



JUSTICE's response to the 2019 Court and tribunal design guide

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I. Introduction

1. In 2015, against the backdrop of austerity and the commencement of HMCTS's Reform Programme, JUSTICE convened a Working Party which set out to assess the court and tribunal estate and make recommendations to reimagine how it could guarantee access to justice for all. That 2016 report, [What is a Court?](#) recommended that HMCTS's *Court Standards and Design Guide* (2010) be revisited in light of the fundamental changes to the justice system occurring as part of the Reform Programme. While acknowledging that the 2010 Guide was highly detailed and sophisticated, the Working Party felt that the guide had become too technocratic, encouraging an over-standardisation of design, with not enough of a "performative" or principled underpinning.¹ The result was a blueprint for inflexible spaces incongruent with the innovative spirit of the HMCTS Reform Programme.
2. In *What is a Court?* the Working Party provided a set of principles and an overall model for the court and tribunal estate to guide reform. In May of this year, HMCTS published its new [Courts and tribunals design guide](#) ("New Guide"). Overall, the New Guide is encouraging. It is principle and performance, rather than technically led, and features many elements for a responsive and flexible court estate. While we are by and large encouraged by the New Guide, there are several shortcomings, particularly with respect to the flexibility needed to service towns and communities impacted by court closures. This response sets out JUSTICE's position on the New Guide.

II. *What is a Court?* overview

3. The context for *What is a Court?* was the HMCTS Reform Programme, coupled with years of cuts to legal aid and prolific increases in the number of litigants in person using the justice system. The report set out a principled and research-based approach to the proposed restructuring of the court and tribunals estate. The recommended model reconceptualised court and tribunal rooms and platforms as "justice spaces", characterised by flexibility and a rejection of over-standardisation. The most significant proposal put forward by the Working Party was that spaces designed to deliver justice ought to be adapted to the dispute resolution process at

¹ JUSTICE, *What is a Court?* (2016), para 2.9, available online at <https://justice.org.uk/what-is-a-court/>

hand, rather than the other way around. In other words, the space would be defined by the needs of a dispute, rather than of any particular jurisdiction.

4. The report identifies three categories of justice spaces:²
 - a. **Simple justice spaces:** this space is characterised as less formal and highly flexible;
 - b. **Standard justice spaces:** this space is characterised as semi-formal and flexible; and
 - c. **Formal justice spaces:** this space is characterised as formal and semi-flexible.

5. The Working Party envisaged that these three categories of justice spaces be situated within a court and tribunal estate consisting of responsive and flexible parts:³
 - a. **Flagship justice centres:** found in all major urban centres, these centres should make provision for all types of justice space and dispute, as well as offering a full range of ancillary services.
 - a. **Local justice centres:** found in every major town centre, these smaller centres should be composed primarily of simple and standard justice spaces.
 - b. **'Pop-up' courts:** which draw on the flexibility of the justice space model to employ a range of public buildings as simple and standard justice spaces on an ad hoc basis.
 - c. **Remote access justice facilities:** which allow participants in court proceedings to 'beam in' to the court both securely and effectively from a location convenient to them.
 - d. **Digital justice spaces:** by moving suitable elements of the judicial process online, these spaces expand the court and tribunal estate beyond the constraints of physical buildings.

III. Overview of the New Guide

6. The New Guide was published in May 2019. It sets out guiding principles for the justice system, that it must be "just, proportionate and accessible."⁴ The New Guide

² *Ibid*, para 3.13.

³ *Ibid*.

specified five principles for court and tribunal buildings, that they should be: (1) appropriate; (2) effective; (3) accessible; (4) flexible; and (5) sustainable.⁵

7. This included a need to ensure that new buildings have optimal building efficiency and space utilisation, positive user experience and adaptable design and future proofing.⁶ In order to set out how the principles should be applied in practice, the New Guide applies each from the perspective of different types of user and different types of space. Encouragingly, the new guide has captured a broader array of users than just practitioners and judges.⁷

IV. Analysis

8. The principled approach of the New Guide is welcome and there are several innovations in line with *What is a Court?* There remain, however, areas for improvement. The New Guide does not go far enough in embracing informal justice spaces, which JUSTICE sees as the most appropriate and proportionate for many disputes. Further, the New Guide makes inadequate provision for communities impacted by court and tribunal closures. At this stage, the roll out of online justice services and Assisted Digital is such that technology cannot be a panacea for court closures. In those circumstances, it is disappointing to note that there is inadequate flexibility to provide for communities affected by closures.

