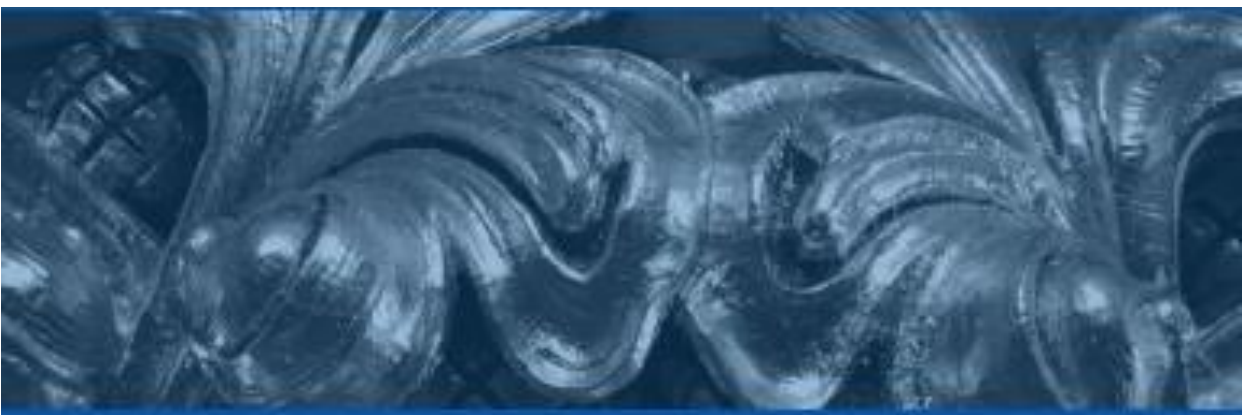




SENIOR PRESIDENT
OF TRIBUNALS

The Modernisation of Tribunals 2018



**A Report by the Senior
President of Tribunals**

THE MODERNISATION OF TRIBUNALS 2018

A REPORT BY THE SENIOR PRESIDENT OF TRIBUNALS

Presented to the Lord Chancellor pursuant to s43(1) of the Tribunals Courts and Enforcement Act 2007

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Introduction

On 25 May 2018 I delivered for publication to the Lord Chancellor and Secretary of State for Justice my third annual report. It included a compendium of reports from each United Kingdom Tribunal, covering the diverse workload and issues across our jurisdictions. In light of the significant work being undertaken by my judges and panel members in the Courts and Tribunals Modernisation Programme, I promised to publish a further report dealing with the modernisation of Tribunals. This is that report.

Context

The last year has been one of ambitious collaboration and development to design new ways of working for the largest salaried and fee-paid judiciary in the United Kingdom¹. The Tribunals make specialist decisions that directly affect many tens of thousands of users in ways that are informal, flexible and swift². That is our hallmark and it requires us to be innovative and responsive to the needs of users so that we are effective and efficient: but there is no ‘one size fits all’ and each tribunal has its own way of working that is well grounded in the history of its users’ needs. With the notable exceptions of our party-party jurisdictions in employment and property, Tribunals enable people to hold the State to account for the daily decisions that are made which have a significant impact upon them across a broad and diverse terrain: from mental health and special educational need; to tax, benefits and compensation schemes, asylum and immigration, information rights and the environment. We are also acutely aware that 10 years after the birth of the Tribunals Service, through the commencement of the Tribunals Courts and Enforcement Act 2007, there is much to be done to prepare us for the next decade: the public’s expectations of us in a digital age will be different.

We have made real strides to achieve that which Sir Andrew Leggatt recommended in 2001 in his seminal report: *Tribunals for Users: One System, One Service*³. The quality of the decisions that are reviewed or made by us, the quality of access to justice that is afforded by us and the quality of the administration of justice we provide is fundamental. It is not only our ability to perform our statutory duties and functions but also the perception of justice administered by an independent and specialist judiciary that is important. We work with and for a broad constituency whose scrutiny is to be expected and welcomed. It is key to the legitimacy of what we do.

¹ The reserved unified tribunals service has over 5,500 salaried and fee-paid judges and panel members across England & Wales, Scotland and Northern Ireland.

² See, for example,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/763701/Tribunal_and_GRC_statistics_supporting_document_Q2_201819.pdf; and

<https://www.gov.uk/government/collections/tribunals-statistics> for an overview of the range and scale of the work of the Tribunals.

³ <https://webarchive.nationalarchives.gov.uk/20060214102004/http://www.tribunals-review.org.uk>

Principles

Building on the principles we have previously agreed⁴ and using the skills and expertise both of our own specialist judiciary and panel members and our colleagues across the civil service who support us, we have identified ambitious plans for the future. It is no secret that the workload in many jurisdictions is rising, in some the increase can fluctuate significantly, and in employment it more than doubled over the year following the abolition of fees⁵. Since its creation as a unified service the Tribunals has been a 'managed service' with a strong leadership culture and practices designed to enable the judiciary to deal directly with the quality of the administration of justice, which is a key element in the exercise of our statutory duty to provide an efficient service⁶. Far from interfering with judicial independence, our governance system facilitates the direct control by leadership judges of cross-assignment (deployment), authorisation and training, workload prioritisation and allocation and listing, enabling the service to provide judge-led solutions to problems and the day to day management of our judicial office holders.

The Tribunals are a close-knit community who are characterised by a strong but small college of salaried experts and a much broader majority of their fee paid colleagues. Fee paid judges and members bring with them the specialist skills of the market place, that is up to date issues and perspectives from which we benefit, but they also have many calls on their time, requiring intensive leadership and management to balance supply and demand. One of the benefits of a 'managed service' is that we can, by good forward business planning and judicial deployment, move resources around to try and match supply and demand and design new process to meet the needs of the constantly changing variety of new functions given to us by Parliament. That is all the more effective if we can do it in collaboration with our colleagues in the courts and through the Framework Document⁷, with both operational and policy colleagues in the Ministry of Justice, other Government Departments who make many of the primary decisions that we review, the Judicial Appointments Commission and Her Majesty's Courts and Tribunals Service ('HMCTS') who work with us to service the administration of justice.

I am convinced that greater collaboration and cross-deployment between Courts and Tribunals will lead to a greater sharing of different problem solving skills, diversity and experience which will benefit individual judicial office holders, the administration of justice and our users if the quality and speed of decision making can be improved. I hope that this ambition will be

⁴ *One System, One Judiciary and Quality Assured Outcomes* was reported upon in [2016](#) and [2017](#) and the principles of the Courts and Tribunals Modernisation Programme are set out in this report

⁵ Employment Tribunal receipts were **30,295** in Q1 2017-18 (prior to the Supreme Court judgment in [R \(Unison\) \[2017\] UKSC 51](#)). In the comparable period after the judgment, Q1 2018-19, receipts had increased to **68,761** (Source:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/763706/Tribunals_CSV.zip)

For further information on comparative volumes for ETs, SSCS and IAC over the past three years, see, for example, the [latest Quarterly Tribunals Statistics](#), page 2, figure 1:

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/766114/Tribunal_and_GRC_statistics_Q2_201819_revised2.pdf).

⁶ Tribunals, Courts and Enforcement Act 2007, section 2(3)(b)(ii).

⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384922/hmcts-framework-document-2014.pdf

reflected in the development of the pilots that have been very successfully trialled and other innovative ideas that are being discussed⁸. Tribunal judges in their appointment, training and independence have parity with their courts colleagues and their benefit to society should be recognised by their innovative and flexible use.

The Modernisation Programme

It was the inexorable rise of work volumes in a fiscally challenging environment, and in the context of a historic lack of infrastructure investment, that caused the then Lord Chief Justice, Lord Thomas of Cymgieidd, and myself to embark upon a bold transformation Programme in 2015⁹. I make no apologies for having done so. To have done otherwise would have consigned our justice institutions to a period of continuing decline with inevitable impacts on the quality of justice caused by slow, expensive and, to many, incomprehensible process. The real risk of austerity in that context is the price rationing of justice including increasing delay which is the antithesis of access to justice. It was and remains important to give judicial leadership to that programme in order to preserve the procedural and substantive principles that underpin the separation of powers that is the essence of an independent judiciary. The plans that we made are now advanced and it is the purpose of this report to comment on them and identify our new plans for the future.

I have flagged the development of our plans in three previous annual reports and in a series of speeches designed to stimulate debate among practitioners, judges and commentators¹⁰. With the agreement of Ministers, we created a new Administrative Justice Council as a forum for specialist discussion. The Council is a flourishing institution, independent of Government, administered by JUSTICE, the independent charity, and chaired by the Senior President. It is an advisory body with broad terms of reference, a business plan and a healthy and active council membership¹¹. We also have strong and effective links with the representatives of users and litigants-in-person that have been developed into a litigants-in-person engagement group for the civil, family and tribunals jurisdictions (administered for all of us by the Civil Justice Council, with whom we work very closely) and we have engaged with academic institutes, charitable foundations and researchers who provide quality advice and research on 'what works'¹².

2018 has been a year in which we reached a series of milestones in our modernisation programme which mark the transition from design and planning (that is, talking about change and choosing or creating the hardware, software and process that we want to use: in the

⁸ The cross deployment of Employment Judges into the County Court to undertake civil cases and the dual authorisation of First-tier Tribunal Property Chamber judges to hear cases concurrently in the Tribunal and in the County Court have both been successfully trialled: (<https://www.judiciary.uk/wp-content/uploads/2018/11/property-chamber-deployment-project-report-oct2018.pdf>). There were also very constructive discussions with Sir James Munby as President of the Family Division on the development of collaborative arrangements between Mental Health Tribunal judges and the Court of Protection and also between Family Court judges and Immigration and Asylum Tribunal judges where cases involve children and young people.

