

Written evidence from Hammersmith & Fulham Law Centre (CTS0083)

About H & F Law Centre

We are a charity that provides people in need with legal advice and representation. Our housing work aims to reduce homelessness, debt and poverty and to keep people in their homes. We do this by providing expert legal advice and representation, support and training to other community groups. We run two housing possession duty schemes in the County Court providing representation. Our immigration team helps vulnerable victims of domestic violence and helps young people and women who have been trafficked. Our Child Poverty Team aims to reduce poverty through benefit advice, and representation at the Tribunal. We provide outreach support in the community at two local Foodbanks so we can reach those who are most in need of our services.

Many of our clients have protected characteristics under the Equality Act 2010 and are single parents or have caring responsibilities.

Because of the location of the law centre we have already experienced the effect of one court closure at Hammersmith County Court. Now, within only two years, we have the proposal that our court at Wandsworth is to close again and the work of the Hammersmith and Fulham area is to relocate in two different courts: Clerkenwell and Shoreditch County Court and Kingston County Court.

We have serious concerns about access to justice for our client group if the proposal to move the court work to Clerkenwell and Shoreditch County Court (the majority of the work) and to Kingston County Court, proceeds as proposed.

1. What will be the likely effects of the reforms, both implemented and proposed, on access to justice in relation to:
 - a. civil justice?
 - b. family justice?
 - c. criminal justice?
 - d. administrative justice, particularly as delivered by the tribunals system?
 - e. those who are digitally excluded or require support to use digital services?

We have very serious concerns regarding access to justice for the people who are summonsed to appear in possession cases. Many of our clients (70 %) have protected characteristics, disabilities and caring responsibilities. We consider that the effect of the reform programme may constitute a breach of article 6 of the Human Rights Act 1998 for the following reasons.

The reduction in the number of courts means:

- Clients have to travel further for their hearings.
- The majority of possession cases have a benefit problem at their heart. This means clients are already on reduced or no income and are often using Foodbanks. Clients do not have the money to travel long, expensive distances across London (in our case) or

more generally across towns or counties. Note in the county of Suffolk there is just one court.

- We see clients who have to walk to court. This would be impossible if more courts close and the distance becomes greater.
- The reduction in courts have meant that the ones remaining are having to do more work with fewer staff. We note the plan by the MoJ to reduce staff across the court service by 5000 within the next two years.
- We note in relation to Clerkenwell and Shoreditch County Court – this has already absorbed the work of Bow and Lambeth County Courts. As at October 2018 (confirmed by Susan Acland-Hood) the agency staff levels at Clerkenwell and Shoreditch County Court was 70%.
- Colleagues who have had work transferred from the other courts to Clerkenwell and Shoreditch confirm that: files have been lost in the transfer; some hearings have not yet taken place more than a year later; the telephones are not answered; paperwork has been lost; bailiffs warrants are still being executed despite warrants being suspended. The court is essentially in chaos.

The law centre has been part of the stakeholder group meeting with HMCTS for the pilot 'Flexible Hours' scheme. Although the pilot is called 'Flexible Hours' it is clear that there is no built in provision for court users to choose their times in court. Rather than 'flexible' the pilot should be called 'Longer Court Hours'.

We suggest that the pilot does not go ahead while the court transformation project is in such turmoil. We have grave concerns about the discriminatory and potentially unlawful effect that the longer court hours will have on court staff and advocates who are carers, a large proportion are women. The intention is that the court will extend hours from 8am to 7pm. Advocates could potentially have hearings across 11 hours, and at random times, making it impossible to arrange any childcare or cover for ill or disabled family members.

The majority of the housing court users have protected characteristics and caring responsibilities. Having court times set at 8am and 7pm is not appropriate for this client group.

The paper work supplied by the court to tenants facing eviction is complex and has many papers attached, including a list of advice agencies to contact. This has been substantially out of date for more than six years. We have raised this with Brentford County Court and hammersmith County Court many times, but no changes have been made. This prevents people from getting advice in advance. The failure of the court service to change this useful document in the last six years, despite many requests by us, is indicative of the incompetence within the court service, the shortage of staff and a failure to really address fundamental issues regarding access to justice.

When Brentford County Court has not utilised three of its court rooms for the last 6 months, due to lack of funding for judges, it seems incomprehensible that a pilot to extend the hours of the court be made at this time. We raise this as an extremely important issue regarding impact on access to justice and the knock-on effect for the rest of the court use.

2. What are the effects on access to justice of court and tribunal centre closures, including the likely impact of closures that have not yet been implemented; and of reductions in

HMCTS staffing under the reform programme? For users, how far can online processes and video hearings be a sufficient substitute for access to court and tribunal buildings?

See above.

We request that the reform programme be halted, and research be undertaken to analyse the impact on access to justice.

The reform programme is attempting to process cases administratively rather than judicially. The closure of the courts is being fuelled by the need to pay for the technology before there has been any analysis of the impact of the closures on access to justice.

Confidence in the technology of the court is very low.

In possession cases which account for a large proportion of the county court cases, it would be impossible to have online courts without a huge erosion of access to justice. Most defendants are unrepresented and rely on the duty solicitor, who will not have met the defendant previously. The duty solicitor has to meet with the client, ascertain the facts, consider any paperwork if provided, and then speak and negotiate with the landlord, before speaking again with the client. If a settlement cannot be reached, then oral representations are made to the judge in court. It would be logistically impossible to conduct possession cases digitally.

Account also needs to be taken of other cuts to the justice budget by the MoJ. The failure to provide legal aid for early advice, especially in relation to housing, means that more people are in crisis when they come to court and have been unable to obtain the help they need. As more courts close, then these vulnerable clients are forced to travel long distances. No research has been done by the MoJ to ascertain if fewer people in possession cases are in fact travelling to court to save their home since courts have closed.

3. Have the Ministry of Justice and HMCTS consulted effectively on the reforms, and maintained sufficient communication, with:
 - a. Judicial office holders at all levels of seniority?
 - b. The legal professions and the advice sector?
 - c. Other relevant stakeholders?

We do not consider the MoJ have consulted effectively with the public, stakeholders or the profession. Roadshows have been not large enough or spread wide enough across the country to ensure access for stakeholders.

There has been no independent scrutiny of the testing and research carried out by the MoJ or any transparency from the MoJ of research that has been carried out. We are essentially 'left in the dark'.

4. Have the Ministry of Justice and HMCTS taken sufficient steps to evaluate the impact of reforms implemented so far, including those introduced as pilots; and have they made sufficient commitment to evaluation in future?

We do not consider the MoJ have taken sufficient steps to evaluate the impact of reforms. The court closure programme has continued at pace and we have real concerns that this has denied access to justice to many court users.

The only research we are aware of in relation to the closures was carried out by Dr Adisa at Suffolk University [file:///C:/Users/SueJames\(Hammersmith/Downloads/adisa-assessing-impact-magistrates-court-closures-suffolk%20\(1\).pdf](file:///C:/Users/SueJames(Hammersmith/Downloads/adisa-assessing-impact-magistrates-court-closures-suffolk%20(1).pdf) in which she documents the increase in defendants being arrested since the closure of courts in Suffolk. Defendants are not able to access the courts because of the distance to travel (no public transport to get them to court for their hearing) causing their arrest for failure to show. This moves costs by the police arresting the defendants and transporting them to the court – effectively becoming a taxi service for HMCTS.

A further impact is in relation to penalties that defendants may face because of their failure to show for their court hearing.