Principle-led and performance-based, rather than purely technical

9. In *What is a Court?*, JUSTICE recommended that HMCTS revisit the Design Guide as the Reform Programme progresses.⁸ The Working Party recommended a principle-based approach to promoting better access to justice on the basis that it

⁴ HM Courts & Tribunals Service, *Court and Tribunal Design Guide*, Public Version 1.1, (February 2019), p. 8, available online at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/790777/Court_and_Tribunal_Design_Guide_-_Public_v1.1_-_webOptimised.pdf

⁵ *Ibid*, p. 9.

⁶ *Ibid*, p. 70.

⁷ *Ibid*, p. 13.

⁸ *Ibid*, para 5.18.

should guide *each element* of the HMCTS Reform Programme.⁹ We are therefore encouraged to see the principle-driven approach taken in the New Guide, in which the whole of Chapter 1 is dedicated to laying out the guiding principles for the design of courts and tribunals.

Formal and standard hearing rooms

10. The *What is a Court?* Working Party supported a shift in design away “from a strict delineation of buildings and courtrooms on the basis of jurisdiction – i.e. case type – heard in that space. On the contrary, we recognise that substantively different case types can have very similar spatial requirements.”¹⁰

11. It is for this reason that the Working Party recommended the division of “Justice Spaces” into formal, standard and simple (see paragraph 4 above). This recommendation has been partially adopted by the New Guide. It explicitly embraces the Working Party’s idea for how to define hearing rooms when it states that: “the Design Guide moves away from defining hearing rooms by jurisdiction or hearing type to definitions which reflect the characteristics and attributes of the room”. The purpose of doing this is “to encourage designers to consider the potential multi-jurisdictional use of hearing rooms and, where appropriate to the particular scheme, make provision for a hearing room to be readily adapted for different uses”.¹¹ As such, the guide sets out two types of hearing space:

- a. **Formal:** these rooms have multiple independent access/exit routes to meet the need for segregation (judicial, custodial, public and, as required, jury and vulnerable witness). As the name suggests, the ceiling height, fixtures, furniture and layout will typically create a formal setting — fulfilling the requirement for hearing rooms which unambiguously project the majesty of the court, though provision can be made for adjustments to reduce the level of formality.

⁹ *Ibid*, para 2.2.

¹⁰ As we note there in footnote 62, “despite substantive legal and other differences, tribunal hearings involving special educational needs, low-level civil claims, juvenile criminal matters and mediated disputes all have very similar spatial requirements”. JUSTICE, note 1 above, para 3.6.

¹¹ HMCTS, note 4 above, p. 123-4.

- b. **Standard:** contains independent routes in and out of the room, to and from the secure and public sides of the court and tribunal building respectively. An additional door/route to link to the custody suite can be included as required when a dock is necessary. The fit-out of the room can range from a formal layout (raised judicial bench, with hearing participants sitting in the well of the hearing room facing the bench) to a less formal setting (meeting table in the well of the hearing room). The standard hearing rooms come in different size options to provide an appropriate space for different hearings.

12. Defining hearing rooms by their qualities is a significant step towards untethering the New Guide from its traditional attachment to the Crown Court model.¹² Another recommendation made by the Working Party was for the use of modular furniture “which can facilitate the intelligent configuration of space according to the needs of each hearing”.¹³ This has been taken on board in the New Guide, as shown by the furniture specifications below which prioritise “quick ease re-configuration” and designed so as to be able to be “demounted” and “stored out of the room by one person” and encouraged the use of flexibility within hearing spaces.



Code: HR-04 (Bespoke item)

Location: Hearing rooms

Description: Clerks desk/Witness stand/Ushers bench
Single person bench includes hinged power and data unit built into top. Top to receive matt laminate, full height oak fascia and side panel to create an up-stand. Cable management throughout. Sturdy side panelled sides and support framework. Include hidden roller balls for quick ease re-configuration. Designed so that it can be demounted and stored out of the room by one person. The witness box will be designed to enable the witnesses to stand, sit and also be accessible to wheelchair users. Furniture to include grab handles for ease of movement.

