

Thurrock Coalition



Response to the “Transforming Our Justice System” Consultation relating to the “Assisted Digital” proposals

Submitted by email to: CourtsReformPolicy@justice.gsi.gov.uk

7th November 2016

About Thurrock Coalition

1. Thurrock Coalition is the User-Led Organisation for Thurrock. We are a company that has been set up to ensure that people who live in Thurrock have access to all the information they may require to get the support and care that they need.
2. Thurrock Coalition is an 'umbrella' company that consists of 4 organisations, all of which follow the Social Model of Disability and aim to improve the lives of disabled and older people living in Thurrock by seeking to remove environmental, attitudinal and physical barriers that exist in society. We connect to over 1500 individuals and organisations with an interest in disability issues. Thus, we have a direct interest in responding to the “Transforming Our Justice System” consultation relating to the “Assisted Digital” proposals and welcome the opportunity to provide input and evidence in the context of the consultation.

Summary

3. A meeting of our Consultation and Campaigning Partner Organisation – Thurrock Diversity Network Limited, a registered Community Benefit Society, was called, and our members consulted and views were gathered around the consultation proposals relating to “Assisted Digital”. These are dealt with in turn. The feedback and responses appear below:

Consultation Responses: Assisted Digital

4. We do not agree that the methods outlined in the consultation document (telephone, webchat, face-to-face and paper) are exclusively the right ones to enable people to interact with the Courts & Tribunal Service in a meaningful and effective way, for the reasons set out below:

5. Many people will need an advocate to support them to understand the process, in addition to any support from “Assisted Digital.” Face-to-face is the most appropriate. We are concerned that the emotion of receiving a “no” or being advised of a negative outcome over the telephone is the worst possible medium.
6. The reduction to the availability of and cuts to legal aid have served only to increase the need for specialist advocacy in this area. Already under-resourced Third Sector organisations can undertake advocacy, but this is not free or voluntary, and must be funded by the Ministry of Justice in order to support effective and meaningful delivery of “Assisted Digital” and a simple telephone service will not suffice and will not be fully accessible for the broad range of individuals with impairments and Protected Characteristics.
7. Conducting a Text-based webchat does not offer a holistic approach to the person’s situation. Her Majesty’s Courts & Tribunals Service employees and Panel members alike will be unable to take someone’s body language, intonation and communication into account and may miss out on the full implications of how someone’s impairment affects them on a day to day basis.
8. Our members are concerned that the proposed system is more suited to straightforward civil offences, with a “one size fits all” approach, that may be appropriate for administering summary offences, such as speeding fines, but it is wholly inappropriate to limit face-to-face hearings for disability-related appeals. The proposals do not detail the required flexibility, and indeed feel very impersonal. People choose to breach the Highway Code by exceeding the speed limit. People do not choose to have a physical, sensory, learning disability, or mental health condition or impairment.
9. Whatever the chosen medium, for interaction with Her Majesty’s Courts & Tribunals Service, Disabled people need to speak to someone who understands their individual specific situation and to someone with lived experience to reduce the stress and pressure arising from the Appeals process.
10. If “Assisted Digital” is to go ahead, the process of interaction and the chosen method must be adequately funded and resourced (in terms of people, fully and correctly trained staff, hours of delivery and ongoing costs) so that there are no queues on the phone, or on webchat or Skype call. There must be sufficient numbers of trained staff supporting the “Assisted Digital” programme in order for it to be consistently delivered in an effective and meaningful way.
11. Clarity is needed around how the intended outcomes of “Assisted Digital” will be recognised, measured and met, and further how customer opinion and feedback be acted upon and implemented.
12. Whilst not ideal - Video link, such as Skype and FaceTime could be considered here (both should be offered to cater for PC, Mac, Android, Apple, phones and tablet users), along with sufficient troubleshooting and help & support available for

technical issues, relating to, for example uploading appeal documents, and evidential bundles. With electronic receipts confirming delivery of case documents.

13. In terms of specific channels that are particularly well suited to certain types of Courts and Tribunals, the option of paper forms and evidence are best suited to cases in the Social Security & Child Support Tribunal for the reasons stated below.
14. Fully digital services are better suited to Civil offences, such as those relating to motoring (see above).
15. Telephone channels could be used, if the process is carried out sensitively, in a person-centred manner. Appellants should always be given the option of attending a face-to-face hearing. Text-Based web chat and appeals “on the papers” are unlikely to provide the necessary support required by many disabled people with, physical, sensory, mental health conditions or learning disability. Using a text based chat or conversing with a screen-based video link will not be appropriate for many people with additional support needs. Court papers, no matter how well explained, can be subjective and open to interpretation and key information about a person’s condition cannot all be explained through digital channels.
16. Furthermore, during a face-to-face tribunal hearing, reasoning can be given directly by the Panel, and the claimant may feel less inhibited and more prepared to make representations in person, to truly convey their situation, with support from an Advocate where necessary.
17. Technology may in fact cause an additional barrier, rather than enabling participation and inclusion in the process. Our primary concern is that individuals will not get the support they need under the proposed new system, who will be further marginalised and their access to justice curtailed. The Disability Digital Divide presents a barrier to disabled people accessing the Internet and online services, and in turn would limit the ability of accessing, understanding and moving through the appeals pathway.
18. The potential for the Internet and mainstream technology to have a positive impact upon Disabled people (of whom there are 11 million nationwide) is yet to be realised. A recent report from Scope and the Helen Hamlyn Centre for Design highlights the following issues that need to be addressed:
 - Disabled people still face a huge digital divide – and that many still have to choose between expensive specialist equipment, or inaccessible mainstream gadgets.
 - Technology built for disabled people is expensive, of low functionality, and often requires specialist knowledge to adapt
 - Mainstream technology, like iPads and Windows Tablets, are cheaper and can do much more, but are rarely customised to meet disabled people’s needs.

