



The Law  
Society



# Online court services: Delivering a more efficient digital justice system

October 2023

## About the Law Society

The Law Society is the independent professional body for solicitors in England and Wales. We are run by and for our members. Our role is to be the voice of solicitors, to drive excellence in the profession and to safeguard the rule of law. On behalf of the profession, we influence the legislative and regulatory environment in the public interest. At home we promote the profession, and the vital role legal services play in our economy. Around the world we promote England and Wales as a global legal centre, open new markets for our members and defend human rights.

## Executive summary

The justice system has experienced a considerable transformation over the past decade. The Government's court modernisation programme, coupled with the impact of Covid-19, has necessitated a radical and fast transition to the widespread use of digital technology.

This digital revolution has been against a backdrop of longstanding and worsening court backlogs, legal aid cuts and ever-increasing pressures on all those who work within the justice system. Above all, the promise of timely justice is being diminished.

While reform is long overdue, the Law Society has consistently expressed concern about the speed of digital change and the number of changes all at once, highlighting the burden this places on judges, court staff, solicitors, and barristers, but most importantly on people's ability to access justice.

We want to ensure that the legal profession plays its part in delivering efficient and effective online systems. We believe this can be achieved by creating better integration between systems used by the profession and by the courts so that justice can be delivered to those who need it. This can and must happen through Government taking the right action now by adopting a more collaborative approach and listening to those who use these systems.

## Introduction

HM Courts and Tribunals Service (HMCTS) is entering the final stages of its court reform programme to modernise the courts and tribunals system. The aim of the programme has been "to improve courts and tribunals for both those who use them and for those working in them"<sup>1</sup> by moving away from inefficient paper-based services and creating services that are digital by default and design. The Law Society has been broadly supportive of this, agreeing that a modernised court service could benefit all users, provided it does not come at the expense of justice.

The purpose of digitising existing processes has been to make these more accessible, quicker, and cost efficient for court users, while also improving efficiency for legal professionals through better case management systems. The Law Society therefore strongly supports investment in technology that improves accessibility to court users and working practices within the court system.

Despite the good intentions of the reform programme, in practice, court users and legal professionals have faced difficulties with growing delays in the court system and increased costs in dealing with inefficient technologies. These issues are challenging, but the

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<sup>1</sup> See: [The HMCTS Reform Programme - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/hmcts-reform-programme)

emergence of them is not unexpected. Our members have frequently highlighted their concerns about communication issues, technical issues, lack of court staff resource, the level of experience of staff, and delays and their impact on solicitors and their clients.

We have made clear from the outset of the court reform programme that technology should only be fully implemented once it has been proven to work following robust testing and evaluation – only then can we be confident that we have a system that is fit for purpose.

The recent publication of reports by the National Audit Office<sup>2</sup> and Public Accounts Committee<sup>3</sup> regarding the progress of the court reform programme reinforces these concerns<sup>4</sup> and demonstrates that improvements are needed in the working practices of the court system. Additionally, a recent report about the Official Injury Claim (OIC) portal also demonstrates what impact embracing digitisation too quickly can have when the right infrastructure is not in place<sup>5</sup>.

The Government itself recognises ‘it has not got everything right in implementation and is continuing to learn lessons’<sup>6</sup>. We want to continue to assist in ensuring the Government gets it right going forward. We have conducted research on our members’ experience of online court services which shows there are opportunities that are not yet being exploited in this area.

Our aim is to ensure that future waves of court modernisation and digitalisation meets the requirements of members of the public, and the solicitors who help them, so that access to, and delivery of, justice is being achieved.

### *About this report*

Our analysis has been informed by desk-based research, input from the Law Society’s 21<sup>st</sup> Century Justice Technology and Digitalisation working group, and a set of focused surveys of solicitors.

During June and July 2023, we surveyed our members on their experiences of online court processes to help us understand how these are impacting solicitors, their clients, and the wider civil justice system. This focused on the integration of online services, and on the pace and effectiveness of changes made over the past 12 months.

