



HM Courts &
Tribunals Service

Flexible Operating Hours Pilots

Prospectus

October 2017

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INTRODUCTION

- 1.1 HMCTS is investing over £1 billion to modernise our courts and tribunals and bring our justice system into the 21st century. The transformation of our courts and tribunals is citizen- centred and builds on our established strengths. It is based on the three core principles set out by the Lord Chancellor, Lord Chief Justice and Senior President of Tribunals:
 - Just
 - Proportionate
 - Accessible
- 1.2 As part of the programme of reform, we are looking at options to use our court rooms and hearing rooms at different times of day, outside the traditional hours of 10am-4pm. We have developed a small number of pilots to test these options, known as flexible operating hours pilots.
- 1.3 In his review into improving efficiency in criminal cases, Sir Brian Leveson observed: “It is notable that the operational hours of our court buildings have remained the same for decades. This must be one of the few public services which have failed to acknowledge the different ways that members of the public now live their lives and, in consequence, adapt to the different working environment.”
- 1.4 Interactions with the justice system often come at painful and emotional times in people’s lives; by introducing flexible operating hours we hope to alleviate some of the stress of this time by allowing people the opportunity to fit court attendance around their everyday lives. Anecdotal evidence suggests that when attending court as a citizen (whether as a juror, victim, witness, claimant etc.) one of the biggest pain points can be having to take time off work. We envisage that operating courts at different times of day may enable us to improve access to justice for citizens.
- 1.5 However, we recognise that the concept of sitting outside traditional court hours has raised concerns amongst the legal profession. This prospectus aims to demystify the pilots and set out plans for how they are intended to operate. We believe it is important that we test changes of this sort in a small number of courts and tribunals so we can properly understand the impact before any wider decisions are taken about whether, and if so, how and where, we use flexible operating hours. The pilots we have proposed will run in 11 out of c.2700 court rooms in England & Wales.
- 1.6 We are committed to the pilots being a fair and transparent test of flexible operating hours and we are tendering for an independent organisation to undertake a detailed evaluation of the pilots. We want to test whether flexible operating hours can support a more efficient and effective justice system.
- 1.7 We welcome any feedback on the pilot proposals as set out in the prospectus. We’ve set out some broad questions on page 16, and also some detailed questions on pages 17 and 18 about possible additional pilots. In order to factor in all responses into the development of final pilot plans and the evaluation we ask that you send feedback by 1st December 2017. Please send your comments and views to us at

flexibleoperatinghours@justice.gsi.gov.uk. We will respond directly and will publish a summary of all the feedback we receive and how we have considered it.

PILOT OBJECTIVES

- 2.1 The flexible operating hours pilots are intended to test whether it is possible to use court and tribunal hearing rooms more intensively, and how a wider range of hours could improve access to justice. Crucially, this is based on people working different, but not extended, hours. We are not running any individual case, or asking any individual person, to work for more hours in a day; but finding ways of using valuable space for longer.
- 2.2 We have developed a series of pilots models across court and tribunal jurisdictions which we intend to run for a period of six months. We are currently inviting external organisations to tender to lead the evaluation of the pilots. Once the external evaluators are in place, they will develop the evaluation methodology and criteria for the pilots. We will publish this prior to the pilots starting and engage further with all participants and interested parties in order to agree the way we will evaluate and the measures we will use. We expect this to be in place for the pilots to start in February 2018.
- 2.3 The pilot proposals for each jurisdiction create a framework for Local Implementation Teams (LITs) to test flexible operating hours in their respective courts, with sufficient flexibility for it to meet their needs and local circumstances.
- 2.4 In particular, our objectives for flexible operating hours are:
 - Objective 1:** To understand whether operating courts and tribunals at different times of the day offers more open and accessible justice for citizens.
 - Objective 2:** To understand the impact of flexible operating hours on professional and public court users, and public agencies working in the justice system.
 - Objective 3:** To understand whether flexible operating hours can provide a sustainable and efficient way of working across the justice system, and at what scale.
 - Objective 4:** Following the evaluation of the pilots, we will make recommendations on whether or not flexible operating hours should be considered for wider use as part of the future operating model of courts and tribunals, and the extent of their deployment.¹

Design Principles:

¹ We recognise that there are likely to be a range of outcomes for different pilots. We may conclude that some pilots are not suitable for wider use, and others may be suitable within certain constraints (e.g. based on the size of court and tribunal centres, or local demand). The extent to which a pilot may be scaled up will be related to the pilot – for example, we would not make a recommendation that all courtrooms in a court centre start to use flexible operating hours on the basis of it working effectively in one or two courtrooms.

