord Chief Justice have reinforced this commitment since. They meet regularly to discuss the progress of the programme. They are also represented on the HMCTS board and the Reform portfolio board. Their ownership and leadership has been strong and consistent, and will continue.

70. The HMCTS communications team works closely with MoJ and Judicial Office on all reform-related communications activity, and both Ministers and senior members of the judiciary are active in communicating its vision and delivery.

Recommendation 25:

We recommend that the Ministry of Justice and HMCTS increase the resources dedicated to stakeholder engagement and adopt a more rigorous approach to analysing and reacting to the feedback received.

71. We have increased our focus on stakeholder engagement over the last 12 months. We welcomed the NAO progress report in September 2019 that said that HMCTS had “responded to our previous recommendations and those from the Committee of Public Accounts by strengthening its approach to stakeholder engagement and improving transparency by publishing more information on progress.”

72. The NAO report referred to a recent stakeholder survey undertaken by HMCTS that found that 40% of respondents thought that the information they receive from us enhances their understanding of reform, with 70% of those who attended one of our reform events had found it useful.

73. Since November 2018, HMCTS has:

- held 25 public user engagement forums, covering 36 projects in key areas of interest;

- hosted 12 strategic engagement groups to bring together legal professional representatives, featuring presentations from 20 projects including Civil Money Claims Online, Video Hearings and Probate;
- undertaken seven set-piece engagement events – online and face-to-face – on specific reform-related issues reaching more than 1,300 people;
- co-hosted the international forum on online courts to discuss the cutting edge of court reform with almost 200 academics, legal professionals and court reform experts; and
- published a monthly email bulletin providing updates on reform to 20,000 subscribers as well as publishing Reform content on gov.uk including Reform Update document.

74. However, we recognise that we need to continue to improve our engagement with stakeholders and become increasingly open. In response to the recommendations from the Public Accounts committee in 2018 we have committed to publishing how feedback is used to improve the service.

Recommendation 26:

The Ministry of Justice should be as transparent as possible in its evaluation of the reforms. We recommend that the following evaluation approaches are adopted:

- **projects within the reform programme, and the programme as a whole, should be evaluated against the access to justice standards set out in law: these can be broadly summarised as (a) access to the formal legal system (b) access to a fair and effective hearing (c) access to a decision and (d) access to an outcome;**
- **evaluation should prioritise monitoring the impact on access to justice for digitally excluded and vulnerable people, with a particular focus on justice outcomes rather than on processes alone;**
- **the transfer to digital systems should be used as an opportunity to collect detailed, anonymised data on the operation of courts and tribunals and the experiences of users by reference to their personal characteristics;**
- **the evaluation of the reforms should be seen as a long-term and ongoing commitment, and one for which the investment of resources is required. Evaluation must be robust and objective, using a comparator group where possible.**

75. Evaluation of the reform programme is a high priority for both MoJ and HMCTS. MoJ is leading an overarching evaluation to consider how reforms affect users in terms of access to justice, case outcomes, and the costs users face when engaging with courts and tribunals.

76. The Committee suggests that the Ministry of Justice uses the 4-point definition of access to justice proposed by Dr Natalie Byrom of The Legal Education Foundation.

We have considered this definition as part of designing the research questions and methodology of the overarching evaluation and the Ministry will publish further detail on our approach to access to justice as part of an evaluation framework in 2020.

77. The focus will be on evaluating critical aspects of reform based on the effects they may have on users. In line with the Committee's recommendations, the overarching evaluation will prioritise understanding how reforms affect vulnerable groups, including those who are digitally excluded, and will explore opportunities to use comparison groups to assess impact where possible.

78. HMCTS has also invested heavily in developing its management information systems. When complete, this will enable more detailed data collection on the characteristics of users and the quality of services, as recommended by the Committee. This includes data collection relating to all nine protected characteristics of users, as defined by the Equality Act 2010, and as recommended by Dr Natalie Byrom. In addition to this HMCTS are putting in place a strategy for reform project-level evaluation, which will supplement and where appropriate inform the overarching evaluation of court reform.

79. MoJ is committed to long-term evaluation of courts and tribunal reforms, including data collection up to 2024. The overarching evaluation will inform the ongoing performance of the courts and tribunals service, and the justice system overall.

Recommendation 27:

While cost savings and efficiencies are important, HMCTS must confirm that these take second place to access to justice in the vision that underpins the reform programme.

80. Access to justice is fundamental to the reform programme, the central purpose of which is to shape the justice system around the needs of all its users.

81. This is not antagonistic to efficiency, but enables efficiency. By designing our systems and processes around the public, we reduce waste and frustration. Most people, for instance, call us to find out what is happening with their case or what to do next. By giving people notifications and online visibility of what is happening in their case we make the experience better for the user but also reduce unnecessary work in the form of phone calls. The same is true in case processing. For example, not only has the rejection rate of divorce papers due to error decreased significantly, from 40% to less than 1%, but a digital divorce form takes half as long to complete as the paper form, meaning that we deliver a better experience for the customer and ensure that processing work can be done more quickly.

Recommendation 28:

We urge the Ministry of Justice to ensure comprehensive delivery of its legal support action plan within the time frames stated in the action plan document.

82. The Ministry of Justice published its Legal Support: The Way Ahead action plan in February 2019. We anticipate making further announcements on next steps in 2020.