

**An introduction to...**

# **Flexible Operating Hours proposals in Courts & Tribunals**

August 2017

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## 1 Overview and background

- The Senior judiciary and Ministers asked HMCTS to review options for flexible operating hours in courts and tribunals and to test these through a series of pilots. The pilots will test options to utilise our court and tribunal estate more intelligently as part of our reform programme, and with strong links with the work to design the 'court of the future'.
- Pilots will be underpinned by a robust evaluation in order to determine the costs and benefits across the justice system and understand whether flexible operating hours could be scaled up.
- We have developed proposals for a small number of pilots in the Crown Court, Magistrates Courts, and the Civil & Family Courts which we aim to commence from September/October 2017 running for 6 months. In addition there was a pilot in Immigration Tribunals which commenced 23<sup>rd</sup> January running until the end of March 2017.
- A national steering group has been established to ensure effective cross-agency working and will oversee the local implementation teams for each pilot. The Steering Group is Chaired by HMCTS and includes Judiciary, CPS, LAA, HMPPS and the Police.
- The intention is to create the framework for Local Implementation Teams to test flexible operating hours with sufficient flexibility for it to meet their needs while remaining consistent with the framework to allow effective comparison and evaluation.
- This briefing pack is intended to give an overview of the proposals for pilots, and the design will continue to be revised as we incorporate further feedback and work closely with local teams to understand appropriate listing for different jurisdictions.

## 2 Vision Statement, Aims & Objectives and Design Principles

**The project is intending to pilot models of flexible operating hours in courts and tribunals in order to improve the use of court room space**

### **Aims & Objectives**

- Test the principles of flexible operating hours to improve court room utilisation through a programme of pilots.
- Test the systems and arrangements which would be required, as well as the potential barriers, for flexible operating hours to be part of a standard operating model for courts and tribunals.
- Identify the options, potential costs and benefits across the justice system from scaling flexible operating hours nationally or in key locations, including analysis of the impacts on HMCTS and delivery partners
- Understand the impacts of flexible operating hours on all users across the justice system, including appellants, defendants, victims, witnesses, jurors, judiciary, prosecutors, legal professionals and staff in all affected agencies.

### **Design Principles**

- Primary focus is on the intelligent use of court room space, and also the constraints and enablers for using this space more flexibly (e.g. sufficient interviewing space, judicial chambers)
- Pilots are to replicate daily business within flexible sessions, sitting the same work with alternative timings
- Meaningful cost evaluation, ensuring identification of costs and impacts across all agencies and court users.

Pilot	Location	Proposed pilot details	Courtroom use	Target pilot period
<b>Immigration &amp; Asylum Tribunals</b>	Manchester IAC	Up to 4 additional courts a day running from 2pm – 5pm. During March the site will start listing at 1pm to give additional time and reduce adjournment	6/7 hour utilisation	Jan '17 - Mar' 17 (3 months)
<b>Crown Court</b>	Newcastle CC	1 court room operating on the double shift sitting pattern: •09:30-13:30 •14:00-18:00	8 hour utilisation	October'17 – April'17 (6 months)
	Blackfriars CC	1 court room operating on the double shift sitting pattern: •09:30-13:30 •14:00-18:00	8 hour utilisation	October'17 – April'17 (6 months)
<b>Magistrates' Courts sitting in the Crown Court</b>	Blackfriars CC	1 court room operating on the double shift sitting pattern: •09:30-13:30 (Crown) •14:00-18:00 (Mags)	8 hour utilisation	October'17 – April'17 (6 months)
<b>Magistrates' Court</b>	Sheffield MC	2 court rooms operating 3 x 3 hr sessions: •08:00-11:00, 11:30-14:30, 15:30-18:30	9 hour utilisation	October'17 – April'17 (6 months)
	Highbury Corner MC	2 court rooms operating 3 x 3 hr sessions: •10:00-13:00, 14:00-17:00, 17:30-20:30	9 hour utilisation	October'17 – April'17 (6 months)
<b>Civil &amp; Family Court</b>	Manchester CJC	2 court rooms operating model based on existing day with additional half days at either end of the day: •08:00-10:30, 10:45-13:45, 14:45-16:45 •10:00-13:00, 14:00-16:00, 16:30-19:00	7.5 hour utilisation	October'17 – April'17 (6 months)
	Brentford County Court (Civil only)	2 court rooms operating model based on existing day with additional half days at either end of the day: •08:00-10:30, 10:45-13:45, 14:45-16:45 •10:00-13:00, 14:00-16:00, 16:30-19:00	7.5 hour utilisation	October'17 – April'17 (6 months)