Finish: Oak with Fenix laminate in dark grey Ref: 0724 Grigio Bromo.



Code: HR-01 (Bespoke item)

Location: Hearing rooms

Description: Judges' bench and fascia (which could be demountable).

Length to suit context. Includes hinged power and data unit built into top. Marmoleum style writing table to top, cable management throughout, sturdy panelled sides and support framework. Fascia to have vertical panelling detail with shadow gaps. Bench to have sufficient depth to accommodate papers and technology. Includes capping details and returns. Entire unit to be cable managed throughout and designed so that it can be demounted by two people with minimal tool/training and stored out of the room.

Finish: Oak with Fenix laminate in dark grey Ref: 0724 Grigio Bromo.
Allow for integrated desktop power/data units to judicial bench.

¹²JUSTICE, note 1 above, para 5.17.

¹³ *Ibid*, para 3.17.

Users of the court system

13. In *What is a Court?* the Working Party took the view that the court estate emphasised the needs of professional users but failed to reflect the needs of lay-users; victims, defendants, supporters and members of the public, “who play a vital role in the legal system but visit courtrooms and tribunals less often than others”.¹⁴ The result of this failure to consider lay users can be a deleterious effect on fair trial rights. For JUSTICE, the “user” includes all stakeholders engaged in virtual or physical court proceedings. The list encompasses: “HMCTS personnel, the judiciary, and those providing support services – as well as the parties to a case, their representatives and families, witnesses, members of the public and those from supporting agencies.”¹⁵
14. We are pleased that the New Guide has clearly embraced the need to support users of courts and tribunals beyond professionals. Firstly, as detailed above, the New Guide defines the “user” expansively from the start in Chapter One. The category now includes “public users” and while the New Guide does not distinguish between court users such as victims, defendants, witnesses etc in the definitions section, those distinct roles have been specifically provided for, for instance, through the design model for a private witness and vulnerable defendant waiting areas.
15. As for spaces to meet the needs of users outside of the court room there are several clear areas of alignment between the JUSTICE report and the New Guide. Firstly, there is the attention to the way in which factors in the environment of the buildings – such as ventilation, temperature, lighting and seating - can affect the user experience. As stated in *What is a Court?* these factors “have the capacity to make a significant difference to the experience of all court and tribunal users”.¹⁶ In light of this, it is encouraging to see that there is a great amount of thought in the New Guide applied to these elements. Importantly, the New Guide does not consider these elements for purely technical reasons but for the effect that, for instance, adequate lighting, can have on the user. A good example is the section on “Colour Psychology”

¹⁴ *Ibid*, para 5.17.

¹⁵ *Ibid*, para 2.15.

¹⁶ *Ibid*, para 5.32.

which lays out the effect that different colours can have in calming or stimulating the user.¹⁷

16. Second, we are pleased that special accommodation has been made for a waiting room for vulnerable witnesses, a separate room on the private side of a court building that will feature calming colour tones on the walls; mid tone blues and warm greys.¹⁸

Judicial Spaces

17. Another welcome acknowledgment in the Guide is within the section on spaces for judges. As noted in *What is a Court?*, “[h]istorically, judicial requirements have been highly prioritised in the configuration of the estate”. The Working Party considered, however, that “[t]here needs to be a switch in the paradigm” and that “[a]s the work of the courts and tribunals changes, the ways in which the judiciary functions will have to adapt accordingly”.¹⁹ Cognisant of the different needs of permanent and peripatetic judges,²⁰ the Working Party saw the reform of the court and tribunal estate as a chance to make the spaces in which judges work more communal. The intended outcomes would hopefully be the fostering of a “more collegiate and supportive atmosphere”, a reduction in isolation felt by some judges and the provision of a “more spacious and better-quality working environment”.²¹

18. Spaces were recommended for judges that differed in privacy depending on the kind of work carried out by the judge. The most communal would be the “judicial hubs” which would “contain high-quality shared facilities in a central lounge-type space with an informal, social area as well as quiet working areas (designated for ‘box work’, which we expect will be digitised).” The space is envisaged to contain “library material, computer facilities, refreshments and other amenities”.²² There would then be “self-contained booths or offices” for “reading and research, drafting rulings,

¹⁷ HMCTS, note 4 above, p. 88.