⁹ *Transforming Our Justice System* September 2016 (<https://www.judiciary.uk/wp-content/uploads/2016/09/narrative.pdf>)

Judiciary matters: Our part in reforming the Courts and Tribunals October 2017 (<https://intranet.judiciary.uk/wp-content/uploads/2016/10/judicial-matters-final-2.pdf>).

¹⁰ See [Appendix G](#).

¹¹ <https://ajc-justice.co.uk/council/>

¹² See [Appendix I](#)

vernacular, identifying the minimum viable product) to piloting and implementation where successful changes to our ways of working can be embedded into business as usual during 2019 and 2020. That necessitated a huge emphasis on leadership, communication and engagement.

We recognised from the beginning that in order for change to be effective our judicial leaders needed to be trained and supported. We have helped develop the Judicial College's specialist Leadership and Management Development Course for that purpose which has for some time been a requirement for all Tribunals leadership judges. We have also worked with Judicial HR, part of the Judicial Office, to develop our existing well established processes for appraisal¹³, personal career interviews, succession planning and dedicated HR advice, mentoring, coaching and counselling.

The Tribunals have an impressive business as usual leadership structure where the independent Tribunals and Chambers (each with their own president and leadership team) come together to discuss strategy, identify and implement assignment processes to match supply and demand, develop training and compare and contrast the performance data that is regularly discussed in the jurisdiction boards that bring together leadership judges in each major jurisdiction with their operational civil servants and analysts. Those business as usual structures provide the regular material for the Tribunals Judiciary Executive Board ('TJEB') to advise the Senior President. These formal structures are enhanced by a communication plan with regular bulletins to all judges and members and a very active and collaborative Judicial Forum which represents a wide variety of judicial associations. It has always been our policy to delegate the implementation of agreed policy to each Tribunal and to the leadership judges who are in day to day contact with colleagues and to listen to their feedback and that of judicial representatives on all matters that concern them and the senior judiciary. We have a transparent agenda upon which everyone can comment.

In order to deal with the impact of change we developed elements of our existing leadership practice. For some time we have utilised the talents of judges and members who have different specialist skills and experience to advise their colleagues about best practice. Put together into networks they provide an invaluable resource. Examples include judges who have created and developed the Tribunals appraisal model, those who advise on and help with IT, estates, security, training and the Judicial College, libraries, data protection, communications, welfare, diversity, devolution, international liaison, Brexit and much more. The networks report to the leadership judiciary in each field and separately to TJEB to ensure that their recommendations are published, discussed and resolved. The unsung hard work undertaken by the networks and their convenors deserves our sincere thanks¹⁴.

We took the network model and used it to help us communicate and engage with our judicial office holders about change. We created a Change Network that now numbers over 40 judges and panel members. It brings together leadership judges, association representatives, judges who help to write strategy and those who sit on HMCTS engagement groups, programme and project boards helping to develop new ways of working on behalf of all of us. The network has

¹³ First begun in 2009 and recently re-defined for all fee-paid judges and many salaried judges of the FtT and the ETs

¹⁴ See [Appendix A](#)

met in a plenary session approximately every term to advise us about communication and engagement with judges and panel members. Following their advice, we developed survey and feedback materials that were shared with every judicial office holder. I visited 14 conferences across the UK in a six-week period from the end of May to the beginning of July 2018¹⁵. We used live stream events to speak with colleagues who might not otherwise have been able to join us (in particular our peripatetic judges, fee-paid judges and panel members). In total 38 courts and Tribunals events were held attended by over 750 judges and members. Survey responses were received from or on behalf of over 10,000 colleagues. We took the view that we are diminished as a specialist college of decision makers if we do not listen to and take our judges with us. The way in which we communicated and engaged with judges and panel members in 2018 is a credit to the Change Network. I am very grateful to them¹⁶. The nature and extent of the exercise inevitably led to delay in the publication of this Report, for which I apologise.

Judicial Ways of Working

Although 2018 was the year in which we launched and reported upon the views and wishes of judges about modernisation, it was only possible to do so at the end of the year. The project, known as 'judicial ways of working' ('JWoW'), was significant. It involved every Tribunal jurisdiction considering whether their process and language met the needs of the user. It involved detailed scrutiny of the way our estate is used and the IT and service support that is available to us. It involved us talking about ourselves, who we are and how we work, our leadership and how we communicate with each other and with the public. The process was sometimes uncomfortable but always honest and revealing. There are holes to be mended (most notably in the pension and remuneration provisions made for some judges and in the quality of some of our accommodation) and assumptions to be challenged (often about what our users want which can be more innovative than we expect and sometimes about how we are viewed by others); but the essential message from our judges was that they wanted to be involved in and to be directing the change that is necessary to allow a world class independent judiciary to deliver what our users need for the 21st Century.

What emerged was a clear and agreed statement of each element of the modernisation programme as it affects Tribunals, how this is being acted on and what change we can expect over the next year. The principles underpinning that change are identified as are the problems to be solved, the design concepts and our present view about the solutions that will be required. The solutions cannot be fixed in stone. It is in the nature of a change programme that we will learn as we move through it.

I have included in this report the full text of the conclusion to the JWoW exercise¹⁷ because it is a valuable demonstration of what was said and it records the important fact that the Tribunals judiciary agreed with their operational and reform teams in HMCTS about what needs to be done. I have provided a description of a model digital Tribunal: the tribunal does not exist but it

¹⁵ See [Appendix B](#)

¹⁶ See [Appendix C](#)

¹⁷ See [Appendix E](#)

allows people to see what might be available when a new or modernised jurisdiction or process is being considered¹⁸.

I would like to record our thanks to the Judicial Office reform team¹⁹ and the team from Accenture who acted as our specialist advisors on project management and communication for this exercise. Judges should not assume that because their judgecraft is an expertise to be protected and developed (and it is) that they are thereby experts in fields outside their experience. We did not. We took advice and the Accenture team proved to be very effective critical friends.

Finally, the magnitude of day to day business in the Tribunals requires teamwork. Each Chamber President and those of the Employment and Employment Appeals Tribunals have dedicated more time and energy than any Senior President could reasonably expect. I am fortunate to have a group of colleagues who are professionally dedicated, specialist subject experts and talented leaders who give selflessly of their time and experience²⁰. They make leadership possible and dare I say it, a pleasure. In addition, 2018 has brought the inestimable benefit of the appointment of a senior England and Wales Court of Appeal judge and former Upper Tribunal President, Sir Keith Lindblom, to be the Vice-President of Tribunals and the appointment of the senior First-tier chamber president, His Honour Judge Phillip Sycamore to be the Deputy Vice-President. Keith has used his first year in office to comprehensively report on the work of the Upper Tribunal and to re-launch the importance of leadership and the specialist appellate skills of its judges. His report makes for good reading and has been accepted in full²¹. Phillip has chaired both the Tribunals Judicial Engagement Group which scrutinises and advises on all change projects in modernisation and the Tribunals Judicial Activity Group that monitors all performance data, and approves the business needs for assignment and recruitment.

As we enter 2019 I look back and think about how lucky we have been in the support we have received from the Senior President of Tribunal's Office. One reason for my pause for thought is the imminent departure on a well-deserved promotion to the senior civil service of its directing force, my Private Secretary, Craig Robb, who has provided, with just a handful of dedicated and specialist staff, the equivalent of a multi-functional civil service for the Tribunals. He has been the lynchpin for both me and my predecessor. We will miss his unparalleled knowledge, dedication, judgement and humour. We are hugely grateful to Craig, Rebecca, Cathy, Simon, Philip and Sean for all that they have done. Without them the day to day business of the Tribunals would not be able to function. The near impossible task of co-ordinating our sittings with the leadership of such a large organisation would also not be possible without our clerks and executive officers. I pay tribute to my clerk, Brian Walker, for his patience, skill and diplomacy under fire!

¹⁸ See [Appendix F](#)

¹⁹ Led by Claire Farren, previously by Ruth Thompson.

²⁰ See [Appendix D](#) for a list of chamber presidents including retirees and new appointments

²¹ <https://intranet.judiciary.uk/2018/11/12/report-of-the-vice-president-of-tribunals-on-reform-in-the-upper-tribunal/>

In December 2018 I brought together the themes of my recent speeches on modernisation of justice at a conference of the Caribbean judiciary and legal professions. It was a vibrant, rewarding and hugely positive event. The speech can be read in slow time²² but the import of the message is important to those of us leading modernisation in the United Kingdom. We all have a critical interest in the development and success of our endeavours: indeed, the public, whose trust and confidence is our foundation, have a vital stake in the legitimacy of what we are considering. The modernisation of justice is not simply a technical endeavour to digitise process and minimise mountains of paper but rather a transformation that must improve quality and outcomes so that new ways of working serve the fundamental aims of administering justice more efficiently and effectively and improve access to justice. We are called upon to deliver an administration of justice that is patently fair, that protects the judiciary's independence and provides equality of access that is open to scrutiny by a diverse public with whom we must engage and communicate if we are to meet their needs and retain their understanding, trust and respect.

We are involved in a £1Bn modernisation programme. That programme began nearly three years ago and has approximately four years to run. It is important to acknowledge the imperative that underscores the programme; that access to justice is an indivisible right – there can be no second class. In setting out our vision for the programme, we described our purpose as follows: *“to give the administration of justice a new operating model with a sustainable and affordable infrastructure that delivers better services at lower cost and safeguards the rule of law by improving access to justice”*. Our objectives are:

- a. To ensure justice is accessible to those who need it
- b. To design systems around the people who use them
- c. To create a system that is financially viable using a more cost-effective infrastructure (better and effective use of IT, buildings and new working practices)
- d. To eliminate the most common causes of delay
- e. To retain the UK's international standing as a world class provider of legal services and the judiciary as world leaders in the delivery of justice, and
- f. To maintain the constitutional independence of the judiciary.