## 4 Design assumptions

Design assumption	Detail/Impacts
The pilots need to address whether flexible operating hours is a sustainable and scalable model	Project will take advice from analyst with evaluation experience to ensure that the proposals are sufficiently robust and are able to test in sufficient scale to enable clear recommendations
The pilots should be locally led with local teams leading the implementation	Lessons learned from previous pilots show that most effective where local teams were involved in the design and can adapt to their own needs
A clear central evaluation framework needs to be created with effective reporting mechanisms	Project team will own and develop evaluation approach to ensure consistency
Robust pilots will need to identify system costs and benefits	Project will be advised by analyst with evaluation experience to ensure they are established in a way which will enable this to happen
Pilots need to be in court sites which have a sufficient throughput of work in order to test that work is completed with comparable timings and outcomes in a flexible operating hours model	Analysis of potential court sites should ensure that pilots have sufficient throughput of appropriate case
Pilots do not require additional throughput of court work to enable effective evaluation	Pilots can 'mothball' one or more court rooms to create a sufficient volume of work for the sitting model, or could pool local work
Court opening hours will need to change (both opening earlier and closing later) due to the need for preparation for hearings and meeting with clients in the court building	Staff, legal professionals and judiciary typically arrive 1-1.5 hours before the start of the court day and stay up to 1.5 hours after. The court opening times will need to be adjusted to facilitate this.
Judiciary, court staff, and staff from delivery partners, will be asked to participate voluntarily in the pilots	Arrangements for participating in pilots and working pattern changes within existing Terms & Conditions
Pilots need to be run at a sufficient scale to have meaningful evaluation with valid conclusions and recommendations	Project will be advised by analyst with evaluation experience to ensure they are established in a way which will enable this to happen
The maximum average time any court users should spend in court is 5-6 hours	The primary focus is on extra sessions in the day rather than extending the day
Not all cases types will be appropriate for Flexible Operating Hours	Need to establish what case types will be appropriate by jurisdiction and understand why some cases are appropriate and others aren't

## Sitting models

### Double Crown Court model

#### 4 hour sittings

#### Session 1

**09:30 – 13:30**

Class 1 Trials\*  
Class 2 & 3 Trials Custody\*  
Sentencing (Custody)  
Vulnerable defendant / vulnerable witness trials  
POCA and PACE hearings  
Bail Applications

Who involved: Prisons, PECS; Advocates (Bar, CPS, Sols), NPS, Jurors, Defendants, Victims, Witnesses, Victim & Witness Service, Judges and staff.

Type of Judge: High Court / Circuit Judges

#### Court Handover

**13:30 – 14:00**

Close of 1<sup>st</sup> session

Changeover of Judge and Jurors

Court staff to clear as would overnight / lunchtime

#### Session 2

**14:00 – 18:00**

Class 2 & 3 Trials on Bail (inc. Bail sex cases)\*  
Sentencing (Non Custody)  
Confiscation hearings  
Drug Rehabilitation Requirement review  
Restraint hearings  
International search warrants

Who involved: Advocates (Bar, CPS, Sols), NPS, Jurors, Defendants, Victims, Witnesses, Victim & Witness Service, Judges and staff.

