



On 21 July 2017 we [published a blog](#) from HMCTS Chief Executive, Susan Acland-Hood, setting out details of forthcoming pilots to test flexible operating hours at courts.

As Susan made clear, the pilots will be subject to rigorous and independent evaluation to ensure we fully understand the impact of different options, including their implications on legal professionals and other court users.

As is common practice, we've issued an 'Invitation To Tender' (ITT) inviting organisations with the right expertise and experience to present bids and lead this evaluation on our behalf.

The ITT sets out the areas we wish to be considered as part of the evaluation and we're sharing a copy below to demonstrate our approach and to reassure all groups and interests that this process will be fair and comprehensive. We are publishing all but those aspects covered by commercial confidentiality.

Evaluation of Flexible Operating Hours (FOH) Pilots – Invitation to Tender (ITT)

1. Introduction

This Invitation to Tender (ITT) sets out the requirement for a contractor to complete an evaluation of multiple pilots for the Flexible Operating Hours (FOH) project, which is planned to commence in September/October 2017. The work will provide a rigorous analysis for HMCTS of the processes, outcomes, and scale of costs associated with FOH.

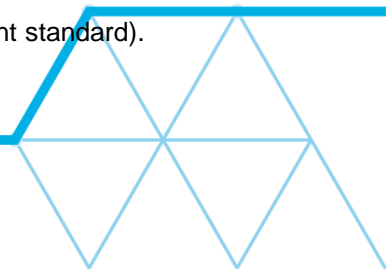
2. Evaluation requirements

The evaluation will be commissioned by Her Majesty's Courts & Tribunals Service (HMCTS)¹, Ministry of Justice.

The evaluation will provide quantitative and qualitative evidence on the running of the FOH pilots in multiple courts in England and Wales, including:

- A process and outcome evaluation;
- A full economic (cost benefit) evaluation of the pilots; and

¹ HMCTS reserve the right not to award a contract (if there are no bids of sufficient standard). There is no guarantee of any business.



- An understanding of the impact on all affected participants in the justice system.

The FOH pilots are to be underpinned by a robust evaluation in order to determine the costs and benefits to users, individual agencies, and to the justice system as a whole. The evaluation also aims to understand whether FOH is **sustainable**, the constraints which would need to be remedied and whether FOH provides a model which could be **scaled** more widely across courts and tribunals.

3. Background

3.1 The FOH Project

What does the FOH project intend to achieve and why?

In 2016, the Senior Judiciary and Ministers asked HMCTS to review options for extending the operating hours of courts and tribunals and to test these through a number of pilots. The Flexible Operating Hours project was set up to run and evaluate these pilots as part of the HMCTS Reform Programme in order to inform the future operating model for courts and tribunals.

FOH could give significant benefits for court users to attend outside the current traditional court working day of 10am-4:30pm. There may be benefits especially for those who are working and would not have to take a day off work. The pilots will establish in detail how FOH impacts accessibility for court users.

Operating courts and tribunals over a longer period of the day could allow HMCTS to use its estate more efficiently and flexibly and therefore generate savings which could be reinvested into reform of courts and tribunals.

How does the FOH project intend to do this?

The project has developed proposals for multiple pilots in the Crown Court, Magistrates' Courts, and the Civil & Family Courts which aim to commence from September/October 2017, running for 6 months. The start dates of the pilots are intended to be staggered (likely over a 2-3 week period). 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 whilst intending to remain consistent enough for evaluation purposes.

The Design Principles of the FOH pilots are:

- 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;
- User-focused running courts and tribunals at different times of day should be based on the needs of those who use it – citizens, business users, victims, witnesses and state users;
- The intelligent use of court room space is the building block for running courts and tribunals at different times, and also the constraints and enablers for using this space more flexibly (e.g. sufficient interviewing space, judicial chambers);

- The pilots must as far as is possible replicate daily business within flexible sessions, sitting the same work with alternative timings;
- The pilots should establish whether operating courts on the suggested FOH models is sustainable and scalable;
- Undertaking pilots will provide the opportunity for a full economic (cost benefit) evaluation, ensuring identification of costs for agencies and legal professionals, and impacts for court users²;
- Professionals and court users are not expected to attend court any longer than at present.

A national steering group has been established by HMCTS to ensure effective cross-agency working and will oversee the LITs for each pilot. The group will be chaired by HMCTS and includes judicial, HMCTS and other MoJ agency representation.