722 solicitors<sup>7</sup> provided responses across three surveys focusing on the following HMCTS online services:

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<sup>2</sup> National Audit Office, *Progress on the courts and tribunals reform programme*, (February 2023). Available at: [Progress on the courts and tribunals reform programme - National Audit Office \(NAO\) report](#)

<sup>3</sup> Public Accounts Committee, *Progress on the courts and tribunals reform programme*, (June 2023). Available at: [Progress on the courts and tribunals reform programme - Committee of Public Accounts \(parliament.uk\)](#)

<sup>4</sup> The Law Society, *Written evidence submitted by the Law Society (to the Public Accounts Committee)*, (March 2023). Available at: [committees.parliament.uk/writtenevidence/119484/html/](#)

<sup>5</sup> House of Commons Committee, *Whiplash reform and the Official Injury Claim Service*, (September 2023). Available at: [Whiplash reform and the Official Injury Claim Service - Justice Committee \(parliament.uk\)](#)

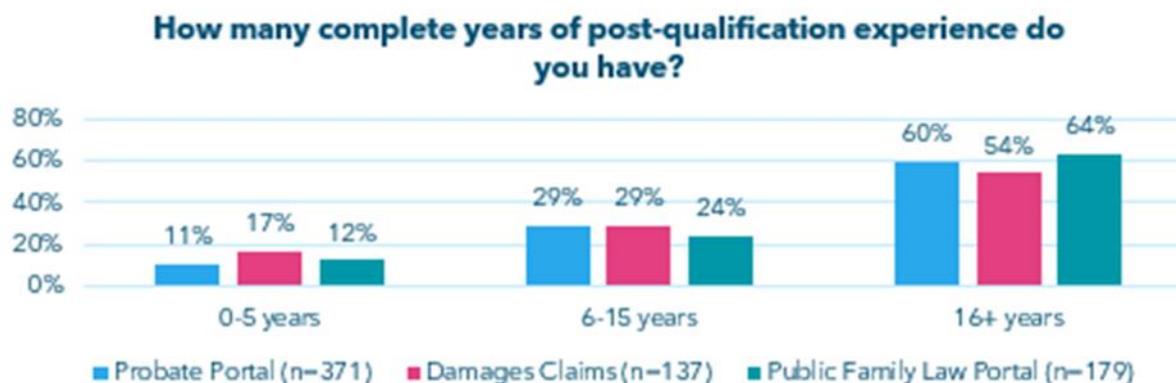
<sup>6</sup> HM Treasury, *Treasury Minutes - Government Response to the Committee of Public Accounts on the Sixty-first to the Sixty-seventh reports from Session 2022-23*, (September 2023), page 3. Available at: [E02982675\\_CP\\_941\\_Treasury\\_Minutes\\_v01\\_Print.pdf \(publishing.service.gov.uk\)](#)

<sup>7</sup> Damages Claims Portal, 157 respondents; Family Public Law Portal, 184 respondents; Probate Portal, 381 respondents.

- Damages Claims portal - online service for legal professionals to issue and respond to a claim for damages on behalf of their clients (mandated 2022).
- Family Public Law portal - online service which allows local authorities to complete and submit online applications for care and supervision orders. Legal professionals can respond to, and access information on, family public law applications (mandated 2021).
- Probate portal - an online service for members of the public and probate professionals to apply for probate (mandated 2020).

We asked a standardised set of questions for each of these services, making necessary adjustments to the language to address any key differences between the portals. Solicitors were specialists in the relevant practice areas, with the sample reflecting a wide range of level of experience, from junior solicitors to those with 16+ years of experience in the sector.

Most respondents worked in private practice; users of the Probate and Family Public Portals were predominately from small (1-4 partners) and medium sized firms (5-25 partners). Around half of respondents from the Damages Claims Portal survey were from large firms (26+partner firms). Five percent of all respondents reported having their day-to-day activities limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months.



For the purpose of this report:

- 'Online systems' refer to the general digitisation of court processes.
- 'Online portals' refer to the specific online systems members were surveyed on.

