



Digital Support for HMCTS Reformed Services: What we know and what we need to know

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Executive summary

Balancing the benefits of digital justice with the risk of reducing access to the justice system for the digitally excluded is a significant challenge. Digital justice can make justice systems easier to navigate, eliminating the need for individuals to travel to court and allowing them to complete processes in their own time. However, there is a significant proportion of the population – and not only older people – for whom this may render justice systems less, rather than more accessible. When we consider that, according to a 2017 study, nearly half of limited or non-users of the internet are under the age of 65, it is clear that there needs to be a long-term solution to providing assistance to digitally excluded individuals.¹

In the context of Her Majesty's Courts and Tribunals Service (HMCTS) programme of reforms to digitalise court services, this challenge is being addressed through a telephone and face-to-face service called 'Digital Support'. It is now also being partly provided remotely due to COVID-19. This report focusses on the face-to-face element of Digital Support, which is being delivered by HMCTS in partnership with Good Things Foundation, a digital exclusion charity, and has been in pilot phase since 2017. Through Digital Support, court users can access digital assistance for specific reformed services: civil money claims, divorce, probate, Social Security and Child Support, Single Justice System, and Help with Fees.

Building on the valuable work already undertaken in this area,² this report outlines 'what we know and what we need to know' about Digital Support. In appraising the initial roll-out of Digital Support, it seeks to re-ignite a dialogue on the direction of Digital

¹ Good Things Foundation & Professor Simeon Yates (2017) The Real Digital Divide? Understanding the Demographics Of Non-Users And Limited Users of the Internet: An Analysis of Ofcom Data, June 2017, available at: https://www.goodthingsfoundation.org/sites/default/files/research-publications/ofcom_report_v4_links.pdf

² See in particular: Civil Justice Council (2018) Assisted Digital Support for Civil Justice System Users: Final Research Report, April 2018, available at: <https://www.judiciary.uk/wp-content/uploads/2018/06/cjc-report-on-assisted-digital-support.pdf>; JUSTICE (2018) Preventing Digital Exclusion from Online Justice, available at: <https://justice.org.uk/our-work/assisted-digital/>; Administrative Justice Council (2020) Digitisation and Accessing Justice in the Community, available at: <https://ajc-justice.co.uk/wp-content/uploads/2020/04/Digitisation.pdf>; Good Things Foundation (2020) HMCTS Digital Support Service: Implementation Review, available at: <https://www.goodthingsfoundation.org/insights/hmcts-digital-support-service-implementation-review/>



Support and its vital importance as an integral part of a fair justice system.

To that end, this report explores four key questions:

1. What is the context for the introduction of Digital Support?
2. Why is understanding the impact of Digital Support important?
3. What do we know so far about Digital Support?
4. What are the key questions going forwards?

In relation to the first question, we argue that the importance of Digital Support to the HMCTS reform programme and to a functional and fair justice system means that further evaluation is essential. We also note the relative obscurity of Digital Support compared to other aspects of the reform programme. In relation to the second question, we sketch out the development of Digital Support and its relationship with reformed services. We contextualise this development by reference to existing statistics on the prevalence on digital exclusion in the UK. The main bulk of the report lies in the third section, where we explore the current landscape of Digital Support and identify key issues with its implementation to date. In the fourth part of the report, we outline the key questions for the future of Digital Support. Drawing on international developments set out in a fifth section, we then sketch out a tentative research agenda that could allow us to chart a way forwards.



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Acronyms

CRT	Civil Resolution Tribunal
DS	Digital Support
FOIA	Freedom of Information Act
HMCTS	Her Majesty's Courts and Tribunals Service
MoJ	Ministry of Justice



Introduction

There is a global trend towards the adoption of digital ways of working in justice systems. This trend encompasses a broad range of methods, from synchronous processes, such as online case management and remote hearings (audio and video), to asynchronous processes, such as Continuous Online Resolution.³ The COVID-19 pandemic has served to accelerate this pre-existing trend and bring to the fore issues of digital exclusion that can be generated by the digitalisation of justice systems.⁴

In the UK, the ongoing digital transformation of courts and tribunals has created a need to consider how court users who lack digital skills, confidence or access may navigate online services. It is an ambitious reform agenda. Even considering the revised completion date of 2023, it has a shorter timescale than smaller digitalisation programmes that other countries have undertaken.⁵ Consequently, support to help digitally excluded court users navigate these reformed online services ('Digital Support') will have to be delivered on a large scale and at serious pace. The question of how to provide digital services that are accessible to as much of the population as possible is a challenge that will be with us for some time. Rigorous evaluation of the support services offered to address this challenge will be crucial to their successful development.

This report explores how the delivery of Digital Support is progressing. We use a combination of publically available information and information gathered through requests made under the Freedom of Information Act (FOIA), as well as an engagement with a participating Digital Support centre, to appraise what we currently know about

³ For an analysis of some of the key developments see: Tomlinson, J. & Thomas, R. (2018) The Digitalisation of Tribunals: What we know and what we need to know, available at: https://www.sheffield.ac.uk/polopoly_fs/1.775487!/file/The-Digitalisation-of-Tribunals-for-website.pdf

⁴ The Law Society (2020) Law under lockdown: The impact of COVID-19 measures on access to justice and vulnerable people. The Law Society, available at: <https://www.lawsociety.org.uk/topics/research/law-under-lockdown-the-impact-of-covid-19-measures-on-access-to-justice-and-vulnerable-people>; Equality and Human Rights Commission (2020) Inclusive justice: A system designed for all. Equality and Human Rights Commission, available at: <https://www.equalityhumanrights.com/en/publication-download/inclusive-justice-system-designed-all>

⁵ National Audit Office (2018) Early Progress in Transforming Courts and Tribunals, May 2018, available at: <https://www.nao.org.uk/wp-content/uploads/2018/05/Early-progress-in-transforming-courts-and-tribunals.pdf>



Digital Support. We also discussed our findings and received further helpful information from the Digital Inclusion team at Her Majesty's Courts and Tribunals Service (HMCTS). On this basis, we suggest where gaps in the current research and evidence base might be usefully addressed through further research.



What is the context for the introduction of Digital Support?

The digitalisation of justice systems means it is important to consider their impact on the digitally excluded. In 2020, 96% of households in Great Britain had internet access, although this falls to 80% for households with one adult aged 65 years and over.⁶ Beyond simple access, although it is difficult to make an accurate assessment of the proportion of court users who are digitally excluded, the Civil Justice Council calculates that 6% of those with civil justice problems lack 'Basic Online Skills' and 14% lack 'Basic Digital Skills'.⁷ Furthermore, a survey conducted by Citizens Advice highlighted that its face-to-face clients were 'twice as likely to lack basic digital skills' than people are on average in the UK.⁸

However, having access to the internet and the basic skills to complete simple tasks online does not necessarily mean that people *use* the internet, particularly for sensitive or especially important matters. The Civil Justice Council rightly emphasise that measurements of digital capability are 'blunt tool[s]'.⁹ Looking at usage patterns can be more instructive – 15% of people in the UK do not use the internet and a further 14% in the UK are 'limited users' of the internet, according to a 2017 study.¹⁰ Usage data

⁶ Office for National Statistics (2020) Internet access – households and individuals, Great Britain: 2020, available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/householdcharacteristics/homeinternetandsocialmediausage/bulletins/internetaccesshouseholdsandindividuals/2020>

⁷ 'Basic Online Skills' involve being able to complete simple tasks, such as retrieving information, emailing and filling out forms online. 'Basic Digital Skills' involve all of these online skills, plus the ability to 'verify sources of information found online'. Civil Justice Council (2018) Assisted Digital Support for Civil Justice System Users: Final Research Report, April 2018, available at: <https://www.judiciary.uk/wp-content/uploads/2018/06/cjc-report-on-assisted-digital-support.pdf>

⁸ Citizens Advice (2016) Digital Capability: Understanding The Digital Needs Of Face-To-Face Clients of Citizens Advice, August 2016, available at: [https://www.citizensadvice.org.uk/Global/Public/Impact/Digitalcapabilityreport_final_July%20\(3\).pdf](https://www.citizensadvice.org.uk/Global/Public/Impact/Digitalcapabilityreport_final_July%20(3).pdf)

⁹ Civil Justice Council (2018) Assisted Digital Support for Civil Justice System Users: Final Research Report, April 2018. p.v, available at: <https://www.judiciary.uk/wp-content/uploads/2018/06/cjc-report-on-assisted-digital-support.pdf>

¹⁰ Good Things Foundation & Professor Simeon Yates (2017) The Real Digital Divide? Understanding the Demographics Of Non-Users And Limited Users of the Internet: An Analysis of Ofcom Data, June 2017, available at:



also highlights significant regional hotspots of digital exclusion and its close mapping onto broader indicators of disadvantage.¹¹ But regardless of how we might measure digital exclusion, it is clear that it is a challenge that needs to be met before the digitalisation of justice systems can be said to provide access to justice for all court users.

The notion of assisted digital support in the UK was outlined in the first Government Digital Strategy, published in December 2013.¹² It is referred to as ‘help to use the digital channel’ and, to our knowledge, was the first time the phrase was expressly laid out.

These assisted digital support services now involve a range of government projects to limit the impact of digital exclusion on the ability of individuals to engage with digital government services. Most notably, UK Visas and Immigration and HMCTS have introduced assisted digital services, called ‘Assisted Digital’ and ‘Digital Support’ respectively.

The latter was introduced as a response to the ongoing HMCTS reform programme which is being guided by the vision outlined in the 2016 policy paper ‘Transforming Our Justice System’.¹³ HMCTS have said that the reforms will ensure that all cases can be started online and some cases will be resolved entirely online, creating a system that is ‘digital by default’. Although HMCTS have made clear that paper channels will remain open, it is expected that the vast majority of cases will progress through digital channels. The reform programme has now been extended to be completed within seven years, giving it an expected end date of December 2023.

https://www.goodthingsfoundation.org/sites/default/files/research-publications/ofcom_report_v4_links.pdf

¹¹ Ibid.

¹² Cabinet Office (2013) Government Digital Strategy: December 2013, available at: <https://www.gov.uk/government/publications/government-digital-strategy/government-digital-strategy#actions>

¹³ Ministry of Justice (2016) Transforming our Justice System. Ministry of Justice, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/553261/joint-vision-statement.pdf



Why is understanding the impact of Digital Support important?

It is hard to overestimate the importance of a successful Digital Support service. For the 16% of the UK population who lack basic digital skills and are unable to 'participate in a digital society', it offers a vital safety net.¹⁴ For the reform programme to fulfil the Senior President of Tribunals' commitment to maintain or improve access to justice through these reforms,¹⁵ an effective and sustainable Digital Support service must be in operation.