Our approach was and is strategic. We put the user, whose access to justice we wanted to improve, as the focus. We put the leadership of modernisation at the top of the judicial agenda.

In his recent speech to the first International Forum on Digital Courts in London the Lord Chancellor and Secretary of State for Justice warned against complexity as a secret garden that inhibits those who need to vindicate their rights. I have said more than once that our rules and processes have to be intelligible and usable if they are not to be the exclusive playground of the

²² <https://intranet.judiciary.uk/2019/01/25/speech-by-sir-ernest-ryder-senior-president-of-tribunals-the-modernisation-of-justice/>

rich or privileged²³. In the Tribunals we have embarked on a programme that will simplify language and process, streamline and expedite procedures, removing unnecessary complexity, duplication, error and waste and put the user in the driving seat.

That programme involves users who work with project teams and judges to test hypotheses about what works for them and the language that we use. Engagement with users from the beginning of each project sometimes leads to conclusions rather different from those which lawyers expect. We have already come to the very firm conclusion that there is no one size that fits all of our jurisdictions although we can re-use the software components that we have developed, for example the core case data file, digital case management system, user interfaces and more complex concepts such as continuous online resolution, virtual video enabled (fully video) hearings and software to help judges make decisions about scheduling and listing. We have worked with HMCTS, the AJC and the Legal Education Foundation to develop new ideas about using data to test hypotheses and analyse outcomes. Although it is early days, the data team in HMCTS working with Dr Natalie Byrom (the Director of LEF who is on secondment to assist with development) will be able to share data with other data labs in Government and academics from the AJC and research partners for the benefit of all of us. I do not doubt the force of existing research about users' perspectives of justice and their behavioural responses and the way data can be constructively used to enhance the administration of justice by improving the quality of decision making. The first step is to study the data we collect in appropriately protected, that is ethical processes.

Future Themes

The work now being taken forward is based around these themes: -

One size does not fit all – modernisation will be jurisdiction specific

Independent Judiciary - Judges will remain responsible for **safeguarding the rule of law** that is ensuring that the process we design and the procedure used in the individual case is **fair** and will facilitate **access to justice** and **open justice**

Judges want to use digital technology – which must be robust and reliable. There will be an **IT and Innovation plan** developed out of the common components that are being designed and the **Tribunals Lab** – a virtual collection of pilots, ideas and opportunities for the use in one Tribunal or process, software or hardware designed and trialled in another.

Users' experience and perception of the quality of justice will be improved through new process with signposting for advice and settlement opportunities, plain language guidance, **direct support by case officers** (pre-hearing supervision) and **assisted digital support** for the digitally excluded with **data analysis of outcomes**

²³ <https://www.judiciary.uk/wp-content/uploads/2018/12/Speech-by-Sir-Ernest-Ryder-First-International-Forum-on-Online-Courts.pdf>

Estate – the Tribunals estate will be afforded the same status, access to justice facilities and quality of jurisdictionally appropriate accommodation as that provided to courts jurisdictions and its operational management will be described in a comprehensive agreed strategy

Support services – the inter-relationship between national, regional and local support for Tribunals and the nature and extent of the same will be agreed and set out in a national strategy

Training and Leadership – Tribunals judges and members will be trained to use all software and hardware and new process. They will be provided with enhanced arrangements for leadership and management training and development from leadership induction through experienced leaders to senior leaders courses. Leadership training is compulsory for Tribunals leadership judges

New Ways of Working – judges will design new ways of working which will reflect the needs of users, access to justice improvements, our **diversity plan** and the benefits of cross deployment

The principles and plans which are more fully described in the JWoW documents that are included in this report will deliver our vision of a transformed justice system. It is important to maintain the momentum we have established and to continue the intense collaborative arrangements that are in place. I am very grateful to the Board of HMCTS, its Chairman Tim Parker and the non-executive directors, and to the Senior Management Team led by its Chief Executive Susan Acland-Hood for facilitating those arrangements and for their support and dedication this last year.

There are some aspects of business as usual that ought to be mentioned in this report for two reasons: a) they might otherwise fall below the radar until next year and b) they are relevant to the success of modernisation.

Strategic Planning

It has been the ambition of most of us involved in change programmes over time²⁴ that we might better predict the outcomes the public will desire, have better empirical material upon which to rely and be able to point to better change leadership and management process involving both those who have the responsibility of delivery and those who are the users or recipients of the benefit. The partnerships which should be the consequence of our work ought to provide better engagement and communication preferably with longer term implications for the health of the institutions involved. With those ideas in mind there have been two projects in England and Wales that have been slowly developing over the last four years.

The first is a strategic planning group which came out of Board discussions between the then chairman Bob Ayling, the Permanent Secretary of the Ministry of Justice, Sir Richard Heaton, the Chief Executive of HMCTS, Susan Acland-Hood and judicial members of the Board. The group has set itself an ambitious agenda to collate ideas and data about the demography of dispute resolution and its likely subject matter between now and 2050.

The second is the creation of a new process of supply and demand analysis to inform judicial recruitment and deployment which has been three years in the making. It was derived out of a discussion group between judges, the Ministry of Justice and HMCTS, which I chaired from 2014 (and which latterly included the Chancellor of the High Court, Sir Geoffrey Vos, to whom we are very grateful). The group identified an urgent need to more accurately forecast the business needs of the courts and Tribunals including recruitment, retention and the impact of changes to ways of working. A new generation of analysts in the Ministry of Justice and HMCTS have worked hard to develop the statistics and the analytical tools to provide the forecasts we need. They now provide advice to the Complement Group, which reflecting the arrangements set out in the Framework Document, considers on behalf of the Lord Chancellor, the Lord Chief Justice and the Senior President, all business needs requests for recruitment. The analysis is beginning to demonstrate real advantages in the perspectives it gives about recruitment, deployment opportunities and planning, in particular for the Judicial Appointments Commission's schedule. I am very grateful to the Senior Presiding Judge of England and Wales, Lady Justice (Julia) Macur for her support in taking forward this important initiative.

²⁴ I previously produced a report that recommended the creation of the Family Court, the wholesale change to leadership and training in that jurisdiction through 'frameworks of good practice and leadership' and ran the programme for its successful implementation which led to a marked improvement in performance; lessons we have learned and applied in the Tribunals: https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Reports/ryderj_recommendations_final.pdf

Leadership

The Leadership and Management Development course at the Judicial College in England and Wales here is undergoing its own change process. I have had the privilege of being its course director since 2014 when a decision was made to build upon the successful pilots that had been designed by Sir Brian Leveson when he was the Senior Presiding Judge for England and Wales. I will shortly be delivering up the course in a refreshed and renewed condition to another senior judge. The existing course provides for England and Wales courts judges and all United Kingdom Tribunals judges although there are excellent parallel arrangements in both Scotland and Northern Ireland in which I and my judges participate. The course has a modular syllabus which builds upon the experience of senior judges, external specialists and a dedicated team of in-house education advisors to help judges resolve real examples of leadership issues that arise. Our aim is to give leadership judges the tools to work with HR, welfare, performance and project management specialists to strategically plan and solve problems for and with their judicial colleagues. The course tutors include a senior courts judge (Lord Justice (Stephen) Irwin from the Court of Appeal of England and Wales) and a senior Tribunals judge (Judge Brian Doyle, President of the Employment Tribunal for England and Wales).

2019 will see a significant expansion of leadership training to enable all Tribunals and courts leadership judges from the most junior to the most senior to participate, develop their skills over time and influence the training materials that are provided. A new and enlarged tutor team has been appointed and new syllabuses are in preparation with senior judges taking responsibility for three levels of skill and experience from induction through experienced to senior judicial leaders. Opportunities will be provided for judges to understand what their colleagues do for them and to allow judicial leaders to refresh their skills on a more regular basis.

I am very grateful to my senior tutors, Stephen Irwin and Brian Doyle, those who have given their time and experience to speak at our events, the students who regularly volunteer to come back and tutor their colleagues and to Dr Kay Evans (now recently and happily retired), Michelle Austin and Trevor Elkins, our education advisors and course leaders for the expert assistance they provide in fields as diverse as leadership theory and methods, pedagogy, occupational psychology, welfare and human resources.

Administrative Justice Council

The AJC has developed at a remarkable pace in 2018. In addition to its main council, it now has three specialist panels: from the academy, the pro-bono sector and the advice sector. The panels collaborate with each other and with those responsible for research and development to identify problems to be solved, issues to be investigated and good practice to be disseminated. I am enormously grateful to each member of council, to the Director of JUSTICE, Andrea Coomber, for her administration and leadership, and to the panel leads (Professor Rob Thomas from the University of Manchester, Dr Naomi Crutzfeld from the University of Westminster, Paul Yates from Freshfields and Karen Ashton from the Law Centres Network). Their work is quite simply to help us identify 'what works' and the best way to do it. They each have agreed work streams and have already worked collaboratively with an impressive range of

academics and practitioners to stimulate discussion and research opportunities with the ultimate aim of improving the quality of decision making. We have not made the mistake of looking inwards from a specialist perspective. From the outset we have collaborated with the litigants-in-person engagement group and the Civil Justice Council to ensure that the already well established community of those who represent users and those who have to represent themselves are hard-wired into our discussions. We have also made a deliberate decision to work closely with the ombuds* schemes who share many of our ambitions and good practices. I am particularly grateful to Donal Galligan, Director at the Ombudsman Association, for his work in developing a shared understanding of the ombuds* services with us. 2019 will be a busy year for the council and its detailed work can be followed on the AJC website²⁵ and will be described in full in its own annual report later in 2019.