- 2.5 *Access to Justice* – operating courts and tribunals at different times of day could enable improved access to justice for some court users. The quality of justice should be the same regardless of the time of day;
- 2.6 *User-centric* – operating courts and tribunals at different times of day should be based on the needs of the public users and professionals who attend;
- 2.7 Professional and public court users are not expected to attend court for longer periods than they do at present; we are asking people to work different but not longer hours. We will work with legal professionals and list officers to ensure this is not required;
- 2.8 We will need to utilise our estate more intelligently to enable the pilot courts and tribunals to operate at different times and identify the constraints and enablers for using this space more flexibly (e.g. sufficient interviewing space, judicial chambers);
- 2.9 The pilots must as far as is possible replicate existing processes within flexible sessions, not creating additional processes which cannot be applied elsewhere;
- 2.10 The pilots must be evaluated to establish whether operating courts and tribunals on the suggested flexible operating hours models is sustainable and scalable and to understand the impacts for all court participants.

THE ROLE OF THE PILOTS

Why pilot?

- 3.1 We are piloting flexible operating hours to test whether it is possible to improve the use of court estate and in order to properly understand the impact before any wider decisions are taken about implementing.
- 3.2 There are two key reasons why we believe that flexible operating hours could be beneficial:
 - The potential benefits for improving access to justice
 - The potential benefits for using our court estate far more effectively
- 3.3 HMCTS have run previous pilots of extending the court day. However, these were more limited in scope and did not set out to consider the full impact on the wider system, such as detailed financial implications and the feasibility of operating flexible hours in multiple sites. The previous pilots have offered useful insight into which sitting patterns can work for different hours. We have built on lessons learned to design pilots to carry out this wider evaluation and establish the full impact of flexible operating hours.
- 3.4 We recognise that a number of legal professionals have raised concerns about the potential for an adverse impact on those with caring responsibilities from flexible operating hours. We have carried out an equalities assessment in line with our statutory responsibilities under Section 149 of the Equality Act 2010. We will assess the equalities implications throughout the pilots as information comes in, and they will feature prominently in the evaluation. The success of the pilots is contingent on there being no significant detrimental impact on diversity for legal professionals and the judiciary. The flexible operating hours pilots are a proportionate way of testing and understanding the impact on legal professionals and other court users.
- 3.5 It is also right that we keep on testing how we can use our courts more efficiently. It costs some £300m a year to run the current court and tribunal estate. Keeping expensive court rooms and hearing rooms empty before 10am and after 4pm, rather than having fewer, better-maintained rooms open for longer hours, has a real cost.
- 3.6 We recognise that the current court and tribunal estate is not currently used to its full capacity. However, we are piloting flexible operating hours in the context of wider changes to the way we work in the Reform Programme. Through these pilots we are seeking to establish whether or not flexible operating hours should be part of the way we work in the future.

Strategic Vision

- 3.7 The flexible operating hours pilots are one part of a reformed justice system. We are investing over £1bn as part of our Reform Programme which will bring many other

changes such as enabling more virtual working², changing our listing practices and simpler ways to start court and tribunal processes online.

- 3.8 The pilots we are running are a proportionate way of testing whether or not flexible operating hours can form part of our future operating model. It is clear that the sitting patterns proposed for flexible operating hours should not become the only way of working as that would inhibit much of the flexibility we are aiming for. Rather, we see the potential for flexible operating hours to be part of a standard way of working in some court and tribunals (but not necessarily in all court and tribunal buildings, nor in every room). This would enable users to attend court at different times, supported by a wider range of channels for professionals and users than we offer at the moment.
- 3.9 Further to this, we do not anticipate that Flexible Operating Hours will be suitable for all types of work in court such as long, complex trials. We will also continue to make sure that vulnerable participants have their availability and other constraints considered through listing, which means that different hours will only be used where they explicitly suit them. We think that there is potential to run flexible operating hours for a proportion of the work and are running pilots to test whether or not this is practicable.
- 3.10 One of the principles of the Reform Programme is that justice should be proportionate - the cost, speed and complexity should be proportionate to the scale and substance of the case. We recognise that by the end of the Reform Programme, there will be fewer hearings physically in a court. The wider changes we are making aim to remove progress hearings from court, and cases where it is better for parties to use a faster, fleeter process. Courts will be reserved for when they are needed for full trials (and in crime, for sentencing). It is therefore essential that the flexible operating hours pilots test a wide range of work including trials in order to determine whether it will be a sustainable way of working in the future.
- 3.11 We know that the way that courts list at the moment is not perfect, and recognise that legal professionals in particular have expressed this as one of their key concerns about these pilots. As part of the wider changes in the Reform Programme, the Scheduling & Listing project is developing a flexible system of processes and digital tools that will better support the judicial function of listing, and will explore the potential for greater participation from court users into the listing process. The flexible operating hours pilots will be exploring the listing practices which can make it a viable way of working, discussed locally through the Local Implementation Teams. This will form part of the learning for the Scheduling & Listing project.
- 3.12 We have not made any decisions about whether or not flexible operating hours will be rolled out. We would only do so on the basis of robust evidence and data gathered through piloting and a comprehensive evaluation.
- 3.13 We may conclude that some models work better than others; or that flexible hours of this kind are more suitable in some jurisdictions or places than others; or for some cases more than others. One possible outcome might be that it makes sense to operate a small number of more flexible courts in particular places, doing particular