There are a range of views about the impact of changing current working hours on legal professionals who work within the system. Some argue that moving to a more flexible system, if well managed, could offer more opportunities for those with childcare and other caring responsibilities and that, by enabling legal professionals to work more effectively - accessing and progressing cases in a different way and at different times of the day – we would reduce the need to travel or wait around at court for hours. Others, including professional groups, have argued that such a change might increase the unpredictability of workloads and so have the reverse effect. Recently, the Bar Council has launched a Sitting Hours Protocol written by its Equality & Diversity Committee, and supported by others in the profession including the CBA and the Circuits³. The Sitting Hours Protocol requests a standard model of 10:00-16:30 for sitting hours in all courts and tribunals. There is no evidence on the response among our users (e.g. appellants, defendants, victims, witnesses, etc.).

3.2. Existing academic and empirical evidence on FOH

Courts in England and Wales currently have some limited flexibility which has evolved over time and is dependent on judiciary in different courts. This includes 9:30am starts for some hearings and half-days on Saturdays in certain Magistrates' Courts. However, the basic sitting model for all courts remains a 10am-4:30pm sitting day, with an hour long lunch break running Monday to Friday.

Currently, there is an evidence-gap in terms of understanding how FOH can be put into practice effectively, barriers to successful use, and the potential outcomes that may be expected for particular court user groups. There is limited international experience (details are available), but, of course, this is in the context of different justice systems and procedures.

Looking at empirical evidence, previous pilots have been limited in their findings, especially in understanding the impact of FOH in terms of sustainability and scalability:

- The Croydon pilot (2010) tested the concept of extending court sitting hours, but did not include an economic appraisal of rolling out FOH.

- The Flexible Criminal Justice System (CJS) pilot (2012) looked at weekend and evening work, as well as virtual hearings, but did not look at the system-wide scaling of FOH.
- The Bow Street pilot (2002) tested a limited scope of case work, and the types of case work now is different. The case mix is now different to 2002, therefore the findings from that pilot may not represent the current context.
- The Nottingham Civil Court pilot (2015) tested similar pilots as the ones proposed, but it tested a more limited scope of case work and did not evaluate the financial implications.

These previous initiatives have provided important lessons, which need to be considered and reflected in the evaluation.

The tender response should include a synopsis of the existing relevant research on FOH (academic literature and evidence from other organisations).

Bidders must demonstrate how their evaluation will fit with existing literature and evidence on FOH in England and Wales and internationally, and how their proposal will provide a valuable addition to existing understanding and address the aims and research questions.

3.3. The FOH pilots

Key Aims and Objectives of FOH pilots

The FOH pilots start by posing two key questions:

- **What is the effect of different court sitting hours? Does it lead to a more effective and efficient justice system?**
- **What is the effect of different court sitting hours on access to justice? What is the impact on justice outcomes?**

The following are key aims of the pilots, which the evaluation will need to address:

Box 1: Key aims of the pilots

| | |
|---|--|
| <p>Test the principles of FOH to improve court room utilisation.</p> | <p>Understand the systems and arrangements as well as barriers for FOH to be scalable and sustainable, and a potential part of a standard operating model for courts and tribunals.</p> |
| <p>Identify the options, potential costs and benefits across the justice system from scaling flexible operating hours nationally or in key locations, including</p> | <p>Understand and evaluate the impacts of FOH on all users across the justice system, including appellants, defendants, victims, witnesses, claimants, respondents, parties, jurors,</p> |

| | |
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| analysis of the impacts on users, HMCTS and delivery partners. | judiciary, prosecutors, legal professionals, and staff in all affected agencies (including HMCTS). |
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As noted, one of the main aims of the pilots is to provide a comprehensive understanding of the process involved as well as how adopting flexible operating hours working might impact all court users and professionals, including:

Professional Users

- Judiciary
- Magistracy
- Crown Prosecution Service
- Legal professionals
- Court staff
- Police
- Probation
- Prison
- Prisoner Escort and Custody Services
- Local authorities including social work teams
- Legal Aid Agency
- Witness service
- Victim support
- Support services
- Personal support unit
- Children and Family Court Advisory and Support Service
- Other parties: Housing associations, parking companies, etc.

Public Users

- Victims
- Witnesses
- Applicants
- Defendants
- Claimants
- Respondents
- Litigants in Person
- Jurors
- Parties

The pilots are to commence from September/October 2017 running for a period of 6 months. Six pilot sites have been identified:

1. Newcastle Crown Court
2. Blackfriars Crown Court

3. Sheffield Magistrates' Court
4. Highbury Corner Magistrates' Court
5. Brentford County Court
6. Manchester Civil Justice Centre

The pilot sites have mobilisation times of 9-12 weeks in order to set up the FOH courts.

This table below sets out a summary of the FOH pilots, in terms of scope, the logistics, and timeframe. These details are subject to change.