Type of Judge: Circuit Judges / Recorders

#### Either

PTPHs/FCMs  
Appeals

*\*Trials at discretion of Listing Officer and Judiciary considering appropriateness for sitting pattern*

**Available sitting time: 8 hours**

## Crown Court + Magistrates' Court mixed jurisdiction model

### 4 hour sittings

#### Crown Court

**09:30 – 13:30**

Crown Court listing as appropriate at discretion of Listing Officers and Judiciary

Who involved: Prisons, PECS; Advocates (Bar, CPS, Sols), NPS, Jurors, Defendants, Victims, Witnesses, Victim & Witness Service, Judges and staff.

Type of Judge: High Court / Circuit Judges

#### Court Handover

**13:30 – 14:00**

Close of 1<sup>st</sup> session

Court staff to clear Crown Court and prepare for Magistrates' Court sittings

#### Magistrates' Court

**14:00 – 18:00**

Magistrates' Court listing Bail work as appropriate

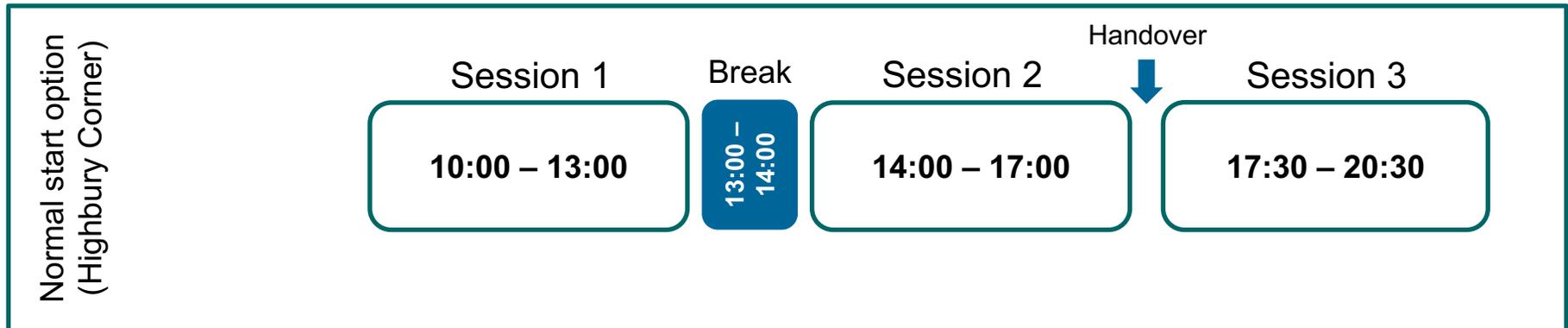
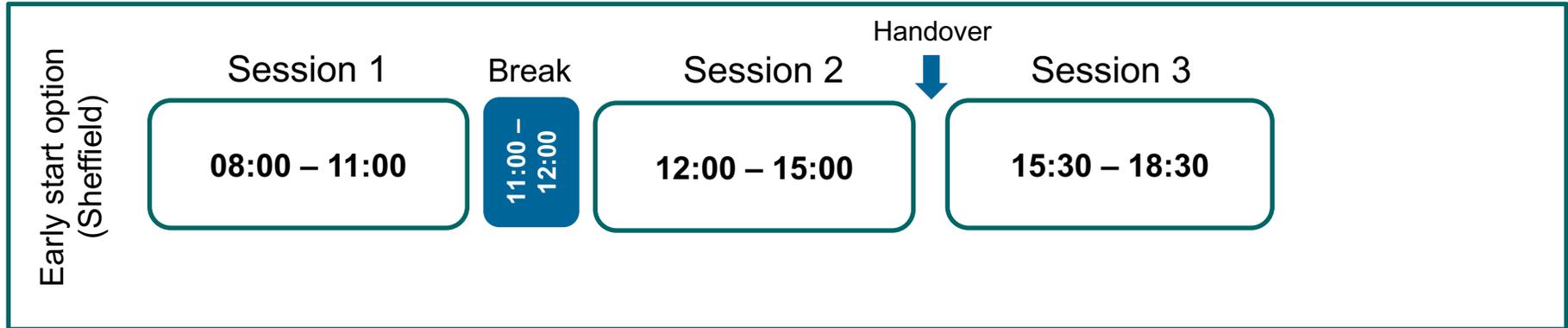
Who involved: Advocates (Bar, CPS, Sols), NPS, Defendants, Victims, Witnesses, Victim & Witness Service, Magistrates, Judges and staff.