Lord Justice Briggs, as he then was, recognised the importance of an assisted digital project to a functional online court system in 2016. In his review of the civil courts in England and Wales and his proposal for an online court, he suggested that the ability of an online court to extend access to justice 'will depend critically' on an assisted digital project and a parallel drive to improve public legal education.¹⁶

The development of reformed services has been somewhat predicated on assurances that digitally excluded court users will not be disadvantaged. In the Briggs review, it is suggested that without an insistence on the importance of an assisted digital project, the pro bono and advice sector 'might otherwise have opposed the concept of the Online Court root and branch, on behalf of their many computer-challenged clients'.¹⁷

Beyond fulfilling commitments to maintaining access to justice, Digital Support is also essential to delivering the savings that the reform programme has promised. The

¹⁴ Lloyds Bank (2020) UK Consumer Digital Index 2020. p.38, available at: https://www.lloydsbank.com/assets/media/pdfs/banking_with_us/whats-happening/lb-consumer-digital-index-2020-report.pdf

¹⁵ Senior President of Tribunals (2018) The Modernisation of Tribunals 2018: A Report by the Senior President of Tribunals, available at: https://www.judiciary.uk/wp-content/uploads/2019/01/Supplementary-SPT-report-Dec-2018_final.pdf

¹⁶ Lord Justice Briggs (2016) Civil Courts Structure Review: Final Report, July 2016. p.60, available at: <https://www.judiciary.uk/wp-content/uploads/2016/07/civil-courts-structure-review-final-report-jul-16-final-1.pdf>

¹⁷ Lord Justice Briggs (2016) Civil Courts Structure Review: Final Report, July 2016, available at: <https://www.judiciary.uk/wp-content/uploads/2016/07/civil-courts-structure-review-final-report-jul-16-final-1.pdf>



Government's Digital Efficiency Report suggests that the greatest savings from moving users to online processes are only generated once user uptake is at least 40%.¹⁸

Digital Support is a foundational but not particularly visible part of the reform programme. As a result, despite its importance, it has so far received relatively little independent scrutiny.¹⁹ Moreover, the reform programme has largely developed as an operational project, with 'comparatively little by way of substantive changes to the law'.²⁰ There has been limited legislation to enact the reform agenda, with the Courts and Tribunals (Online Procedure) Bill lapsing in 2019.²¹ As a result, opportunities for scrutiny have been limited. It is vitally important that research is conducted to evaluate the ability of Digital Support to offer a safety net to digitally excluded court users, to assess whether assurances regarding digital exclusion are being met and to determine whether uptake is sufficient to generate the expected savings.

¹⁸ Government Digital Service (2012) Digital Efficiency Report, November 2012, available at: <https://www.gov.uk/government/publications/digital-efficiency-report/digital-efficiency-report#executive-summary>

¹⁹ Good Things Foundation, who deliver the Digital Support service, produced a comprehensive pilot evaluation, see: Good Things Foundation (2020) HMCTS Digital Support Service: Implementation Review, available at: <https://www.goodthingsfoundation.org/insights/hmcts-digital-support-service-implementation-review/>. Other research institutions have produced excellent reports on assisted digital support, although not on this specific Digital Support service and not drawing on empirical data. See in particular: Administrative Justice Council (2020) Digitisation and Accessing Justice in the Community, available at: <https://ajc-justice.co.uk/wp-content/uploads/2020/04/Digitisation.pdf>; JUSTICE (2018) Preventing Digital Exclusion from Online Justice, available at: <https://justice.org.uk/our-work/assisted-digital/>; Civil Justice Council (2018) Assisted Digital Support for Civil Justice System Users: Final Research Report, April 2018, available at: <https://www.judiciary.uk/wp-content/uploads/2018/06/cjc-report-on-assisted-digital-support.pdf>

²⁰ Tomlinson, J. (2019) Justice in the Digital State. Policy Press Shorts. p.63.

²¹ Rozenberg, J. (2020) The Online Court: Will IT Work? Available at: <https://long-reads.thelegaleducationfoundation.org/a-new-bill/>



What do we know so far about Digital Support?

Digital Support delivery

Digital Support is the assisted digital service set up to help digitally excluded individuals navigate reformed services in courts and tribunals in England and Wales. The programme has been in a ‘test and learn’ pilot since September 2017.²²

The most recent Digital Support Delivery Guide defines Digital Support as ‘help for people who need to use online services but do not have the skills, ability or access to do so on their own’.²³ Digital Support takes two forms: telephone and face-to-face support.²⁴ Telephone Digital Support is being piloted by HMCTS and is delivered through the Courts and Tribunals Service Centre. Face-to-face Digital Support is being piloted in conjunction with this telephone support and is being delivered in partnership with Good Things Foundation, a digital exclusion charity.²⁵ This face-to-face service is the focus of this report.

There have been four phases of the face-to-face Digital Support pilot:

1. phase one (September 2017 to September 2018)
2. phase two (October 2018 to June 2019)
3. phase three (July 2019 to August 2020)

²² Good Things Foundation (2020) HMCTS Digital Support Service: Implementation Review, available at: <https://www.goodthingsfoundation.org/insights/hmcts-digital-support-service-implementation-review/>

²³ Good Things Foundation (2020) HMCTS: Digital Support Pilot Delivery Guide for Managers/Centre Managers, available at: https://www.onlinecentresnetwork.org/sites/default/files/hmcts_phase_4_delivery_guide_for_managers_centre_managers_.pdf

²⁴ As a result of COVID-19, face-to-face support is now also partly being provided via telephone or video calls.

²⁵ Brazier, M. (2018) Helping people to use online services. Inside HMCTS, 28 June 2018 [blog], available at: <https://insidehmcts.blog.gov.uk/2018/06/28/helping-people-to-use-online-services/>



4. phase four (September 2020 to September 2021)²⁶

The pilot is run through participating centres across England and Wales, primarily public libraries, Citizens Advice offices, community centres and law centres. These include community centres from Good Things Foundation's Network, plus additional centres identified through HMCTS's relationship with the Litigant in Person Engagement Group.²⁷ Sites can offer support for the following specific reformed services: civil money claims, divorce, probate, Social Security and Child Support, Single Justice System, and Help with Fees.

Cost of face-to-face Digital Support

The initial contract for face-to-face Digital Support was made publically available on the Government 'Contracts Finder' website.²⁸ It was awarded to Good Things Foundation with a total contract value of £1,000,000, in exchange for '[t]hird Party Support to public users of Court Services who require assisted digital support'.²⁹ It had a start date of 7 September 2017 and an end date of 7 September 2019, and thus covered phases one and two of the pilot, as well as the first three months of phase three.

In response to a PLP request under the FOIA regarding the contracts for the later phases, we received two Change Control Notices between HMCTS and Good Things Foundations, covering phases three and four of the pilot. These were not made publically available because, as the FOIA response details, they 'were not new contracts but part of the initially awarded contract'. The Change Control Notices we received were heavily redacted, but both note that 'the estimated Total Contract Value is based on a capped amount of £1,000,000 over the Call Off Contract Period', which includes phases three and four.³⁰

²⁶ Good Things Foundation (2020) HMCTS Digital Support Service: Implementation Review, available at: <https://www.goodthingsfoundation.org/insights/hmcts-digital-support-service-implementation-review/>

²⁷ Ibid.

²⁸ A summary of the initial two year contract is publicly available on the Government Contracts Finder website: <https://www.contractsfinder.service.gov.uk/Notice/23f0d814-0939-4205-844e-2f9c568b1c7f?origin=SearchResults&p=1>

²⁹ Ibid.

³⁰ Call Off Schedule 13: Variation Form. Change Control Notice between HMCTS and Good Things Foundation for phases 3 and 4 (redacted), made available through a FOIA request. See appendices 1 and 2.



The full initial contract was also provided to us. This confirmed the £1,000,000 ceiling, and estimated the value of the initial contract term (2017 – 2019) to be £434,844. HMCTS have informed us that the actual contract spend was lower than this estimate. During phases one and two, spanning the vast majority of this initial contract term, just 82 Digital Support appointments were conducted, according to the Good Things Foundation’s evaluation.³¹ Whilst take-up was initially low, it has increased significantly in later phases, to a total of 700 appointments between July 2019 and August 2020.³²

Payment model for participating centres

The programme’s ability to offer a meaningful intervention is impeded by how centre funding is allocated.

Good Things Foundation’s evaluation notes that Digital Support users ‘are likely to require a wider package of support than just Digital Support (including emotional, procedural – and sometimes legal – support).’³³ Furthermore, it suggests that this additional support ‘is often crucial to the success of a face-to-face Digital Support appointment, and in some instances not having this support would be a barrier to accessing HMCTS services online.’³⁴

Participating centres, however, are not funded to provide this support in addition to Digital Support. When asked at the HMCTS Public User Event 2020 whether there were plans to fund this additional support, they replied ‘[f]unding only covers support to use online services. We are therefore working with wider MoJ [Ministry of Justice] to look at how further funding through things such as the Access to Justice Foundation led LSLIP [Legal Support for Litigants in Person] grant work together with digital support.’³⁵ However, Citizens Advice has identified that this focus on signposting to

³¹ A number of appointments fall under the initial contract term, with its estimated value of £434,844, but were delivered in phase three. Because of the way the data was presented to us, we do not know how many appointments are in this category. Therefore, we cannot make an assessment of the likely total cost of delivering an appointment during the initial contract.

³² Good Things Foundation (2020) HMCTS Digital Support Service: Implementation Review. p.5, available at: <https://www.goodthingsfoundation.org/insights/hmcts-digital-support-service-implementation-review/>

³³ Good Things Foundation (2020) HMCTS Digital Support Service: Implementation Review. p.6, available at: <https://www.goodthingsfoundation.org/insights/hmcts-digital-support-service-implementation-review/>

³⁴ Ibid.

³⁵ HMCTS Public User Event 2020, 4 November 2020. Recordings available at: <https://www.gov.uk/government/news/hmcts-heads-online-for-2020-public-user-event>. This reply was from a member of Good Things Foundation in response to a question Jo Hynes



legal advice risks ‘referral fatigue’ and Digital Support users not pursuing cases.³⁶

A participating centre also highlighted to us that they were not separately funded to advertise the service to generate referrals. They were concerned both about the financial sustainability of this model, and about the ability of the programme to provide comprehensive coverage if Digital Support users were simply the individuals who already used the centre. As the Good Things Foundation evaluation highlights, some centres were also concerned about investing resources into advertising the Digital Support service when they could not be sure that this would result in appointments and consequently payment.³⁷ In phase three, an ‘initial mobilisation payment followed by performance based payment’ was introduced, to address these concerns about the initial costs to centres of providing Digital Support.³⁸ That it remains an issue for participating centres even after this mobilisation payment was introduced suggests that the problem persists.

