

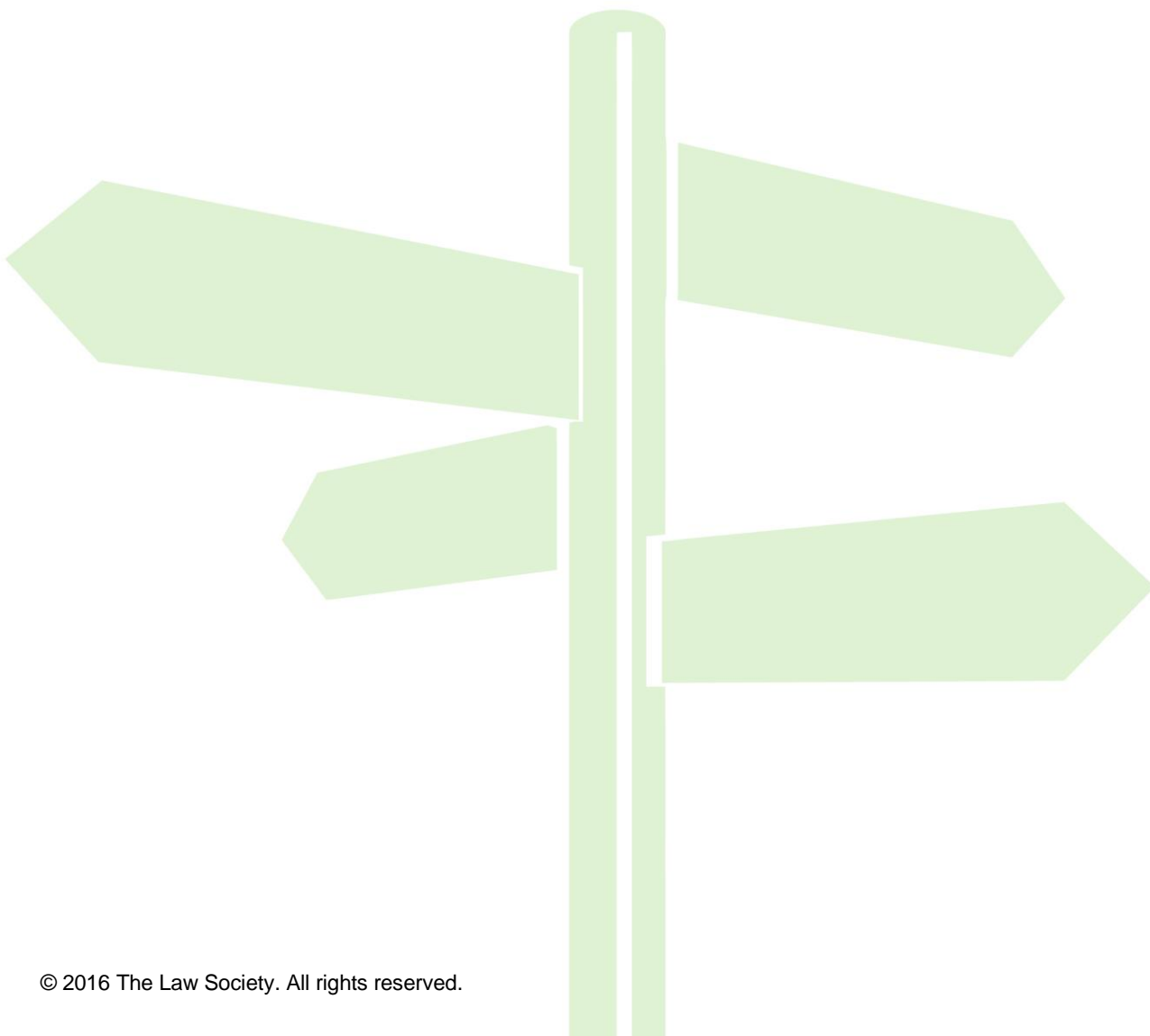


The Law Society

Submission by Junior Lawyers Division

Court and Tribunal Reforms Enquiry by the Justice Committee

March 2019



The Junior Lawyers Division (JLD) is a division of the Law Society of England and Wales. The JLD is one of the largest communities within the Law Society with approximately 70,000 members. Membership of the JLD is free and automatic for those within its membership group including Legal Practice Course (LPC) students, LPC graduates, trainee solicitors and solicitors one to five years qualified.