### Summary of key findings across the online portals

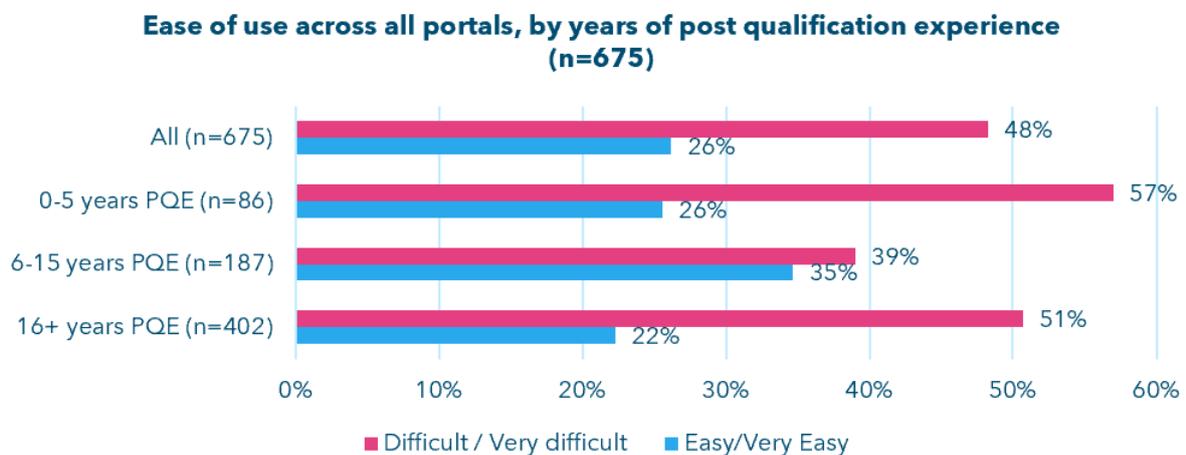
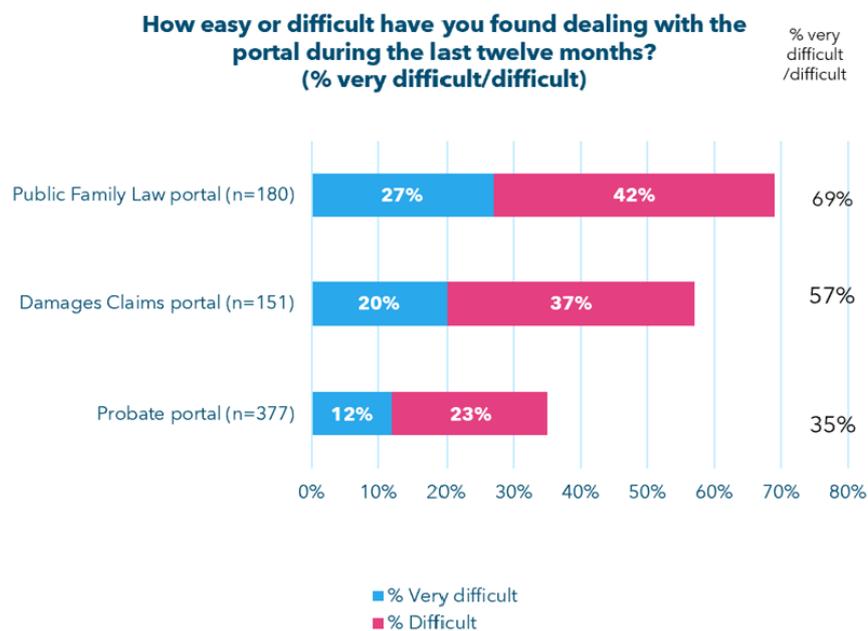
Our research found that rather than supporting the delivery of a more efficient justice system, online portals are associated with delays, with 62% of respondents experiencing delays in court proceedings, which had emotional and financial impacts on clients, and 34% reporting increased costs which have been passed on to clients.

The online portals have also impacted solicitors, and their firms, in terms of additional fees, time, costs, personal stress and reputation.

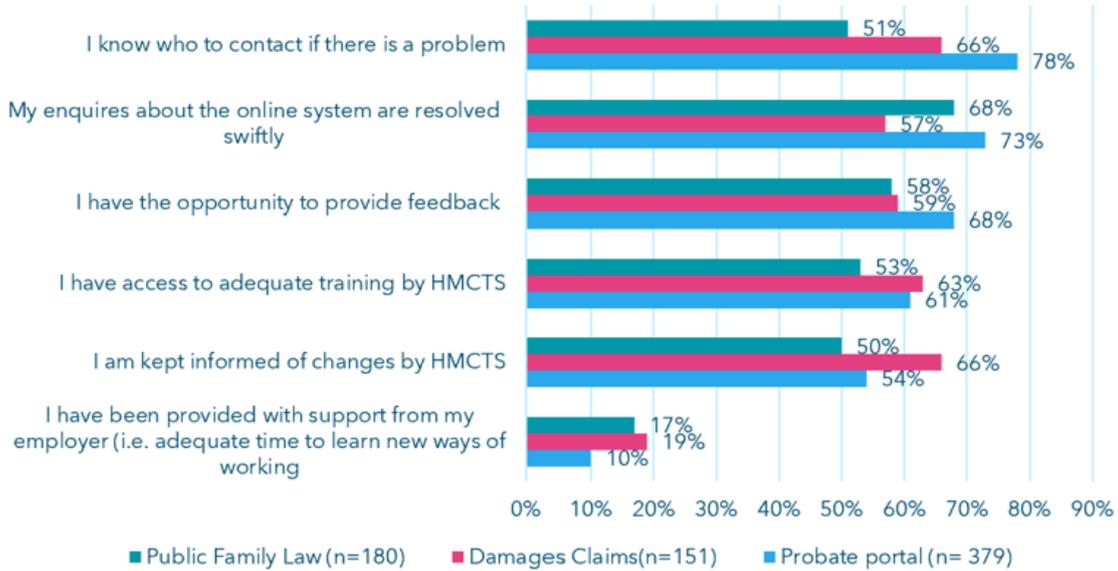
Contributory factors to these delays, which were found across the three portals, were:

- Timeliness issues
- Communication issues
- Technical issues
- Staff resource
- Level of experience of staff
- Lack of access to adequate training

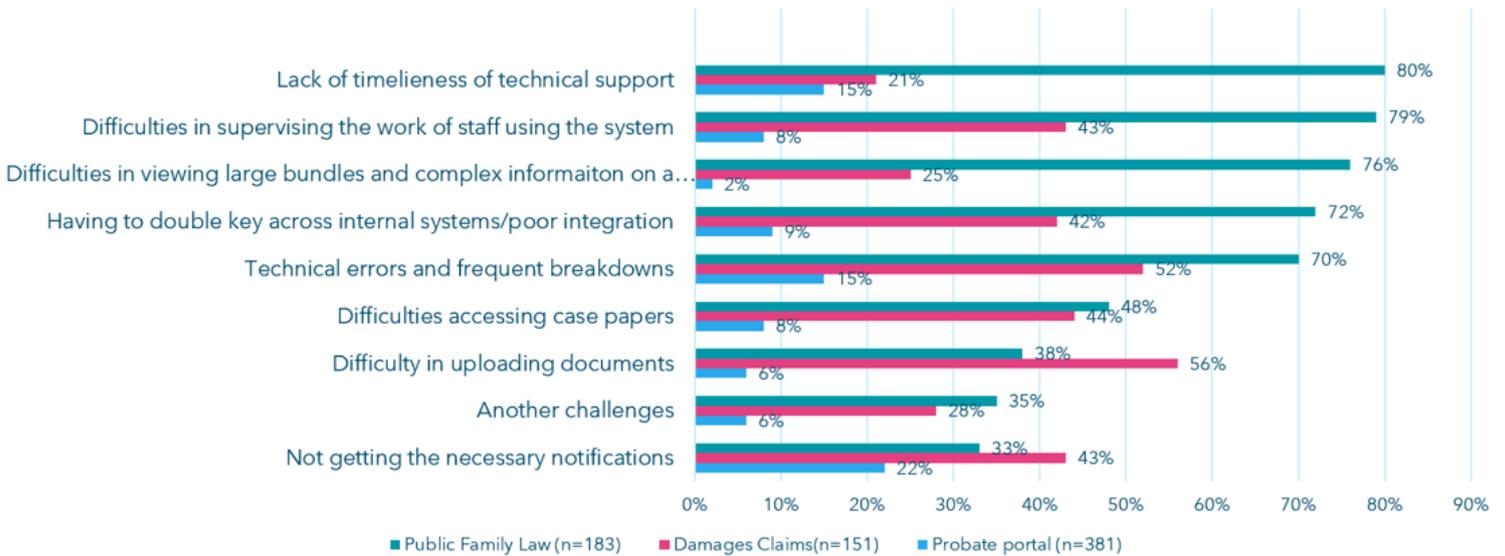
While the aims and objectives of digitalisation appear to be noble the actual infrastructure and lack of investment means that people are struggling with the systems which undermines access to justice rather than promote it.



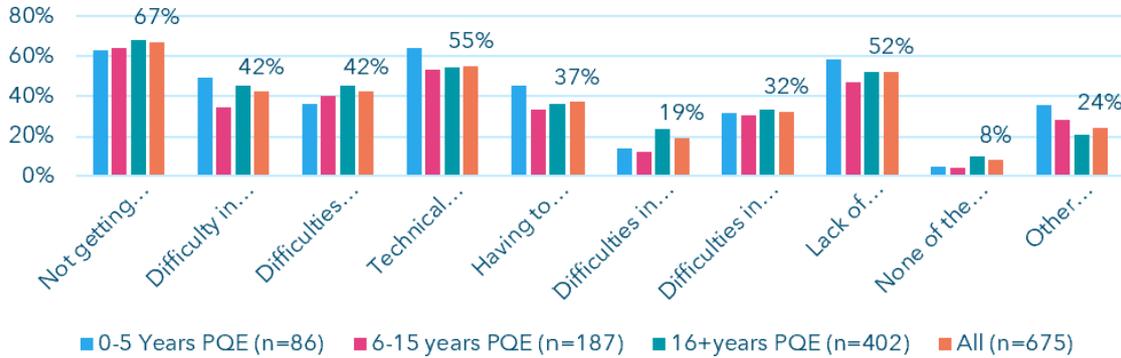
**To what extent do you agree or disagree with the following statements relating to your experience of the agile approach to developing the portal? (% strongly disagree/disagree)**