Wales, Scotland and Northern Ireland

Devolution is a very country-specific experience. 2018 has seen the commencement of the Wales Act 2017 with its provisions for inter-operability and the appointment of a President of Welsh Tribunals. We have been delighted to welcome Sir Wyn Williams, a former Presiding Judge for Wales and its first President, into our discussions as a member of TJEB. Sir Wyn and I have been able to use the Act's provisions to agree to share judges and members between the reserved UK Tribunals and the devolved Wales Tribunals. We are also collaborating to identify estate, service support and IT benefits that will be common to both services.

In Scotland, the most impressive modern Tribunals building in the UK has opened in Glasgow. There will be others to follow. The Glasgow Tribunals Centre will eventually house all reserved and devolved Tribunals that sit in Glasgow. We have collaborated closely with the President of Scottish Tribunals, Lady (Anne) Smith, to identify common estate and the benefits of modernisation that can and should be applied from the England and Wales programme to the reserved jurisdictions that sit in Scotland. 2018 has seen slow but gradual progress towards the implementation of the Smith Commission promise to devolve reserved Tribunals jurisdictions. The judicial working group will continue to work closely with the UK Government and the Scottish Government to agree Orders in Council, possible legislative opportunities and 'no detriment' proposals for the transfer of the Tribunals judiciary to Scotland. I record here my significant appreciation to Lady Smith for her detailed and wise counsel, to Sir Brian Langstaff who has continued in retirement to work with Lady Smith on the judicial working group and to the Lord President and the Lord Justice Clerk for their strong collaboration and for the superb support that we receive in Scotland.

The absence of a devolved administration in Northern Ireland has created an unexpected opportunity. Most but not all Tribunals in Northern Ireland are devolved and the arrangements are settled and work well although the process is not complete. With the support of the Lord Chief Justice of Northern Ireland, Sir Declan Morgan, we have rejuvenated our contacts and we have been delighted to have Kenneth Mullan, the senior Commissioner in Northern Ireland,

²⁵ <https://ajc-justice.co.uk/>

join TJEB. Commissioner Mullan's advice is highly valued by us and we look forward to bi-lateral discussions and training with our colleagues in Northern Ireland in 2019.

Recruitment and Diversity

The Tribunals have a strong working relationship with the Judicial Appointments Commission which respects the independence of both the judiciary and the Commission. Over 2018 we have developed our thinking about how to make the Tribunals as representative of society and its communities as we can while maintaining the imperative that we want and need the best judges and members. We have agreed a number of changes which have already brought the profile of our younger judges into line with the communities they serve²⁶. We have agreed to the use of gender and ethnicity blind recruitment processes and to sifting and selection that recognise broad academic, litigation, advisory and advocacy skills to encourage all lawyers (and in the Tribunals other specialist professions such as surveyors, valuers and medical practitioners) to apply. We do not prioritise any one part of the legal profession over another. We have taken steps which we seek to expand upon in the future to widen the talent pools that are available to us, for example those in the academy, local and central Government, public sector agencies, in-house counsel, the employed Bar and the CPS. We have identified judges who take part in the selection and interview processes who are trained for the purpose providing as consistent a service as possible and we have identified judges who lead on recruitment to ensure that there is feedback from each competition. Our work with the JAC would only have been possible with the close involvement of its Chairman, Lord Kakkar and his Chief Executive, Richard Jarvis, and we are grateful to them and to the Tribunals Commissioners, Fiona Monk and Phillip Sycamore, for the specialist advice they provide.

Training

2018 was another year of intensive training. Each Tribunal appoints training judges and they are co-ordinated and advised by our Director of Tribunals Training, Employment Judge Christa Christensen. Given that there are more than 140 separate jurisdictions in the Tribunals this is no small task. Christa has brought an incredible energy and enthusiasm to her role and is a highly valued member of the senior team. It is our intention during her tenure to complete the transfer of the administration of Tribunals training to the Judicial College and to broaden our contacts with our sister institutes both in the UK and internationally. Christa also chairs the Tribunals Journal Board, which is a specialist online academic journal and has advised upon and introduced generic induction training to match our broader recruitment competitions and the specialist training that is necessary for our experts. In 2019 she will help develop the training needs of our case officers who exercise authorised functions under the supervision of the judiciary. I am very grateful to her.

I have attended training across the United Kingdom this last year and can personally attest to the skill, experience and enthusiasm of our training judges. We use our training to bring

²⁶ See [Appendix H](#)

together salaried and fee paid colleagues and to swear-in new office holders. We have a delightful picture board of those who joined us or were successful in applications for promotion: the future of the Tribunals is happily in their hands.

Conclusion

This Annual Report has necessarily focused on modernisation and the judicial ways of working initiative. But I could not let pass without mention those who have joined and left us during the year.

Earlier this year, following an expressions of interest exercise, Sir Keith Lindblom was appointed as our first Vice-President. Following his appointment, Sir Keith kindly agreed to take on the additional role of Acting Chamber President of the Administrative Appeals Chamber of the Upper Tribunal on the retirement of Sir William (Bill) Charles in February. I am very grateful to Keith and I would like to take this opportunity to say a huge thank you to Bill for his leadership of the Chamber over a period of nearly six years. It is a tribute to Bill that his judges were devoted to him and regarded him and still refer to him as the 'father of the house'. Bill has now been succeeded by Dame Judith Farbey, a relatively new judge of the High Court in England and Wales, who had previously served with distinction as a deputy judge of the Upper Tribunal. Hers is an exciting appointment and I look forward to working with her during her term of office.

Also retiring during the period of this report was Judge Colin Bishopp as President of the First-tier Tribunal Tax Chamber. Colin also served as the Tribunals representative on the resources committee of the Judges Council. I am very grateful to Colin for his leadership and support during his term of office.

It is a feather in the cap for the Tribunals judiciary that both Sir Peter Lane and Dame Gwynneth Knowles were promoted to the High Court in England and Wales during 2018 following distinguished careers as Tribunal judges. Peter has been assigned to the Queen's Bench Division and Gwynneth to the Family Division and our congratulations go to them both. Peter's depth of experience in immigration and asylum is not lost because we were delighted to congratulate him on his appointment as the President of UTIAC in succession to Sir Bernard McCloskey. Bernard has returned to the High Court of Northern Ireland and I am very grateful to him in particular for the academic distinction that he brought to that office.

Adding to the good news for Tribunals and reinforcing our belief that Tribunals and judicial career development go hand in hand, we have been delighted to congratulate Dame Vivien Rose and Dame Ingrid Simler on their appointments to the Court of Appeal of England and Wales. I would like to take this opportunity to thank them for their iconic leadership of the Upper Tribunal Tax and Chancery Chamber and the Employment Appeal Tribunal, respectively. I warmly welcome as their successors Sir Tony Zacaroli to tax and Sir Akhlaq Choudhury to employment. I look forward to working with both of them.

In the First-tier Tribunal Judge Greg Sinfield has very ably succeeded Colin Bishopp as President of the Tax Chamber and Judge Alison McKenna has likewise succeeded Sir Peter Lane as President of the General Regulatory Chamber. Judge Fiona Monk has finished her two year

appointment as Principal Judge of the War Pensions and Armed Forces Compensation Chamber and has now been appointed to a new role as Principal Judge for Strategy and Implementation in addition to her responsibilities in the Employment Tribunal. She is succeeded by Judge Sebha Storey who becomes acting Chamber President. I congratulate and thank each of them.

A handwritten signature in black ink, appearing to read 'Ernest Ryder', with a long horizontal line drawn underneath it.

Sir Ernest Ryder
Senior President of Tribunals

Appendix A

Judicial network leads

- Judge Judith Gleeson – IT
- Judge Siobhan McGrath – Estates
- Judge Shona Simon – Libraries and Publications
- Judge Sebha Storey – Communications
- Judge Shona Simon – Judicial Security
- Judge Brian Doyle – Judicial College
- Judge Christa Christensen – Training
- Judges Meleri Tudur and Fiona Monk – Strategy and Implementation of Projects
- Judge Paula Gray and Judge Alison McKenna – Diversity
- Judge Fiona Monk (previously Judge Robert Holdsworth) – Appraisals
- Judge Judith Gleeson – International Liaison
- Judge Alison McKenna – Data Protection
- Judge Libby Arfon-Jones - Welfare
- Lady Smith and Sir Brian Langstaff – Scotland
- Sir Wyn Williams and Judge Arfon-Jones – Wales
- Commissioner Mullan – Northern Ireland
- Judges Michael Clements, Judith Gleeson, Alison McKenna, Greg Sinfield and Commissioner Mullan – Brexit

Appendix B

List of conferences attended by the SPT in connection with Judicial Ways of Working:

- 16 May 2018 Reading
- 21 May 2018 Manchester
- 23 May 2018 Cambridge
- 12 June 2018 Watford
- 13 June 2018 Bristol
- 14 June 2018 Southampton
- 19 June 2018 North Shields
- 20 June 2018 Leeds
- 21 June 2018 London (Taylor House)
- 26 June 2018 London (Field House)
- 27 June 2018 Cardiff
- 29 June 2018 Glasgow
- 2 July 2018 Birmingham
- 9 July 2018 Liverpool