² As part of the vision for an online court, the Virtual Hearings project are designing and testing fully virtual hearings which will enable participants in certain types of hearing to join from their chosen location using their own technology, with no need for specialist software or equipment.

things. We may also conclude that these pilots have shown it is not possible to implement flexible operating hours and that we should not be pursuing it further.

PILOT MODELS

Crown Court double shift sittings

- 4.1 The proposal in the Crown Court is to pilot 2 x four-hour Crown Court hearing sessions to back-to-back in one court room, with a short break between the two separate sessions. Both sessions would be equivalent to full sitting days in the current way of working. The sessions would involve different cases, judges and parties. This utilises the crown court room for eight hours of the available time, a 60% increase on the current five hours of hearing time. Measures would be taken to avoid participants appearing in both sessions.
- 4.2 The first session will run from 09:30 to 13:30, followed by a 30-minute change over period so that the court can be prepared for the second session which would run from 14:00 to 18:00.
- 4.3 The first session would primarily focus on types of work where the defendant is remanded in custody as this would require minimal changes to the operating model of prisons, and also more serious offences (class 1 and class 2 trials). The second session would focus on types of work where the defendant is on bail and on class 2 and 3 trials.
- 4.4 We developed the model of 2 x four-hour sittings in the Crown Court based on the previous Croydon 'double shift sittings' pilot in 2010. Broadly the Croydon pilot showed that double shift sittings could work but the pilot ran out of work to be heard in the sessions, and had a mix of responses from participants. The evaluation for the pilot was limited as it did not include a cost-benefit analysis or assess whether findings were statistically significant. This pilot will enable us to fill some of the gaps of that pilot. Reducing the length to four-hour sessions (the pilot in Croydon had 4.5 hour sessions) is intended to overcome some of the problems of the Croydon afternoon session and allows an earlier court finish time. This better aligns to prison operations should a defendant be remanded in custody/sentenced in the second session.
- 4.5 A four-hour session is based on the concept of 'Maxwell hours' - that by having a focused four-hour session it will be possible to hear the core of what would otherwise be heard in a full sitting day. Crucially, judges would not hear other applications etc. before a trial starts and by removing these we believe it will be possible to have effective sessions which are shorter. We are not proposing an absolute guillotine at the end of the session and if, for example, a short extension is needed in order to complete hearing evidence, judges will have discretion to do so. It is likely that a break within the session will be required. The length and timing of the break will depend on the type of work heard in the session and will be determined by the judge. Part of the evaluation will be to assess the impact this may have on length of trials and the amount of hearing time which can be used in practice.
- 4.6 The Crown Court pilots will run in Newcastle Crown Court and Blackfriars Crown Court, with one courtroom in each site testing this sitting model for a period of six months.

- 4.7 A range of work will be heard in both sessions across the duration of the pilot in order to test the concept fully, and establish whether there are certain types of work more suited or unsuited to flexible operating hours.
- 4.8 The proposed pilot outline for Newcastle is below at table 1. This has been agreed by the LIT but will be subject to further review before the pilot starts.

Table 1: Newcastle Crown Court FOH (Flexible Operating Hours) pilot listing schedule

| | AM session 09:30-13:30 (Monday to Friday) | PM session 14:00-18:00 (Monday to Friday) |
|----------------------|---|---|
| Weeks 1 - 5 | Sentences | PTPH |
| Weeks 6 - 10 | PTPH | Class 2/3 trials <i>Typically bail trials listed</i> Monday – 1 fixture & 1 backer ³ Tuesday – 1 fixture & 1 backer |
| Weeks 11 - 14 | Class 2/3 trials <i>Typically custody trials listed</i> Monday – 1 fixture & 1 backer Tuesday – 1 fixture & 1 backer | PTPH |
| Weeks 15 - 18 | Class 2/3 trials <i>Typically custody trials listed</i> Monday – 1 fixture & 1 backer Tuesday – 1 fixture & 1 backer | Class 2/3 trials <i>Typically bail trials listed</i> Monday – 1 fixture & 1 backer Tuesday – 1 fixture & 1 backer |
| Weeks 19 - 22 | Class 2/3 trials <i>Typically custody trials listed</i> Monday – 1 fixture & 1 backer Tuesday – 1 fixture & 1 backer | Sentences |
| Weeks 23 - 26 | Sentences | Class 2/3 trials <i>Typically bail trials listed</i> Monday – 1 fixture & 1 backer Tuesday – 1 fixture & 1 backer |

- 4.9 The proposed pilot outline for Blackfriars is set out in the following section at table 2.

