



HM Courts & Tribunals Service

Susan Acland-Hood
Chief Executive
HM Courts & Tribunals Service
102 Petty France
London
SW1H 9AJ

E susan.acland-hood@justice.gov.uk

www.gov.uk/moj

Rob Thompson
Vice Chair of Civil Court Users Association
via email robertthompson@brachers.co.uk

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Dear Mr Thompson

Thank you for your letter of 7 February to the Lord Chancellor and to me, sharing your and the CCUA's thoughts regarding the progress and direction of the court reform programme. I have agreed with Robert Buckland that I will reply to you and will copy him the response. I would like to start by saying how greatly I value the positive engagement that there has been between HMCTS and the CCUA, and I take the concerns you raise in your letter very seriously. I have, together with my team, considered them all and I hope this letter helps to reassure you and your members of the progress being made, and of our commitment to reform our services.

As you said in your letter, our £1bn modernisation programme provides an unprecedented opportunity to transform our services and improve the experiences of those who use and need our courts and tribunals. The opportunities within the civil jurisdiction are vast. The Online Civil Money Claims Service (OCMC), which has been informed by Lord Brigg's vision, is designed to transform the user experience by enabling people to resolve their disputes in a simple, proportionate and accessible way. We have now seen over 123,000 claims issued using the digital service - which provides significantly enhanced features extending far beyond the current functionality of Money Claims OnLine (MCOL) and the paper claim process.

Although many positive changes have been delivered, I am grateful that you have highlighted the implications of making systems easier to use. The OCMC service introduced a range of features in September which deliver improved access to justice for all our users, whilst also helping to identify illegitimate defences early in the process. I understand that you were shown a demonstration of the OCMC service at the most recent national meeting with my team in January. So, you will be aware that defendants can now provide Direction Questionnaire (DQ) information online as part of the defence process within the digital service following immediate notification of a claim being issued. Legal advisers, who have received full training and are supervised by the judiciary, are now able to review cases immediately up to £300 online; identify where a case or defence has no cause of action, recommending to a judge that it is struck out; or alternatively issue directions orders. On 24 February we also introduced the ability for judges to review higher value cases in the same way.

The DQ Online feature and the ability to triage cases immediately means that we are able to identify any claims that should not proceed much earlier in process - the average case now takes 17 days from issue to ready for review compared to 10 weeks for cases issued on MCOL or paper. We are also able to access better information about cases and I am pleased to confirm that we have not seen any evidence of receiving spurious defences so far. We will of course continue to monitor the concerns you have kindly raised in your letter as we expand the service and increase the volume of cases benefitting from these reforms.

Whilst automation and digitisation have delivered considerable improvements, fundamental reform goes wider and for the OCMC service we are trialling different approaches to enable users to resolve their disputes more effectively. You will be aware that we are piloting 'opt out mediation' for those cases where a defence is received. This pilot sees all users offered a mediation appointment with more than 90% resulting in a booking. This is a significant improvement in comparison to the small claims mediation service, and with similar settlement rates we could see many more cases settling. In addition, the digital settlement tool, which requires no third-party involvement and results in an enforceable legally binding agreement, has been used over 1,000 times and has resulted in over 300 settlement agreements. There have been examples of this being achieved within 48 hours of a case being issued. Our insight has suggested that the settlement tool might be of value to bulk users in agreeing payment plans - we would welcome a discussion about how we can best provide your members with this service if you think it could be of value.

We note the Association's support for the Registry Trust's suggested initiative to allow judgment debts to be marked as partially settled or similar and the benefit of improved data accuracy. The OCMC service now enables users to provide information about parties' dates of birth and the settlement of cases. We are due to meet the Registry Trust shortly and will therefore discuss these opportunities at that meeting. We would of course need to consider any implications of the requirements with legal colleagues and the Ministry of Justice (MoJ).

I have also spoken to MoJ colleagues, who are grateful to the Association for their engagement with, and response to, our consultation on default county court judgments. The Ministry has confirmed that it is considering its response to the consultation findings in the context of wider reforms and will respond to it in due course. I will ensure you are kept updated regarding both matters as they progress.

In your letter you understandably raised the opportunity to also improve the service for those cases requiring court notices and orders. There is significant work in train to improve the production and quality of civil orders. Within the OCMC service, we have worked with the judiciary and content designers to simplify and revamp directions orders following review by a legal adviser or judge. These orders are available immediately to users and provide the foundation for re-use with other civil orders such as the production of digital final orders, which will be delivered later this year.

We appreciate that the OCMC service is not yet available for bulk users and, whilst we continue to deliver reform, improving performance for the remaining claims in the civil jurisdiction still remains a priority for us. The civil performance action plan, which has been developed in response to the challenges faced following a sustained increase in civil receipts, includes the national roll out of a civil orders generator to standardise and reduce the time taken to produce orders. Alongside the OCMC developments, we believe that the orders generator will begin to address the opportunities you have raised. My team would be happy to provide further detail about this initiative, taking account of any feedback or further improvement opportunities you identify.

I noted your concern about investment in the civil justice system, particularly in light of the performance and service challenges faced in the civil jurisdiction. HMCTS recognises the significant contributions of our civil users and, in recognition of the increasing claims filed and fees paid, additional administrative funding of £2m was allocated specifically for the civil jurisdiction during the 2018/19 financial year and an additional £5.2m in this financial year. We have used this funding to address existing backlogs and improve the service provided to our users. I am pleased to confirm that the volume of administrative work outstanding is now at its lowest level since January 2018 - and 28% lower than its peak in August 2018. The percentage of orders completed within five working days has also been increasing weekly since last summer - and at the end of January, was at the highest level

seen this financial year (75.7%). These improvements will take some time to embed but I expect that users will begin to see the benefits soon - I will ensure my team continues to provide you with a performance update at national meetings whilst we continue to monitor these service improvements.