Box 2: Summary of FOH pilots

| Scope | Proposed pilots | Target pilot period <small>*exact start dates for pilots TBC.</small> |
|---|--|--|
| Crown Court | <p>The proposal in the Crown Court is for two Crown Court hearing sessions to run after each other in one room.</p> <p>2 x 4 hour sessions. Court rooms will be used for 8 hours, a 60% increase on current use.</p> <p>First session: 9:30-13:30. Second session: 14:00-18:00.</p> | Sep/Oct '17 – Apr '18 (6 months) |
| Magistrates' Courts sitting in the Crown Court | <p>There are two models which we are testing for Magistrates' Courts to sit in the Crown Court. These would operate in the same pilot site as Crown Court using the same operating hours model.</p> <p>Model 1 Magistrates sitting after the end of the Crown Court hearings. Court rooms sitting with this pattern will also be used for 8 hours.</p> <ul style="list-style-type: none"> • 9:30-13:30 – Crown Court flexible operating hours session 1. • 14:00-18:00 – Magistrates' Court caseload in Crown Court (predominately trials). <p>Model 2</p> | Se/Oct '17 – Apr '18 (6 months) |

| | | |
|-------------------------------|--|----------------------------------|
| | <p>A Magistrates Court session running before a full Crown Court day. Court rooms sitting with this pattern will be used for 7 hours.</p> <ul style="list-style-type: none"> • 9:00-11:00 – Magistrates’ Court session. • 11:30-17:30 – Crown Court full day, including 1 hour lunch break. | |
| Magistrates Court | <p>The proposal in the Magistrates’ Court is for three Magistrates’ Court hearing sessions to run after each other in one room. The sessions would each be 3 hours with flexibility to allow variances to sitting patterns. Court rooms sitting with this pattern will be used for 9 hours, a 50% increase.</p> <p>There are different proposals which are being tested regarding the start time of the 3 x 3 hour sessions, based on local need:</p> <ul style="list-style-type: none"> • 08:00-11:00, 11:30-14:30, 15:30-18:30 • 10:00-13:00, 14:00-17:00, 17:30-20:30 | Sep/Oct '17 – Apr '18 (6 months) |
| Civil and Family Court | <p>The proposal is 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. The work listed in the new session would include a mixture of work likely to suit 'litigants in person' and offering an opt-in for other case types. Court rooms would have 7.5 hour utilisation, a 50% increase.</p> | Sep/Oct '17 – Apr '18 (6 months) |

There are **differences** between the FOH pilot models, such as the times and selection of cases, but the most significant difference is that they will be tested in different jurisdictions. We expect there may be different findings for different jurisdictions. The FOH pilots will test increased sittings in Crime (Magistrates’ and Crown Courts), and Family and Civil jurisdictions at six sites – Highbury Corner and Sheffield Magistrates’ Courts; the Crown Court at Blackfriars and Newcastle; Brentford County Court (civil) and Manchester Justice Centre (family and civil).

The range of pilot models is intended to test running hearings at different times of the day, ranging from 0800 through to 2030, which will impact across the spectrum of internal and external users. There are no additional funding sources and participants are asked to participate voluntarily and cover any additional in house costs within their own agency. The evaluation will need to understand and gather evidence on equality impacts and whether alternative approaches might in fact be more effective in promoting diversity and having positive impacts upon recruitment and retention.

Bidders must respect the independence of the judiciary in their work.

4. Aims and research questions

4.1 Aims

As discussed, the overall aim of the evaluation is to learn lessons for potential future implementation of FOH in England and Wales, in terms of process, feasibility, outcomes, user experience, sustainability, and scalability. The evaluation will need to assess how FOH could be used in practice, the associated costs, and what its impacts would be on all court users and agencies (see Box 1).

As noted, the FOH pilots have been established to test and evaluate different operating hours in the court room across all jurisdictions. In doing so they aim to understand:

- The scope for improvement to the utilisation of available capacity of court rooms;
- The systems, arrangements and barriers for FOH to be scalable and sustainable;
- The options, potential costs and benefits for individual agencies and across the justice system;
- The impacts of FOH on all users across the justice system;
- The impact on providing a service that is more accessible to users of HMCTS;
- Whether it does meet an access to justice need.

Key to the aims will be to establish if the models being piloted could become a component of HMCTS's future operating model, either on an occasional or regular basis. For this the evaluation needs to address:

> **Sustainability** i.e. what would need to be in place for the models to be sustainable and what are the range of information and indicators that would prove this?

> **Scalability** i.e. could the models be deployed successfully across other court and hearing rooms around the country and what are the information and indicators that will tell us this?