Crown Court + Magistrates' Court mixed jurisdiction sitting

- 4.10 The second proposed pilot model is to run a combined criminal court session with a four-hour Crown Court session followed by a four-hour Magistrates' Court session.

³ As at present, multiple trials will be listed in the same slot as a high proportion of trials don't go ahead for a variety of reasons. The flexible operating hours pilots will adopt a more cautious approach to over-listing than normal as only one court is sitting on the flexible operating hours pattern so there are not the same benefits of scale. This will be monitored closely throughout the pilots and the approach may be changed if necessary.

This pilot will be run in a second courtroom in Blackfriars Crown Court on the same hours as the Crown Court two session pilot (09:30-13:30 and 14:00-18:00).

- 4.11 As for the Crown Court model described above, the first Crown Court session equates to a full sitting day and would hear the same types of cases as the first Crown Court session. The Magistrates' Court session is extended from three hours to four hours to mirror the Crown Court session. It will focus on trials and the longer session will mean being able to hear one longer Magistrates' Court trial or two short trials.
- 4.12 This mixed jurisdiction model gives us the opportunity to test a different option for making more effective use of our overall court room estate. By running a Crown Court followed by a Magistrates' Court we are able to test how one space can be used by multiple jurisdictions and what are the requirements for changing the use of the space, which gives more potential flexibility in how court estate can be used.
- 4.13 One of the key concerns which has been raised about the double Crown Court sessions is that in practice the same advocate may be required to appear in both sessions. This model, by sitting different jurisdictions back-to-back means that it will not require special measures to ensure that any individual is not required in both sessions.
- 4.14 The option to have a Magistrates' Court sitting in a Crown Court is also beneficial to test due to the relative simplicity of switching between these jurisdictions. There are already examples of Magistrates' Court having hearings in the same room as the Crown Court (such as at Newcastle Crown Court: on Saturdays and Bank Holidays, three courts are used as a Magistrates' Court for centralised remand work). This pilot will allow us to test a much quicker handover between courts.
- 4.15 The proposed pilot outline for Blackfriars, covering both the Crown Court double shift sitting model and the Crown Court + Magistrates' Court mixed jurisdiction sitting, is below at table 2. The pilot will build up the sitting model and the composition of work starting with hearing types which are likely to be simpler to put together, and will test a wide range of work across the whole period. The table below gives details of the first 12 weeks as agreed by the LIT which will be further reviewed before the pilot starts. The final details for the second half of the pilot are still being discussed.

Table 2: Blackfriars Crown Court FOH pilot listing schedule

| | Court | Monday | Tuesday | Wednesday | Thursday | Friday |
|--------------------|--------------|-----------------------------|-----------------------------|-----------------------------|---|---|
| Weeks 1 – 2 | A | List and Applications am | List and Applications am | List and Applications am | Sentences & Appeals against sentence am | Sentences & Appeals against sentence am |
| | | Magistrates pm – CPS trials | Magistrates pm – CPS trials | Magistrates pm – CPS trials | Appeals against conviction pm | Appeals against conviction pm |
| | B | Bail 5 day Trial am | Bail Trial am | Bail Trial am | Bail Trial am | Bail Trial am |

| | | | | | | |
|--------------|---|--|--|--|---|---|
| | | Custody short 2-3 day trials pm followed by Compliance Court/POCA ⁴ | Custody trial pm followed by Compliance Court/POCA | Custody trial pm followed by Compliance Court/POCA | Magistrates pm – CPS trials | <i>No Magistrates Court</i> |
| Weeks 3 – 9 | A | List and Applications am | List and Applications am | List and Applications am | Sentences & Sentence Appeals am | Sentences & Sentence Appeals |
| | | Custody short 2-3 day trials pm followed by Compliance Court/POCA | Custody trial pm followed by Compliance Court/POCA | Custody trial pm followed by Compliance Court/POCA | Appeals against conviction pm | Appeals against conviction pm |
| | B | Applications & Custody trial 5 day Trial am | Applications & Custody trial am | Applications & Custody trial am | Applications & Custody trial am | Applications & Custody trial am |
| | | Magistrates pm – CPS trials | Magistrates pm – CPS trials | Magistrates pm – CPS trials | Magistrates pm – CPS trials | <i>No Magistrates Court</i> |
| Weeks 10 -12 | A | List and Applications am | List and Applications am | List and Applications am | Sentences & Appeals against sentence am | Sentences & Appeals against sentence am |
| | | Bail short 2-3 day Trial pm | Bail Trials pm | Bail Trials pm | Appeals against conviction pm | Appeals against conviction pm |
| | B | Bail Trial 5 day am | Bail Trial am | Bail Trial am | Bail Trial am | Bail Trial am |
| | | Magistrates pm – CPS trials | Magistrates pm – CPS trials | Magistrates pm – CPS trials | Magistrates pm – CPS trials | <i>No Magistrates Court</i> |

