Public Law Project

Response to ‘Transforming our Justice System’ consultation

10 November 2016

Please note that this response is a response to both parts of the consultation, covering both ‘assisted digital’ issues and the proposed changes to tribunal panel composition.

The Public Law Project is an independent national legal charity which aims to improve access to justice and to public law remedies for those whose access is restricted by poverty, discrimination or other similar barriers. To fulfil its objectives PLP undertakes research, casework, training and policy work. PLP is based in London but has a national presence and standing. It runs conferences and training events across England and Wales, undertakes and publishes independent empirical research, and conducts public law litigation, both in its own name (where appropriate) and representing others. PLP is recognised as having particular expertise in this area: in 2013 it was awarded the Special Rule of Law award by Halsbury's Laws and in 2015 received the Legal Aid Lawyer of the Year award for Outstanding Achievement and was shortlisted for the Liberty Human Rights Lawyer of the Year award for our work on legal aid.

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Question 1: Do you agree that the channels outlined (telephone, webchat, face-to-face and paper) are the right ones to enable people to interact with HMCTS in a meaningful and effective manner?

PLP believes that improvements in technology in the courts and tribunals system are welcome and that using technology to improve access to justice is necessary. It is vitally important that in proceeding towards this goal, individuals who cannot take advantage of improved technology are not left behind, and also that all users benefit from functioning, well-designed, adequately resourced information technology. PLP agrees that genuinely accessible and effective assistance is an essential part of such a system, and welcomes the Ministry of Justice's (MOJ) recognition that any move to a digital court system must include various means of support for court users. PLP is principally concerned with the plight of those without legal support who nonetheless need to access the courts, in particular vulnerable individuals.

Particular groups of individuals likely to be adversely affected include those with mental health problems, those with low educational attainment, those with learning difficulties or other mental impairments, some disabled groups (in particular those with impairments that make it more difficult to communicate), those on lower incomes or with transient lifestyles, and those without immigration status in the UK. Groups with protected characteristics may also be disproportionately affected, in particular the elderly, those who are not UK citizens who are disproportionately non-white, individuals with disabilities as stated, older people who are more likely to lack digital skills, and some religious and/or ethnic groups.

PLP is particularly concerned about the proposals to rapidly move towards an on-line service across the many services of the justice system which is a crucial element of the functioning of the state and society. This is particularly so in the context of difficult (and indeed, failed) digital projects by the government in the past. These include the seriously flawed 'CCMS' system recently introduced by the Legal Aid Agency, roll-outs of Tax Credits and Pension Credits, as well as the on-going problems experienced with the digital services associated with Universal Credit. Further, the well-publicised difficulties of the NHS Connecting for Health project. These failures were highlighted in the National Audit Office report earlier this year.[1]

PLP is concerned that the current consultation does not make clear whether the same assisted digital services are intended to work only for some online services, or whether they are intended to apply to all HMCTS services including for tribunals which regularly decide cases of importance for vulnerable individuals such as the Asylum Support Tribunal.

Telephone assistance

In relation to telephone advice, PLP considers the training given to staff, and the user's route through the telephone advice service to be essential elements of any service. PLP's

[1] Delivering major projects in government: a briefing for the Committee of Public Accounts (https://www.nao.org.uk/report/delivering-major-projects-in-government-a-briefing-for-the-committee-of-public-accounts/)

research on the Legal Aid Agency telephone gateway[2] uncovered significant issues with the service, in particular:

- Difficulties in obtaining specialist assistance or being put through from an operator to a call handler with legal understanding, unless one had legal assistance at the beginning of the process
- Reliance on scripts by operators rather than suitable training
- Reduction in case volumes due to difficulties accessing the telephone gateway service
- Poor case outcomes
- Poor value for money
- A lack of transparency

PLP is concerned that similar challenges need to be considered when designing any telephone assistance for online court and tribunal access. In particular:

- Users may not be able to describe their problems concisely and accurately. They may have little, or entirely misconceived, ideas about the law as it relates to their situation. In such circumstances, it is vital that the person who first picks up the phone has enough training to ask relevant questions, identify relevant information, and (if necessary) direct the user's call to another more specialist adviser. This is likely to require, at a minimum, some legal training. In practice, many legal firms give substantial training to their receptionists and lower-level staff who handle routine enquiries from clients, for exactly these reasons.
- Careful monitoring and immediate and speedy action to deal with reductions in volume, case outcomes and scheme expenditure.
- To be effective, the system will need input not only from those in the MOJ but from stakeholders and relevant organisations. This will require making suitable data about access to telephone services transparent and available on a regular basis (e.g. monthly) so that the functioning of the new service can be monitored and responded to.

Telephone services must have suitable interpreter services for those who require them.

Webchat

PLP has similar concerns in relation to webchat advisers as in relation to telephone advisers, regarding training and user experience.

PLP is also concerned that in practice, webchat will only serve to assist those who already have considerable digital ability. Although it will certainly be of assistance to some users, it is unlikely to enable users who have barriers to accessing technology from doing so.

It will also be important to ensure that any webchat has appropriate systems to ensure security and confidentiality.

Face-to-face

[2] Oldfield, D and Hickman, B, *Keys to the Gateway: An Independent Review of the Mandatory Civil Legal Advice Gateway*, Public Law Project (March 2015)

In practice, much assistance which is currently provided to individuals needing help with paper court processes is provided through face-to-face interaction with court staff. Face-to-face services will therefore be valuable to many. To be effective, face-to-face services will need to be widespread in location and accessibility, be adequately resourced to ensure that waiting lists are short and appointment times suitably long to accommodate difficult issues, and that individuals are sufficiently trained.

PLP would be concerned by any requirement which meant that an individual would have to demonstrate their eligibility or suitability for face-to-face advice. Otherwise, this would require court users by definition lacking in digital skills or the means to access other routes (such as webchat or phone help) to engage with those processes *before* being able to obtain help through a route which is suitable for them. Face-to-face advice must therefore be available as an alternative accessible to all users, rather than through a qualification system.

PLP considers that concerns about the effectiveness of telephone advice apply also to face-to-face advice, and that transparency and openness about the service is essential.

Paper

PLP welcomes the MOJ's statement in the consultation document that *"Everyone must be able to use our services, regardless of which of these groups* [of ability to use digital services] *they fall into."* If this is to be the case, it is likely that conventional routes of access to the courts (through paper documents and in-person hearings) will continue to be necessary not only for a transitional period but in the longer term. If digital systems are effective, easy-to-use and provide a better experience for individuals, then court and tribunal users will switch to digital systems of their own accord. Making access through digital systems mandatory (at least until there is comprehensive ability to use technology across society) will, inevitably, leave some people behind. Given the high stakes in many individual legal cases, this is an unacceptable risk and potentially a serious derogation from the responsibility of the government to provide a means of redress for legal problems to all citizens.

That (on the MOJ's own analysis) 70 per cent of the UK population require substantial support with digital services means that at this time, the risk of leaving individuals with serious problems behind is so great that any mandating of digital-only access in most areas of law should not be countenanced.

Further, it is important that being able to access paper application processes remains open to any applicant, without any application or qualification process. Demonstrating a lack of digital ability will require that individuals prove a negative. An individual who cannot access any digital process may find themselves entirely 'locked out' of the system. Those locked out are particularly likely to be members of vulnerable groups, such as migrants and prisoners, those on very low incomes who have no internet access, and individuals who lack any sort of computing skill to even enable them to engage with online processes to a limited extent.