4.2. Research questions

As noted, the FOH pilots start by posing two key questions:

- **What is the effect of different court sitting hours? Does it lead to a more effective and efficient justice system?**
- **What is the effect of different court sitting hours on access to justice? What is the impact on justice outcomes?**

The evaluation will include: a process and outcome evaluation and an economic (cost benefit) evaluation. The following sections cover key research questions.

Bidders must outline how they will address these questions and the outlined aims.

Process and Outcome Evaluation

The questions here are testing performance, process, feasibility, outcomes, and user experience.

The following are a number of key research questions, however the successful contractor will be required to work with the project team to further develop and refine the research questions and logic model.

- What are the impacts of the FOH pilots on court users? What are their experiences and feelings?
- Did FOH enable court users to achieve their goals and satisfy their needs during their engagement with the justice system? If so, how?
- How do the FOH pilots affect the different agencies including HMCTS?
- Are the pilot courts experiencing any changes to their processes and outcomes? E.g. an increased number of adjournments during the FOH pilots?
- What are the advantages and disadvantages of FOH in the pilot courts?
- Are the FOH pilot courts being used to greater potential as compared to before the pilots? Are the court rooms improving utilisation under the FOH pilots?
- What are the challenges and obstacles that need to be overcome to make FOH sustainable and scalable?
- What is the impact of justice outcomes by time of day (including appropriateness of sentencing and quality of justice)?
- Can you effectively run a court room at a different time of the day?
- What is the cost of effective court time?
- What is the receptiveness to FOH in the pilot courts by court users? Is there an appetite by court users to scale FOH more widely at a national level?
- What are the impacts of the FOH pilots on court users? What are their experiences and perceptions? How was FOH an enabler or a blocker to users' desired outcomes?
- Do the FOH pilots have an impact on court users' wider work and life balance? Does it impact their childcare and other responsibilities?
- What is the impact of the FOH pilots, and the potential of scaling up FOH, on the legal professionals from a diversity perspective?
- What is the effect of the FOH pilots on compliance with the Equalities Act 2010?
- What is the impact of the FOH pilots on time spent not in court for legal professionals (including judiciary, defence and prosecution) for wider work including preparing cases and travelling?

- What is the impact of the FOH pilots on Magistrates?
- How do the pilot courts implement FOH in practice?
- What adjustments have been made for particular court characteristics (such as location, size, jurisdiction, etc.)?
- What are the enabling factors and barriers to implementation?
- What specific processes have been followed, and have any process changes been made and why?
- What has FOH allowed the pilot courts to achieve that would not have been possible without it?
- Are there any unintended consequences of the pilots?
- What is the impact on existing staff of running the FOH pilots? This is not just different hours but the impact on the work they do in their normal hours.
- What is the impact on judiciary of running FOH? This is not just different hours and work patterns but also whether it affects the availability elsewhere of fee paid judiciary.
- What is the impact of the FOH pilots on neighbouring courts (case mix, volume, availability of judges, etc.)?
- What is the case type mix like in the FOH pilot sessions – were they different in the different sessions and were they different from before the pilots?
- What is the effect of the FOH pilots on case volumes? Have the pilots reduced the backlog of old cases, increased throughput of new cases or not had significant impact?
- What changes have been made to accommodate user needs (e.g. changes to the way of working for health & safety reasons)?
- What is the effect (if any) of running the FOH pilots at the same time as the Section 28 procedure gets going nationally?
- Does the ‘Hawthorne effect’ have any impact on the findings of the pilots?
- Are litigants better able to access justice systems as a result of the FOH pilots and has the availability (or lack of availability) of professionals had any impact?

The above questions should be answered at the jurisdiction level, although there is some common ground (e.g. the likely difficulties faced for legal professionals with childcare), which should be drawn out as a universal point. It may be that FOH doesn't work in one jurisdiction but does in another, and FOH may therefore be only scalable in some jurisdictions, but not all. Each region is also likely to differ – for instance local/geographical factors such as distance to court, public transport provision, or types of cases heard in the pilot, through to types of firms in an area. Therefore it is important that the evaluation addresses how it will determine the degree to which specific factors in the pilots such as these contributed to specific outcomes.