Notes:

- The Crown Court only will sit two sessions from 9.30 – 1.30 hours and then 14.00 – 18.00 hrs Monday - Friday.
- The combined court will sit Monday – Thursday 9.30 – 13.30 hrs as a Crown Court and then 14.00 – 18.00 hrs as a magistrates' court.
- The magistrates' court session will be managed by South London Local Justice Area (Camberwell & Croydon Magistrates' Court), and will initially run with CPS non-custody trials.

⁴ POCA (Proceeds of Crime Applications) is an application to decide what to do with money made from criminal acts

- The Local Implementation Team is still discussing the detailed plan for beyond week 12 which will continue to sit for the rest of the pilot on the same principles and testing as wide a range of work as possible.

Magistrates' Court

4.16 In the Magistrates' Court, the third proposed pilot will test running an additional three-hour session in the day, either starting at the current time of 10:00 or starting earlier in the morning at 08:00, so that there are three, three-hour sessions across the whole sitting day. This means the courtroom is utilised for nine hours of the available court time, a 50% increase on the current six hours.

Highbury Corner Magistrates Court Pilot

4.17 In Highbury Corner, the pilot will start at the standard time of 10:00. After the first two sessions there will be a 30-minute handover period and the third session will have different cases, parties and staff. The court day will run as normal (10:00-13:00 & 14:00-17:00) with the third session running 17:30-20:30.

4.18 The proposed pilot outline for Highbury Corner is set out at table 3. This has been agreed by the LIT but will be subject to further review before the pilot starts.

Table 3: Highbury Corner Magistrates' Court FOH pilot listing schedule

| | | Court A | Court B |
|------------------|------------------|--------------------------|--------------------------|
| Monday | 1000-1300 | <i>Normal court work</i> | <i>Normal court work</i> |
| | 1400-1700 | <i>Normal court work</i> | <i>Normal court work</i> |
| | 1730-2030 | CPS Bail trials | CPS Bail trials |
| Tuesday | 1000-1300 | <i>Normal court work</i> | <i>Normal court work</i> |
| | 1400-1700 | <i>Normal court work</i> | <i>Normal court work</i> |
| | 1730-2030 | CPS Bail trials | CPS Bail trials |
| Wednesday | 1000-1300 | <i>Normal court work</i> | <i>Normal court work</i> |
| | 1400-1700 | <i>Normal court work</i> | <i>Normal court work</i> |
| | 1730-2030 | CPS Bail trials | CPS Bail trials |
| Thursday | 1000-1300 | <i>Normal court work</i> | <i>Normal court work</i> |
| | 1400-1700 | <i>Normal court work</i> | <i>Normal court work</i> |
| | 1730-2030 | CPS Bail trials | CPS Bail trials |

| | | | |
|--------|-----------|------------------------|------------------------|
| Friday | 1000-1300 | Normal court work | Normal court work |
| | 1400-1700 | Normal court work | Normal court work |
| | 1730-2030 | No pilot evening court | No pilot evening court |

Notes:

- 4 hours of trials will be listed in each court in the evening session - comprising of a 3hr trial and a low priority 1 hour trial
- The above schedule sets out an overview of the pilot up to week 12. The detailed plan for beyond week 12 has not yet been determined by the LIT and will be developed as the pilot progresses taking into account lessons learned about feasibility of early sittings. Once the viability of the courts has been established, the LIT will discuss with local participants the options of testing other types of work in the third session.

Sheffield Magistrates Court Pilot

- 4.19 In Sheffield, the pilot will start the first of three sessions earlier in the day at 08:00 and finish earlier than the Highbury Corner pilot at 18:30. The sitting pattern is 08:00-11:00, 11:30-14:30 and 15:30-18:30. It was agreed locally that it would be preferable for the first session to be a standalone session, followed by a 30-minute handover period.
- 4.20 After this first session different magistrates would hear the second and third sessions, with an hour long break between 14:30-15:30. One court will sit this pattern every day of the week, and a second court will sit this pattern on a Tuesday and Thursday only.
- 4.21 The proposed pilot outline for Sheffield is set out at table 4. This has been agreed by the LIT but will be subject to further review before the pilot starts.