Testing areas

Fee Remissions

PLP is strongly opposed to making applications for fee remissions an online-only service, if existing paper processes are not retained in their current form and available to all. PLP considers that using this service as a test-bed for a wholly-digital new process is an acutely poor choice, if digital processes are mandatory. Indeed, it is extraordinary to propose that the very poorest, who have the lowest level of digital ability and access, should trial a new system which they are particularly ill-suited to engage with.

PLP is not opposed to having a parallel online fee remission system for those who may find it more suitable or convenient and whose circumstances are straightforward enough that an online system is easy to deal with them. Any such online system must, however, include prominent and clear references to other means of applying and paper application processes should continue to be available at courts and tribunals themselves.

The current fee remission scheme is an important component of the common law right of access to a court.[3] The need to make courts accessible to those without funds has been recognised as a responsibility of the Crown since 1495 at least.[4] A fee remission system which is, in practice, inaccessible or ineffective to litigants without means, it risks endangering a fundamental common law right, in addition to risking a breach of rights under the European Convention on Human Rights (Article 6 in particular).

In the current era of reduced legal aid (historically many low-income litigants' court fees were paid by the legal aid fund), the need to have courts which are genuinely accessible to those on low incomes and to remove financial and procedural barriers to them becomes more pressing than ever. Steps which will make the system less accessible should not be taken.

PLP notes that currently no data is published in MOJ statistics on the use of fee remission schemes, and that this is a serious obstacle to monitoring the effects of any changes to the system or of the existing system. This again makes fee remissions a particularly unsuitable area in which to test online reforms as monitoring the impact of any changes would be extremely difficult (unless the MOJ holds unpublished but adequate data on the current scheme).

There are specific reasons to consider that an online-only fee remission system would endanger the rights of the individuals who have low incomes and are most likely to need to obtain help with court fees. In particular:

- Those on the lowest incomes are less likely to be computer literate. In 2013, only 23 per cent of the lowest income households used the internet.[5]
- Internet access generally needs to be paid for in some way (whether accessed through a smart phone, wireless or landline connection) and even when free (for instance, through a local library or community centre, where such services remain) generally requires an individual to have some form of identification and connection to that community. Some isolated individuals with mobility or other disabilities do not have the ability to access such free resources, even when they are available. In addition, public services do not offer the privacy/confidentiality that many might reasonably wish for matters concerning their finances. If a requirement to access the

[3] *R v Lord Chancellor ex parte Witham* [1997] EWHC (Admin) 237
[4] The statute 11 Hen. 7 c.12 (1495) allowed individuals to sue *in forma pauperis*
[5] Dutton, W.H. and Blank, G., *Cultures of the Internet: the Internet in Britain,* Oxford Internet Institute (2013)

internet in order to apply for a fee remission is imposed, it will constitute a barrier for these individuals accessing the court system.

- For those on lower incomes, internet use is likely to be through a remote device such as a smart phone or tablet. Such devices may not be optimal for completing court forms or entering significant amounts of text to explain a complex situation, although PLP is open to improvements in means of entering information, systems must be alert to the different routes and devices by which users will be able to access services, and that in many cases a service which works on one platform or type of device may be effectively inaccessible to large numbers of indivdiuals.[6]
- Further, no fee remission application can be successful without evidence. Even where internet facilities are available, for those not in work or otherwise without facilities, scanning documents will be effectively impossible without additional payment. For some individuals, even the costs of paying for a scanner will be prohibitive, and any assumption of access to digital photography facilities (and the assumption that such facilities will yield sufficient quality images) would need to be tested thoroughly prior to such a system being used.
- Fee remissions are essential for individuals in prison or detention, who cannot access most internet sites, if any, and will frequently be unable to pay a court fee. Such individuals may have particular difficulty in obtaining digital copies of relevant evidence.
- Fee remissions are also vital to preserve access to the courts for individuals and families without leave to remain in the UK. The current online model is effectively inaccessible to them because it requires a National Insurance number, which such families will not have. Further, individuals abroad with legitimate claims will be barred by this requirement. Individuals without a National Insurance number must obtain a letter from the JobCentre confirming this is the case, which will lead to unacceptable delay in urgent cases, especially for those without the funds to pay a court fee and apply for it later to be refunded. The current system is therefore seriously defective, and PLP is concerned that online models which do not allow for variation in individuals' circumstances will bar foreign nationals from having access to the English courts.
- More broadly, individuals who are destitute, nearly destitute or who already have difficulty dealing with the administrative difficulties of the court system will find it an additional hurdle they must deal with in order to even gain access to the court system. These people are amongst those most in need and it is inappropriate to impose a digital system on them, who are least likely to be able to access digital services.