¹⁸ *Ibid*, p. 140, recommended at JUSTICE, note 1 above, para 5.33.

¹⁹ JUSTICE, note 1 above, para 5.12.

²⁰ *Ibid*, para 5.16.

²¹ *Ibid*, para 5.14.

²² *Ibid*, para 5.13.

decisions and reserved judgments, conducting telephone hearings, etc.”²³ The expectation is that these would be private and soundproofed.

19. Taking inspiration from the open-plan nature of working in the Criminal Cases Review Commission and the Parole Board, the Working Party believed that the confidential nature of the material that would be handled in these spaces did not necessitate “wholly private spaces”.²⁴ Nonetheless, personal offices would be necessary for judges “with leadership, liaison or mentoring responsibilities”²⁵ who “need places outside of the courtroom itself for administrative purposes”.²⁶ It is encouraging to see that a number of these recommendations have been included in the New Guide. While private offices for judges have been retained, there is also specification for more communal judicial spaces such as lounges and workstations:



Judicial Room – Standard



Judicial Room – Large



Judicial Workstation



Judicial Lounge

²³ *Ibid*, para 5.15.

²⁴ *Ibid*, fn 128.

²⁵ Such as resident judges, designated family and civil judges and presiding judges. *Ibid*, para 5.16.

²⁶ Such as meetings with local and regional HMCTS staff, colleagues and representatives of organisations in the justice system. *Ibid*.

V. Areas for improvement

20. While the New Guide contains progress in several areas, there are still some features highlighted by the Working Party which require further development. For instance, the New Guide should include specifications for hearing rooms with very little formality as well as the standard and formal variety outlined above. In addition, the New Guide should incorporate digital justice spaces, third party spaces and resource hubs into the courts and tribunal estate. Finally, there needs to be flexibility in the deployment of the estate to service communities affected by court closures. In a climate of closures and digitisation, JUSTICE considers these elements essential to ensuring that the design of the courts and tribunal estate is as inclusive as possible and does not exacerbate existing access to justice barriers faced by vulnerable communities.

Simple Justice Spaces

21. JUSTICE considers that for justice spaces to be as flexible and adaptable as possible, the spaces should be broken down into Simple, as well as Standard and Formal Spaces. This is because many disputes simply do not need the level of formality that the Standard Hearing Room in the New Guide provides for. Simple Justice Spaces were described in *What is a Court?* as those which reinforce the idea of proportionate justice. They are low risk and require a low degree of segregation of the parties. For example, hearings in the First-tier Tribunal Social Entitlement and Property Chambers would fit this description. The cases will not require much technology and the parties will often be unrepresented. Formalities such as the Coat of Arms will still be required legally, but can be hung from, or projected onto a wall. The simple space would be made distinguishable from the standard space because of the increased degree of formality and solemnity in the latter, which could be emphasised by measures such as a raised bench, lockable furniture and the presence of security staff at entrances or in the room.²⁷

22. It should be made explicit in the New Guide that the purpose of designating a room as “standard” or “formal” is not only to reflect the degree of privacy and formality engendered by the characteristics of the room but also other factors like security, the degree of public participation, the degree of segregation of parties required and the

²⁷ *Ibid*, para 3.22.

extent to which parties need to accede to the judicial process.²⁸ This will make the reasons behind the different categorisations more clear.

A responsive and flexible estate for all users

23. Alongside proposals for different levels of formality in justice spaces within the physical court and tribunal buildings, *What is a Court?* took a broader structural view of the estate. It proposed the rationalisation of the system including incorporating the evolving peripatetic, remote and digital elements of the justice system *within* the court and tribunal estate, the report pushed beyond the traditional understanding of the estate as a court-based, brick-and-mortar concept. The Working Party considered this crucial for access to justice, in light of the changes brought about by the HMCTS Reform Programme. Despite the welcome promises of modernisation and accessibility in the Reform Programme, court closures and digitisation risk excluding certain communities from accessing justice both geographically and digitally.

Responding to court closures

24. The extent of court closures over the last decade has had a fundamental impact on access to justice. The Government has argued that the capital receipts from the sale of these buildings, coupled with the savings made from reduced running costs, would be reinvested into the Reform Programme and digitisation efforts²⁹ and that the “increased use of digital services will mean that fewer court and tribunals hearings will be needed in a traditional courtroom setting”.³⁰ Despite these assurances, it is becoming clear that court closures have had a negative impact on access to justice

²⁸ *Ibid*, para 3.12.

