



COURTS AND
TRIBUNALS JUDICIARY

THE RT HON. THE LORD THOMAS OF CWMGIEDD
LORD CHIEF JUSTICE OF ENGLAND AND WALES

THE RT HON. SIR ERNEST RYDER
SENIOR PRESIDENT OF TRIBUNALS

MEMORANDUM: PRISONS AND COURTS BILL 2017

Introduction

1. This Memorandum is laid before Parliament pursuant to section 5(1) of the Constitutional Reform Act 2005 and paragraph 13 of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007. The Lord Chief Justice of England and Wales and the Senior President of Tribunals consider that the clauses of the Bill relating to the courts, tribunals and the delivery of justice raise matters of importance relating to the courts and tribunals judiciary, tribunal members, the magistracy and the administration of justice. We wish to emphasise our support for those clauses because of their critical importance to the reform, modernisation and effectiveness of the delivery of justice.

Background

2. HM Government have provided significant funding to modernise and reform the administrative systems and procedures that underpin the administration of justice.¹ It is by far and away the most significant reform since the late Victorian era.
3. Our system for the delivery of justice is rightly admired across the world. It is underpinned by an independent and impartial judiciary and a legal profession of the highest quality and integrity. The justice system itself is a product of evolution rather than design and is, in many ways, fragmented. There has been a long overdue need for significant investment in the estate and technology. Paper-based systems are no longer viable. The language and processes used need to be simpler and more streamlined to improve access to justice. The world-leading strengths of our system should not obscure its shortcomings. For many litigants involved in low-value or routine litigation, accessing justice is too slow and too expensive.

The steps being taken to deliver the vision and the strategy

4. The overall vision of reform is “*a courts and tribunals system that is just, and proportionate, and accessible to everyone.*” The aim is to strengthen the UK’s international standing as a jurisdiction of choice for law and dispute resolution, and for its world-class legal profession. Under a detailed strategy agreed between HM Government, the judiciary and HM Courts and Tribunals Service, there are clear and fully costed plans to create a system that is financially viable, with a more cost-effective infrastructure (both physical and digital) and streamlined working practices (significant changes to procedure and the use of IT will reduce cost and eliminate the most common causes of delay). However, with the advent of a greater use of technology, the judiciary will continue to ensure that the fundamental principle of open justice is maintained and upheld.
5. The steps so far taken to implement the detailed strategy have been successful. For example, the cloud-based *Digital Case System* deployed to the Crown Court has seen a considerable improvement in the management of cases and a very substantial reduction in the use of paper; all criminal courts now have upgraded wifi, new screens and *Clickshare* presentation equipment. An IT information and communications system, *eJudiciary*, is successfully transforming the ability of the judiciary to carry out research and legal work online. The Business and Property Courts in London are now regarded as the leading court dispute resolution centre in the world; plans are in hand to ensure that similar facilities are replicated in the major cities of England and Wales. These successes demonstrate that HMCTS and the judiciary, with the full support of the Ministry of Justice, have the capacity and determination to deliver reform and modernisation successfully.

¹ *Transforming Our Justice System* by the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals (September 2016).

6. The further plans for digitisation of the criminal justice system, in partnership with the Crown Prosecution Service and Police, will provide a complete online process to manage criminal cases from charge to conviction (the *Common Platform*).
7. In civil, family and tribunals jurisdictions, detailed plans have been drawn up to create one online platform that has available to it one IT system and one procedural code; pilots to build and deliver this are under way in the Civil and Family Courts and the Social Security and Child Support Tribunal. The IT system will be designed to be navigable both by the lay user and by lawyers, restoring and providing new access to justice, which is currently denied to many. In the Business and Property Courts in London, 30% of work is already filed online and, from April 2017, this will become mandatory.
8. Reform will also change the way the judiciary works. The development of common processes will bring together the courts and tribunals into "one system and one judiciary". Courts and Tribunals judges are now sitting in each other's jurisdictions, sharing skills and experience and providing the opportunity for the litigant to resolve related problems before one specialist judge or panel. The Magistrates' Courts will work more closely with the Crown Court while maintaining their close links to local communities.

The need for the Bill

9. The clauses in this Bill are essential if the reforms are to be delivered successfully. Without the proposed legislation, some of the reforms will not be possible and the programme as a whole may not be deliverable. For example, legislation is necessary for some of the reforms to the Criminal Justice System that increase flexibility and remove unnecessary hearings, such as extending the use of audio- and video-link technologies and enabling a defendant (if they so elect) to engage with the court online using the *Common Platform*. Legislation is also necessary to effect reform to the civil, family and tribunals jurisdictions. It is essential to have a new Online Procedure Rule Committee if the system which is being designed is to operate to its full potential, and to provide for HMCTS staff to be authorised to carry out certain functions of a court or tribunal under the supervision of the judiciary.
10. The legislation therefore provides a critical enabler for these essential reforms. When realised, the reforms will provide new and better access to justice to citizens in a way that enables disputes amongst citizens and between citizens and the State to be resolved effectively, speedily and justly. At a time of great change, the reforms will strengthen the rule of law, economic prosperity and assist in the maintenance of a successful democratic society. The reforms will also underpin the success of the international legal work of the UK, which makes a substantial direct contribution to the economic success of the UK and supports the financial and commercial markets based in the UK.