Social Security and Child Support Tribunal

PLP considers that requiring claims in the FTT(SSCS) to be dealt with wholly online will pose a significant barrier to those who need to use the tribunal, the vast majority of whom are not represented following cuts to legal aid in 2013.

As stated in the joint statement 'Transforming Our Justice System', 10 per cent of all adults, and a quarter of disabled adults, have never used the internet. Such individuals are likely to constitute many of those who use the FTT(SSCS), given that those individuals are largely

[6] Office of National Statistics, *Internet access – households and individuals: 2016* (statistical bulletin)

those with very low incomes, some of whom have limited educational achievement, and the disabled. The issues raised about internet access for the poorest households in relation to fee remission schemes are likely to be highly relevant in relation to the digitisation of the FTT(SSCS).

The reasons set out in the above section as to why those eligible for fee remissions are likely to experience difficulties in accessing IT, apply equally to appellants in the FTT(SSCS) who are amongst the most economically and socially marginalised in society. The proposal to use the FTT(SSCS) as a testing area for wholly online processes is in our view inappropriate. This tribunal deals with matters of vital importance to the individuals concerned and further impediment to the resolution of their justiciable problems is likely to have very significant impact on the lives of the users and their families. In our view there are other tribunals, with more technologically sophisticated users, which would be more suitable for such a pilot and it is most inappropriate to put those least able to deal with online processes through an online system which has not been tested in other areas. For the pilot, the FTT(SSCS) users will not only be required to use a computer to start their appeal, but also continued use over a period of time and notification of deadlines and dates online, when these users are more likely to have limited (if any) experience of online processes, or access to online systems. For many users, this will make engagement in the appeal process impossible.

Further, the suitability of online processes for dealing with claims, for instance, about limited ability is highly doubtful, especially when dealing with unrepresented individuals who are likely to be able to demonstrate in person what they are able to do far more quickly than by trying to explain in words.

An online process for the FTT(SSCS) may increase the reliance of decision makers on written evidence from medical professionals which impecunious and unrepresented litigants may be unable to afford. GPs normally charge for providing a letter for use in Tribunal proceedings.

Summary on assisted digital access

PLP welcomes any improvement to access to justice and does not oppose digital reforms where these have the potential to improves such access.However, digital reforms must take place in parallel to existing paper-based systems, because too many court users and potential court users do not have ready, regular and adequate access to online services.

No digital reforms should be rolled out before the quality of the service can be assured. Support systems for online services must be properly resourced and transparent about their effectiveness, and support services through telephone, face-to-face or continued access to paper systems must not be dependent on qualification criteria, or any form of having to demonstrate an inability to engage through digital routes.

Making fee remissions an online-only service would impede access to a court, which is a fundamental responsibility of government, and a right under both the common law and European Convention on Human Rights.

Moving Child Support and Social Security appeals online only will also seriously damage the ability of that tribunal to provide a meaningful service. The decision to choose the

FTT(SSCS) as the first online only tribunal to be trialled at this time is not understood, and in our view will be difficult to justify given the grave wider concerns about MOJ IT projects and the nature and characteristics of many of the tribunal users.

Question 2: Do you believe that any channels are particularly well suited to certain types of HMCTS service?