The contractor would also be required to collect data for the following factors in the evaluation of the FOH pilot courts:

Box 3: Selection of Quantitative and Qualitative Factors to consider in the evaluation

| Quantitative | Qualitative |
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| Court utilisation: Courtroom use (hours). | User experience: General perception of different timings (all users). |
| Juror utilisation. | Accessibility – Travel experience. |
| Staff hours/Hours worked/Working patterns/Amount of remote working. | Impact on other responsibilities including caring. |
| Cases per hours worked. | Diversity – Potential for impact on lawyers and judiciary. |
| Timeliness by Case Type; Number of courts over-running. | Diversity – Potential for impact on Magistrates’ Courts. |
| The number of possible users who visit a court in a given period. | Convenience – benefits/impacts to users (their perceptions; attitudes). |
| Judicial chambers use (hours and number of rooms required including at “cross-over” times). | Ability to do different work types at different times. |
| Interviewing room use (hours and number of rooms required). | Concentration levels are a significant concern when hours are extended. If advocates work extended hours, are concentration levels affected? |
| Court cell use (hours and number of cells required). | Impact on defendants in custody (travel times, provision of food and drink and sufficient rest periods in Court and in prison). |
| Time in cells for defendants. | Impact on Magistrates (they are members of unpaid judiciary, but many are working, so the impact may be different to that experienced by DJ’s in these courts). |
| Times of pickup/drop-off between court and prison for defendants. | Working pattern consistency for legal professionals involved in pilot courts (impact on their agency; self-direction; decision-making process). |
| Trial length (hours and number of days required) and trial estimated length (trial length estimates increase/decrease/static). Also whether work was listed ahead of/behind trials? | Can listing practices create more flexibility, rather than longer days? |

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| Length of working day for legal professionals. | Equalities data on participants – how have court users been affected? |
| Arrival time of legal professionals prior to hearing. | Is there a reduction or lack of available public transport for participants, particularly at the end of the FOH day? |
| Waiting times/Listing times on day for all parties. | Scalability and Benefits (reflecting user insight and legal professional impacts). |
| Case progression times/overall waiting times. | Quality of justice outcomes; impact on decision-making ⁴ ; severity of sentence by type, quantity, and by time of day the sentence was passed (evaluate the difference between these decisions when made outside of normal working hours). |
| Number of adjournments. | Impact on the legal aid contract between solicitors and the Legal Aid Agency (LAA). |
| Actual start and finish time of pilot courts. | Impact on court users: financial impact, social impact, outcomes, degree of ease or otherwise, impact on their experience of the courts system and in turn their trust and confidence, etc. |
| Delays in case hearings. | Security issues; safety of court staff; court users and legal professionals when leaving court late. |
| Types/volumes of work/hearings listed/scheduled in different sessions; impact upon non-pilot work. | Reasons of court users unable to participate in the pilots and assessment of the potential cost to their business. |
| Cracked and ineffective trial rates; Effective trial rate; were more trials ‘part-heard’ as a result of the pilot? | Distributional impacts on main parties affected, e.g. detrimental impacts on legal practitioners might have wider negative external effects on the functioning of the justice system and rule of law. |
| Trial outcomes; Justice outcomes. | Impact on staff with protected characteristics. |
| Staff requirements for FOH pilots; Requirement and salary costs. | Understanding the user groups attending FOH court sessions, e.g., employed/ unemployed. |
| Costs (per session type, staff costs by agency, transport costs to and from prison, professional user costs including legal aid). | |
| Unit cost of trials. | |
| Equalities data on participants – who has been affected? | |
| Accessibility – distance travelled by court users at start and end of day. | |

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| Impact on IT costs (Libra 3 session issue - evaluation of the impact the workaround has is essential in terms of timings, applicability etc.). | |
| Case outcomes of cases at pilot courts compared to non-pilot courts. | |
| What the trial estimate was and the actual time taken for the trial and the reasons for the difference. | |
| Listing decisions and types of work heard at pilot courts; what matters are heard, how often matters are listed and then vacated on application by the parties or on the court's own initiative. | |
| Details of the listing pattern used; how many hours of work were listed in the pilot slot? | |
| What additional listing time is involved in listing out of hours hearings and what additional staff and judicial time is required to deal with questions/applications etc. | |
| Scalability and Benefits (reflecting utilisation modelling and estate benefits). | |
| Work allocation to legal professionals involved in pilot courts from Chambers. | |
| Numbers of applications granted to the defence. | |
| Numbers of applications granted to the prosecution. | |
| Findings of guilt or innocence following contested hearings. | |
| Remands into custody. | |
| Custodial sentences. | |
| Number of unrepresented defendants. | |
| Number of litigants in person. | |
| Costs for legal professionals – including paying overtime to staff, and losses incurred due to being unable to undertake work at the start and end of the day. | |
| Additional costs to chambers in providing staff cover for the intended extension of hours in the FOH pilots. | |
| Non-trial hearings: -Hearings per case (Likelihood of an adjournment increase/decrease/static) | |