Both the participating centre we spoke to and Good Things Foundation’s evaluation raise the issue of support beyond the initial online form being completed. In terms of funding, a centre cannot be paid for any additional support unless it is a new ‘service’. Each reformed process, for example ‘Help with Fees’, is a distinct ‘service’ in this context. However, many online processes will require multiple engagements over time. This would create significant resourcing issues if referrals increased, the participating law centre informed us. As the Good Things Foundation evaluation demonstrates, more thought needs to be given to the support required beyond the application stage and to the ‘end-to-end service journey’.³⁹

asked. The Legal Support for Litigants in Person grant is a £3 million grant funded by the Ministry of Justice across 2020 and 2022 to support litigants in person. See: <https://atjf.org.uk/legal-support-for-litigants-in-person-lslip-grant>

³⁶ Written evidence from Citizens Advice, for House of Commons Justice Committee (2019) Court and Tribunal reforms, October 2019, available at: <http://data.parliament.uk/WrittenEvidence/CommitteeEvidence.svc/EvidenceDocument/Justice/HMCTS%20Court%20and%20Tribunal%20reforms/Written/97673.html>

³⁷ Good Things Foundation (2020) HMCTS Digital Support Service: Implementation Review, available at: <https://www.goodthingsfoundation.org/insights/hmcts-digital-support-service-implementation-review/>

³⁸ Call Off Schedule 13: Variation Form. Change Control Notice between HMCTS and Good Things Foundation for phase 3 (redacted), made available through a FOIA request. See appendix 1.

³⁹ Good Things Foundation (2020) HMCTS Digital Support Service: Implementation Review. p.6, available at: <https://www.goodthingsfoundation.org/insights/hmcts-digital-support-service-implementation-review/>



In the current phase of Digital Support (phase four), the payment system has been amended to go some way to addressing this concern. In this final phase, centres are paid ‘for each person supported, per service, rather than upon submission of an online form’.⁴⁰ This represents a significant improvement on the funding model operating in the previous three phases, as there are now more ‘fundable outcomes’ for centres. This means that there are more appointment outcomes that centres can be paid for, even if an appointment does not result in a form submission (see figure 1).

However, these ‘fundable outcomes’ are still limited to a small range of scenarios, specifically when centres have:


- supported a customer to find case updates using online services;
- supported a user to prepare for the online form and / or sorting through evidence and getting ready to upload / send to HMCTS; or
- supported a user but they have changed their mind before submission.

Furthermore, because of the ‘per person / per service supported’ model, centres can be paid for these new ‘fundable outcomes’ – but can still only be paid once per service. Consequently, centres can be paid multiple times per user, but only if they require assistance for different reformed services. This is the case even if a user requires a number of appointments to be supported to complete one service. For example, a centre may claim one fee to help a user look for evidence for a ‘Help with Fees’ claim and another fee to help the same user to submit a ‘Single Justice System’ online form, but *not* for any additional appointments that arise from supporting either service, such as submitting the ‘Help with Fees’ online form (see figure 1 below).⁴¹ Consequently, whilst the new payment model represents an improvement in the sense that it recognises centres are providing support that goes beyond form submission, it does not sufficiently address concerns about the need for centres to be funded for ongoing and additional support. It therefore remains unclear how a user will remain digitally

⁴⁰ Call Off Schedule 13: Variation Form. Change Control Notice between HMCTS and Good Things Foundation for phase 4 (redacted), made available through a FOIA request. See appendix 2.

⁴¹ Good Things Foundation (2020) Delivery Guide for Advisors/Tutor/Volunteers: Phase 4 – 1 October 2020 – 31 August 2021, available at: https://www.onlinecentresnetwork.org/sites/default/files/hmcts_phase_4_delivery_guide_for_advisors_tutors_volunteers.pdf

supported throughout the life of their case.



User	Service	Appt No.	Outcome	Within 7 days?	Eligible?	Why?
Mr Smith	SSCS1	1	Emotional Support	N	N	Support given but not added to CaptureIT within 7 days SLA
Mr Smith	SSCS1	2	Looking for evidence	Y	Y	Support given but was added to CaptureIT within 7 days SLA
Mr Smith	SSCS1	3	Submitted online form	Y	N	We have already paid for Appt.2 / Apply for a Divorce. Centres only get paid per person / per service so they have already been paid for Mr Smith's divorce application
Mr Smith	Help with Fees	1	Submitted online form	Y	Y	This is a second service for Mr Smith so we can pay this, it was entered on CaptureIT within 7 days (SLA)
Mr Smith	Single Justice System	1	Submitted online form	N	N	This is a third service for Mr Smith so we could have paid this. However the centre did not add the CaptureIT within 7 days (SLA) so this is not eligible

Figure 1: Examples of fundable outcomes in phase four.⁴²

A participating law centre informed us that this fee for 'per person/ per service supported' is £70. The Online Centre Delivery Guide for phase three outlines the contract sizes for participating centres which confirms this fee.⁴³ The contract sizes are as follows:

- £1,750 for supporting 25 individuals to complete an online form with Digital

⁴² Reproduced from: Good Things Foundation (2020) Delivery Guide for Advisors/Tutor/Volunteers: Phase 4, 1 October 2020 – 31 August 2021, available at: https://www.onlinecentresnetwork.org/sites/default/files/hmcts_phase_4_delivery_guide_for_advisors_tutors_volunteers_2.pdf. SSCS1 is a Social Security and Child Support Tribunal form, but in the table is referred to as a divorce application. We can assume that this is an anomaly and that Mr Smith's first three appointments relate only to the SSCS1 appeal and not a divorce application. 'SLA' refers to a Service Level Agreement that 'CaptureIT', the online platform participating centres use to record appointments, must be updated within 7 days of the appointment.

⁴³ Good Things Foundation (2019) Online Centre Delivery Guide: 1st July 2019 – 31st July 2020, available at: https://www.onlinecentresnetwork.org/sites/default/files/stage_1_march_20_hmcts_phase_3_online_centre_delivery_guide_2019_2020_0.pdf



Support for HMCTS online services.

- £3,500 for supporting 50 individuals.
- £7,000 for supporting 100 individuals.

As of phase four, the contract sizes have remained the same, although a new contract of £5,250 for supporting 75 individuals has been introduced.⁴⁴

Digital Support or legal advice?

Public Law Project raised concerns about the boundaries between legal and digital advice to the Justice Select Committee in January 2019⁴⁵ and these were echoed in Good Things Foundation's implementation review of Digital Support published in September 2020. Good Things Foundation categorises participating centres into: centres that offer accredited legal advice; centres that offer specialist welfare and benefits advice; and non-specialist support centres.⁴⁶ Only five of the 22 centres in phase four offer accredited legal advice.⁴⁷

One of the consequences of users requiring additional support (emotional, procedural or legal) is that it is not always obvious when Digital Support merges into this additional support. This is most problematic when additional support in a Digital Support appointment involves explicit legal advice or actions that amount to legal advice (for example, suggesting a particular wording or prioritisation of issues). This is a possibility in the vast majority of centres which are not accredited legal advice providers.

⁴⁴ Good Things Foundation (2020) HMCTS: Digital Support Pilot Delivery Guide for Managers/Centre Managers, available at: https://www.onlinecentresnetwork.org/sites/default/files/hmcts_phase_4_delivery_guide_for_managers_centre_managers_.pdf

⁴⁵ Public Law Project (2019) PLP submission to the Justice Committee inquiry on the access to justice impacts of court and tribunal reforms, available at: <https://publiclawproject.org.uk/content/uploads/2019/03/PLP-submission-to-the-Justice-Committee-inquiry-on-the-access-to-justice-impacts-of-court-and-tribunal-reforms-2019.pdf>

⁴⁶ HMCTS Public User Event 2020, 4 November 2020. Recordings available at: <https://www.gov.uk/government/news/hmcts-heads-online-for-2020-public-user-event>

⁴⁷ According to Good Things Foundation's website, 22 centres are participating in phase 4 of the pilot. See: <https://www.goodthingsfoundation.org/projects/hmcts-digital-support-pilot>



Geographical coverage of participating centres

Digital Support has good geographical coverage for a pilot service. However, there are currently no participating centres north of Manchester. Furthermore, geographical coverage and the targeting of communities with higher rates of digital exclusion appears to be being de-prioritised in the pilot. From phase 3 onwards, centres were 'selected on the basis of their current level of engagement with HMCTS, rather than the previous selection method of location and demographic make-up'.⁴⁸ This is a result of the need to 'deliver a sufficient volume of activity to obtain robust evidence' regarding the Digital Support pilot.⁴⁹

The new selection criterion is concerning given the uneven spread of digital exclusion in England and Wales, and risks creating Digital Support deserts much like the legal aid advice deserts identified by Dr Jo Wilding.⁵⁰ A 2017 Good Things Foundation report on the digital divide identified significant regional 'hotspots' of digital exclusion – around a million people in the West Midlands, the North West and Yorkshire and the Humber are classed as non-users of the internet.⁵¹ However, of the 22 centres that remain part of the pilot into phase 4⁵² (see figures 2 and 3), there are no participating centres in the North East, Yorkshire and the Humber, Lancashire and Cumbria. Figures 3 and 4 below show that there is clear overlap between areas with limited legal aid provision and areas with limited Digital Support provision.⁵³

⁴⁸ Call Off Schedule 13: Variation Form. Change Control Notice between HMCTS and Good Things Foundation for phase 3 (redacted), made available through a FOIA request. See appendix 1.

⁴⁹ Ibid.

⁵⁰ Dr Jo Wilding (2019) Droughts and Deserts. A Report on the Immigration Legal Aid Market, available at:

<http://www.jowilding.org/assets/files/Droughts%20and%20Deserts%20final%20report.pdf>

⁵¹ Good Things Foundation & Professor Simeon Yates (2017) The Real Digital Divide? Understanding the Demographics of Non-Users and Limited Users of the Internet: An Analysis of Ofcom Data, June 2017, available at:

https://www.goodthingsfoundation.org/sites/default/files/research-publications/ofcom_report_v4_links.pdf

⁵² According to Good Things Foundation's website, 22 centres are participating in phase 4 of the pilot. See: <https://www.goodthingsfoundation.org/projects/hmcts-digital-support-pilot>

⁵³ Figure 4 shows the number of welfare benefit legal aid providers per county, as at February 2021. Where providers have multiple offices, each office is counted individually towards the county total. Digital Support provides support for a number of reformed services, including Social Security and Child Support. We focus on Social Security and Child Support and the related legal aid landscape with regard to welfare benefits, as this is a key area of interest for Public Law Project and also the reformed service where an individual is more likely to require legal aid.



To some extent it is to be expected that a pilot will prioritise data collection across a variety of participating centre types and have significantly more limited geographical coverage than an eventual full national service. But it is especially troubling in this instance given the longevity of the pilot. By the time Digital Support moves into a national service in 2021, the pilot will have run for four years. In this time, the HMCTS reformed services for which the pilot is providing Digital Support have moved beyond pilot stage. Consequently, a Digital Support service which is still in pilot phase is being expected to provide the primary safety net (alongside paper channels and telephone support) against digital exclusion for fully operational HMCTS reformed services.