²⁹ MoJ/HMCTS, Proposal on the provision of court and tribunal estate in England and Wales, 2015, p. 8, available online at <https://www.gov.uk/government/consultations/proposal-on-the-provision-of-court-and-tribunal-estate-in-england-and-wales>. The Government has also justified court closures by arguing that it will help to reduce the deficit and that it will enable courts to be used more efficiently.

³⁰ MoJ, Response to ‘Fit for the future: Transforming the Court and Tribunal Estate’ consultation, p. 5, available online at <https://consult.justice.gov.uk/digital-communications/transforming-court-tribunal-estate/results/fit-for-future-consultation-fullpage.pdf>. For those who still need to travel to a physical hearing room, the Government promised that “the overwhelming majority of users” would still be able to reach a court building in a reasonable amount of time, which was considered to be a journey which requires leaving by 07:30 and returning by 19:30 “using public transport if necessary”, Ministry of Justice, Response to ‘Fit for the future: Transforming the Court and Tribunal Estate’ consultation, 10 May 2019, p.6. As President of the Law Society noted at the time however, this would mean that a reasonable journey could still take a number of hours. The Law Society Gazette, Court closures: new 7.30am-7.30pm travel benchmark, (10 May, 2019), <https://www.lawgazette.co.uk/news/court-closures-new-730am-730pm-travel-benchmark/5070258.article>

for many communities and that the damage has not yet been adequately alleviated by digital services. Moreover, a journey with a start and end point encompassing 12 hours away from home is to us, and many other organisations, unacceptably long.

25. The submission from the Association of District Judges to the Justice Committee Court and Tribunal Reforms inquiry³¹ noted that the closure of Rotherham County Court shifted all the work from that list to Sheffield, and that the Rotherham housing possession list now takes place in the afternoon at Sheffield County Court. Court staff kept a record of court attendance for each list, with 41.3% of Sheffield tenants turning up, compared to 30.3% of Rotherham tenants. The Association noted that Sheffield and Rotherham are only a 15-minute train ride away (7 miles), which is on the lower end of the distances needed to be travelled by virtue of court closures. That response noted that Manchester CJFC now caters for all cases within a 30-mile radius, and that tenants experiencing financial hardship are unlikely to be able to foot the cost of travelling from Bolton to Manchester.³²

26. Research has highlighted the potential impact that doing justice in courts which are hours away from rural communities can have on local justice. As one probation officer put it:

I would like to see local court cases being heard in my local library in my town so that the community can be engaged. The courts are part of the community and society; it needs to be visible for people. As a school child, we walked to the courts and were told that if you were naughty that is where you would go and this had an impact on me.³³

³¹ Available at <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/hmcts-court-and-tribunal-reforms/written/98252.html>

³² In 2018, research in Suffolk – where the closure of two magistrates courts in 2016 has left just one court house in Ipswich to serve the county of 750,000 people – demonstrated increased disengagement from the justice system as a result of court closures, with the impacts being felt most acutely by those who are on low income, those who rely on public transport and those who have a disability. One advocate noted how his clients who cannot afford the journey to Ipswich have opted for waiting until they are arrested on a warrant so that the police can drive them to court. In the report, one member of judiciary stated how in a five-day Crown Court trial, “[i]f you are a disabled person on benefits, a week of travelling would mean that one would have to spend the entire DLA [Disability Living Allowance] on travel, Olumide Adisa, *Access to Justice: Assessing the impact of the Magistrates’ Court Closures in Suffolk*, (July 2018), p. 4 and 18, available online at <https://www.uos.ac.uk/news/access-justice>

³³ *Ibid*, p. 24.

27. While the Reform Programme is working to modernise the justice system by digitising much of the work currently carried out in-person, we are concerned that that this will not be accessible to people who are situationally or inherently vulnerable.³⁴ The Assisted Digital pilot responds to this concern by developing ways of helping potentially digitally excluded populations to benefit from online justice services.³⁵ JUSTICE understands, however, that the take-up of this service has been low and, in any case, the development of online processes and Assisted Digital is not progressing at a fast enough rate to compensate for the rapid rate of court closures.