PLP considers it is not possible to say at this stage that some channels will be particularly well-suited to certain types of HMCTS service, but that in some areas such as asylum support or social security, no channel is likely to make up for serious deficits in digital ability or access among potential service users.

No answers to questions 3 to 6.

PLP does not have expertise in the magistrates' court and therefore will not be commenting on these questions

Question 7: Do you agree that the SPT [Senior President of Tribunals] should be able to determine panel composition based on the changing needs of people using the tribunal system?

PLP is concerned that, without policy being available on how the SPT is likely to use the powers to alter composition, this consultation question may be too vague to give a substantive answer to. No details have been provided about the likely composition of tribunals in the future, and it is therefore not possible to comment on these provisions, nor is it clear if there will be further consultation when rules on composition are announced.

Section 2(3)(c) of the Tribunals Courts and Enforcement Act 2007 imposes a duty on the SPT to have regard to the "the need for members of tribunals to be experts in the subject-matter of, or the law to be applied in, cases in which they decide matters." PLP notes that this requirement is an important element of the deference given to tribunals by the Higher Courts and that moves which may reduce the expertise of tribunals may lead to a need for increased oversight by the Higher Courts of tribunal decisions.

PLP considers that, in certain tribunal chambers, certainty of panel composition is important and should be maintained, so that a flexible approach in all tribunals (which appears to be proposed) would be unsuitable. In particular:

- The Mental Health Tribunal should continue to have experts with psychiatric experience on all panels. In the MHT medical evidence is always required. The psychiatric member of the panel fulfils two important functions: The first is meeting with the patient (either on request, or as a matter of course depending on the case), assessing them and reviewing their notes so as to come to his or her own view of the issues in question which is then fed back to the panel and those attending the hearing i.e. a quasi 'independent' expert. The second is that the psychiatric expert leads the panel's questioning of the Responsible Clinician (i.e. the patient's psychiatrist and Responsible Authority's representative). Cuts in legal aid and

difficulties that tribunal users face in seeking legal representation are to some extent mitigated by the presence of the psychiatric member of the panel: He or she provides the tribunal users with the comfort that their case has been looked at by someone who is qualified to assess the matters in hand, regardless of whether the patient is represented or not. Critically, the psychiatric member also examines the Responsible Clinician's evidence in front of the patient and before any cross examination by the patient or their representative, which given the medical complexity of the majority of the matters in question, is appropriate and necessary. Lay Members with a social work background also currently sit on MHTs and provide essential input to decisions being made. In our experience, following grave reduction of local authorities' budgets and cuts to social work budgets, Approved Mental Health Practitioners (AMHPs, usually social workers), are often unable to attend MHTs and are stretched to provide meaningful services to patients. Without Lay Members on MHTs, there is a risk of important gaps in evidence before the tribunal with significant consequences for the liberty and treatment of patients. Replacing the psychiatric expert and lay members on the panel with, for example a written expert report to a judicial member sitting alone would be a grave erosion of MHT users' access to justice and should be subject to its own more detailed consultation, to which we would be happy to respond.

- The Social Security and Child Support Tribunal also needs medical expertise on panels, and experience from those with knowledge of disability care is vital. Most individuals before such panels are not represented and, by nature, do not have funds to pay for expert evidence. Independent medical evidence will not be available. Panels will be unable to realistically assess the plausibility of claims made by individuals refused benefits. They will lack the knowledge to conduct an effective 'inquisitorial' process and are less likely to be able to elicit evidence from a claimant which will allow the tribunal to reach a fair decision on a full assessment of the facts.
- In appeals to the First-tier Tribunal (Special Educational Needs and Disability) panels are currently comprised of a legally qualified chair and two members with special expertise. There is no legal aid for advocacy in the First-tier Tribunal in SEND cases and it is particularly important for the Tribunal to have specialist expertise which enables it to engage fully with the issues in circumstances in which the parents and children will not normally be represented by an advocate. Children with a disability are more than twice as likely to live with a parent with a disability compared with non-disabled children,[7] and these parents need the assistance which specialist Tribunal members are likely to be able to offer them.