Appendix C

Tribunals Change Network

Group	Member	Base/Region
Tribunals Change Network	Gillian Fleming	North East
	Judge Adrian Rhead	Midlands
	Judge Alison McKenna	London / South West
	Judge Anne Curran	Wales
	Judge Barbara Mosedale	London
	Judge Barry Clarke	Wales
	Judge Brian Doyle	London / North West
	Sir Brian Langstaff	London
	Judge Christa Christensen	South West
	Mr Justice (David) Holgate	London
	Judge David Zucker	North East
	Judge Fiona Monk	Midlands
	Judge Greg Sinfield	London
	Judge Hugh Howard	South East
	Mrs Justice (Ingrid) Simler	London
	HH Judge (Jennifer) Eady	London
	Judge Jeremy Bennett	London
	Judge John Aitken	North East
	Judge John Brooks	Wales
	Judge Judith Gleeson	London
	Chief Commissioner Kenneth Mullan	Northern Ireland
	Judge Kevin Poole	Midlands
	Judge Libby Arfon-Jones	London / Wales
	Judge Manjit Gill	London
	Judge Mark Rowland	London
	Judge Martin Rodger QC	London
	Judge Mary Clarke	North West
	Judge Meleri Tudur	London / North West / Wales
	Judge Michael Clements	London / Midlands
	Judge Michael Tildesley	South West
	Judge Neil Froom	London
	Judge Paul Swann	Midlands
	Judge Paula Gray	London
	Mr Justice (Peter) Lane	London
	Mr Justice (Peter) Roth	London
	HHJ (Phillip) Sycamore	North West
Judge Richard Byrne	South East	
Judge Jeremy Rintoul	London	
Judge Russell Campbell	London	
Judge Sehba Storey	London	
	Judge Shona Simon	Scotland
	Judge Siobhan McGrath	London
	Judge Stewart Wright	London
	Judge Swami Ragehaven	London
	Judge Tim Powell	London
	Judge Verity Jones	London
	Judge Will Rolt	South West
	Lady (Anne) Smith	Scotland
	Lord Justice (Keith) Lindblom	London
	Mr Justice (Tony) Zacaroli	London
	Sir Wyn Williams	Wales

Appendix D

Chamber and Tribunal Presidents

Upper Tribunal and Employment Appeals Tribunal

Chamber	Chamber President
Administrative Appeals	Dame Judith Farbey Sir Keith Lindblom (Vice-President of the Unified Tribunals) served as Acting Chamber President between February and December 2018 (Sir William (Bill) Charles retired in February 2018)
Tax and Chancery	Sir Tony Zacaroli (Dame Vivian Rose completed her term as Chamber President in July 2018)
Immigration and Asylum	Sir Peter Lane
Lands	Sir David Holgate
Employment Appeal Tribunal	Sir Akhlaq Choudhury (Dame Ingrid Simler completed her term as President in December 2018)

First-tier Tribunal and Employment Tribunals

Chamber	Chamber President
War Pensions and Armed Forces Compensation	Judge Sehba Storey (Acting Chamber President) (Judge Fiona Monk served as Senior Resident Judge until September 2018)
Social Entitlement Chamber	Judge John Aitken
Health, Education and Social Care Chamber	His Honour Judge Phillip Sycamore
General Regulatory Chamber	Judge Alison McKenna (Sir Peter Lane served as Chamber President until January 2018)
Property Chamber	Judge Siobhan McGrath
Tax Chamber	Judge Greg Sinfield (Judge Colin Bishopp served as Chamber President until October 2017)
Immigration and Asylum Chamber	Judge Michael Clements
Employment Tribunal (England and Wales)	Judge Brian Doyle
Employment Tribunal (Scotland)	Judge Shona Simon



Tribunals Judicial Ways of Working

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Introduction

Many of you responded to the exercise that we commissioned earlier this year to seek your views on Tribunals Judicial Ways of Working (JWoW). Thank you. There were more than 40 meetings arranged in courts and Tribunal buildings across Scotland, England and Wales. Survey responses were received from or on behalf of over 10,000 judges, panel members and magistrates and almost 800 judicial office holders attended local meetings. Our aim was to understand what interests you and concerns you about the modernisation programme and what you would like us to do about it.

In July the Lord Chief Justice and I sent a [message to all judicial office holders](#) about the key themes that were emerging from an analysis of the survey responses and the meetings and discussions which many of you participated in. In our more recent [November message](#), we shared progress on how the leadership judges and those engaged in the various modernisation projects are taking forward your views.

This message is to tell you more about what you, collectively, said about the modernisation proposals and specifically those relating to the Tribunals' jurisdictions, how this is being acted on, and what you can expect to see over the course of the next year. The details are set out below. Each element of the modernisation programme is set out separately with a short statement of the fundamental principle that underpins each element; how that translates into a design idea and then the identified solution and the actions that have been agreed. What is described below has been discussed between myself, on behalf of each Tribunal, and the HMCTS Chief Executive, Susan Acland-Hood and her Director of Change, Richard Goodman. These positions will only be departed from by agreement with the judiciary. The document also includes, where appropriate, the cross-jurisdictional positions reached in Crime, Civil and Family where they apply to us in the Tribunals.

There are two overarching principles which we all agree are fundamental; the first is that access to justice must be improved not reduced. Judges are responsible for safeguarding the rule of law and we will ensure that whatever process is used, in each Tribunal and in each individual case, it is both fair and will facilitate effective access to justice that is open to public scrutiny. The second, which came very clearly out of our discussions, is that 'one size does not fit all' – modernisation has to be and will be jurisdiction specific. There is a great deal of good work being done by Tribunal judges from across all of our jurisdictions to ensure that modernised process and technology will be chamber and jurisdiction specific so that it will work for our users and for you.

The plans which we set out in this document are intended to illustrate where we are going and how we intend to get there. I will be describing those plans in greater detail in my Annual Report which will be published at the end of the year. In this document you will read that there are 'identified solutions': where you have identified a potential problem, we have suggested a solution based upon what you have said. That solution is not fixed in stone. It is in the nature of a change programme that we learn as we move through the programme. What follows is the solution that is being worked on at the moment. We will continue to be flexible, both as we

learn from the projects that are successfully completed and also as we adapt new processes and common components to our jurisdictions, recognising the changing needs you identify and those of the public we are here to serve.

Summary

The detailed positions set out below are grouped into the clear themes that emerged from your feedback and our discussions. This summary is only intended to set the scene.

Judges will shape and lead reform in each of our jurisdictions to ensure that the rule of law is safeguarded and, in particular, that **effective access to justice** is improved. New process or the use of digital tools should never lead to less fair procedures or less effective access to justice. We must strive to ensure that our decision making is no less **open to public scrutiny** than it is at present, that is, the careful balance we strike between open justice and the privacy of an individual's personal information is maintained.

We have looked at how we ensure that systems are designed to meet the needs of the people who use them, for example how digital access is facilitated for the digitally excluded (a new service known as **Assisted Digital**). That solution is presently being trialled alongside the SCS project. The SCS jurisdiction has users who we expect to be vulnerable and/or digitally excluded. We will learn important lessons about their needs from this aspect of the modernisation programme. Alongside this trial, case officers, working with judges in the IAC project, will develop an idea known as **Case Supervision**. Working under the direct supervision of their judges, they will ensure that digital bundles are put together in the way you want them to be and that parties are given instruction to ensure that directions are complied with, that issues are identified, that documents are relevant to the issues identified and are uploaded in time. We expect the benefits of this project to include improved timeliness and preparation, better access to justice for litigants in person, better issue identification, case progression and compliance.

The Tribunals led the way in the use of **Case Officers** before the modernisation programme began. Many of our jurisdictions have had Registrars, legal officers and advisers and proper officers working with our judges for a number of years. We successfully trialled a new generation of tribunals case workers as part of the modernisation programme and we have now developed a career structure for all 'Authorised Officers' (the description that will in future be used in Rules and Practice Directions that permit their use). They play a crucial role in Tribunals and they are highly valued for the work they do with us. We recognise that different models with differing levels of responsibility will work in each Tribunal and that how and where authorised officers are used should be determined by each jurisdiction but subject to the overall protection of permissions that I will give based on clear authorisations contained in Rules and Practice Directions. Authorised officers will never make decisions that are reserved to judges or tribunal panels, in particular substantive decisions in contested cases, and there will always be an automatic right of review of an authorised officer's direction to a judge.

Implementing change is a specialist task. There will be identified HMCTS managers and teams who are responsible for delivering successfully piloted projects in each jurisdiction. The **Delivery of Change** will depend on the agreement of an 'end-to-end' model for each jurisdiction which will provide individual solutions to digital working in each Tribunal. We will carefully consider how the Common Components, new process and ways of working fit together to meet the particular needs of each Tribunal. Our judges are very closely involved in the detailed designs. There is work to be done to agree the important features of the hardware and software that will be used to support us. We have paid particular attention to the requests of our varied and diverse fee-paid colleagues and we have asked for an IT solution that works for them. We have negotiated the necessary funding for **Digital Training** that will be overseen by the Judicial College and our judge trainers. The training will be available to judges and non-legal members and will include opportunities for authorised officers to be trained with us. Training will be designed around needs analyses which will capture the diverse variety of needs that have been identified.

In jurisdictions where video hearings are to be enhanced and **fully video hearings** tested, great care is being taken to make sure the system is designed with the needs of judges and users front and centre. Judges must not, for example, be expected to operate the equipment without appropriate support from staff, the judge will need to know (and will know) whether the hearing is being observed, and judicial and user feedback about the system will be captured and analysed to provide quality assurance feedback and research and development opportunities. The same approach to evidence based testing and feedback will be used in our **continuous online resolution** pilot in SSCS.