**Figure 2: Centres participating in phase 4 of the pilot.
Made using Google Maps.**

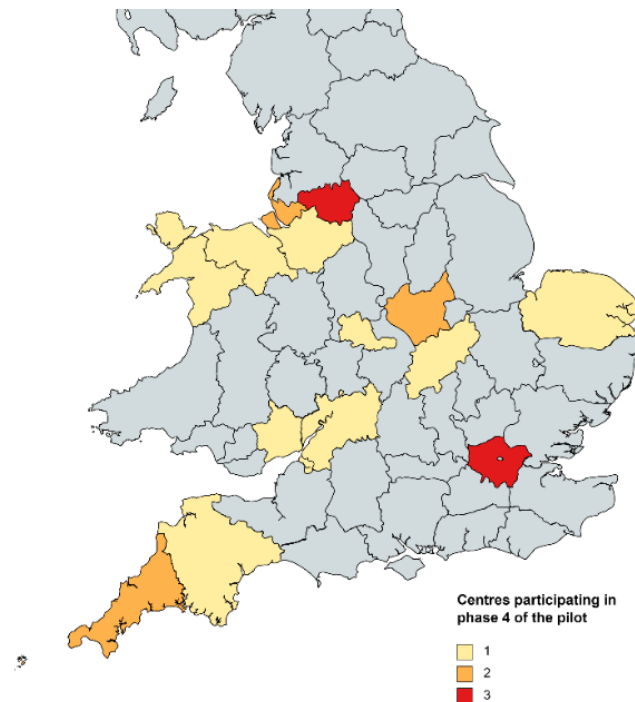


Figure 3: Centres participating in phase 4 of the pilot. Made using mapchart.net.

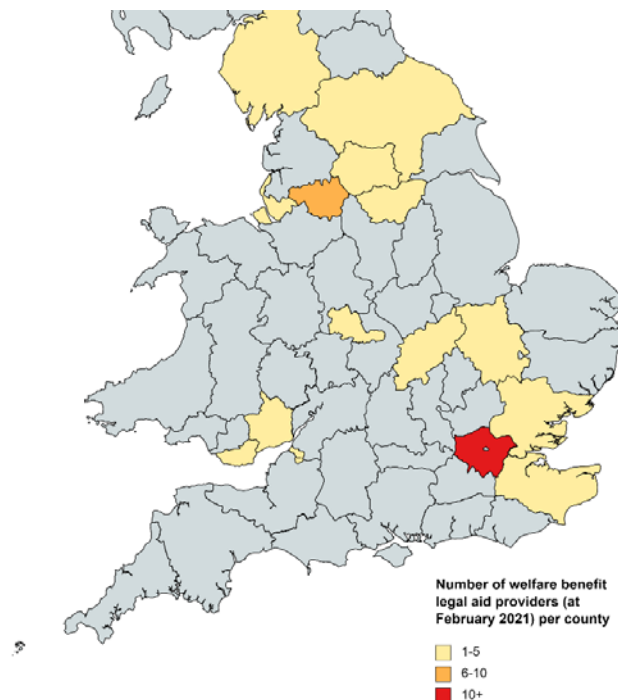


Figure 4: Welfare benefit legal aid providers, as at February 2021. Made using mapchart.net.



Referral routes

Initially, only HMCTS could refer people for Digital Support, but from phase two, centres have been able to generate their own referrals. However, the funding model appears to still be predicated on the assumption that HMCTS provides the referrals and does any outreach, whilst participating centres provide the Digital Support. This is not how Digital Support has played out in practice.

Good Things Foundation's evaluation is keen to highlight that the HMCTS referral route remains important, but it is nevertheless the case that 749 Digital Support appointments were as a result of a non-HMCTS referral (i.e. from a centre or their network) and only 33 (4%) of Digital Support appointments were as a result of an HMCTS referral.⁵⁴ The HMCTS referral route cannot be said, therefore, to be functioning as intended, despite the efforts made to improve its efficacy after phase one.

A re-evaluation of the funding model for centres and the purpose of the Courts and Tribunals Service Centres that provide the HMCTS referrals is therefore urgently necessary, and HMCTS have informed us is currently being undertaken. This need is recognised to some degree in the contract variation for phase three, where it states that 'any future Assisted Digital support for HMCTS would be commissioned through community organisations with a demonstrable reach into the target customer group.'⁵⁵ However, it does not suggest how centres would be funded for this work or how this criterion would be balanced against any broader participating centre selection criteria.

Furthermore, particularly vulnerable groups such as homeless people, the elderly and immigration detainees, have not been targeted in this pilot. This is perhaps a reflection of the nature of the HMCTS services that Digital Support is supporting, but thought needs to be given to the future targeting of these groups. A 2018 JUSTICE report highlights the opportunities for Digital Support pilots to target care homes and trusted services that homeless people use in order to meet the needs of digitally excluded

⁵⁴ Good Things Foundation (2020) HMCTS Digital Support Service: Implementation Review. p.37, available at: <https://www.goodthingsfoundation.org/insights/hmcts-digital-support-service-implementation-review/>

⁵⁵ Call Off Schedule 13: Variation Form. Change Control Notice between HMCTS and Good Things Foundation for phase 3 (redacted), made available through a FOIA request. See appendix 1.



individuals.⁵⁶

Assisted typing & proxy form completion

Since phase two started in October 2018, centres have been allowed to type for Digital Support users (assisted typing). Since data on assisted typing has been collected, Good Things Foundation suggest that ‘70% of appointments have involved full assisted typing and 12% have involved partial assisted typing’.⁵⁷ However, as the Good Things Foundation evaluation notes, ‘in some instances the DS user was not asked whether they would prefer to complete the form themselves or receive an assisted typing service’, although they suggest that it is ‘unlikely’ that more DS users would have chosen to type for themselves given the choice.⁵⁸ Nevertheless, this lack of a choice is a cause for concern, not least when considered alongside the shift towards remote delivery that has been necessitated by the pandemic.

Since the end of phase three, centres have been allowed to deliver Digital Support remotely over the phone or call/video via web-based software and to complete forms by proxy, provided the user understands the service is being completed online and can check what is entered into the form. The phase four delivery guide stresses that it is a legal requirement for the centre to obtain consent for this proxy form completion and suggests ways they may secure this.⁵⁹ However, it is unclear whether this is a sufficient safeguard for proxy form completion in practice, given the lack of user consultation with regard to the assisted typing service.

⁵⁶ JUSTICE (2018) Preventing Digital Exclusion from Online Justice, available at: <https://justice.org.uk/our-work/assisted-digital/>

⁵⁷ Good Things Foundation (2020) HMCTS Digital Support Service: Implementation Review. p.41, available at: <https://www.goodthingsfoundation.org/insights/hmcts-digital-support-service-implementation-review/>

⁵⁸ Ibid: 42.

⁵⁹ HMCTS & Good Things Foundation (2020) HMCTS: Digital Support Pilot Delivery Guide for Managers/ Centre Managers: Phase 4 – 1 October 2020 – 31 August 2021, available at: https://www.onlinecentresnetwork.org/sites/default/files/hmcts_phase_4_delivery_guide_for_managers_centre_managers_2_0.pdf



Beyond the pilot: a national Digital Support service

Phase four of the pilot is scheduled to end on 10 September 2021.⁶⁰ A phase four evaluation report will be published by Good Things Foundation in August 2021 as an addendum to the implementation review they published in September 2020.⁶¹ Not only will this evaluate the final phase of the pilot, but crucially it will also evaluate the remote delivery aspects of Digital Support.

After this point, there are plans for a national service to be rolled out. At the HMCTS Public User event 2020, Good Things Foundation suggested this national service would dovetail with the pilot, so there would be no gap in provision.⁶² More recently, HMCTS have informed us that a timetable for the national service rollout will be produced shortly and will ensure that any gap in provision is minimal.

A procurement process has now begun to secure a delivery partner (or partners) to provide this national service, which will include both face-to-face and remote Digital Support. An 'early engagement notice' to this effect was published on the government Contracts Finder website on 2 November 2020. This early engagement process ran until 17 November 2020 and is primarily focussed on judging interest from potential suppliers. The notice highlights that the service will be a 'fully national service', but that the contract may be split into 'distinct geographical lots'.⁶³

The notice also states that '[a]s well as providing help to use the online service, support for other aspects of a user's issue may need to be addressed through existing funding streams or working with partner organisations who support this.'⁶⁴ This seems to suggest that HMCTS recognises that additional support, including legal advice, is essential to the functioning of Digital Support, but maintains that it is the responsibility of the centres themselves to fund and provide it. It is also of interest that remote capability has been added to the contract, which was initially envisaged as only a face-

⁶⁰ Call Off Schedule 13: Variation Form. Change Control Notice between HMCTS and Good Things Foundation for phase 4 (redacted), made available through a FOIA request. See appendix 2.

⁶¹ Good Things Foundation assured us that this addendum report will include answers to some of the questions outlined in the next section on future research.

⁶² HMCTS Public User Event 2020, 4 November 2020. Recordings available at: <https://www.gov.uk/government/news/hmcts-heads-online-for-2020-public-user-event>.

⁶³ Ministry of Justice (2020) HMCTS Assisted Digital Support Early Engagement Notice, available at: <https://www.contractsfinder.service.gov.uk/Notice/236bc1a7-43c3-43fc-88fc-01e279a198de?origin=SearchResults&p=1>

⁶⁴ Ibid.



to-face Digital Support service. In part, this has presumably been necessitated by social distancing requirements due to the COVID-19 pandemic, although it will be important to monitor remote Digital Support developments if they become a more permanent fixture on the remote advice provision landscape.



Future research on Digital Support

If Digital Support is to be relied upon to provide a safety net for digitally excluded court users, then there needs to be clear evidence that it is meeting this aim. Therefore, as Digital Support develops, further evaluation and independent research will be crucial. The key research questions we outline below are by no means exhaustive, but indicate future research directions that would provide an evidence base from which to evaluate the effectiveness of Digital Support. This evidence base would also offer productive lessons for other programmes seeking to assist digitally excluded individuals to use digital channels, both in the UK and internationally.

Funding model

Participating centres are not at present funded to provide additional support or outreach activities to generate referrals, and can only claim funding on a 'per person/per service supported' basis. This does not reflect the nature of Digital Support engagements, which can require a number of appointments, nor does it reflect the fact that the majority of referrals are generated by participating centres.

Serious consideration needs to be given to how the Digital Support funding model can be made to be sustainable. The initial impact assessment for an Assisted Digital service for court reform in 2016 assesses the service as costing an estimated £5 million to £9 million annually, over a 10 year period.⁶⁵ Clearly, Digital Support will be essential beyond this initial 10 year assessment and it will need to provide an effective service beyond the initial investment. According to a 2017 study, nearly half of limited or non-users of the internet are under the age of 65, so there needs to be a long-term solution to providing assistance to digitally excluded individuals.⁶⁶

⁶⁵ Ministry of Justice (2016) Impact Assessment of Assisted Digital: Court Reform. See appendix 3.

⁶⁶ Good Things Foundation & Professor Simeon Yates (2017) The Real Digital Divide? Understanding the Demographics of Non-Users and Limited Users of the Internet: An Analysis of Ofcom Data, June 2017, available at: https://www.goodthingsfoundation.org/sites/default/files/research-publications/ofcom_report_v4_links.pdf



Key research questions:

- Is the current Digital Support funding model economical whilst sufficiently supporting participating centres?
- How will a national Digital Support service be funded?