In these tribunals, if panel composition does not as standard include expert members, then any system that makes it incumbent on applicants to the tribunal to request, identify or explain the need for expert members will be inadequate. It is not appropriate to make the kind of vulnerable applicant to these crucial decision-making bodies responsible for making the processes that apply to them fair and sufficient, particularly at a time when access to legal aid and representation for these matters is increasingly difficult.

In other tribunals, although certainty of panel composition may be less important, where expert knowledge and understanding is not available to the panel from its own members, it

[7] According to research cited by the MOJ in *Legal aid Reform in England and Wales: The Government response,* June 2011, Cm 8072

will often be required from the parties. Parties must be able to present relevant facts reliably to a judge without specific expertise, and where expert evidence is necessary will need to provide it themselves. Costs are therefore likely to be shifted in many cases from the tribunal to the parties, and then back to the tribunal in cases where further evidence necessitates delay or gives rise to appeal. Each party obtaining its own evidence (as would be likely to happen in at least some and probably many cases, given that many tribunals have fewer case management powers than courts) would further drive up costs and tend to give advantage to those with greater means, as well as potentially delaying and complicating proceedings in what is intended to be an accessible forum. Such a reform would, for those cases where expert evidence is required, not improve the efficiency of the tribunal process and would be a cost-shifting exercise rather than one leading to an overall reduction in costs.

Further, the need in many cases for parties to obtain their own expert evidence would act as a major financial barrier and absence of expert evidence would be a significant disadvantage for impecunious clients, or even those who are not of very significant means. It should be noted in particular that many experts' professional insurance includes a condition that they will only accept instructions from legal practitioners, thus barring access to experts without also retaining lawyers.

PLP is concerned that depriving tribunals of expert panel members as a matter of course will be a fundamental change to the intention and purpose of tribunals, which are intended to make justice accessible. This will be a major change in the nature of the tribunal system. Consulting on allowing greater flexibility without any indication of what is likely to be done with that flexibility therefore allows for only a limited response. Given the potentially significant impact on access to justice, more detailed proposed changes must be consulted on.

PLP is also concerned that removing expert members from panels may actually increase waiting times. Recent government statistics[8] state that in the FTT(SCSS) 79 per cent of cases heard by a judge and a medical member were cleared within 4 months, and 73 per cent of cases with a judge, medical member and disability expert were cleared within 4 months. In contrast, only 63 per cent of cases heard by a single judge were cleared within 4 months. Further, 10 per cent of cases heard by a judge alone remained uncleared after 11 months, whereas most panels with multiple members had only 1 per cent of their cases outstanding after 11 months. PLP is therefore not satisfied that there is a robust evidence base for the assumption that reducing experts will positively affect user experience.

Question 8: In order to assist the SPT to make sure that appropriate expertise is provided following the proposed reform, which factors do you think should be considered to determine whether multiple specialists are needed to hear individual cases?

As stated above, PLP is opposed to criteria being attached to the use of expert panel members in certain tribunals and chambers.

[8] HMCTS, *Tribunals and Gender Recognition Certificate Statistics Quarterly: April to June 2016* (8 September 2016)

Where criteria are imposed, relevant factors should include:

- The complexity of the evidence
- The ability of a non-expert panel member to illicit necessary evidence, often from highly specialist and experienced witnesses
- The ability of non-expert panel members to arrive at a fair decision having considered complex and specialist evidence without an expert partaking in the decision making process
- The means of the parties, both relative to one another and individually in real terms, including the availability of legal aid
- The ability of the parties to to represent themselves
- The importance of the matter to the parties, or to one of them
- Any delay likely to be caused by the parties appointing individual or joint experts

Question 9: Do you agree that we have correctly identified the range of impacts, as set out in the accompanying Impact Assessments, resulting from these proposals?