Table 4: Sheffield Magistrates' Court FOH pilot listing schedule

| | Court A | | Court B | |
|---------|------------|--|-----------|--------------------------|
| Monday | 0800-1100 | Road Traffic Act cases | | |
| | 1130-1430 | Road Traffic Trials | | |
| | 1530-18:30 | Road Traffic Trials | | |
| Tuesday | 0800-1100 | General adjournments/Pre-sentence report cases (8am-9am); Prison-Court video link (9am-10am); Remand cases (10am-11am) | 0800-1100 | Road Traffic Act cases |
| | 1130-1430 | Remand cases | 1130-1430 | Domestic Violence trials |

| | | | | |
|-----------|------------|---|------------|--------------------------|
| | 1530-18:30 | Remand cases | 1530-18:30 | Domestic Violence trials |
| Wednesday | 0800-1100 | Police-Court video link (8am-9am); Prison-Court video link (9am-11am) | | |
| | 1130-1430 | Adult trials | | |
| | 1530-18:30 | Adult trials | | |
| Thursday | 0800-0900 | General adjournments/Pre-sentence report cases (8am-9am); Prison-Court video link (9am-10am); Remand cases (10am-11am) | 0800-1100 | Road Traffic Act cases |
| | 1130-1430 | Remand cases | 1130-1430 | Adult trials |
| | 1530-18:30 | Remand cases | 1530-18:30 | Adult trials |
| Friday | 0800-1100 | Road Traffic Act cases | | |
| | 1130-1430 | Probation breaches | | |
| | 1530-1830 | Probation breaches | | |

Notes:

- The pilot in Sheffield is testing an earlier start for the court day and consequently all sessions will be at different times to the current sitting pattern. The pilot will therefore be looking at the effectiveness of all sessions in the court.

Civil Court

4.22 The fourth pilot will take place in the Civil courts. The pilot proposal is to run an additional half day either after the current court day, or before, in the latter case starting slightly later to accommodate it. This gives 7.5 hours of available court hearing time in one room, a 50% increase on the current 5 hours.

4.23 The pilot model is based on the previous extended sitting day pilot in Nottingham which ran an additional half-day session in the evening. The Nottingham pilot tested a more limited range of work in the evening session and consequently quickly ran out of suitable work, requiring judges to complete a lot of 'box work'. In developing this pilot model we sought to test a wider range of work and hours in order to assess how running an early morning or evening session could improve access to justice which is convenient for users.

4.24 In a courtroom with an early start, the first hearing session would be a half-day session 08:00-10:30. Following this, there would be handover and change of judge and all cases. A 'normal' court day would run with adjusted hours from 10:45-13:45 and

14:45-16:45. In another courtroom the court would run a standard court day 10:00-13:00 and 14:00-16:00. There would then be a handover period and a separate judge would sit a half-day session 16:30-19:00.

4.25 This pilot is taking place in Brentford County Court, and the proposed pilot outline in table 5 shows the types of work which will be heard in the morning or evening session. There would be a 'normal' court sitting before or after the flexible operating hours court sessions shown. This has been agreed by the LIT but will be subject to further review before the pilot starts

Table 5: Brentford County Court FOH pilot listing schedule

| | Court | Monday | Tuesday | Wednesday | Thursday | Friday |
|---------------|--------------------|--------|---|--|--|---|
| Weeks 1 – 2 | A 08.00 – 10.30 | | Warrant suspensions; Civil applications <30 mins; Adjourned possession work | | | |
| | B 16.30 – 19.00 | | | Small claims (max 2 cases <90 mins each); Telephone case mgmt hearings; Civil applications <60 mins each | | |
| Weeks 3 – 9 | A 08.00 – 10.30 | | Warrant suspensions; Civil applications <30 mins; Adjourned possession work | | | Warrant suspensions; Civil applications <30 mins; Adjourned possession work |
| | B 16.30 – 19.00 | | | Small claims (max 2 cases <90 mins each); Telephone case mgmt hearings; Civil applications <60 mins each | Small claims (max 2 cases <90 mins each); Telephone case mgmt hearings; Civil applications <60 mins each | |
| Weeks 10 - 12 | A 08.00 – 10.30 | | Warrant suspensions; Civil applications <30 mins; Adjourned possession work | Warrant suspensions; Civil applications <30 mins; Adjourned possession work | | Warrant suspensions; Civil applications <30 mins; Adjourned possession work |
| | B 16.30 – 19.00 | | | Small claims (max 2 cases <90 mins each); Telephone case mgmt hearings; Civil applications <60 mins each | Small claims (max 2 cases <90 mins each); Telephone case mgmt hearings; Civil applications <60 mins each | |

Notes:

- A full day court will sit after the 08:00-10:30 session labelled in court A running between 10:45-16:45 and a full day court will sit before the 16:30-19:00 session labelled in court B running between 10:00-16:00.
- The LIT will review progress regularly and apply lessons learned throughout the life of the pilot in developing the detailed plan for beyond week 12.