Hearings by: District Judges / Magistrates

**Available sitting time: 8 hours**

## Magistrates' Court model

### 3 x 3 hour sittings



**Who involved:** Prisons, PECS, Advocates (Bar, CPS, Sols), NPS, Defendants, Victims, Witnesses, Victim & Witness Service, Magistrates, Judges, Legal Advisors, Court Associates, Clerks, Ushers and Administrative staff

**Note:** 1 hour break and 30 mins handover could be varied

**Available sitting time: 9 hours**

# Civil and Family Court model

## Full + half day sittings

Adjusted normal sitting hours

COURT 1

**08:00 – 10:30**

Flexible operating hours session, focusing on suitable types of work (see next slide)

Type of Judge: Deputy District Judges

**10:45 – 13:45**

Existing court day with full range of court work

Type of Judge: District Judges / Deputy District Judges

**13:45 – 14:45**  
LUNCH

**14:45 – 16:45**

Existing court day with full range of court work

Type of Judge: District Judges / Deputy District Judges

COURT 2

**10:00 – 13:00**

Existing court day with full range of court work

Type of Judge: District Judges / Deputy District Judges

**13:00 – 14:00**  
LUNCH

**14:00 – 16:00**

Existing court day with full range of court work

Type of Judge: District Judges / Deputy District Judges

**16:30 – 19:00**

Flexible operating hours session, focusing on suitable types of work (see next slide)

Type of Judge: Deputy District Judges

Available sitting time: 7.5 hours per court

## Notes on Civil Court sitting model

Based on normal court operating hours plus an additional half day of sittings at either end of the normal court day across two courts. This would allow greater flexibility as normal court work could be sat in either session, with the potential to pool work across all court rooms flexibly as at present.

### **Types of work suitable for flexible operating hours morning and evening sessions include:**

- Small claims
- Housing work
- Charging Orders
- Applications to set aside judgement
- Attachment of earnings
- Infant Approvals
- Civil Applications
- Redeterminations and applications to vary
- Part 7 RTA settlement hearings
- Part 8 claims
- Some types of work involving litigants in person, especially for those who are working and would prefer to appear outside normal court hours. User choice would be taken into account where possible.

## Notes on Family Court sitting model

The proposals for sitting a Family Court within Flexible Operating Hours are initially based on the same pattern as Civil Courts. This will help to ensure the hours are used effectively in a combined civil and family court.

### **Types of work suitable for flexible operating hours morning and evening sessions include:**

- Family money claims (FDRs and FDAs)
- Return injunctions
- FHDRAs (dependent on Cafcass availability)
- Urgent family work which could be sat at short notice – e.g. without notice non-molestation orders, urgent care applications
- Other cases with agreement from all parties

These proposals are being further developed by the judiciary in Manchester CJC to run as a Family court pilot alongside the Civil court pilot. The pilot will seek to test the widest range of work possible through agreement of relevant parties locally.