This submission is made by the JLD in response to the inquiry by the Justice Committee in to the access to justice implications of the programme of reforms underway in Her Majesty's Courts and Tribunals Service (HMCTS), including the increasing use of digital and video technology and the closures of courts and tribunal hearing centres.

Please note that the JLD does not feel it appropriate to respond to all questions on the basis that the JLD intends only to outline concerns which affect its members specifically. Additionally, it is not within the remit of the JLD to respond to area specific questions and nor does the JLD have resources to be able to do so adequately.

The court reforms affect all JLD members, who are the future of the profession and the advocates that will practice in the reformed justice system. It is therefore necessary for the JLD to respond to this inquiry on behalf of its members and in light of the likely impact these reforms will have upon access to justice.

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?**

RESPONSE:

The JLD understands the importance of modernising the justice system and is supportive of such plans, however, to date the JLD feels that HMCTS/ MOJ has taken a disorganised and disjointed approach and should focus on doing things in a logical order to avoid further delays, anxiety and a lack of trust in the Reform Programme.

The JLD is concerned that HMCTS/ MOJ has not fully considered the needs of users with disabilities and other groups, such as the elderly and those with childcare responsibilities, when proposing a benchmark that nearly all users should be able to attend a hearing on time and return within a day, by public transport if necessary. The JLD also believes that the term 'nearly' is not quantifiable and that HMCTS/ MOJ should undertake impact assessments to be able to quantify the number of users affected in percentages. The disabled and elderly and those on limited means are also likely to be disadvantaged by the increased use of digital technology. HMCTS/ MOJ must conduct a full impact assessment on these users.

The reforms are also likely to have a negative effect upon access to justice for those who are digitally excluded or require support to use digital services, particularly those who suffer from a disability, the elderly and those who do not have access to the internet due to finances or location. Again, HMCTS/ MOJ must conduct a full impact assessment on these users.

The HMCTS published the Flexible Operating Hours Pilots Prospectus in October 2017 and within its response the JLD raised concerns about travelling to/ from court for users, staff and advocates. A link to the JLD response can be found [here](#).

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?

RESPONSE:

HMCTS/ MOJ must consider the impact court closures will have upon advocates who are required to attend multiple hearings at different courts in a working day. There is potential for such advocates to have further to travel and therefore be unable to undertake more than one hearing per day due to travel times between court buildings.

The JLD also consulted with the Lawyers with Disabilities Division (LDD) of the Law Society whose comments were as follows:

“There have already been court closures in certain geographical areas, meaning that court users and advocates must sometimes travel long distances, so earlier start times would raise significant difficulties and impact even more on people with certain types of disabilities who have to travel long distances to reach courts. For example, where the disabled person needs help bathing and dressing and has issues with speed and slow movement in the mornings, earlier times would make this even more challenging or impossible. This might also impact on elderly court users.”

The concerns of the LDD are still live and as such the JLD repeats such concerns.

The JLD supports a move to online processes and video hearings in some circumstances however HMCTS/ MOJ must ensure that all court users would be able to access online services and that such platforms are fit for use by litigants in person. At this time the JLD does not believe that online processes and video hearings would be accessible to all potential court users. HMCTS/ MOJ must undertake thorough impact assessments.

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?**

RESPONSE:

The JLD has welcomed the opportunity to be involved in the reform programme.

Presently, the JLD has representatives sitting on the Professional Engagement Group's (PEGs) – groups representative of the profession, established to support court and tribunal reform. HMCTS/ MOJ has established groups in four practice areas; civil, crime, employment and family. A JLD representative sits on each group. Only the civil and crime PEGs have met to date however the last meeting was over a year ago. HMCTS/ MOJ appear to be pressing ahead with the Reform Programme without sufficient engagement from key stakeholders.

JLD representatives have also attended HMCTS roadshows, which predominantly considered flexible operating hours, listing and virtual hearings. However it is notable that during those roadshows HMCTS/ MOJ did not seek the views of stakeholders to the ***Fit for the future: transforming the Court and Tribunal Estate*** consultation published in January 2018 which was live during the roadshows.

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?

The JLD has recently become aware that the Flexible Operating Hours Pilot is going ahead in two courts from Spring 2019. The JLD has repeated its previous concerns, which have not been alleviated by the pilot prospectus. A copy of JLD's letter can be found [here](#). However, it is understood that the Law Society will sit on the Evaluation Board for the pilot and the JLD will be monitoring the impact of the pilot on its members closely.