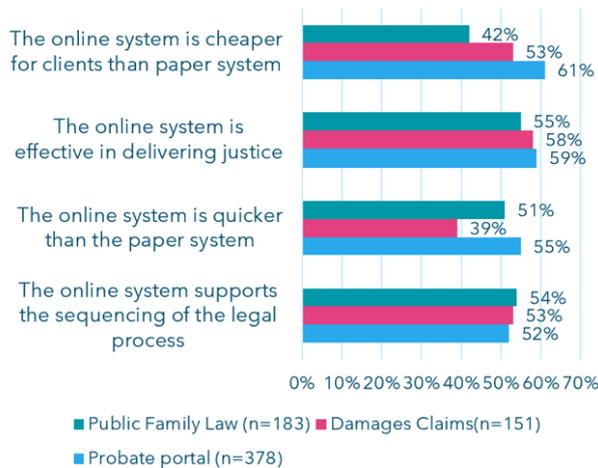
**Have you experienced any of the following technical issues over the past twelve months?**



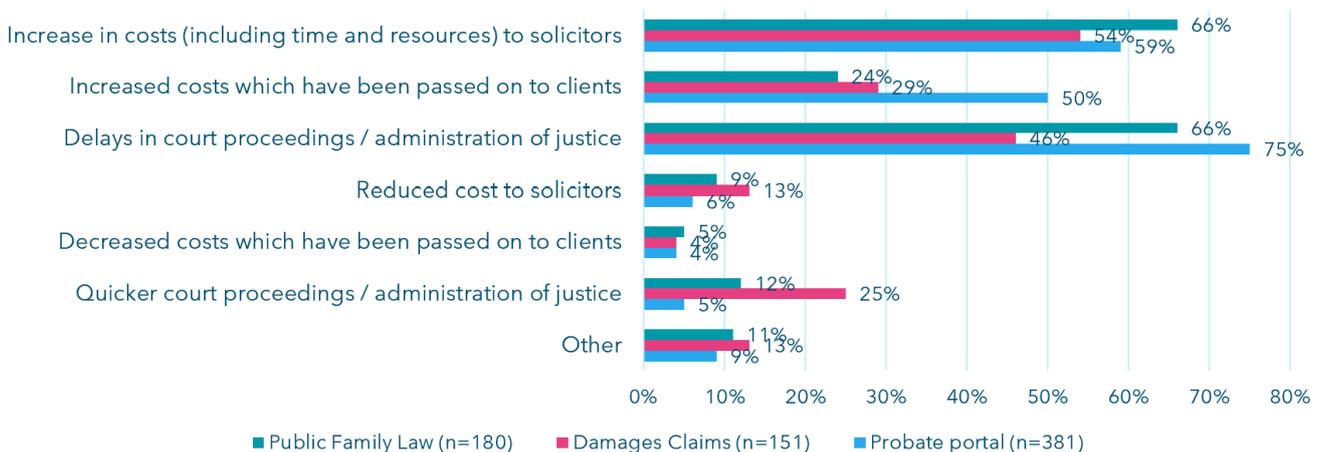
**Experience of technical issues over the past 12 months, by years of post qualification experience (n=675, % of PQE cohort)**