I appreciate that our telephone services have also been affected by the recent challenges and we have, therefore, been focusing on improving call response rates - this has resulted in an increased answer rate at the County Court Business Centre (CCBC) to above 70%. Work continues at the CCBC and Loughborough call centre to improve our service. The OCMC service will move to Stoke Courts and Tribunals Service Centre (CTSC) in April this year where the technology available provides a much better view of real demand, enabling resources to be adjusted to meet the needs of our users. The service will also be supported by several additional contact channels including webchat and webforms which will provide users with alternative means to contact us. As we continue to deliver and expand OCMC, a greater number of users will benefit from this service.

Whilst the additional funding has assisted with prioritising and improving the level of service provided to civil court users, I appreciate the concerns you have raised about court fees. I have taken this opportunity to share your letter with MoJ colleagues who are responsible for the court fee charging policy. The MoJ acknowledge that increased fees are charged in some areas where users can afford to pay - the approach is taken in line with Section 180 of the Anti-Social Behaviour, Crime and Policing Act 2014 which enables the Government to charge enhanced fees in order to subsidise other parts of the system that do not recover their costs in fees ie. domestic violence proceedings in the family court and First-tier Tribunal cases concerning mental health. I am grateful nevertheless that you have raised this concern in your letter and highlighted the impact on your members. I can confirm that of the £561m income received in civil fees in 2018/19, £475m was spent delivering the service. HMCTS's overall running costs were approximately £2.0bn compared to £710m of fees recovered. HMCTS recognises the significant contributions made by civil court users and is committed to delivering the continued improvements referenced in this response to ensure our users benefit from the services they have paid for.

MoJ has also confirmed its position on the hearing fee refund policy and the logic for requiring advance payment, emphasising that the Government consulted on refundable hearing fees in 2014. It is firstly worth emphasising that our intention is to support and encourage parties to resolve their disputes and our objective is to set fees which support this. As a result, the change to the existing policy ensured non-payment of trial fees do not attract a sanction until four weeks before the trial date in comparison to the previous position where the fee was due much earlier when the claim was listed on the multi or fast-track. I understand that you have engaged with my team previously about this policy who have confirmed that we have not seen any change in behaviours to suggest that the policy has had a negative impact on settlement rates. I believe my team have offered to share any evidence you might have with MoJ for consideration or alternatively to arrange MoJ fees policy to attend future meetings to discuss your concerns - please do let me know if you would find either of these helpful and I will ensure they are taken forward.

I can assure you that providing continued access to justice will remain a priority whilst we continue to deliver improvements for civil court users. The sale of surplus court buildings, which only take place following public consultation and careful analysis which deems that effective access can be maintained, has raised over £195m. All of the additional funding has been reinvested into the Reform Programme, helping to fund the improvements we are making to our service as mentioned above. User feedback tells us this investment has been well received. OCMC satisfaction rates currently stand at 89%, based on over 10,000 responses. But, whilst it is really encouraging to receive this feedback, we know that there is more to deliver.

2020 will see significant advances in reforming the civil jurisdiction. This will include completing the delivery of the end to end digital OCMC service for litigants in person and providing a digital service for personal injury claims. Whilst I appreciate that reforming the personal Injury claim service will not directly impact the majority of your members, it will be the first service in civil that is available for professional users who will be able to access the service using MyHMCTS, and it will significantly increase the amount of work which can be issued through our reformed services. We will take the learning from both the OCMC and the personal injury service to inform the wider roll out to all civil money claims, including a reformed service for bulk users and for progressing higher value claims. Bulk users will benefit from the enhancements listed above, but I can assure you that we will only change aspects of the existing service where improvements are identified - we welcome your continued ongoing engagement and feedback to ensure that this is the case.

The reform of civil money claims enables us to focus on a vital and integral part of the civil justice system, namely providing an effective enforcement service. I wholeheartedly agree that there are considerable opportunities to improve the way that our users experience the process of enforcing court judgments and I would welcome the CCUA's views about how we can best achieve transformation. Whilst we need to reform the preceding money claim service before transforming this experience, we are building the foundations now by improving the data captured within the OCMC journey and providing improved opportunities for settlement.

We are committed to working with the CCUA to implement any initiatives which can be delivered in the lead up to further reforms. I understand that you met with members of my team recently in Birmingham which provided a valuable opportunity for discussing some of these opportunities. In particular we know that there are opportunities following the set-up of Warrant of Control Support Centres to improve our communications and the recovery of debt. This Summer we expect to deliver improvements to the returns we send you and provide debtors with alternative mechanisms to enable simpler and quicker payments by phone and online. We are also aware that you believe the Attachment of Earnings process would be better utilised if changes were made in this space. Whilst this aspect of the enforcement process may take a little longer to improve, we are actively engaging with the MoJ to consider the suggestions of information orders and fixed tables and can see the benefits that these would bring to you and your clients. In the meantime, we are grateful for your ongoing support in preparing to pilot the bulk issue of applications and the use of process servers. Delivery and evaluation of these initiatives will help to prepare for future reforms.

Whilst I appreciate that HMCTS still has a lot work to do, I hope that I have helped to re-assure you and CCUA members that we are aware of the challenges and opportunities you have raised, and are making progress towards delivering an improved service for our civil court users. I would like to take this final opportunity to thank you for again for the CCUA's continued engagement. My office is currently arranging our next meeting for April so I look forward to discussing any of these matters with you further then. Please do not hesitate to get in touch in the meantime.

A copy of this reply goes to the Lord Chancellor.

Yours sincerely



Susan Acland-Hood
Chief Executive, HM Courts & Tribunals Service