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| -Guilty plea rates at first appearance (Likelihood of a guilty plea increase/decrease/static) | |
| Increased costs to Local Authorities and Mental Health Services who provide a presence in court for the benefit of young people and those with mental health issues. | |
| Working patterns/Hours worked (future workforce requirements?)/Amount of remote working (identify opportunities to increase remote working); wellbeing. | |
| Impact upon victims and witness attendance rates (improves/declines/static). | |
| Costs of additional caring arrangements. | |

The evaluation should address the fact that some cases are not included in the pilots. For example, across all jurisdictions some cases are not listed in the courtrooms testing the pilot for good reason e.g. vulnerable witnesses who should not go part heard, unavailability of witnesses during part of the day (for child care reasons for example), traveling difficulties for defendant and/or witness, mental health defendants (or witnesses) being brought from secure hospitals, long time estimate cases, child witnesses who cannot give evidence in the afternoon in line with the protocols etc. We need to capture this information, and to know what cases were not put in the pilot courtrooms and why.

Evaluation should also be undertaken of those who opt out of the pilot scheme, e.g. barristers (including for example reasons why, cost implications) as this will provide valuable information of a possible unintended consequence for a user type or demographic.

As discussed there are various user groups that the evaluation must take into account.

Economic (cost benefit) evaluation

The contractor must assess the cost effectiveness of the pilots, i.e. a full economic (cost benefit) evaluation. The contractor must work out any additional costs and benefits resulting from the FOH pilots.

Estimation of costs of FOH – to include:

- What are the additional running costs of FOH in the pilot courts? And are there any differences for the different pilot courts?
- What are the ongoing and one-off savings of running FOH in the pilot courts?
- What is the cost-benefit of each FOH pilot and the FOH pilots overall for each agency and for the CJS as a whole?
- How possible is FOH in terms of cost? I.e. are the increased running costs offset by the benefits?
- How scalable is FOH? I.e. would the additional costs of FOH identified in the pilot courts be similar for other courts in the country?
- What wider changes would need to be made to accommodate FOH? E.g. changes to staff, I.T. changes, etc.

- What are the economic and non-economic costs of the FOH pilots?
- What are the distributional impacts of FOH on each agency affected?

As well as undertaking a cost benefit evaluation of the pilots themselves, the contractor will be required to do an economic analysis and estimation of whether FOH is financially sustainable and whether scaling up FOH for roll out is possible, the costs involved and whether this can be advocated. For this, the contractor must identify the barriers to make the FOH scalable and sustainable, (i.e. what would be the costs and benefits of scaling it?)

4.3. Agencies/delivery partners' requirements

The project team has been working with the cross-agency LITs in the pilot sites and also directly with agencies/delivery partners to help understand their individual evaluation requirements. The methods employed included workshops and the issuing of data capture templates. These requirements are reflected in the noted research questions. The following is a list of the agencies/delivery partners that the evaluation needs to cover:

- HM Courts & Tribunals Service
- Judiciary (lay and professional)
- Crown Prosecution Service
- HM Prisons and Probation Service (covering both prisons and probation)
- Legal Aid Agency
- Police
- Legal Professionals including duty scheme legal professionals
- Jury Central Summoning Bureau

In addition, we are also interested in understanding the impact on other agencies, such as:

- Witness Service (Citizens Advice Bureau)
- Victim Support
- Personal Support Unit
- Children and Family Court Advisory and Support Service (CAFCASS)

Engagement with legal professionals and other system participants has highlighted the following critical concerns which the evaluation will also need to address:

- Impact on diversity in the profession and judiciary
- Health, safety and wellbeing
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- Impact on childcare and other responsibilities, plus wider work/life balance impact
- Working pattern consistencies
- Length of working day & length of time
- Work allocation to legal professionals involved in pilot courts from Chambers
- Arrival and departure times of legal professionals at pilot court prior to hearings
- Waiting times prior for to hearing for barristers at pilot courts
- Actual start and finish time of the pilot courts

- Trial length in each session at the pilot courts
- Case outcomes of cases at the pilot courts compared to non-pilot courts
- Listing decisions and types of work heard at the pilot courts.
- Practicalities of running the pilot
- Excessive in-court hours for practitioners
- Impact on time spent not in court preparing and travelling
- Remuneration for working anti-social hours

5. Methodology

Bidders must outline in full their proposed methods and what information each approach described will provide to the evaluation, with justification for the approach/approaches suggested. Bidders must include how their evaluation design will ensure that they will be able to report a detailed view of the use of FOH and address the research aims/questions. Innovative approaches to evaluating the pilot are welcomed, as long as relevance and robustness of approach are clearly demonstrated.