28. Cognisant of these challenges, *What is a Court?* included proposals for justice spaces inside and outside the physical court and tribunal building to ensure access to justice amid a rapidly changing landscape. The Working Party recommended the development of courts that could service communities affected by court closure on either a peripatetic basis, where judges travel throughout the country for hearings, servicing areas that do not have a ‘traditional’ judicial presence where courts and tribunals hold hearings on a “pop-up”³⁶ basis in towns on a rotational basis dictated by demand. Spaces such as local council offices, libraries, community centres and schools would be suitable for ‘pop-up’ court hearings for matters needing little recourse to formal security arrangements.

29. While these spaces may not be appropriate for indictable criminal matters, there is potential for their use in parts of England and Wales impacted by court closures for certain kinds of civil claims and summary criminal matters where the defendant is on bail. In the New Guide, under the heading of “supplemental provision”, there is a brief

³⁴ See the 2018 JUSTICE Working Party report, *Preventing Digital Exclusion from Online Justice*, available online at <https://justice.org.uk/new-justice-report-on-preventing-digital-exclusion/> Our recent response to the Civil Justice Council consultation on vulnerability in the civil justice system flagged the need for HMCTS to make accommodation for people who, whether by virtue of age, disability or mental health are inherently vulnerable and those who are situationally, by virtue of geographic factors, imprisonment or homelessness, vulnerable and therefore less able to engage with an online process than others, <https://justice.org.uk/wp-content/uploads/2019/10/Civil-Justice-Council-consultation-on-vulnerability-in-the-civil-justice-system-JUSTICE-response.pdf>

³⁵ HMCTS Blog, *Helping people access our online services*, (12 October, 2017), <https://insidehmcts.blog.gov.uk/2017/10/12/helping-people-access-our-services-online/>

³⁶ *Ibid*, para 4.12. The precedents given in footnote 81 are the ‘pop-up’ hearings which took place near the subject matter in the Shipman Inquiry and the Hillsborough Inquest.

consideration of “the use of third-party premises to be used on a temporary or occasional basis, according to business needs”.³⁷

30. Given the importance of pop-up courts for meeting the needs of diverse populations, local justice and budgetary considerations, the reference to the use of third-party premises under “supplemental provision” evidences an attitude which has not fully appreciated the much-needed flexibility and responsiveness that these alternative structures can provide. In our view, the New Guide contains insufficient flexibility to accommodate communities affected by court closure, and we encourage HMCTS to revisit the concept of “peripatetic” or “pop-up courts” to service communities affected by closures.

31. A recent Justice Committee report on the Reform Programme agreed, citing the Working Party recommendation for “pop-up courts”.³⁸ They recommended “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”.³⁹

Co-locating case workers with the judiciary

32. Both Lord Briggs Civil Courts Structure Review⁴⁰ and our 2016 Working Party report *Delivering Justice in an Age of Austerity*⁴¹ recommended the establishment of “case officers” or “registrars”, court staff who would take a proactive, assistive approach to case managing civil disputes and would exercise a range of procedural functions devolved from judges. The purpose was for those officers to promote access to justice by drawing out the most pertinent information in a case, even where litigants

³⁷ HMCTS, note 4 above, p. 11.

³⁸ Justice Committee, *Court and Tribunal reforms*, (2019-20 HC 190) para 127.

³⁹ *Ibid*, para 129.

⁴⁰ Lord Justice Briggs, *Civil Courts Structure Review: Final Report* (2016) chapter 7 available at <https://www.judiciary.uk/wp-content/uploads/2016/07/civil-courts-structure-review-final-report-jul-16-final-1.pdf>

⁴¹ JUSTICE (2016), *Delivering Justice in an Age of Austerity*, available at <http://2bqk8cdew6192tsu41lay8t.wpengine.netdna-cdn.com/wp-content/uploads/2015/04/JUSTICE-working-party-report-Delivering-Justice-in-an-Age-of-Austerity.pdf>

are representing themselves, thus levelling the playing field between parties to the greatest extent possible.⁴²

33. The Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 gives effect to this aspiration by delegating certain judicial functions to “authorised court and tribunal staff”, with the precise nature of the delegated functions to be determined by individual rules committees.