The work towards a **Tribunals Estates Strategy** which considers each building in the Tribunals estate is an immense task but is nearly complete. The strategy and the principles which will determine how the leasehold estate is managed and how we plan for the future is expected to be agreed by February 2019. Circumstances may change over time and that may cause us to alter our plans but this project is designed to ensure that the diverse needs of Tribunal jurisdictions are met. There is acknowledgement that some judges and members are currently in unsuitable accommodation; there is acceptance that provision for the Tribunals should in no way be inferior to that provided for the courts and a real desire to ensure that modernisation secures improvements to our working environment within limited but identified budgets. Tribunals and their users have differing needs from each other as well as from the courts and that is understood.

There is also agreement that there will be no reduction in the **Support Services** provided for judges in hearing centres and for leadership judges nationally and regionally as HMCTS re-organise their local services and back office functions into Courts and Tribunals Service Centres. There is a great deal to do to identify the functions that we must preserve and to agree how the new working arrangements will work together but the essential message is that the Tribunals have been working in this way since the creation of the unified Tribunals after the 2007 Act.

There is, of course, a considerable amount of detail and what is set out below are only the headlines. If you are interested in a particular area then more information on each of the projects can be found on the reform pages of the judicial intranet at <https://intranet.judiciary.uk/hmcts-reform/about-reform/>. You should also feel free to speak with members of the Tribunals Change Network (listed in appendix B) who bring together all of our project judges and working groups with your association representatives and leadership judges. They can and will feed your thoughts into the various projects and programmes.

Modernisation will only succeed with the involvement of our judges and members and by using your knowledge and experience. In truth, change is all about leadership, communication and engagement to make sure the Tribunals justice system continues to provide for the needs of its users. This is a time of uncertainty for all of us not just about modernisation, ways of working and possible building closures but also about pay, pensions and expenses. I am committed to being as transparent as possible about the progress we are making and to continue to encourage a process of listening to the views of judges and members. The continued efforts of the Tribunals judiciary in the modernisation programme are greatly appreciated.

I want to thank you for your involvement so far and give you my assurance that the senior judiciary are working hard to reflect your views and maintain the fundamental principle of access to justice.

Sir Ernest Ryder
Senior President of Tribunals

Tribunals Judicial Ways of Working Positions: The Plan

The responses from the Tribunals judiciary to JWoW, and the feedback given through our regional meetings, was brought together for members of the Tribunals Change Network to consider over the summer. The issues raised, and problems underpinning them, were discussed in detail, and a plan to provide solutions to those problems was identified. That plan has now been settled by the Change Network, and agreed by HMCTS. It is summarised below, including reference to the principles identified by the Change Network as being of central importance to the Tribunals judiciary and the users of our system.

- **Open justice**

- The principle is that (subject to any overall cross jurisdictional agreement) the process should be no less open than the Rules and Practice Directions presently provide
- The design concept is to afford appropriate scrutiny to the public by digital means as an alternative to or in addition to open hearings
- The identified solution is to record all Tribunal hearings as the primary ‘record of proceedings’ under the Rules, to identify a recording solution for video hearings and continuous online resolution and to identify which hearings are to remain face to face and open and which are to be digitally open
- Recording will be made available to be watched or listened to by members of the public. A protocol for transcript provision is to be agreed that is no less stringent than at present used in the courts or in the Glasgow pilot.
- **Actions:**
 - Identify all types of case management and hearings and whether they are open or article 6 dependent
 - Agree a recording and transcription protocol
 - Consider any Rules changes about the ‘record of proceedings’
 - Draft a model Practice Direction for open justice provision

- **Safeguard the rule of law by facilitating access to justice / fairness**

- The principle is no less access to justice than the Rules and Practice Directions presently provide
- The design concept is ‘to enhance access to justice including substantive and procedural fairness by digital means’
- The identified solution is to make provision by a Practice Direction in each jurisdiction which describes the methods including the digital channels that are available for use (for example: online continuous resolution, fully video hearing, paper or face to face) and the choice / directions / considerations which will apply so that it is the responsibility of the judge in each case to apply the Rules (including the overriding objective), the Practice Direction and any binding decisions to the facts of the case
- **Actions:**

- Identify a way of cross checking access to justice implications that arise out of each new way of working (for example: effectiveness, efficiency, speed, innovation, expert decision making including observational satisfaction: availability, comprehensibility, whether the remedy solves the problem and user acceptance)
- Draft a model Practice Direction that identifies how to make the decision for each step in a theoretical process
- Draft a Practice Direction for each tribunal jurisdiction
- Cross check case officer Practice Directions for levels of authorisation

- **Assisted Digital**

- The principle is to facilitate access to justice for the digitally excluded
- The design concept is to provide a service known as 'assisted digital' to meet the access to justice needs of those who are digitally excluded
- The solution is identified but must now be trialled in Social Security and Child Support
- **Actions:**
 - Cross-check the recommendations of the JUSTICE report with the service and publish the principles on which it will work
 - Trial the service including the face to face provision
 - Develop the model for other Tribunals

- **Case officers**

- The principle is that authorised officers (formerly known as case officers) including our Registrars, legal officers / advisers and tribunal case workers are authorised to undertake judicial functions appropriate to their skills and abilities that do not determine the substantive outcome of a case
- The design concept is that authorised officers are only to be used when authorised by the Senior President of Tribunals at the request of Chamber Presidents under Rules and Practice Directions to be made in each jurisdiction by the SPT. They are supervised in their judicial functions by nominated judges in accordance with a protocol.
- The identified solution has been proved in Tribunals. In order to successfully implement the solution and maximise operational effectiveness a protocol is to be agreed with the SPT and each Chamber President dealing with the following:
 - In each jurisdiction, the functions of each type of authorised officer
 - The supervision of and the locations at which the functions are to be performed which are to be directed by Chamber Presidents and supervising judges
 - A funding formula for the complement of authorised officers in each jurisdiction
 - The recruitment competencies which are to include the skills and abilities framework for Judicial Office Holders as applied to the authorised functions

- The training in authorised functions which is to be agreed with the Director of Training for Tribunals at the Judicial College and will contain annual opportunities for training with supervising judges
 - A career development scheme which provides opportunities to obtain professional qualifications
 - **Actions:**
 - Finalise from the pilots and put in place a model Practice Direction for use in all jurisdictions dealing with each level / type of authorised officer and their functions
 - Agree the protocol for operational use
 - Agree funding for complements and training with judges
- **Pre-hearing supervision / triage**
 - The principle is that in a authorised officer facilitated process like the Court of Appeal, the Upper Tribunal and some but not all First-tier Tribunals, authorised officers will be permitted to assist the judge to facilitate access to justice by helping prepare materials (including standard directions, the agreement of issues and the compilation of an electronic bundle) before each hearing
 - The design concept is to permit authorised officers to provide assistance with documentary preparation during pre-hearing supervision / triage
 - The identified solution is to mirror the functions of Upper Tribunal Registrars (and Court of Appeal Deputy Masters) in a Practice Direction which preserves the limits that already exist both on proportionality grounds and in the adversarial party-party context
 - **Actions:**
 - Collate and refine the Court of Appeal and Upper Tribunal (inc Employment Appeal Tribunal) Registrar Standard Operating Procedures into a model Practice Direction that is incorporated into the authorised officer Practice Directions
 - Identify the cost implications and the extent to which the practice is already in place
 - Identify the circumstances in which the facilitation should not be provided
- **Change (including digital) Delivery**
 - The principle is that individual jurisdictions should agree the way in which new ways of working (common components, projects and process) are to be used in their Tribunals
 - The design concept is that once proved in pilots, new ways of working that deliver agreed principles by agreed design concepts are to be implemented by a joint team of judges and HMCTS operational teams in each Tribunal
 - The identified solution is to have an implementation plan for each Tribunal with a named HMCTS manager working with the leadership judiciary in each Tribunal
 - **Actions:**
 - Develop an end-to-end ways of working template for each Tribunal

- Identify the ways of working changes by process, digital components and judicial function
- Identify the hardware and software solutions most suited to the jurisdiction(s) of the Tribunal (including appropriate screens, laptops, tablets and presentation equipment)
- Identify training needs (see digital training)
- Identify digital / support needs (eg help desks, in-house Information technology liaison judges and digital support officers)
- Agree the digital / reform proposition for the fee paid inc non-legal members

- **Digital Training**

- The principles that have been agreed in cross-jurisdictional discussion are as follows:
 - Sufficient funding will be made available to the Judicial Office to permit the effective and proportionate training of all the relevant judiciary before new technology or a new way of working is introduced to them
 - Digital and associated reform training will be undertaken in accordance with training need analyses that are constructed by the Judicial College in the usual way i.e. they are signed off by judges. Training should be delivered in a way most suited to the recipient, rather than a one size fits all approach.
 - Reform Business Readiness Tests (BRT) will include an assurance that all relevant members of the judiciary have been offered the necessary training.
- The design concept is that reform training needs will be identified at milestones in each project which will then be agreed to be delivered by a range of methods including, where funded, by the Judicial College in order to prepare judicial office holders for new ways of working. That will include leadership training in change leadership, in particular engagement and communication.
- The identified solution is being developed into an agreement between HMCTS and the Judicial College. It will be led by the Judicial College.
- **Actions:**
 - Finalise the agreement which is to include:
 - The process by which a training need is identified as a milestone in each project
 - The creation of Training Needs Assessments for sign-off by training judges
 - Methods of delivery
 - The Funding principle for the Judicial College
 - Training propositions for the fee paid including non-legal members
 - Develop Judicial College delivery plans
 - Develop Judicial College leadership training