An indication of the suggested methodology is outlined in this ITT; this is not exhaustive and bidders are welcome to suggest alternative or additional methodologies to deliver the requirement.

Where alternative approaches are suggested, bidders must ensure that these approaches are clearly identifiable within their bid along with the associated benefits of each approach. **Bidders must ensure that each alternative aspect is separately priced within the pricing structure of their bid.** Any small alternative approaches that are suggested in addition to the approaches outlined within the specification may be included or excluded at the discretion of HMCTS. Therefore bidders must stipulate any intrinsic aspects of these alternative approaches so that these aspects are not excluded.

The contractor will be expected to work closely with HMCTS and pilot area representatives to plan and agree the detailed approach to the evaluation. It is crucial that the evaluation provides information on all of the courts and their models. It is also expected that each aspect of the evaluation will be sensitive to potential differences in the processes, outcomes and experiences of FOH that may be associated with particular court characteristics (such as location, size, jurisdiction, etc).

5.1. Process and outcome evaluation

This strand of the evaluation should include a combination of qualitative and quantitative measures to understand how the FOH pilots have been implemented, whether the FOH processes are operating effectively and the user experience etc. - **see earlier for fuller description of requirements.** This will include detailed descriptions of:

- The FOH processes for all of the pilot courts, any changes made to the processes and why, and specific challenges and lessons learned;
- The FOH outcomes, including impact on all users, compliance rates, breach rates, types of breaches and outcomes, etc.

Bidders shall outline an approach for the process and outcome evaluation, including how they will collect data to support this (e.g. collection method/s) and the counterfactuals against which impacts are to be assessed.

Scope

The successful contractor will be expected to identify strengths and weaknesses of implementation models being followed, any issues experienced with FOH in the field, and any general barriers to the smooth and successful implementation and running of the pilots. It will also draw upon the views of key implementers / practitioners and decision-makers in the pilot areas (e.g. police officers and staff, prison staff, probation officers, court staff, magistrates, and judges – see earlier for required groups). Management information will also be used to inform how FOH is being used, and the extent to which court users are compliant with the conditions of FOH. The court users' voice is essential and bidders should outline how they would include this. The evaluation may involve some element of longitudinal design, in order to examine how the use of FOH may have developed over the pilot period.

We envisage that the research will include qualitative interviews and/or focus groups with key implementers, decision makers and users outlined.

Bidders are invited to propose approach across the different types of stakeholders to meet this element of the research requirement within the budget (including whether interviews will be face to face, via telephone, or a mixture of both, and whether participants will be interviewed more than once, and if so, at what stages of the pilots).

Final numbers of qualitative interviews are to be agreed with HMCTS in the initial planning stages prior to fieldwork. However, bidders must indicate the suggested number of interviews/focus groups that they consider necessary to deliver this element of the requirement.

HMCTS must be involved in the development of any research strategies and fieldwork materials (such as topic guides) through discussions with the successful contractor.

Data collection

Planned methods of data collection and storage must be fully justified and meet necessary data protection legislation. The contractor will ensure that data is collected with due respect to ethical considerations, with minimal burden on local stakeholders. **The successful bidder will have evidence of familiarity with conducting research with court user and justice practitioners.**

It is envisaged that some data on FOH will be collected by the pilot courts in the course of the pilot as management information, such as information on court cases, what the case mix is, and these data will be made available to the contractor.

There is some internal data available from HMCTS and the various agencies. In addition to this, the contractor will have to assess which new data they can collect and generate through primary research.

Where feasible, HMCTS will facilitate resolution of any relevant data sharing issues and access to the different stakeholder groups.

Data that HMCTS can provide is:

- Financial data on pilot courts (summary of all operating costs and income for each of these courts by month)

We have listed a selection of the evaluation indicators alongside a discussion of their data availability (internally in HMCTS):

| No. | Evaluation Metric or Insight Summary | Existing Data Source (Y/N) | Data Collection Method |
|-----|---|----------------------------|---|
| 1 | Courtroom Utilisation -Overall Utilisation -Session 1, 2 & 3 Utilisation | Y | Courtroom utilisation is recorded on CREST but it does not identify anything more than AM and PM sessions (in hours and minutes). Magistrates – start and end times of planned sessions are recorded, start and end times of unplanned sessions can also be recorded, however it is possible that unplanned sessions are duplicated in the planned session’s time. The 3 rd session will show as an unplanned session as Libra has the ability to record AM, PM and all day sessions. |
| 2 | Juror Utilisation -Overall Utilisation -Session 1 & 2 utilisation -Witness Utilisation | Y | Juror Utilisation overall is recorded on JUROR. There is no split available for Sessions though. No witness utilisation data in MIS. Magistrates – do not use jurors, and no details on witnesses are recorded. |
| 3 | Case Volumes by Session Case Type by Session | Y Y | If session is AM/PM then no. Overall case volumes (Receipts/ disposals) are available on CREST. Magistrates - The options for session are am/pm/all day or by panel type - adult/youth /enforcement/family. Magistrates - Case types would be Criminal/Civil/Enforcement (please note that adult/youth panels will hear both Criminal and Civil cases), or it could be possible by a further grouping of |