Digital Support/ legal advice boundaries

It is important that legal advice and Digital Support remain distinct, and any legal advice that is given must be acknowledged, intentional and from an accredited provider. It is also vital that this distinction is understood by Digital Support users and that they acknowledge that any legal advice will have to be sought in addition to Digital Support. Users should be helped to understand that, unless the participating centre is an accredited provider, Digital Support is not a 'one stop' appointment for a legal problem. The important role of additional support, as well as the introduction of assisted typing, remote delivery and proxy form completion, can somewhat blur the boundaries between Digital Support and legal advice. It is vital to better understand the prevalence and impact of these developments in order to establish whether or not Digital Support and legal advice can be made sufficiently distinct.

Case outcomes also provide a possible window into how Digital Support is delivered in practice across different participating centres. At a recent HMCTS event, Good Things Foundation stated that they have now started collecting consent from users to record case reference numbers to help evaluation teams understand outcomes of cases that have received support.⁶⁷

⁶⁷ HMCTS Public User Event 2020, 4 November 2020. Recordings available at: <https://www.gov.uk/government/news/hmcts-heads-online-for-2020-public-user-event>. This reply was from a member of Good Things Foundation in response to a question Jo Hynes asked.



Key research questions:

- How often, and in what form, do centres provide additional support in a Digital Support appointment?
- What proportion of Digital Support users used the ‘assisted typing service’ and was this affected by the medium of support delivery (telephone, face-to-face or remote)?
- How common is the practice of centres completing forms remotely by proxy?
- What proportion of Digital Support users received accredited legal advice for their case? What proportion of them accessed this legal advice at the same centre providing them with Digital Support?
- Does the rate of legal advice uptake differ across Digital Support users and non-Digital Support users with broadly comparable case types?
- How do Digital Support users understand the role of Digital Support and how satisfied are they with the service?

Delivery method: geographical coverage & referral routes

Lord Justice Briggs envisaged his proposal for an Online Court as being accompanied by ‘an intensive search for funding and development of Assisted Digital resources’, which could be most effectively provided through funding ‘existing support and advice agencies’ to offer face-to-face assistance.⁶⁸ This is largely the model that Digital Support has followed, although remote assistance has played a larger role than anticipated due to the COVID-19 pandemic.

The pilot appears to have prioritised the need to provide enough data for rigorous evaluation above geographical coverage of participating centres or targeting populations who are most in need of the service. Furthermore, referral mechanisms have not developed in the way that was initially envisaged. This highlights the need for a transparent, evidence-based selection criteria for participating centres going

⁶⁸ Lord Justice Briggs (2016) Civil Courts Structure Review: Final Report, July 2016. p.118 & 40, available at: <https://www.judiciary.uk/wp-content/uploads/2016/07/civil-courts-structure-review-final-report-jul-16-final-1.pdf>



forwards. The selection criteria should balance the need for geographical spread of participating centres to serve as large a population as possible, with the need for targeting the most digitally excluded communities.

There is also a need to better understand how existing referral routes can be supported to be more effective and what possible new routes may be established in order to reach individuals who are outside participating centres' existing networks.

Key research questions:

- What criteria are in place for selecting participating centres?
- In order to be effective, what expertise and resources do participating centres need prior to joining the programme?
- Is Digital Support best provided by local centres or a centralised system, or a combination of both?
- Is Digital Support best provided by centres that offer accredited legal advice or non-specialist support centres? Is it sustainable for Digital Support to operate in centres with such different levels of expertise and resourcing?
- What proportion of Digital Support appointments are being conducted remotely?
- What percentage of Digital Support users were already known to participating centres?
- Beyond referrals generated by HMCTS and participating centres, what other referral mechanisms might be effective?
- Is the Digital Support offer adequately meeting demand?
- Has the shift towards remote Digital Support provision impacted referrals?
- Does centre type (i.e. accredited legal advice, specialist welfare and benefits advice, or non-specialist) affect case outcomes?
- Do the outcomes of cases receiving Digital Support significantly differ from the outcomes of broadly comparable cases not receiving Digital Support?



Broader objectives of Digital Support

The fundamental objectives of Digital Support remain ambiguous. It is not clear what kind of a public service Digital Support is and what role it plays within the wider legal and non-legal advice sector. To date, Digital Support has been delivered as limited face-to-face or remote engagements to primarily support the completion of specific online forms for services within the HMCTS reform programme. Although reference is made in delivery guides to longer term digital skills building,⁶⁹ in practice this has proved difficult to deliver, not least due to the fact that it is not explicitly funded. The role for digital skills building in the Digital Support strategy may prove to be vital in ensuring the sustainability of Digital Support, but it has yet to be fully articulated. Having said that, Good Things Foundation's evaluation highlights that an appointment to fill out an important online form, which may be causing significant emotional or financial hardship, is also often not the appropriate space for digital skills learning to take place. Instead it suggests that Digital Support appointments simply offer an 'opportunity to signpost' users to digital skills educational projects.⁷⁰

Similarly, the function of public legal education in supporting assisted digital services was envisaged as integral by Lord Justice Briggs in his vision for an online court.⁷¹ This has not made its way into the current Digital Support offering, and indeed is perhaps a wholly separate stream of work given the clear distinction that should be made between digital skills and legal capability. However, both digital skills building and public legal education will be required in a longer term vision of the objectives of Digital Support.⁷² At present, this is lacking.

⁶⁹ Good Things Foundation (2019) Online Centre Delivery Guide: 1st July 2019 – 31st July 2020, available at:

https://www.onlinecentresnetwork.org/sites/default/files/stage_1_march_20_hmcts_phase_3_online_centre_delivery_guide_2019_2020_0.pdf

⁷⁰ Good Things Foundation (2020) HMCTS Digital Support Service: Implementation Review. p. 42, available at: <https://www.goodthingsfoundation.org/insights/hmcts-digital-support-service-implementation-review/>

⁷¹ Lord Justice Briggs (2016) Civil Courts Structure Review: Final Report, July 2016, available at: <https://www.judiciary.uk/wp-content/uploads/2016/07/civil-courts-structure-review-final-report-jul-16-final-1.pdf>

⁷² The Justice Committee has called for a national public legal education pilot to be rolled out by 2022, as part of the Government's action plan for legal support in the context of the HMCTS reforms. See: House of Commons Justice Committee (2019) Court and Tribunal reforms, October 2019. p.22, available at: <https://publications.parliament.uk/pa/cm201919/cmselect/cmjust/190/190.pdf>



In the shorter term, questions remain about whether the ultimate objective of Digital Support is to assist *all* digitally excluded court users to use online services, or whether it is envisaged that there will always be some individuals who cannot use online services. At present, HMCTS has committed to maintaining the paper channel for those who require it.⁷³ However, concerns have been raised about how these parallel paper channels will be sufficiently resourced to avoid them becoming a secondary, poorer quality alternative and how they will operate in conjunction with their digital counterparts.⁷⁴ A 2019 Justice Committee report similarly highlights that it is 'not entirely clear how users will be aware that they may still insist on paper based processes'.⁷⁵ The language of 'assisted digital', from which this particular service has departed by renaming itself to 'Digital Support' in phase 3, has also invited criticism. Tom Loosemore, who wrote the UK's first Government Digital Strategy and developed the phrase 'assisted digital', himself suggested that it was 'a blunt instrument' that 'failed to challenge the mindset of one-size-fits-all service design'.⁷⁶ Rather, a multi-channel approach, as recommended by JUSTICE,⁷⁷ and the maintenance of these parallel channels to ensure that there are meaningful options, will be vital.

Significantly more work also needs to be undertaken to identify the group envisaged to require Digital Support and understand how they might approach a legal problem. Importantly, individuals who need legal advice for their legal problem may not need Digital Support, as their advice provider can complete necessary online tasks on their behalf. Consequently, it is reasonable to assume that the group in need of Digital Support are those who do not require (or cannot access) legal advice, but do either struggle with accessing the hardware necessary to complete online tasks in respect of their legal problem, or lack the digital skills or confidence to do so.⁷⁸ It is unclear how

⁷³ Ministry of Justice (2017) Transforming Our Justice System: Assisted Digital Strategy, Automatic Online Conviction and Statutory Standard Penalty, and Panel Composition In Tribunals: Government Response, February 2017, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/590391/transforming-our-justice-system-government-response.pdf

⁷⁴ Tomlinson, J. (2019) Justice in the Digital State. Policy Press Shorts.

⁷⁵ House of Commons Justice Committee (2019) Court and Tribunal reforms, October 2019. p.17, available at: <https://publications.parliament.uk/pa/cm201919/cmselect/cmjust/190/190.pdf>

⁷⁶ Loosemore, T. (2018) I should have renamed "assisted digital". Public Digital [Blog], available at: <https://public.digital/2018/09/21/i-should-have-renamed-assisted-digital/>.

⁷⁷ JUSTICE (2018) Preventing Digital Exclusion from Online Justice, available at: <https://justice.org.uk/our-work/assisted-digital/>

⁷⁸ Early evaluation by HMCTS from January 2020 suggests that '31% of users did not have access to a device to complete the service'. Brazier, M. (2018) Helping people to use online



large this group may be at present and what their demographic characteristics are.

So far, Digital Support has been proposed as a solution to perceived problems with digitally excluded individuals accessing reformed, online services. But we know from Good Things Foundation's evaluation that Digital Support has also been supporting people 'who fall outside the original target groups', due to the complexity of user needs.⁷⁹ Approaching this problem from the court user's perspective may shed light on the actual shape of this challenge and highlight more sustainable solutions to it. From a digitally excluded court user's perspective, it may be difficult to separate out the support they need to physically complete an online form, with the support they need to know *how* to complete it and how to manage any emotional challenges that result.

Key research questions:

- Should longer term digital skills building be part of a Digital Support service and how might this be implemented in practice?
- Should public legal education be part of a broader Digital Support offering?
- Is the paper channel sufficiently resourced to present a viable option for court users unable or unwilling to use a digital counterpart?
- Who is the target group for Digital Support? What are their characteristics and what are their needs? Is Digital Support reaching its target group?
- How will particularly vulnerable groups such as homeless people, the elderly and immigration detainees, be targeted?
- What frameworks or standards (such as procedural fairness) might usefully be employed to evaluate the impact of Digital Support?

services. Inside HMCTS, 28 June 2018 [blog], available at:

<https://insidehmcts.blog.gov.uk/2018/06/28/helping-people-to-use-online-services/>

⁷⁹ Good Things Foundation (2020) HMCTS Digital Support Service: Implementation Review. p.12, available at: <https://www.goodthingsfoundation.org/insights/hmcts-digital-support-service-implementation-review/>



International developments

The drive towards the digitalisation of justice systems is by no means limited to the UK. Elsewhere the challenge of digital exclusion is also being also being faced by justice systems seeking to digitalise their processes.