Civil and Family Court

- 4.26 The fifth pilot will take place In Manchester Civil Justice Centre, which has both civil and family courts. We are proposing a pilot which is a variation of the civil court model set out above. Initially the pilot will have two courts sitting an additional afternoon session once a week (on a Monday) – as multiple courts on the same day will allow for more effective listing. The pilot will list as wide a range of work as possible, with more ability for either party to opt-out of the hearings and with a view to later expanding on an additional day (expected to be Wednesday).
- 4.27 In both courtrooms sitting the FOH pattern, a Deputy District Judge would sit a half-day hearing from 10:00-13:00. A different judge would then sit 14:00-16:00 and 16:30-19:00 (or possibly 13:30-15:30 and 16:30-19:00 if an hour-long break is preferred – this is currently being discussed by the Local Implementation Team).
- 4.28 For civil work, a wide range of work will be listed depending on the range of work the individual judge is ‘ticketed’ to hear (so far a number of DDJs and DJs have volunteered to participate, as well as a Circuit Judge). Parties will have the ability to opt to attend a normal court instead of the FOH hearing which will give valuable information on the suitability of different cases for flexible operating hours and the extent to which parties prefer different hours.
- 4.29 The types of family court work being considered for the pilot are more limited than for the civil court and include:
- Financial Dispute Resolution (3 per half-day session)
 - First Directions Appointment (3 per half-day session)
 - First Hearing Dispute Resolution Appointment (dependent on Cafcass availability)
 - Occasional urgent work which is sat at short notice – e.g. without notice non-molestation orders, urgent care applications (these are cases which would routinely be heard anyway, currently requiring a judge to stay late but can instead be heard in the pilot court when there is an appropriately ticketed judge)

Listening to feedback on pilot models

- 4.30 The above pilots have all been discussed extensively with other agencies, legal professionals and through local implementation teams to agree the types of work to be

included in the pilots. We have considered the feedback we've received and have made some changes to the scope of what we are including in the pilots.

- 4.31 In the Magistrates' Court pilots, we are focusing on types of work which are fixed in advance, as opposed to types of work like remand courts which are by their nature very responsive and can require last minute attendance from legal professionals. This will give more certainty about attendance at court which will help legal professionals to plan their work which is especially important when working outside traditional hours.
- 4.32 In the Crown Court, testing two four-hour sessions will mean that we can make the most of available hearing time for trials in a focused session which doesn't require significant changes to the hours any individual is required to attend. One of the early suggestions was the mixed jurisdiction pilot which would ensure that it will not be the same people in court all day. Further ideas on this are included below.
- 4.33 In all pilots there is the ability to request that a case is not listed into a flexible operating hours session, by making representation through the existing court processes if parties are unable to attend a case on a listed date. The pilots are based on the premise that no individual should be required to work longer hours and therefore wouldn't have cases listed at opposite ends of the day. As at present this will be subject to judicial discretion.
- 4.34 In the pilot in Manchester Civil Justice Centre for civil and family work, we are trying a wider range of hearings in the pilots. We are therefore giving more ability to opt-out than for other pilots, which will list a more restricted range of work (as described above in 3.31 if there are reasons why parties cannot attend or a case shouldn't be listed into the FOH court it will always be possible to request the hearing happens in a normal session, subject to judicial discretion). The hearing notices in Manchester will give contact details and parties would need to opt-out within a specified timeframe, so that they couldn't, for example, only inform the court the day before in order to make sure that court time is used effectively. The exact timeframe for opting out has not yet been decided and will be agreed in discussion with local legal professionals and other stakeholders through the consultative forum established for the pilots. If either party opts-out the case would then be listed to the next available slot in the usual court operating hours.
- 4.35 As part of publishing this pilot prospectus we would like to hear your views about what else we can do to make sure we can both run meaningful pilots and limit negative impacts on those who work within the justice system. Below is a set of key questions which we would like to hear your responses to.

Key questions:

1. How do you think we could improve the pilots described above? Are there types of work we're suggesting which should not be included in the pilot, or types of work we haven't considered which should be?
2. How could we improve the way cases are listed in order to make the pilot work more effectively, and limit any negative impacts for legal professionals?

3. All the pilots offer the potential of at least 50% extra capacity in a court room. While still achieving this, are there any variations to the sitting patterns proposed which you think would work more effectively?
4. What other changes to the pilot proposals could make participation in the pilots easier for legal professionals?
5. Are there any other considerations for flexible working opportunities for professionals which could be included in the design of the pilots (e.g. legal professionals limiting availability to only morning or afternoon working, condensed hours etc.)? How could you see this working?

Additional pilot models

- 4.36 More recently in response to the feedback we've received from legal professional users and the judiciary we have been considering further pilot models which we would like to further discuss and design over this period of engagement, in order to potentially run these as additional pilots.
- 4.37 We would like to hear the views of legal professionals and court users on the options we have set out below, and also any other suggestions/proposals which you think we should further consider as options for piloting.

