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How the shift to online legal processes leaves many behind

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*The administrative justice system has moved to increasingly digital modes of operation. But does this enhance accessibility or deepen divides? **Arabella Kyprianides, Naomi Creutzfeldt, Ben Bradford and Jonathan Jackson** explore whether the shift to online legal processes – intended to streamline justice – has inadvertently side-lined the most vulnerable in society.*

The post-pandemic push towards digitalisation has transformed the landscape of the justice system. But at what cost? When it comes to administrative justice – pivotal in addressing disputes with government

agencies over issues like benefits, immigration, or taxes – our research, summarised in a recent **book** on the topic, reveals a digital divide that compromises the fairness ideal at the heart of the justice system.

Despite the good intentions of court modernisation programs aimed at making legal processes more efficient through technology, our interviews with tribunal judges, ombuds and complaint-handlers – together with the experiences of those at the fringes of society (like the homeless) – underscore an alarming disparity: those equipped with digital tools laud the system's efficiencies, while those without digital means struggle to participate meaningfully in their pursuit of justice.

Navigating the digital justice system “without ever showing your face”

One mother's efforts to navigate the online justice system shines a light on the struggles faced by many in the digital age. For two long years, she worked tirelessly to overcome the challenges of securing the appropriate education for her two children with special educational needs and disabilities (SEND). This journey led her through the complexities of the digital tribunal process for SEND cases, not once, but three times.

Even though she was a competent user of technology and knew her way around legal matters, she found herself grappling with a system that seemed impersonal and daunting, especially while trying to juggle her family's needs.

“One of the peculiar things about these online hearings was that you could be part of it without ever showing your face”, she told us. “You just had to listen in”. This anonymity, while convenient, sometimes made the process feel even more distant. “Even with our advantage of

having internet and computers at home, it was a nightmare to navigate,” she said.

The digital approach did have its perks, especially when it came to eliminating the hassle of commuting. “Video hearings were a better fit for us. With our SEND children, not having to travel made a huge difference, it made it much easier to attend,” she said. “But the delay in getting responses from the tribunal was disheartening.” From waiting over a month for a decision to experiencing delays of several months for a consent order that was critical for her daughter to get the support she needed, it was all incredibly taxing, she told us, and left her feeling frustrated and helpless.



The process can feel impersonal, inefficient and demoralising.



This mother’s experience highlights the mixed bag that is the digital justice system. While it offers a level of convenience and accessibility previously unimaginable, it also poses significant challenges that can make the process feel impersonal, inefficient and demoralising. Her story also raises the question: if the process proved overwhelming for her, how would someone with fewer resources cope?

As the mother herself noted: “We’re probably people in a privileged position in that we’ve usually got broadband, we’ve got computers and

all the rest of it. It [would be] an absolute nightmare when you're not in that position."

Surveying the wider limitations of the shift to digital justice

Among the unintended side effects of the transition to digital court systems, a crucial one is that those without a home can be excluded. We heard from individuals facing homelessness who were deeply disadvantaged by digitalisation. Without reliable access to the internet or the necessary technology, they were virtually silenced in digital proceedings. This digital gap left them unable to assert their rights or seek out essential legal support.

Others pointed out further limitations of the digital justice system. The lack of visual cues gave an unfair advantage to represented parties, with one user lamenting the poor sound quality that further hampered communication. Technological hurdles were reported for those who require British Sign Language interpretation. Another user described the process as unintuitive and potentially alienating for non-native English speakers. There was an emotional toll too, with users reporting health issues like chronic migraines due to the stress of facing authorities alone, with little support.

What emerged from all of these revelations is the central importance of treating individuals with respect and dignity – and fostering trust through transparency and the opportunity to participate. Yet this is precisely where the digital chasm widens, since procedural justice demands not just fair decision-making but also equitable access to the decision-making process itself.



“Others appeared very small on the screen... I could not see expressions which is a vital part of communication.”



Technology, then, while intended to facilitate, can introduce new barriers. For instance, one SEND tribunal user noted, “Others appeared very small on the screen... I could not see expressions which is a vital part of communication.” The inability to read facial expressions or catch non-verbal cues can lead to an imbalanced and unfair process, as noted by a Property Chamber case handler who missed the benefits of in-person interaction. An Independent Provider of Special Education Advice employee recounted an incident where a parent became upset during a virtual hearing, and the other participants failed to notice due to the limitations of the online format. It took an in-person supporter to intervene, highlighting the potential for significant oversights and unfairness.

Looking ahead, what can be done?

All of these examples point to concerns surrounding the digital justice system – and the importance of offering people the choice of in-person hearings to ensure fairness and understanding.

In our book, *Access to Justice, Digitalization and Vulnerability*, we pinpoint several strategies aimed at closing the gaps in the justice system to make it more accessible and efficient for everyone. Here, we highlight two examples of such solutions.

The first is to *streamline access and enhance advice*. By creating a unified advice portal, we can simplify how individuals seek justice. This one-stop-shop would offer clear guidelines on appeal procedures and access to legal advice, making support more visible and less fragmented. Such a portal could also serve as a triage to direct people to the service they need. It's about ensuring everyone knows where to turn and how to navigate their options seamlessly.

The second solution involves efforts to *foster continuous dialogue and empathy*. Regular communication between advice bodies and decision-makers is crucial so that updates and improvements are always informed by those directly affected by the justice system. Additionally, training decision-makers in empathy would help them better understand and meet the diverse needs of users, fostering a more inclusive environment.

In these and other ways discussed in our book, we can work to make navigating the justice system as straightforward and supportive as possible. It's about building a framework that's not only efficient but also empathetic and inclusive, ensuring that justice is accessible to all.

Overall, the digitalisation of the justice system does have the potential to make legal processes more accessible – but only if it is implemented with an unwavering commitment to inclusivity. To find out more about this topic, as well as our book we recommend this handbook of [academic sources](#) on administrative justice and the UK government's [resources](#) about and the broader implications of the digital justice system.

Access to Justice, Digitalization and Vulnerability (2024) is published by Bristol University Press.

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