There are no international examples we have found that separate out technical assistance from the wider spectrum of court user needs in the way that Digital Support does. This may indicate either that other countries have not identified technical assistance as a distinct need beyond court users' emotional, procedural and legal needs, or have concluded that it can be addressed through services that meet those wider needs.

Despite this lack of services that are directly comparable to Digital Support, the projects outlined below have either developed similar online services and addressed digital exclusion by different means (for example, the Civil Resolution Tribunal) or have developed broader projects that address the needs of Litigants in Person through in-person centres (from which Digital Support may usefully learn). Thus they offer helpful points of comparison and discussion as we explore possible future research into Digital Support.

'My Lawsuit', Denmark

In Denmark, all legal proceedings must be lodged and heard through an online court portal,⁸⁰ and is one of the reasons Denmark is consistently amongst the most highly scored countries in the Digital Economy and Society Index.⁸¹ However, rather than offering a comparable Digital Support service, individuals who fulfil certain criteria (such as being homeless or otherwise socially disadvantaged, having special needs or special language difficulties, or lacking digital skills), can be exempt from using the digital portal.⁸² For minor technical assistance, individuals can contact the courts via email,

⁸⁰ The online portal, translated as 'My Lawsuit' is available at: <https://www.minretssag.dk/frontpage>

⁸¹ European Commission (2020) The Digital Economy and Society Index (DESI) 2020, available at: https://ec.europa.eu/newsroom/dae/document.cfm?doc_id=67086

⁸² Further details are available at: <https://www.domstol.dk/selvbetjening/blanketter-og-vejledninger/minretssagdk/digitalt-fritaget/>



phone or at the information points at courts themselves.⁸³

Civil Resolution Tribunal, British Columbia

One of the most successful developments in digital justice that we can usefully draw on is the Civil Resolution Tribunal (CRT) in British Columbia. The CRT was established in 2016 as Canada's first online tribunal and integrates Online Dispute Resolution into the public justice system.⁸⁴ CRT covers a limited range of cases, including small claims, condominium disputes and some motor vehicle accident disputes, and is intended to apply user-centred justice design principles to help the public solve relatively low-stakes legal issues without needing to go to court.⁸⁵ Unlike the digitalisation reforms in the UK, the CRT operates outside the traditional court infrastructure as a new tribunal.⁸⁶ For users who are 'unable or unwilling to use technology to resolve their dispute', the Tribunal 'will assist a party with information and support in using the CRT online'.⁸⁷ However, if they experience 'significant barriers' to using the platform, the Tribunal instead directs them to an alternative channel in the form of telephone or paper-based services.⁸⁸ Rather than creating a digital channel and maintaining an existing paper channel, the CRT suggests that they seek to assist users to resolve disputes 'using the communications method that best serves their needs'.⁸⁹

Justice Access Centres, British Columbia

Prior to the development of the CRT, Justice Access Centres were already established in British Columbia, offering face-to-face legal assistance, including IT assistance, for Litigants in Person. There are now four Justice Access Centres across British Columbia, housing advice agencies and duty counsel.⁹⁰ The Justice Access Centre in Victoria also

⁸³ Further details are available at: <https://www.domstol.dk/selvbetjening/blanketter-og-vejledninger/minretssagdk/spoergsmaal-og-svar/>

⁸⁴ For more details see the CRT website, available at: <https://civilresolutionbc.ca/>

⁸⁵ Salter, S. and Thompson, D. (2017) Public-Centred Civil Justice Redesign: a case study of the British Columbia Civil Resolution Tribunal. McGill Journal of Dispute Resolution, Vol 3, 114, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2955796

⁸⁶ Ibid.

⁸⁷ Salter, S. (2017) Online Dispute Resolution and Justice System Integration: British Columbia's Civil Resolution Tribunal. Windsor Yearbook of Access to Justice, Vol 34. p.123, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2965745

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ For details on these centres, see: <https://www2.gov.bc.ca/gov/content/justice/about-bcs-justice-system/jac>



houses the University of Victoria Law Centre.⁹¹ A 2014 evaluation of the Vancouver Justice Access Centre found that ‘about half’ of the clients who responded to the evaluator’s survey said that the centre had helped them to solve their justice problem without needing to go to court, and where they did need to go to court, they were better prepared as a result of the centre’s assistance.⁹² These centres demonstrate the value of co-location of face-to-face services.

Self-help centres, California

In the face of limited civil legal aid provision, California has recently sought to offer face-to-face and online assistance to individuals without the means to secure legal representation. From 2005, California’s Judicial Council has allocated funds to provide in-person assistance to Litigants in Person in the form of court-based self-help centres, as well as videos and hotlines.⁹³ Each self-help centre is supervised by a lawyer, and offers legal assistance, but not legal advice.⁹⁴ Although Smith rightly highlights that ‘self-help is not a substitute for counsel’,⁹⁵ this approach by California has generated significant financial savings for both courts and litigants.⁹⁶ Key to the success of these self-help centres has been their co-location in courts⁹⁷ and their integration into the broader ‘continuum’ of legal services, including legal services

⁹¹ Lord Justice Briggs (2016) Civil Courts Structure Review: Final Report, July 2016. p.60, available at: <https://www.judiciary.uk/wp-content/uploads/2016/07/civil-courts-structure-review-final-report-jul-16-final-1.pdf>

⁹² Family Justice Services Division (2014) Vancouver Justice Access Centre Evaluation Report Summary of Evaluation Activities and Results. Ministry of Justice, available at: <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/about-bc-justice-system/justice-services-branch/fjsd/vjac-evaluation-report.pdf>

⁹³ Smith, R. (2014) Digital Delivery of Legal Services To People On Low Incomes Litigants In Person, Public Legal Education & Skills, Working Paper 5. The Legal Education Foundation, available at: <http://www.thelegaleducationfoundation.org/wp-content/uploads/2014/12/Digital-Delivery-Paper-5.pdf>

⁹⁴ Ibid.

⁹⁵ Ibid: 7

⁹⁶ Greacen, J. (2009) The Benefits and Costs of Programs to Assist Self Represented Litigants. Administrative Office of the Courts, available at: https://www.courts.ca.gov/partners/documents/Greacen_benefit_cost_final_report.pdf

⁹⁷ The importance of co-location was also noted by JUSTICE in the context of a report on assisted digital support, where they suggested ‘Assisted Digital face-to-face services should be co-located with legal support so far as practicable’. JUSTICE (2018) Preventing Digital Exclusion from Online Justice, available at: <https://justice.org.uk/wp-content/uploads/2018/06/Preventing-Digital-Exclusion-from-Online-Justice.pdf>



agencies, local bar associations, and pro bono programs.⁹⁸ As with their Canadian counterparts, the Californian self-help centres were not established as a result of a drive towards digital justice, but they nevertheless offer a blueprint for a successful face-to-face support service for legal problems.

⁹⁸ Administrative Office of the Courts (2007) California Courts Self-Help Centers: Report To The California Legislature, available at: <https://www.srln.org/system/files/attachments/2007%20report%20to%20CA%20legislature%20on%20selfhelp.pdf>



Conclusions

Making use of the benefits that digitalisation has to offer justice systems, whilst ensuring that digitalised services are accessible to digitally excluded court users, is a significant challenge. It is also one which is not going to disappear anytime soon and represents a global concern. Therefore, we would be well placed to learn lessons from how the challenge has been met so far and consider what else we need to know in order to evaluate the current offering and suggest ways forward.

This report offers some initial reflections on how Digital Support, the assisted digital service for the HMCTS reform programme, has developed to date. In large part, many of the issues that Digital Support currently faces relate to its pilot status and its limited ability to provide effective support to reformed services that are already past the pilot stage. Beyond these shorter-term challenges, serious consideration needs to be given to the function of Digital Support within the wider legal advice landscape and the role that digital skills building and public legal education can play to support its aims.

Given the importance of a successful Digital Support programme and the issues already identified, the gap in empirical research into Digital Support should be urgently addressed. We make some preliminary suggestions as to possible future research avenues, for example better identifying the group in need of Digital Support and establishing clearly how the service relates to the legal advice sector.

If the ongoing HMCTS reforms are truly to maintain or improve access to justice,⁹⁹ then Digital Support must fulfil its role, not simply as a safety net for the 16% of the UK population who are unable to ‘participate in a digital society’,¹⁰⁰ but as a vital backbone to the whole reform agenda.

⁹⁹ Senior President of Tribunals (2018) The Modernisation of Tribunals 2018: A Report by the Senior President of Tribunals. https://www.judiciary.uk/wp-content/uploads/2019/01/Supplementary-SPT-report-Dec-2018_final.pdf

¹⁰⁰ Lloyds Bank (2020) UK Consumer Digital Index 2020. p.38, available at: https://www.lloydsbank.com/assets/media/pdfs/banking_with_us/whats-happening/lb-consumer-digital-index-2020-report.pdf



Appendices

Appendix 1: Call Off Schedule 13: Variation Form. Change Control Notice between HMCTS and Good Things Foundation for phase 3 (redacted), made available through a FOIA request.



CALL OFF SCHEDULE 13: VARIATION FORM

No of Order Form being varied:

CON_14874

Variation Form No:

CON_14874 – Var. 02

BETWEEN:

HM Court and Tribunals Service (HMCTS), an executive agency of the Ministry of Justice (MoJ) ("**the Customer**")

and

Good Things Foundation ("**the Supplier**")

1. This Call Off Contract is varied as follows and shall take effect on the date signed by both Parties:
2. Within the following Schedule and Annex:
 - CALL OFF SCHEDULE 4: ORDER FORM AND CALL OFF TERMS
 - PART 1: ORDER FORM SECTION A

Where the Call Off Contract stated the following:

End date of Call Off Extension Period

Subject to the necessary financial and other approvals and the performance of the supplier against key milestones, quality and cost criteria, up to 1 further extension period of 12 months up to a maximum contract period of thirty-six (36) months.

This is changed to the following as both parties have agreed to extend the contract:

End date of Call Off Extension Period

31/08/2020

3. Within the following Schedule and Annex
 - CALL OFF SCHEDULE 4: ORDER FORM AND CALL OFF TERMS
 - PART 1: ORDER FORM SECTION B

Table at Section 2.1 to be amended to include:

Phase	Duration	Description
Phase 3	Fourteen (14) months	The Supplier will continue to deliver face-to-face Assisted Digital support to HMCTS customers across a specified range of HMCTS digital services. Phase 3 will also continue to evaluate the face-to-face Assisted Digital Service for HMCTS online services, looking at it's impact and cost effectiveness, enabling HMCTS to make



	decisions about further delivery and scaling within the courts and tribunals models of the future.
--	--

4. Within the following Schedule

- CALL OFF SCHEDULE 2: Services

Inclusion of the following paragraphs;

Phase 3

1.36 Phase 3 will be delivered by the Supplier between 01 July 2019 and 31 August 2020 - over a period of fourteen (14) months.