- **Tribunals Estate**

- The principle is to manage the Tribunals estate in accordance with criteria that accord the same public status, access to justice and quality of jurisdictionally appropriate accommodation for Tribunals justice as for other jurisdictions
 - The design concept is to develop and implement a Tribunals estate strategy
 - The identified solution is agreed and the strategy should include the following:
 - The Tribunals estate strategy will involve agreements between the SPT and the Chief Executive of HMCTS, whilst recognising that the Lord Chancellor is responsible for the provision and funding of the estate. All decisions about the estate will engage the four principles already agreed and, where appropriate, the principles for the closure of court and tribunal estate approved by the HMCTS Board
 - Implementation plans should be agreed with relevant Chamber Presidents before a closure takes place and the plans should include the identification of the HMCTS manager and leadership judges jointly responsible for taking forward the implementation, site plans for integration of the judicial office holders and their workload and a timetable
 - Buildings to which judges and work are moved will be appropriate to their jurisdictional use i.e. if not design guide then agreed for the jurisdiction and building concerned
 - Supplementary provision that is necessary to provide local access to justice that is jurisdictionally necessary (eg mental health, property or local Social Security and Child Support hotspots) should be agreed in protocols for the use of alternative accommodation in each relevant tribunal
 - **Actions:**
 - Finalise the Tribunals Estate Strategy
 - Develop protocols for the use of supplementary provision
- **Support Services for CTSCs, courts and Tribunals and national/regional offices**
 - The principle is that HMCTS support for judges in hearing rooms and Tribunals leadership judges nationally and regionally should be no less than that presently provided
 - The design concept is to agree the functions and scaling that are to be provided locally, regionally and nationally
 - The identified solution is to develop a plan that provides for the following:
 - A new relationship between regional offices and Tribunals
 - HMCTS support provided to judges and users in hearing rooms (clerks, ushers and face to face services) will not be less than at present
 - HMCTS support for Chamber President / jurisdiction board teams and regional judge teams will be identified and agreed by function and scaling
 - HMCTS services and support for judges which is provided in cross jurisdictional buildings should be managed by a named person in the building who is not jurisdiction specific i.e. Tribunals are no longer to be regarded as visitors in HMCTS buildings inc crown courts and magistrates' courts

- HMCTS services that are moving to Courts and Tribunals Service Centres including from existing back offices will have a transition plan that is agreed with a named responsible manager for the jurisdiction concerned and criteria for the closure of legacy services which will include Business Readiness Tests for the transition
- **Actions:**
 - Agree national and regional office functions and scaling
 - Agree local hearing centre functions and scaling
 - Develop support plans for each jurisdiction which describe the management and inter-relationship between Courts and Tribunals Service Centres, local courts and Tribunals and national/regional offices

Appendix A – Cross-jurisdictional positions

1. The following discussions took place with the Crime, Civil and Family jurisdictions of the courts on behalf of all courts and Tribunal judges and they will apply equally to the Tribunal jurisdictions.

2. **Staffing in Courts and Tribunals; the CTSCs and Listing:**
 - a. HMCTS is building the model for the future staffing of courts and Tribunals and the Courts and Tribunals Service Centres (CTSCs) by reviewing the workload of each of the administrative tasks which support us to reach an estimate for required staffing levels. The present business case assumptions will not be used as a ‘top down’ target to be met.
 - b. The Judicial Engagement Groups will discuss staffing in courts and Tribunals and will inform HMCTS of their views about the required roles and appropriate staffing levels needed to support the judiciary. All courts and Tribunals will be staffed to agreed minimum levels, and the staff will be carrying out agreed roles, to ensure that the judges can work effectively and efficiently.
 - c. Work is ongoing on the detailed design of the CTSCs. This will be discussed with the Judicial Engagement Groups and will include an agreed, effective and responsive system of communication between the CTSCs and courts and Tribunals, and a structure to deal with the handover from one to the other.
 - d. All courts and Tribunals will have an appropriate number of Listing Officers based at hearing centres; those fulfilling that role will be fully supported and any listing work performed at the CTSCs will be fully integrated with the listing at the hearing centre. This is designed to ensure that leadership judges retain proper judicial control of all listing functions.
 - e. Future decisions about where listing work takes place will be taken on the basis of an appraisal of the most suitable location in agreement with the judiciary. Detailed judicial knowledge at a local level is often critical to effective listing.
 - f. The Scheduling and Listing tool will support listing officers and leadership judges to make the process more efficient.

3. **Fully Video Hearings:**
 - a. New video technology will be robust and reliable. Judges will not be expected to conduct hearings with unsuitable technology.
 - b. Anyone appearing before a court or Tribunal must be clearly seen and heard throughout the hearing, as would be the case if they were physically in a hearing room. The video technology should ideally capture the entire person, rather than a head-and-shoulders-only caption.
 - c. Broadband speed, Wi-Fi, and equipment used by those taking part in the hearing must be of a sufficient quality to enable their appearance without screen freezing or the signal dropping out.

- d. HMCTS will set out its practical proposal/s for securing open justice in fully video hearings. It is expected that this will be achieved by a live link from the video hearing to viewing areas in court and Tribunal buildings in which the cases are listed. Access to the proceedings will only be by this means. Members of the public will be supervised in the viewing areas by HMCTS staff.

4. Effective Digitised Systems:

- a. HMCTS will provide reassurance about the future development of the Common Components programme including the rationale for any delay where that is agreed to be beneficial.
- b. The new digital case system will be better than the legacy systems: in terms of speed, robustness, user-friendliness, effectiveness and flexibility.
- c. All persons using the new systems will be trained.
- d. Data security and confidentiality issues will be adequately provided for.

5. Judicial User Interface:

The Judicial User Interface will be able to carry out the following functions:

- Remote access;
- Indexing functionality and information to aid document filing;
- Search;
- Note-taking, highlighting, cutting, and pasting (editable PDF if PDF is file format);
- Allowing for multiple documents to be opened simultaneously;
- Allowing for early accessibility for allocated parties;
- Allowing for the adding or subtracting of documents without altering the established pagination;
- Access to court calendars via icons;
- Date and directions functionality;
- Alerts / notification systems;
- Consistent pagination for all parties to ensure the smooth-running of referring a witness to a document;
- Case summary; and
- Miscellaneous categorisation for papers that do not fit elsewhere.

Appendix F

The Model Digital Tribunal

Digital First (automatic)

- Track my Appeal (digital notifications of each step in a process and signposts to where help, guidance and alternatives to a contested hearing are available)
- Start my Appeal (digital application)
- Evidence sharing (the digital bundle)
- Evidence upload
- Core case data (the case file)

Digital Solutions (first line authorised officer, second line judge)

- Triage / selection for digital and other process and digital case management
- Evidence my Appeal (standard questions)
- Adjudication / alternative dispute resolution / Early Neutral Evaluation (ENE)
- Pre-hearing supervision (authorised officer case management and preparation)
- Online hearings (asynchronous conversations)
- Video and telephone conferencing
- Fully video hearings
- Review / Permission to Appeal process
- UT / EAT appeals case management

Digital Support (part automatic, first line proper officer, second line authorised officer, third line judge)

- Open justice provision and recording of all proceedings
- Translators and intermediaries
- Assisted digital support
- Case progression
- Scheduling – patterning and booking of judicial office holders and facilities (inc alternative local estate)
- Listing to judicial protocols
- Digital and remote / video hearings administration
- Resulting of orders and reasons / templates and promulgation
- Publication of judgments
- Judicial Office online services (intranet, library, Judicial College LMS)
- Data capture and presentation
- Digital training

Face to Face

- Final Listing by judges
- Authorised officer support for judges
- Face to face hearings
- In-hearing support – ushers and clerks
- IT support (IT liaison judges and IT support teams)

- Facilities management (inc security, concierge, buildings maintenance and management)
- Leadership services
- Jurisdictional support (inc performance analysis, welfare and HR)
- Personal support (HR, welfare, expenses, official business administration, leave, pay and pensions)
- Judicial Office services
- Training
- Data analysis and research

Appendix G

Speeches given by the Senior President about modernisation:

Securing Open Justice, Max Planck Institute for Procedural Law and Saarland University, Luxembourg, 1 February 2018 (<https://www.judiciary.uk/wp-content/uploads/2018/02/ryder-spt-open-justice-luxembourg-feb-2018.pdf>)

Assisting Access to Justice, Keele University, 15 March 2018 (<https://www.judiciary.uk/wp-content/uploads/2018/03/speech-ryder-spt-keele-uni-march2018.pdf>)

The role of the justice system in decision-making, BASPCAN 10th International Congress, University of Warwick, 9 April 2018 (<https://www.judiciary.uk/wp-content/uploads/2018/04/spt-ryder-bapscan-april2018.pdf>)

What's Happening in Justice: A view from England and Wales, The Future of Justice, UCL, 14 May 2018 (<https://www.judiciary.uk/wp-content/uploads/2018/05/speech-ryder-spt-ucl-may-2018.pdf>)

Justice in a Modern Way, Administrative Law Bar Association, Birmingham, 16 July 2018 (<https://www.judiciary.uk/wp-content/uploads/2018/08/spt-speech-alba-lecture-july-2018.pdf>)

Experts Under the Judicial Microscope, Expert Witness Institute, Westminster, 27 September 2018 (<https://www.judiciary.uk/wp-content/uploads/2018/10/speech-by-spt-expert-witnesses-sept2018.pdf>)

Constitutional Norms and Modern Methods, University of Coventry, 3 October 2018 (<https://www.judiciary.uk/wp-content/uploads/2018/10/speech-by-spt-constitutional-norms-and-modern-methods-oct2018.pdf>)

The Duty of Leadership in Judicial Office, Centre for Contemporary Colonial Law, University of Bolton, 22 October 2018 (<https://www.judiciary.uk/wp-content/uploads/2018/10/speech-by-spt-leading-judiciary-sept2018-v1.pdf>)

Diversity and Judgecraft, EJTN and Max Planck Institute for Social Anthropology, Wiesbaden, Germany, 12 November 2018 (<https://www.judiciary.uk/wp-content/uploads/2018/11/speech-by-spt-mpi-ejtn-wiesbaden-12112018.pdf>)

Rapporteur's Closing Speech, International Forum on Digital Courts, London, 4 December 2018 (<https://www.judiciary.uk/wp-content/uploads/2018/12/Speech-by-Sir-Ernest-Ryder-First-International-Forum-on-Online-Courts.pdf>)

The Modernisation of Justice, Caribbean Court of Justice Academy, Kingston, Jamaica, December 2018 (<https://intranet.judiciary.uk/2019/01/25/speech-by-sir-ernest-ryder-senior-president-of-tribunals-the-modernisation-of-justice/>)

Appendix H

Judicial Diversity Data

The Annual Judicial Diversity Statistics²⁷ (published July 2018) show:

- 46% of tribunal judges were women;
- women outnumber men among tribunal judges at all age groups under 60;
- 11% of tribunal judges are BAME;
- two thirds of tribunal judges are from non-barrister backgrounds.