## Customer Groups Needs Analysis

User Need	User groups affected	Impact on Flexible Operating Hours
Confidence in just outcomes	<ul style="list-style-type: none"> <li>All court user groups</li> </ul>	<ul style="list-style-type: none"> <li>Same quality of justice and outcomes needs to be available in all hearing times</li> <li>Appropriate user support services should be available throughout trials</li> </ul>
Swift access to justice – users don't want a court case 'hanging over them'	<ul style="list-style-type: none"> <li>All court user groups</li> <li>Particularly victims and witnesses</li> </ul>	<ul style="list-style-type: none"> <li>In line with existing guidance, courts should hear cases within appropriate timescales</li> <li>Extended operating hours could be an enabler to reducing backlog if necessary.</li> <li>Pilot fast-tracking work from Magistrates' Courts to the Crown Court e.g. when committed for sentencing after trial or after guilty plea</li> </ul>
Feel safe arriving and leaving court and while in trials	<ul style="list-style-type: none"> <li>All court user groups</li> <li>Particularly vulnerable witnesses and victims</li> </ul>	<ul style="list-style-type: none"> <li>Courts running Flexible Operating Hours should have good public transport links</li> <li>Cases involving vulnerable witnesses and victims should be scheduled in the early session in order to avoid leaving court after dark</li> </ul>
Due to intensity and fatigue of court situation, threshold for maximum average time spent in court	<ul style="list-style-type: none"> <li>All court user groups</li> </ul>	<ul style="list-style-type: none"> <li>Maximum average of 5-6 hours spent in court identified as optimum. Flexible operating hours patterns should consider this as part of design assumptions</li> </ul>
Space for legal professionals and clients to meet	<ul style="list-style-type: none"> <li>Legal professionals</li> <li>Victims</li> <li>Witnesses</li> <li>Victim and witness support services</li> </ul>	<ul style="list-style-type: none"> <li>Court buildings need to open before the start to hearings to give time to meet clients, particularly when the defendant has been remanded in custody</li> <li>There needs to be sufficient space for private meetings throughout the day if extended operating hours increases the number of people in a court</li> </ul>
Representatives of agencies to be available for appearing in court or assisting users	<ul style="list-style-type: none"> <li>Probation</li> <li>Victim &amp; Witness Services</li> </ul>	<ul style="list-style-type: none"> <li>Need to ensure relevant staff are available during the court operating hours</li> <li>Court buildings need to have sufficient space for agencies to meet users</li> <li>Probation Services need time to interview defendants for pre-sentencing reports</li> </ul>
Private space to prepare for Court	<ul style="list-style-type: none"> <li>Judges</li> <li>Magistrates</li> </ul>	<ul style="list-style-type: none"> <li>Court needs to have sufficient capacity for all judges who are sitting on a day to have private facilities available</li> <li>Court needs to have sufficient capacity for Magistrates to retire for making decisions</li> </ul>
Work/Life balance consideration for professionals	<ul style="list-style-type: none"> <li>Judges</li> <li>Legal professionals</li> <li>Probation</li> <li>Victim &amp; Witness Services</li> <li>Court staff (Clerks, Ushers and administrative staff)</li> </ul>	<ul style="list-style-type: none"> <li>Hearings outside normal working hours need to consider impact on work/life balance for professionals who are part of court proceedings and should be fully utilised</li> <li>Equitable compensation should be given for users when in hearings outside working hours</li> <li>Clear expectation of times required in court and operating so that users should be available either in the morning or the afternoon (e.g. for school run)</li> <li>Voluntary participation within existing Terms &amp; Conditions</li> </ul>
Court should have minimal interference with living and working commitments for non-regular users	<ul style="list-style-type: none"> <li>Police</li> <li>Magistrates</li> <li>Jurors</li> <li>Victims</li> <li>Witnesses</li> <li>Defendants</li> </ul>	<ul style="list-style-type: none"> <li>Alternative hours would be beneficial for some as would be more able to fit in with other commitments</li> <li>Clear expectations of the time they are required in court and operating so that users should be available either in the morning or the afternoon (e.g. for school run)</li> <li>Where possible, choice should be given about hearing times that participate in</li> </ul>
Professionals need access to court buildings up to an hour and a half before and after hearings	<ul style="list-style-type: none"> <li>Judges</li> <li>Legal professionals</li> <li>Probation</li> <li>Victim &amp; Witness Services</li> <li>Court staff (Clerks, Ushers and administrative staff)</li> </ul>	<ul style="list-style-type: none"> <li>Opening hours of court will need to be changed for flexible operating hours pilot, in line with current court opening/closing expectations</li> </ul>