1.37 During Phase 3, the supplier will continue to deliver face-to-face Assisted Digital support to HMCTS customers across a specified range of HMCTS digital services. Currently these are:

- Civil Money Claims
- Divorce
- Probate
- Single Justice System e.g TFL Fines, DVLA
- Social Security and Child Support e.g. PIP and ESA appeals
- Help with Fees

1.38 The Phase 3 Project Scope does not cover any onboarding of new services not currently being supported. Any change in scope Post Phase 3 go-live will be progressed in line with agreed Change Control procedures.

Phase 3 Volumes

1.39 During Phase 3, and reflecting the Learning Outcomes specified in the original Two Phases, The Supplier and HMCTS will seek to achieve two overriding aims:

A Deliver and monitor a Face-To-Face Assisted Digital Service for HMCTS customers, seeking to maximise the volume of customers supported and focusing on ensuring the quality of service in with the original contract requirements; and

B Create a body of learning about face-to-face Assisted Digital support, focusing on the effectiveness of the service being provided (e.g. What works, what could be delivered differently), and the opportunities and limitations within Assisted Digital as an area of policy, both for HMCTS and across wider government.

1.40 Both parties agree that there is no over-arching target for the customers of HMCTS customers engaged by the service, re-enforcing that the focus of the project is on testing of the Face-To-Face Assisted Digital service and evidence gathering about what works. However in respect of volumes:

- The Supplier will propose an anticipated number of customers (on an 'up to basis') when contract sizes have been agreed with Online Centres. This volumetric will provide HMCTS with a view on how many customers we expect to engaged;
- The Supplier will empower and support Online Centres to maximise take up of Face-To-Face Assisted Digital Support, through delivering outreach activity and promotion of the service in local communities; and
- HMCTS will maximise the efficiency of its Contact Centre(s) to maximise efficiency in identifying HMCTS customers that could benefit from face-to-face



Assisted Digital support, and referring these customers to Online Centres through Good Things Foundation's Network Team.

1.41 These aims are expected to produce data from the project to contribute to the following learning outcomes as stated in Annex 1 Part B:

- Forecasting of likely demand for the support service both in terms of Phase 1 specific digital services and more generally; and
- Review and refinement of the joint HMCTS/supplier operational model.

Phase 3 Online Centres Pool

1.42 During Phase 3, the project will work with between 20-30 Online Centres across England and Wales. Specific to this Phase, centres delivering during Phase 3 will be selected on the basis of their current level of engagement with HMCTS, rather than the previous selection method of location and demographic make-up.

1.43 This change is to reflect the need to deliver a sufficient volume of activity to obtain robust evidence about what works in the delivery of Face-To-Face Assisted Digital. It is also based on the agreed assumption that any future Assisted Digital support for HMCTS would be commissioned through community organisations with a demonstrable reach into the target customer group.

1.44 The insight gathered from the Online Centres will contribute to the following learning outcomes as stated in Annex 1 Part B:

- Analysis of location requirements for the service going forwards; and
- Review and refinement of the joint HMCTS/Supplier operational model.

Phase 3 Evaluation Approach

1.45 During Phase 3, the evaluation approach described will contribute to all of the Learning Outcomes in the contract (Annex 1 to Part B). The Supplier will deliver evaluation of the project supporting the two core project aims during the contract variation period. This will focus on:

- Monitoring delivery of the face-to-face Assisted Digital Service for HMCTS customers and service standards in line with original contract requirements; and
- Evaluating the effectiveness of the service being provided (what works, what could be delivered differently).

1.46 The evaluation will be carried out in line with the Evaluation Framework developed jointly by the Supplier and HMCTS, based on insight gathered through phase 1 and Phase 2 of the project, and will include:

- Telephone interviews with Online Centre staff delivering the service and HMCTS customers that have been supported;
- Face-to-face visits to Online Centres delivering the service, interviewing centre staff and HMCTS customers as required, subject to availability; and
- Analysis of data from CaptureIT on completed Assisted Digital appointments, service standards, and customer feedback.

1.47 Any increases or change to scope for additional evaluation that may, for example, cover wider Assisted Digital research covering the opportunity and limitations as an area of policy (both for HMCTS and more widely across Government). Post Phase 3 go-live will be progressed in line with agreed Change Control procedures.

1.48 An interim report summarising learning from Phases 1 and 2 of the project will be provided to HMCTS by the end of August 2019. A final project report, including learning from Phase 3, will be shared with HMCTS by the end of August 2020.



1.49 For clarity, data on Assisted Digital transactions delivered through the project is collected by Online Centres using the Suppliers CaptureIT online tool. The supplier and HMCTS will, as far as possible seek to keep CaptureIT data fields consistent during Phase 3 to support the integrity of the project evaluation. Any proposed changes to data collection fields may require further discussion, for example to maintain compliance with GDPR Obligations etc. – and may require additional funding not profiled in the Phase 3 costs. The parties therefore agree to discuss all such proposed changes before agreement and implementation using the change procedures as set out in Paragraph 22 of Schedule 4 Part 2: Call off Terms.

1.50 Good Things Foundation provide robust training to all centres on project requirements and delivery expectations. Good Things Foundation have in place a quality assurance framework and regular monitoring processes to ensure that delivery and quality is adhered to at all times on behalf of the funder. Unannounced visits and ad-hoc quality observations can be undertaken at any time to ensure that the expected service is being delivered effectively to satisfy HMCTS requirements as part of this quality assurance Framework. All Online Centres agree to adhere to this quality and delivery assurance framework as they sign on to accept their individual contracts.

5. Within the following Schedule and Annex

- CALL OFF SCHEDULE 3: CALL OFF CONTRACT CHARGES, PAYMENT AND INVOICING
- Annex 1: Call of Contract Charges

Inclusion of the following paragraphs;

Phase 3 Costs

16. During Phase 3, the rate for assisted digital support service provision as per paragraph 13 of this Annex remains unchanged.

17. Following insight gathered from Online Centres during Phase 1 and 2, in which it was ascertained that the pure 'payments by results' model is an ineffective mechanism for funding Assisted Digital Activity through small community organisations, during Phase 3 HMCTS agree to an amended payment model. This model will combine the principle of an initial mobilisation payment followed by performance based payment, the performance based aspect being allocated and measured through the suppliers own performance management approach.

18. The Supplier will own and manage a series of contracts with Online Centres. Three contract sizes will be available based on the Online Centres capacity. Each contract will include a target number of HMCTS customers to be engaged, with a mobilisation payment paid on agreement, and three subsequent payments based on delivery – delivery being measured by the number of customers engaged.

19. In addition, during Phase 3, HMCTS agree to fund a research uplift for Online Centres, reflecting the focus of the project on testing the face-to-face Assisted Digital service and gathering evidence about what works. This payment will enable Online Centres to build the required capacity to participate in the full evaluation activity carried out by the supplier, to include a centre manager interview and two user interviews.

20. Contract Sizes and associated quarterly payments from HMCTS to the Supplier are in the table below:



Contract for expected number of individuals supported	Total Contract Size	Mobilisation Payment, including Research Uplift(Quarter One)	Payment 2 – subject to delivery (Quarter Two)	Payment 3 – subject to delivery (Quarter Three)	Payment 4 – subject to delivery (Quarter Four)
(Small) 25	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
(Medium) 50	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
(Large) 100	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

21. Payments 2-4 are performance related and the Supplier will not receive a further payment until it is demonstrated that the relevant Online Centres has reached the threshold required.

22. The Supplier will be responsible for the monitoring and management of performance of Online Centres against their agreed contract size. Centres able to generate additional demand for face to face Assisted Digital support will be offered a higher contract size, subject to availability of funds and agreement from HMCTS against the overall contract value.

23. If, at the end of Phase 3, any Online Centres have failed to engage with the minimal expected customers to earn the mobilisation payment based on the fee in Paragraph 13, the Supplier will reconcile and agree the difference with HMCTS and refund the agreed amount. For the avoidance of doubt, the minimum expected customers engaged for each contract size is as follows:

Contract for expected number of individuals supported	Mobilisation Payment	Minimum number of customers expected to be engaged
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

24 The attached spreadsheet provides a breakdown and profile of anticipated costs for Phase 3 – for ease the tables below detailing the staffing and Centre Grant Costs;

[REDACTED]

[REDACTED]

25. Additional evaluation activity as may be required over and above the standard, and/or additional requests from HMCTS, will be charged at the following rates:

- Passive Research: e.g. Observation and shadowing at Online Centres: [REDACTED].



- Active Research: e.g. Additional user interviews, user testing:
[REDACTED]

Any such costs would be agreed in advance through appointments brokered between Good Things and the centres on behalf of HMCTS, and will be invoiced monthly in accordance with the Schedule of Works.

Total Cost of Service

26. The estimated Total Contract Value is based on a capped amount of £1,000,000 over the Call Off Contract Period (including Phase 3). The actual contract spend versus profiled spend will vary but shall be charged in accordance with the rates set out in Annex A of this Schedule.

6. Within the following Schedule and Annex

- CALL OFF SCHEDULE 3: CALL OFF CONTRACT CHARGES, PAYMENT AND INVOICING
- Annex 2: Payment Terms/Profile

Replace existing text with the following paragraphs;

1. INTRODUCTION

- 1.1 For Phase 3, the Supplier has provided a financial breakdown and a forecast profile of Call Off Contract Charges for the period 01/07/19 to 31/08/2020 – this can be found at Paragraph 24 of Annex 1 to this schedule.
- 1.2 For the duration of Phase Three, the Supplier will invoice HMCTS quarterly in advance against the profile of Call Off Contract Charges for Mobilisation Payments as detailed in Paragraph 20 of Annex One of this schedule
- 1.3 For all other costs incurred or performance based payments due, the Supplier shall be paid monthly in arrears for actual costs incurred in the previous month.
- 1.4 The Supplier shall be paid by BACS payment.
- 1.5 The Supplier's cost in Annex 1 are exclusive of VAT.
- 1.6 The Supplier shall provide a breakdown of costs incurred during the month to the Customer's Contract manager to enable the Customer to validate the costs invoiced.
- 1.7 The Supplier shall provide a monthly invoice which shows lines items for applicable costs incurred in that month to include the following:
 - 1.7.1 Centre Grants
 - 1.7.2 Third Party Costs
 - 1.7.3 Staffing

- 8. Words and expressions in this Variation shall have the meanings given to them in this Call Off Contract.
- 9. This Call Off Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the Customer



Signature

Date

Name (in
Capitals)

Address

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature

Date

Name (in
Capitals)



Appendix 2: Call Off Schedule 13: Variation Form. Change Control Notice between HMCTS and Good Things Foundation for phase 4 (redacted), made available through a FOIA request.