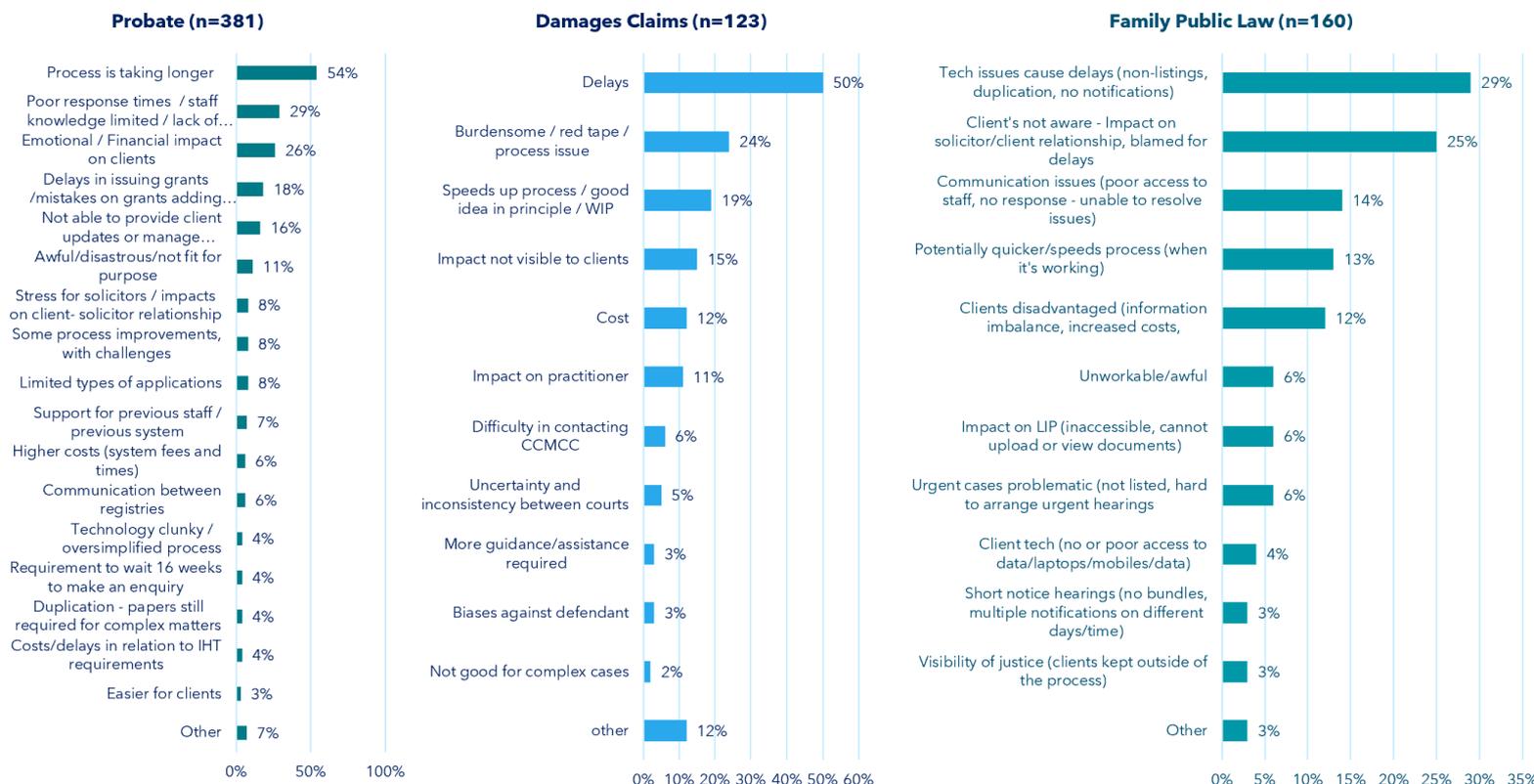
**To what extent do you agree or disagree with the following statements about the online system process? (% strongly disagree/disagree)**



**In your view, what is the impact of the digitalisation of the service on the wider justice system?**



## What has been the impact of the digitisation of the service been on clients? (Coded open question)



### Analysis and recommendations

We believe the following proposals can help the Government resolve these issues and make an online justice system that is fit for purpose, and which works for the public and legal professionals. HMCTS should:

- **Collaboration**
  - Commit to ensuring future online systems are user designed with strong collaborative working between users and stakeholders.
  - Include Application Programming Interface (API) in existing and future online systems.
- **Standardisation**
  - Introduce a minimum service level standard which includes a comprehensive staff training programme.
  - Commit to a standardised approach to data transparency and data sharing of online systems.
- **Communication**
  - Introduce a robust communication system with clear routes for urgent matters.
  - Introduce a high-profile resource with accessible information and training.

## Collaboration

*A commitment that future online systems are user designed with strong collaborative working between users and stakeholders*

Well designed and thoroughly tested online systems have the potential to increase access, drive efficiency, streamline case management, and be more cost efficient.

Over 50 percent of solicitors surveyed by the Law Society do not believe that the online portals are effective in delivering justice, with the main impact being delays to the wider justice system. These portals have also proven not to be cost effective with less than five percent of solicitors agreeing that the portals decreased costs which were then passed on to clients.