Crown Court + Tribunal mixed jurisdiction sitting

- 4.38 In addition to the Crown Court double shift sitting model and the Crown Court + Magistrates' Court mixed jurisdiction sitting, a further sitting model we are considering piloting would be a Crown Court followed by a tribunal hearing in the same room. Testing multiple mixed jurisdiction sitting options gives greater potential flexible use of court estate in considering how flexible operating hours could be scaled up.
- 4.39 Early discussion suggests that appeal hearings in the Immigration & Asylum Chamber, such as foreign national offender immigration appeals, where the appellant is serving a custody sentence, may be most suitable for this as it uses the most formal court room setting of the tribunal hearings.
- 4.40 The hours could reflect the "4+4" hour model (9:30-13:30 & 14:00-18:00), but as tribunal hearings are typically shorter it may be more beneficial to run the Crown Court session 09:30-14:00, followed by a 30-minute handover and then the Tribunal hearing 14:30-18:00. Both of these would give 8 hours available court hearing time.
- 4.41 We could also consider running a pilot with a tribunal after a civil or family court if the setting would be a better fit than in a Crown Court.
- 4.42 Key questions:
1. What do you think are the benefits of a Crown Court + Tribunals mixed jurisdiction model?

2. What do you think are the drawbacks of a Crown Court + Tribunals mixed jurisdiction model?
3. What do you think the main issues would be for implementing this model?
4. What hours do you think would form the most appropriate sitting pattern?
5. Do you think a Civil/Family Court & Tribunals mixed jurisdiction model would be a better fit? Are there be any different benefits or concerns for running this as a pilot?

Crown Court + Magistrates' Court "2+5" mixed jurisdiction sitting

- 4.43 An alternative option for mixed jurisdiction sittings which we have been considering would allow a full Crown Court session of five hours, with a shortened two-hour Magistrates' Court session running before it.
- 4.44 This would mean that additional effective court time could be added to a courtroom in the Crown Court which was hearing any case types. The Magistrates' Court session would not be able to include trials but could include most other case types which are shorter. This would be most likely beneficial in a combined criminal court centre.
- 4.45 The proposed sitting pattern would be a Magistrates' Court sitting 09:00-11:00, followed by a 30-minute handover and then a Crown Court sitting 11:30-17:30 (including an hour lunch break).
- 4.46 Key questions:
- What do you think are the benefits of the "2+5" Crown Court + Magistrates' Court mixed jurisdictional model?
 - What do you think are the drawbacks of the "2+5" Crown Court + Magistrates' Court mixed jurisdictional model?
 - How do the benefits and drawbacks of this model compare to the "4+4" version where both the Crown Court and Magistrates' Court sit four-hour sessions?
 - What do you think would be the main issues for implementing this model?
 - What types of work should be heard in the Magistrates' Court two-hour session?

Crown Court pilot with virtual hearings

- 4.47 A further model which has been discussed builds on emerging practice in some courts by testing a 'normal' Crown Court sitting day with video, telephone and virtual work taking place either side of that core day. The earlier or later slot would involve types of work which don't require parties to travel to court so could fit around other hearings which legal professionals are involved in.

4.48 The virtual hearings project⁵ are still developing a solution to allow fully virtual hearings on the secure network. This limits the scope of work which could be included to using existing secure end to end video calling or conducting telephone hearings. However, operating a pilot with the current processes and constraints could usefully inform future ways of virtual working in the Crown Court.

4.49 Key questions:

- What do you think are the benefits of piloting a further model of a Crown Court with additional virtual/video/telephone hearings?
- What do you think are the drawbacks of this as an additional pilot?
- What do you think would be the main issues for implementing this model?
- If based on having a full Crown Court sitting day (6 hours inclusive of 1 hour break), what hours should we consider running the virtual hearings aspect?

⁵ Another project in the Reform Programme is the Virtual Hearings Project. They are currently developing a prototype which would allow suitable types of hearings to be conducted fully virtually (i.e. not in a physical court room) with all parties appearing virtually by video conference.

PROVISIONAL TIMETABLE

| 2017 | |
|--------------------------|--|
| October – December | Review of pilot proposals Project re-tender and select external organisation to lead evaluation |
| 1 st December | Deadline for responses to Pilot Prospectus |
| December | Evaluator in place |
| 2018 | |
| January | Publish summary of responses to Pilot Prospectus and how this has been considered |
| January | Publish and engage on evaluation methodology and criteria and final set of pilot models |
| February – August | Proposed pilot period (6 months) with ongoing collection of data for evaluation |
| August – October | Evaluation of pilots and final data collection |
| Winter | Publication of pilot evaluation and recommendations |