34. JUSTICE is supportive of the establishment of “authorised court and tribunal staff”, however we are keen to stress that both of our *Austerity Justice*⁴³ and *What is a Court?*⁴⁴ reports and the Civil Court Structure Review⁴⁵ emphasised the need for those authorised staff to have an appropriate degree of supervision and oversight by the judiciary, which would mean co-location. While the proposal in the New Guide sets out a framework for how co-location of court staff and the judiciary might work, that is only within the context of the “Single Justice Service Room”⁴⁶ for magistrates and legal advisors, who tend to have a close working relationship as the former (who lacks legal qualifications) relies on the latter for legal assistance.

35. To our mind, more thought needs to be given to as to how the estate can be configured in such a way as to ensure that Case Officers receive the face-to-face supervision of a judge necessary to ensure they can conduct their work with sufficient judicial oversight.⁴⁷

Accessing digital justice

36. Finally, we are keen to emphasise the need for the court and tribunal estate to be accessible as more and more processes migrate online. In light of concerns about the proportion of users who will struggle to adapt to digitised processes, along with reality of an increase in litigants in person, *What is a Court?* recommended that Flagship and Local Justice Centres provide “Resource Hubs” to “occupy a

⁴² *Ibid*, para 2.25.

⁴³ JUSTICE, note 39 above, para 2.32.

⁴⁴ JUSTICE, note 1 above, para 3.5.

⁴⁵ Lord Briggs, note 38 above, para 7.4-7.21.

⁴⁶ HMCTS, note 4 above, p. 166.

⁴⁷ Lord Briggs, note 38 above, para 7.21.

designated space, and be equipped with a number of computer and telephone stations, as well as hardcopy pamphlets and guides”.⁴⁸ The staff in the Hubs should be “empathetic” and “knowledgeable” people who can help users to navigate online systems, fill in forms and ensure that the user can carry out tasks relating to their legal problem in a “supportive environment”.⁴⁹ In a concept note from this year, JUSTICE suggested that the Assisted Digital service be co-located in these Hubs with staff to provide practical as well as technical support.⁵⁰

37. The Working Party recommended that those “Resource Hubs” also be offered outside the court and tribunal estate, with remote assistance available online or by phone.⁵¹ This would mean that those who live in remote areas or are unable to travel to a Justice Centre could still access the resources they need in, for instance, their local library or school. homes, for example - where people may have difficulty using online services.⁵²

38. The New Guide does not provide for Resource Hubs, and we consider that a missed opportunity. HMCTS is currently reviewing the provision of Assisted Digital as part of the Reform Programme, and the review offers an opportunity to consider how the traditional brick and mortar court and tribunal estate could be a location for people to go to gain advice and assistance in order to effectively access and engage with online justice services.

VI. Conclusion

39. Overall, it is encouraging to see that many of the recommendations contained in *What is a Court?* have been taken on board by HMCTS in the New Guide. The principled approach and the embrace of multi-purpose spaces, untethered from a jurisdiction fixation, are important steps forward in the modernisation of the court and tribunal estate.

⁴⁸ JUSTICE, note 1 above, para 5.6 – 5.9.

⁴⁹ *Ibid*, para 5.8.

⁵⁰ JUSTICE, *The Online Advice Platform: A concept note* (forthcoming), para 46.

⁵¹ JUSTICE, note 1 above, para 5.7. See p. 49 for an example of Court-based self-help centres in California.

⁵² JUSTICE, *The Online Advice Platform: A concept note* (2019), para 46.

40. There are, however, areas where the New Guide could further promote flexibility by incorporating Simple Justice Spaces as well as Standard and Formal. Further, as advocated in JUSTICE's report, the design of justice spaces should be situated within the broader context of how users will approach the system. For this, greater rationalisation is needed, whereby digital and third-party spaces are fully integrated into the court and tribunal estate and Resource Hubs are provided in Flagship and Local Justice Centres. Throughout all these reforms, greater attention needs to be given as to how the court and tribunal estate can serve those affected by court closures, in circumstances where the Reform Programme is yet to realise full accessibility to the estate through digital processes.
41. We are meeting with HMCTS to discuss the New Guide and look forward to working with them to develop a court and tribunal estate which works for all users.

JUSTICE

31 October 2019