*Probate: 'We have gone from a system that cost £45 and took 2 weeks to a system that costs £273 and takes 16 weeks! How is this progress?'*

No technology should be fully implemented unless it has been strongly tested, evaluated and proven to work. Throughout the court reform programme HMCTS has engaged with the Law Society and we have helped with obtaining practitioner feedback for them. Based on our research this engagement appears to have fallen short of what we have recommended, with solicitors reporting that they did not have the opportunity to provide feedback in the development of the online portals nor was it their experience that they were kept informed of changes by HMCTS.

With proper planning and development these systems can be better designed and made more efficient for all those who need to use them. The success of this this will rely on greater and sustained engagement. If it cannot be demonstrated that the systems are reliable or efficient, they should not be rolled out until they are, or at the very least, piloted on a limited basis until operating problems have been resolved. This process may take longer to develop but will avoid costly errors and rework in the long run.

There should therefore be a commitment by Government that future online systems are designed and influenced by the people who use them. This will require a user led process involving the public, legal professionals, and the advice sector. Feedback sought from these diverse groups, once elements of the services are designed, should be requested in a strategic and sequential way coupled with strong collaborative working with HMCTS, software producers and case management producers. This will allow for more informed and well-rounded decisions about online systems to be made. Without proper consultation, it is impossible to know where these systems are fit for purpose.

*Application Programming Interfaces (API) must be included in online systems*

When technology is designed and used in the right way it can help drive efficiency and thus enhance access to justice. This programme of reform was intended to do so, enabling both court staff and users to operate more efficiently and therefore to progress the administration of court processes more quickly. Instead, the standard of service delivered by HMCTS has significantly reduced, having an adverse effect on solicitors and their clients. The experience of our respondents is that it is taking longer and costing more.

Less than 15 percent of respondents have found that the online portals speed up the administration of justice with over half stating that the portals do not support the sequencing of legal processes.

Solicitors reported difficulties accessing case papers, not getting the necessary notifications, and having to double key data across systems. This lack of interoperability demonstrates that the online systems and courts are not communicating effectively with each other or sharing data that would integrate up to date information relevant to cases. This leads to increased costs and time-consuming administrative tasks, contributing to delays and negatively impacting on solicitors and their clients.

To avoid these issues, the online systems need to have APIs that enable firms' case management systems to link into them automatically for them to seamlessly interact with the courts. APIs will enhance data integration, interoperability, and user accessibility allowing for overall better functionality and improved efficiency (provided there is the staff resource to cope with this).

## Standardisation

*A minimum service level standard should be introduced which includes a comprehensive staff training programme*

The online portals are often used for clients already experiencing a challenging and difficult time. Whether this is managing the estate of a deceased loved one, handling a claim following an accident which has caused physical, emotional, and financial harm, or being involved in a stressful child protection matter – the last thing needed is additional stress caused by inefficient digital processes.

Family Public Law portal: 'It has caused problems for the business leaving clients wondering if the problems are due to our ability to use the portal. As usual the government wants to save money and leave the users with the problem of working with new technology before it is set up'.

Solicitors have stated that uncertainty and delays associated with the online portals cause clients emotional and financial distress. Using the probate service as an example, already grieving clients are experiencing unacceptable delays incurring additional costs in dealing with administration, property transactions falling through, and unnecessary interest payments on outstanding inheritance tax.

Due to a lack of certainty and predictability around timings, solicitors reported they are unable to provide updates or manage expectations. In some instances, solicitors stated that clients blame them for delays with an expectation that they will be able to resolve issues beyond their control.

A minimum service level standard should therefore be introduced across all existing online systems which includes clear processing times, guidelines, and performance metrics that define expectations for efficiency. This will help manage expectations, alleviating any stress and frustration that delays can cause, and ensuring timely access to justice. Where these standards are not met, end users should be reimbursed appropriately, such as via a refund of a proportion of the fee they have paid to use the system or rescinded interest payments where delays are due to online systems.

Achieving such a standard will depend on HMCTS having a strong workforce possessing the required knowledge and expertise to handle cases going through the online systems. For this to happen there needs to be urgent investment to address the chronic lack of personnel within the court service, coupled with the need for them to be sufficiently trained to deal with enquires from both professional and public users.

Probate - 'This is another example of how digitalisation fails the clientele. It is frankly embarrassing to have to explain each time to a client in advance how the system will let them down and keep them in suspense at a time of great sorrow and loss to them.'