Except from Judicial Diversity Statistics 2018, table 2.1, showing Gender information for the Tribunals judiciary

Judges – Tier	Total in post	Gender		
		Male	Female	% Female
First-tier Tribunal	1,288	686	602	47%
Upper Tribunal	89	55	34	38%
Employment Tribunal - England and Wales	287	168	119	41%
Employment Tribunal - Scotland	38	19	19	50%
Employment Appeal Tribunal	1	-	1	*
Total Judges	1,703	928	775	46%

Non-Legal Members - Tier				
First-tier Tribunal	2,205	1,128	1,077	49%
Upper Tribunal	27	19	8	30%
Employment Tribunal - England and Wales	726	327	399	55%
Employment Tribunal - Scotland	135	64	71	53%
Employment Appeal Tribunal	29	17	12	41%
Total non-legal members	3,122	1,555	1,567	50%
Total Judges and Non-Legal Members	4,825	2,483	2,342	49%

²⁷ See <https://www.judiciary.uk/publications/judicial-diversity-statistics-2018/> for the original tables, including important explanations, clarifications and qualifications relating to the information shown here.

Except from Judicial Diversity Statistics 2018, table 2.1, showing Ethnicity information for the Tribunals judiciary

Judges – Tier	Ethnicity ²								Declaration rate ⁵
			of which:						
	White	Total BAME ³	Asian or Asian British	Black or Black British	Mixed	Other Ethnic Group	% BAME ³	Unknown	
First-tier Tribunal	1,051	130	63	20	18	29	11%	107	92%
Upper Tribunal	66	15	4	2	7	2	19%	8	91%
Employment Tribunal - England and Wales	259	22	8	9	3	2	8%	6	98%
Employment Tribunal - Scotland	27	-	-	-	-	-	-	11	71%
Employment Appeal Tribunal	1	-	-	-	-	-	-	-	100%
Total Judges	1,404	167	75	31	28	33	11%	132	92%

Non-Legal Members - Tier

First-tier Tribunal	1,586	367	269	30	24	44	19%	252	89%
Upper Tribunal	22	5	2	1	1	1	19%	-	100%
Employment Tribunal - England and Wales	579	87	50	28	7	2	13%	60	92%
Employment Tribunal - Scotland	121	2	1	-	1	-	2%	12	91%
Employment Appeal Tribunal	23	6	3	2	-	1	21%	-	100%
Total non-legal members	2,331	467	325	61	33	48	17%	324	90%
Total Judges and Non-Legal Members	3,735	634	400	92	61	81	15%	456	91%

Except from Judicial Diversity Statistics 2018, table 2.4, showing Gender and Ethnicity information, by age group, for the Tribunals judiciary

BAME representation among tribunal judges and members was higher than the working age general population of all age bands.

Appointment name	Total	% Female ⁴				% BAME (of those declaring an ethnicity)			
		Under 40	40-49	50-59	60 and over	Under 40	40-49	50-59	60 and over
Judges									
Presidents, Chamber Presidents, Deputy and Vice Presidents	12	-	-	*	-	-	-	-	-
Upper Tribunal Judge	58	*	*	59%	25%	-	*	14%	16%
Deputy Upper Tribunal Judge	29	-	*	*	37%	*	*	*	19%
Tribunal Judge	1,255	61%	59%	57%	37%	12%	18%	16%	6%
Regional, Deputy Regional Tribunal Judge	27	-	*	-	25%	-	-	-	8%
Employment Judge	310	*	54%	48%	24%	*	8%	10%	2%
Regional Employment Judge	12	-	-	*	*	-	-	-	*
Total	1,703	63%	56%	55%	34%	15%	15%	14%	6%
Non-Legal Members									
Tribunal Members	3,122	74%	66%	57%	42%	35%	27%	17%	14%
Total Judges and Non-Legal Members	4,825	71%	61%	56%	40%	30%	22%	16%	11%
General working age population (2011 Census)						18%	12%	9%	5%

Except from Judicial Diversity Statistics 2018, table 2.5, showing Gender and Ethnicity information for the Tribunals judiciary as at 1 April each year, 2014 to 2018

Small increases have been seen in BAME representation over the period, increasing slightly from 9% to 11% for judges, and from 15% to 17% for non-legal members.

Turnover among judges is low relative to the overall number of judges. As such, changes to the demographics of judges are inevitably gradual.

	% Female					% BAME				
	2014	2015	2016	2017	2018	2014	2015	2016	2017	2018
Judges										
Presidents, Chamber Presidents, Deputy and Vice Presidents	25%	36%	29%	29%	33%	-	-	-	-	-
Upper Tribunal Judge ⁴	24%	27%	35%	42%	41%	10%	12%	14%	14%	15%
Deputy Upper Tribunal Judge	38%	42%	33%	32%	34%	15%	11%	10%	24%	28%
Tribunal Judge Regional, Deputy Regional Tribunal Judge	46%	46%	47%	47%	47%	10%	10%	11%	11%	11%
Employment Judge	37%	41%	41%	42%	42%	6%	6%	7%	7%	7%
Regional Employment Judge	42%	36%	36%	42%	42%	8%	9%	9%	8%	8%
Total	43%	44%	45%	45%	46%	9%	9%	10%	10%	11%
Non-Legal Members										
Tribunal Member	46%	46%	47%	49%	50%	15%	16%	16%	16%	17%
Total Judges and Non-Legal Members	45%	45%	46%	47%	49%	13%	13%	14%	14%	15%

Appendix I

Academic conferences and materials prepared in collaboration with the Tribunals and the Administrative Justice Council in support of modernisation themes during 2018:

Events:

- Ombudsman Legislative Reform (AJC, Ombudsman Association, Nuffield Foundation and University of Sheffield), Sheffield, 18 January 2019
- *What Works Centre for Civil and Administrative Justice* (The Legal Education Foundation [‘LEF’]) UCL, 25 January and 30 April 2018
- *Securing Open Justice* (Max Planck Institute for Procedural Law and Saarland University, Luxembourg), Luxembourg, 1-2 February 2018
- *Public Service and the Ombudsman* (Ombudsman Association, JUSTICE and UK Administrative Justice Institute [‘UKAJI’]), RICS, 5 February, 2018
- *A Research Roadmap for Administrative Justice* (UKAJI, Nuffield Foundation and University of Essex) February 2018
- *The Future of Justice* (UCL, Nuffield Foundation and LEF), UCL, 14-15 May 2018
- *Immigration and Asylum Appeals: A Fresh Look: A Report by JUSTICE – Chair of the Committee Sir Ross Cranston*, 17 May 2018, <https://2bquk8cdew6192tsu41lay8t-wpengine.netdna-ssl.com/wp-content/uploads/2018/06/JUSTICE-Immigration-and-Asylum-Appeals-Report.pdf>
- *Preventing Digital Exclusion from Online Justice: A Report by JUSTICE – Chair of the Working Party Amanda Finlay CBE*, 4 June 2018, <https://2bquk8cdew6192tsu41lay8t-wpengine.netdna-ssl.com/wp-content/uploads/2018/06/Preventing-Digital-Exclusion-from-Online-Justice.pdf>
- *Digital Justice: Tools and Challenges* (European Circuit of the Bar), Stockholm, Sweden, 20-21 September 2018
- *Measuring Success in Online Courts: An Empirical Challenge* (UCL and LEF), London, 23 October 2018
- *Workshop on Administrative Justice Decision Making and Procedures* (AJC, ESRC, University of Manchester and University of Westminster), Institute of Advanced Legal Studies, London, 2 November 2018
- *Measuring the Impact of Court Reform on Access to Justice* (University of Oxford, ESRC and LEF), Bonavero Institute of Human Rights, Mansfield College, Oxford, 16 November 2018
- *International Forum on Digital Courts* (HMCTS and Society of Computers and the Law), London, 3-4 December 2018
- *7th Civil Justice Council National Forum* (Civil Justice Council), Westminster, 7 December 2018
- *Workshop on Tribunals Modernisation* (AJC, ESRC, University of Manchester and University of Westminster), Institute of Advanced Legal Studies, London, 17 December 2018
- *Workshop on Ombudsman Legislative Reform* (Administrative Justice Council), Sheffield, 18 January 2019
- *Understanding Courts: A Report by JUSTICE – Chair of the Working Party Sir Nicholas Blake*, 25 January 2019 <https://justice.org.uk/our-work/areas-of-work/what-is-a-trial/>