It is suggested that emphasis needs to be placed upon improving the information available to disabled people about enabling technology. Disabled people are amongst the groups

least likely to use the internet, and are 20% less likely to be online than their peers. This is despite the huge potential of services like online shopping and banking to transform the lives of disabled people.¹

19. Therefore, the Ministry of Justice, if considering creating an “Assisted Digital” service this should be fully accessible and should be operated as a “living service” – involving Disabled people with lived experience in the design, delivery, feedback, performance review and implementation. The Government should look at ways of supporting Disabled people to access the Internet and accessible technology as a way of ensuring equitable access to justice.
20. Our view is that Personal Independence Payment and Employment & Support Allowance Appeals are the least appropriate for digitalisation, as an in-person and face to face experience for the individual is important for the Decision makers to see, hear the individual and understand and respond to body language and other cues as to how their condition impacts upon their daily life and ability, which would be lost if the service was digitised.

Consultation Responses: Impact and Equality Impact Assessments – Assisted Digital

21. We do not agree that the government has correctly identified the range of cost/benefit impacts, resulting from these proposals.
22. Disability Advocacy support is not mentioned in the proposals. There needs to be explicit mandatory provision for funded advocacy support written into any proposed changes.
23. We do not believe that the proposals will achieve the intended benefits, the proposals are very unlikely to speed up the process. Those Claimants who can afford it may decide to commission an expert report if evidence is only considered digitally, and in the absence of an expert panel member. Obtaining expert reports can provide comprehensive and in depth, individualised evidence, but is hugely costly. In addition, considered expert opinions take time to source, draft and obtain, which could increase delays for Her Majesty’s Courts & Tribunals Service in practice.
24. The proposal appears to suggest support from the Third Sector. Any reforms need to fully understand and appreciate that the Third Sector is a professional and specialist provider of support and is not a free resource.
25. Involvement of the Third Sector has the capability of delivering social return on investment and better value for money, but will need to be continually and sufficiently recognised and resourced by the Ministry of Justice in relation to any Assisted Digital co-production, support or partnership working.

¹ Scope “Enabling Technology” – January 2015. Available at: <http://www.hhc.rca.ac.uk/CMS/files/1.Enabling%20technology%20report%202013%20digital%20technology%20disabled%20people%20Scope%20Helen%20Hamlyn.pdf>

26. In terms of the equality impacts upon individuals with Protected Characteristics of the proposed “Assisted Digital” option for reform, it is well known that a greater proportion of Disabled people find using technology a barrier, and even the assisted digital “offer” could act as a deterrent, that prevents Disabled people from participating in the process and severely restricts access to justice.
27. In relation to Assisted Digital we have concerns around the functionality, usability and accessibility of any new I.T. system. Any system needs to demonstrate accessibility tools, including, online adjustable font colour, size and background, along with translate functions, including BSL (at Her Majesty’s Courts & Tribunals Service expense) and additional spoken languages and all documentation should be readily available in “EASYREAD” format.
28. The government’s own Digital Strategy (2013) shows that, in terms of the general population 30% are “digital self-servers”, 52% can be “digital with assistance” and 18% are “digitally excluded.” However, we are particularly concerned that people with visual impairments, hearing impairments, people who are unable to read and people with cognitive impairments and learning Disability are likely to be most adversely affected by the Assisted Digital proposal.
29. The well-documented issues around the digital implementation and delays of Universal Credit² and its affect upon Disabled people means that our concerns around potential spiralling costs, accessibility and launch delays are justified.

Conclusion

30. As a Disabled Persons User-Led Organisation, working alongside Disabled Adult residents of Thurrock we welcome the opportunity to provide information, input and feedback to inform local and national strategies and policies relating to a plethora of topics and issues affecting Disabled people, including equitable access to the appeals system for Disabled people in Thurrock.
31. It is hoped that the information and feedback provided can be used to develop local and national person-centred solutions to bring about improvements and better outcomes for the people we support and represent.

Thurrock Coalition – November 2016

² See: BBC News: Universal Credit Roll-Out Delayed Further – July 2016. Available From: <http://www.bbc.co.uk/news/uk-politics-36847967>