### *Data transparency and data sharing of online systems*

An efficient court system is one that ensures streamlined case management, fair and transparent proceedings, and ultimately timely access to justice. For this to successfully happen, and to correctly identify the causes where this does not happen, there must be robust data collection, which is comprehensively recorded and shared, to aid continuous improvement of the systems in place and the design of those yet to be developed.

This has been an enduring request by many involved in or observing the progression of the court reform programme, most recently the Institute for Government<sup>8</sup>, and our research shows why it is so important. Solicitors have highlighted common issues with the online portals, all of which are not new - problems with communication, timeliness, technology, and legal process.

Without the right data we will be limiting our ability to address these existing issues. Unless action is taken to tackle this, it will be inevitable that these problems persist, but more worryingly new ones could emerge meaning the plight of delays will continue causing undue stress and higher costs to all involved. A clearer and more joined up approach would increase the chance of potential issues being nipped in the bud much earlier.

HMCTS has stated that they already obtain and use regular feedback on how services are impacting users, and that it monitors this and other user related data<sup>9</sup>. We believe it should go further in sharing this data more widely, and regularly, as a lack of data transparency only erodes public trust.

Making the collection and sharing of data standard across all existing and future online systems will ensure we have a better understanding of how these systems work, what their impact is on the delivery of justice and whether greater access to justice is truly being achieved. Enhancing transparency would facilitate collaboration among stakeholders, including the legal profession, the judiciary, and litigants, enabling the development of data driven insights that can drive systemic improvements.

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<sup>8</sup> Institute for Government, 'Doing data justice: Improving how data is collected, managed and used in the justice system', (September 2018). Recommends the Government develops a cross-system strategy, owned collectively by key organisations across justice, to agree priorities for data and a co-ordinated approach to data sharing. It also recommends the Ministry of Justice and others should take steps to engage better with external researchers and do more to publicise the successes of existing initiatives. Available at: [Doing data justice | Institute for Government](#):

<sup>9</sup> HM Treasury, *Treasury Minutes - Government Response to the Committee of Public Accounts on the Sixty-first to the Sixty-seventh reports from Session 2022-23* (September 2023), page 4. Available at: [E02982675\\_CP\\_941\\_Treasury\\_Minutes\\_v01\\_Print.pdf \(publishing.service.gov.uk\)](#).

## Communication

### *Robust communication system with clear routes for urgent matters*

Backlogs and delays are causing immense pressure on the court system and on those working within it. Effective steps can be taken to ease some of this burden by reducing demand on the court service through improved and consistent communication for those using online systems.

The importance of this is supported by our research which showed that improved communication was viewed as a priority to enable swifter resolution of issues. This is based on a high proportion of respondents citing that they did not know who to contact if there was a problem, nor feeling that their enquiries were resolved quickly.

It is also certain that there will be instances where users of online systems need to contact the court service as a matter of urgency. We recommend clear routes for this, which sets out what would be considered an issue that requires priority action and the appropriate contact methods to address this.

Establishing a robust communication system is therefore a central component for ensuring justice is served efficiently, transparently, and fairly. Having such a system in place will benefit all users - professional and non-professional alike - in accessing relevant information to navigate online systems and maintain the integrity of the legal process.

### *The need for a high-profile resource*

With any well-functioning online system, the success of its use is dependent on the quality of information regarding it and the skill of the person using it. Investing in a reputable and central resource containing a repository of all the necessary information and training for each online system could help with the adoption of these systems and reduce the likelihood of having to make enquiries about their use.

DCP - More training needs to be provided to staff, more guidance needs to be provided for users and a general better understanding of what is expected to be provided at these early stages would be better being provided before the product is expanded'.

This resource needs to be easily accessible, easy to understand and use, and well publicised to ensure all those who will use it are aware of it. Adequate training and good communication was highlighted as a means of improving people's perception of the portals. Those who found the portals easy to use were more likely to respond positively about its impact. Tools such as a 'sandbox', which provides a virtual testing space that replicates the online system, could be made available to users via the central resource. This would allow users to familiarise themselves with the functionality of it and ensure confidence of its use before proceeding with completing live applications.

Most solicitors using the portals reported that they received support from their employers to develop their skills and given sufficient time to learn new ways of working. Access to such a resource will therefore not only save valuable court time, but it will also enhance trust and confidence by providing accurate and well-established information made easily accessible for users to refer to.

Probate portal: A system where queries can be responded to within the portal and more precise information left on it by Court staff as to the status of the case and when it will be moved on to the next stage