- **Assisted Digital**
- **Online conviction and statutory fixed fine**
- **Panel composition in the tribunals**

Assisted Digital

As stated above, PLP is concerned that the consultation is significantly unclear as to whether it is intended to have the same assisted digital model for all HMCTS services. It is therefore difficult to assess what impacts there may be on particular groups.

Further, PLP notes that although the consultation questions relate to the support that will be offered to those accessing the service, the proposal outlined is in fact the introduction of assisted digital as a method of providing services, which includes the move to digital. However, none of the EIAs include any consideration of the proposed move to digital, or the proposed areas which would be moved to digital first. The EIA on assisted digital has been conducted on the basis that Option 0 is to introduce digital without assistance, and option 1 is to introduce digital with assistance. The overarching EIA has been conducted on the basis that Option 0 is for HMCTS to continue functioning as it does currently and Option 1 is for is to provide assistance to those who require help with digital services. No EIA appears to have been conducted in relation to the move to digital in itself, which is likely to be the element of the reforms with the greatest impact on many groups (including older people, some religious groups, those with a disability and those who are destitute or without status in the UK, who are disproportionately of BAME origin). Therefore PLP does not agree that the correct range of impacts have been identified, nor that this consultation is an effective consultation on the changes being proposed.

Panel Composition

PLP cannot comment on the likely effects of panel composition on equalities, given that there are no specific proposals for how such changes would be implemented. PLP cannot

rule out that the proposed changes may impact unlawfully on certain groups with protected characteristics.

Question 10: What do you consider to be the equalities impacts on individuals with protected characteristics of each of the proposed characteristics of each of the proposed options for reform?

In relation to disability, PLP is highly concerned that the only solution proposed in relation to the digitisation of Social Security benefits (which the MOJ accepts will disproportionately affect those with disabilities) is to adapt the support services as far as possible. It appears no consideration has been given to testing assisted digital services in a venue which does not concern basic provision for a group where a quarter of the group have never used digital services at all, which is probably the least suitable area for testing. PLP considers that implementing an untested online system in an area with a disproportionate number of non-internet users will have a serious impact on many disabled people.

People with disabilities are also likely to be affected by the proposal to move fee waivers online, as a significant number of individuals with disabilities receive benefits or are on low incomes. As such, this may act as an effective bar to justice for a significant number of disabled people.

PLP is also aware that digital processes may lead to increased access for some individuals with disabilities, in particular those with mobility impairments.

In relation to race, PLP is concerned that no consideration has been given to the impact on migrants and those without immigration status in the UK, who are disproportionately from minority ethnic backgrounds, and who are particularly likely to have limited or no internet access or experience of using digital services. These groups will be particularly affected by a move to digital services in certain areas, in particular the proposal to move fee remission systems on line, and in certain tribunals including the immigration tribunal and asylum support tribunal. These groups are also likely to be involved in legal proceedings which affect crucial issues in their lives, in particular their immigration status in the UK and the support they receive in order to survive in the UK, as well as other legal problems for which they may need to seek a fee waiver, e.g. if seeking damages for unlawful detention. PLP therefore considers that these proposals are likely to have a disproportionate impact on individuals with BAME origins.

Question 11: Do you agree that we have correctly identified the range of equalities impacts, as set out in the accompanying Equalities Impact Assessments, resulting from these proposals?

- **Assisted Digital**
- **Statutory Fixed Fine**
- **Panel composition in the tribunals**

As set out above, PLP does not agree that the current EIA does correctly identify the range of equalities impacts, because:

- The EIA is not conducted on the basis of the proposals actually being put forward and has no consideration of the impact of a change to digital services
- The EIA does not correctly identify the disproportionate impact of a digitised fee remission system on groups with protected characteristics.
- The proposals on panel compositions are insufficiently clear to enable proper assessment and identification of equality impacts.