CALL OFF SCHEDULE 13: VARIATION FORM

No of Order Form being varied:

CON_14874

Variation Form No:

CON_14874 – Var. 03

BETWEEN:

HM Court and Tribunals Service (HMCTS), an executive agency of the Ministry of Justice (MoJ) ("the Customer")
and
Good Things Foundation ("the Supplier")

1. This Call Off Contract is varied as follows and shall take effect on the date signed by both Parties:
2. Within the following Schedule and Annex:
 - CALL OFF SCHEDULE 4: ORDER FORM AND CALL OFF TERMS
 - PART 1: ORDER FORM SECTION A

Where the Call Off Contract stated the following:

End date of Call Off Extension Period

This is changed to the following as both parties have agreed to extend the contract:

End date of Call Off Extension Period

10/09/2021

3. Within the following Schedule and Annex
 - CALL OFF SCHEDULE 4: ORDER FORM AND CALL OFF TERMS
 - PART 1: ORDER FORM SECTION B

Table at Section 2.1 to be amended to include:

Phase	Duration	Description
Phase 4	Twelve (12) months	The Supplier will continue to deliver face-to-face Assisted Digital support to HMCTS customers across a specified range of HMCTS digital services. Phase 4 will also continue to evaluate the face-to-face Assisted Digital Service for HMCTS online services. In addition, the Supplier will now provide 'Remote Digital Support', supporting users over the phone or video / screen share software to understand digital processes. The Supplier will also provide both Face To Face and remote Online form filling 'by proxy'; taking information from the user and entering it on their behalf.

4. Within the following Schedule



- CALL OFF SCHEDULE 2: Services

Inclusion of the following paragraphs;

Phase 4

1.51 Phase 4 will be delivered by the Supplier between 01 September 2020 and 10 September 2021 - over a period of twelve (12) months.

1.52 During Phase 4, the supplier will continue to deliver face-to-face Assisted Digital support to HMCTS customers across a specified range of HMCTS digital services. These Services are:

- Civil Money Claims
- Divorce
- Probate
- Single Justice System - TFL Fines
- Social Security and Child Support (PIP, UC and ESA appeals)
- Help with Fees

Any new services to be added will be agreed and covered through change control after review of resources and cost needed.

1.53 Because of Covid-19, Good Things Foundation centres have had to change their delivery model to enable them to support users who are unable to attend face to face appointments. HMCTS therefore agreed to allow appointments to take place remotely, provided the user is aware the service is being completed online and can check and review what has been submitted into an online form.

1.54 Following research and observation from face to face appointments, it has been found that some users require more intense support to complete online services. Due to stress and anxiety of engaging with HMCTS services they may require the advisor to complete the service by proxy meaning they are not engaging with the online service. Centres are therefore now able to complete forms by proxy provided the user understands the service is being completed online and can check what is entered into the form.

1.55 Therefore the Phase 4 Project Scope also includes the onboarding of new service offers not previously supported. The range of potential new support methods be found in the table below:

Work Package	Add on to advice?	Description
Provide face to face digital support (post lockdown)	Y	Supporting users to understand digital processes. Ensure they engage with the online service where they can and are supported and encouraged to self-serve.



Provide face to face online form filling (post lockdown)	Y	Taking information from the user, providing advice and entering this into the service on their behalf. The user does not engage with the online service
Provide remote digital support	Y	Supporting user over the phone or video / screen share software understand digital processes. Ensure they engage with the online service where they can and are supported and encouraged to self serve.
Provide remote online form completion	Y	Taking information from the user over the phone, providing advice and entering this into the service on their behalf. The user does not engage with the online service.

Phase 4 Evaluation and Reporting Approach

1.56 During Phase 4, The contract will remain a “test and learn” pilot. An evaluation of the face to face service will be produced in September 2020, however research activities will continue to evaluate effectiveness of changes and future requirements for the service.

1.57 It is agreed that to help HMCTS understand the outcomes of digital support cases, centres will now capture the HMCTS reference number and add this to capture IT.

1.58 Following discussions between parties, it has been agreed that the reporting activities and cycle for Phase 4 shall be amended as per the table below:

ACTIVITY	FREQUENCY	LED BY
Update the CaptureIT appointment dashboard	Monthly	GTF
Produce an appointment overview document (To provide a monthly interpretation of data)	Monthly	
Produce an appointment/research update with a summary of primary research activity findings) <ul style="list-style-type: none"> GTF to deliver 10-15 centre interviews and 10-15 user interviews over the 12 month extension period Produce an addendum to the September 2020 report that will draw out any key differences and/or new findings in relation to the mixed model of delivery. 	Every other month	GTF
There may also be a need for bespoke research projects to be conducted, and reported on, during this time period (e.g. exploring remote support)	To be agreed and covered through change control after review of	GTF



	resources and cost needed	
--	------------------------------	--

1.59 Good Things Foundation will continue to collect data and conduct primary research to fulfil the aim of monitoring, and understanding the Digital Support pilot service being implemented.

Good Things Foundation will continue to:

- Keep recording CaptureIT data (incl. updates that are still go live); and
- Keep conducting the following primary research activities:
 - Visits and interviews with Online Centres which include user observations where possible
 - Interviews with Users

CALL OFF SCHEDULE 3: CALL OFF CONTRACT CHARGES, PAYMENT AND INVOICING

- Annex 1: Call of Contract Charges

Inclusion of the following paragraphs;

Phase 4 Costs

5. During Phase 4, the rate for assisted digital support service provision as per paragraph 13 of this Annex remains unchanged, unless agreed by both parties and subject to agreement through formal change control.
6. However, both parties agree to a change to reflect when a payment for digital support is due; it is agreed Centres will now be paid for each person supported, per service, rather than upon submission of an online form. This will mean that centres will now be funded for appointments where support is given, previously it meant that a user could change their mind or did not have evidence to hand to complete a form which meant that the centre would not get paid. It is now agreed that the following scenarios can be counted as a fundable outcome if an appointment does not conclude with an online form being submitted:
 - Supported the customer to find case updates using online services (e.g. Track your appeal);
 - Supported user to prepare for the online form and / or sorting through evidence and getting ready to upload / send to HMCTS; or
 - User changed their mind before submission
7. Following negotiations, whilst 'Day Rate' pricing was previously capped as stated for the lifespan of the contract, Good Things Foundation have made representations to increase some of these to reflect economic changes since the contract was let in 2017.
8. [REDACTED]

Total Cost of Service



9. For the avoidance of doubt, the estimated Total Contract Value is based on a capped amount of £1,000,000 over the Call Off Contract Period (including Phase 4). The actual contract spend versus profiled spend will vary but shall be charged in accordance with the rates set out in the CR and Annex A of the Schedule.
10. Words and expressions in this Variation shall have the meanings given to them in this Call Off Contract.
11. This Call Off Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the Customer

Signature	
Date	
ame (in Capitals)	
Address	

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature	
Date	
ame (in Capitals)	



Appendix 3: Ministry of Justice (2016) Impact Assessment of Assisted Digital: Court Reform.

Only the summary pages (pages 1 – 2 of 20) are reproduced here.

Title: Assisted Digital: Court Reform IA No: MoJ019/2016 RPC Reference No: Lead department or agency: Ministry of Justice Other departments or agencies: HMCTS	Impact Assessment (IA)
	Date: 15/09/2016
	Stage: Development/Options
	Source of Intervention: Domestic
	Type of measure: Primary legislation
	Contact for enquiries:

Summary: Intervention and Options

RPC Opinion: N/A

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out?	Business Impact Target Status
£m	£m	£m	Not in scope	Not Applicable

What is the problem under consideration? Why is government intervention necessary?

Improving technology and putting more services and processes online is key to the proposed reforms to HM Courts and Tribunal Service (HMCTS); for most people, this will make court and tribunal services more accessible and easier to deal with, and will fundamentally change the way that users interact with the justice system. To maintain access to justice, steps need to be taken by HMCTS to ensure support is provided to those people who need it to interact with the reformed justice system.

What are the policy objectives and the intended effects?

The objective is to allow members of digitally excluded groups to access digital justice system services, helping these groups to participate in modern, streamlined processes and so at least maintain, if not improve, current levels of access to justice. This will also enable planned court reform measures to be implemented more extensively than if no support was put in place.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The following options have been assessed in this impact assessment:

- Option 0/Do nothing - assume that those who are digitally excluded will access justice services via traditional in-person and paper routes, or be helped by others to access them digitally.
- Option 1 - Put in place a range of assisted digital options to support people access digital channels, including 'face to face', telephone and 'webchat' services.

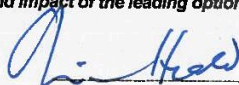
Option 1 is the preferred option as it best meets the policy objectives.

Will the policy be reviewed? It will be reviewed iteratively. If applicable, set review date: N/A

Does implementation go beyond minimum EU requirements?	N/A			
Are any of these organisations in scope?	Micro N/A	Small N/A	Medium N/A	Large N/A
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date:

14/9/16

Summary: Analysis & Evidence

Policy Option 1

Description: Put in place a range of assisted digital options

FULL ECONOMIC ASSESSMENT

FULL ECONOMIC ASSESSMENT						
Price Base Year	PV Base Year	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)			
			Low:	High: Optional	Best Estimate: -£61m	
COSTS (£m)		Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)		
Low	Optional		Optional	Optional		
High	Optional		Optional	Optional		
Best Estimate			£6m			
Description and scale of key monetised costs by 'main affected groups'						
The basic administrative running costs of a 'face to face' assisted digital service and paper channel have been estimated as averaging between £5m-£9m per annum.						
Other key non-monetised costs by 'main affected groups'						
HMCTS may incur additional costs from implementing and setting up the proposed assisted digital services and from running a webchat service above the basic administrative costs identified for the 'face to face' service and paper channels. Assisted digital services may make court users more aware of the support available elsewhere in the justice system, organisations that offer this may incur resource costs if they see an increase in demand. Legal service providers may lose business if court users decide to become 'litigants in person' due to becoming more confident and digitally self-sufficient						
BENEFITS (£m)		Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)		
Low	Optional		Optional	Optional		
High	Optional		Optional	Optional		
Best Estimate						
Description and scale of key monetised benefits by 'main affected groups'						
None identified.						
Other key non-monetised benefits by 'main affected groups'						
Assisted digital would be an 'enabler' of savings for HMCTS as it would allow a large number of court users to move from the current paper channel to the more cost effective and efficient digital channel. Assisted digital would allow court users who are not digitally self-sufficient to have effective and timely access to justice, enable them to experience the benefits of a modernised court system and help give them the confidence to become digitally self-sufficient users both in the justice system and for other online services.						
Legal service providers may decide to rival the government offered assisted digital service with a private sector alternative. Firms may use this a loss leader to gain assisted digital users as clients to advise/represent or, if there is enough demand, they may offer it as a paid-for service. If some users gain the confidence to become digitally self-sufficient, legal firms may have to provide less pro-bono services.						
Key assumptions/sensitivities/risks					Discount rate %	3.5%
That the demand for assisted digital services may be higher or lower than anticipated. Demand for assisted digital services may not drop off as quickly or as consistently as assumed. Assisted digital services may not be flexible or nuanced enough to provide the most efficient and cost effective assistance to court users.						

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs:	Benefits:	Net:	



Public
Law
Project

The Public Law Project (PLP) is an independent national legal charity. Our mission is to improve public decision making and facilitate access to justice. We work through a combination of research and policy work, training and conferences, and providing second-tier support and legal casework including public interest litigation.

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