| | | | |
|---|--|---|--|
| | | | Indictable, Eitherway, SM, SNM, Civil Applications, Civil Misc., Breaches, Criminal Related, Enforcement etc. |
| 4 | Timeliness by Case Type | Y | Timeliness is available from CREST. Magistrates – data for timeliness is provided by JSAS from the TAR extract. |
| 5 | (Generic) Outcomes by Case Type | Y | Disposals of cases are available on CREST. We do not produce breakdowns of convictions, acquittals etc. Magistrates – current reports on outcomes are not available, as this is published from CAD (JSAS). Within Libra MIS we have Sentence Type (this is high level showing custody, community sentence, other etc.). Other than that Result Sets and Result Codes are available, however this would provide all outcomes on a case so each case could have multiple counts (e.g. one count each for Fine, Compensation, Costs, Victim Surcharge etc.). |
| 6 | Judicial Sitting Day (Court) | Y | Judge utilisation is recorded on CREST. |
| | Judicial Sitting Day (Court + Chambers) | Y | Magistrates – not available. Within TAR is possible to see if the final hearing was heard by Magistrate Panel or a DJ, but is not a count of sitting days. |
| 7 | Staff Hours x Agency | N | Not available from CREST. Not available in Libra. |
| 8 | Case Effectiveness by Session -Effective Trial -Cracked Trial (Y) -Adjournment (Y) -Postponement -Case Delays | Y | Cracked, In/Effective data are recorded on CREST by day but not by session. Trial data is manually entered onto OPT and counts the number of trials. Libra MIS, will provide a trial count for each case not the number of trials that occurred (e.g. if a defendant has 4 cases in the same trial hearing this will count as 4 trials in Libra MIS). Also, if 3 joint defendants have a trial listed, Libra MIS will count this as 3 separate trials. Libra MIS does not provide cracked/ineffective reasons. Not all adjournments are mandatory to be recorded. |

MoJ policy is that incentives can only be offered to research participants in exceptional circumstances. Incentives should not be offered to court users under the management of the criminal justice system or defendants in criminal cases. Exceptional circumstances (for participants other than offenders and defendants) might include

cases where there is clear and compelling evidence that the integrity of the research will be compromised, or the participants significantly disadvantaged, if incentives are not provided. **If bidders believe that incentives are necessary in this project they must clearly state the proposed value and nature of such incentives, as well as the evidence and/or rationale for their necessity.**

5.2. Economic (cost-benefit) evaluation

This strand of the evaluation will entail a full economic evaluation of the pilots to provide the costs associated with FOH for individual agencies and the justice system as a whole, detailing costs and resources required for different aspects of the FOH process.

As well as undertaking a cost benefit evaluation of the pilots themselves, the contractor will be required to do an economic assessment and estimation of whether FOH is financially sustainable and whether scaling up FOH for roll out is possible, the costs involved and whether this can be advocated. For this, the contractor must identify the barriers to make the FOH scalable and sustainable, (i.e. what would be the costs and benefits of scaling it?)

Bidders shall outline an approach including how they will collect data to support this.

Scope

Where possible, the monetised resources required to implement FOH for each of the court centres will be described.

This aspect of the evaluation will include information on the resources required for different parts of the FOH processes, using insights from the process and outcome evaluation. The successful contractors will work closely with local area representatives to gather data to inform the cost estimates, using information from practitioners and looking to supplement / validate this where possible with measured data.

Data collection

Bidders must outline the proposed approach for collecting data on costs and resources associated with FOH. The successful contractor will ensure that data collection poses minimal burden on local stakeholders and meets necessary data protection legislation, as well as takes into consideration ethical issues.

5.3. Analysis

The successful contractor must analyse the data collected to meet the project requirements. Bidders must outline their proposed analytical methods for all aspects of the evaluation outlined above.

For the qualitative data, the successful supplier will be required to agree a thematic analytical framework which clearly links to the aims and research questions in consultation with HMCTS. **For the analysis, bidders should fully outline any proposed descriptive and inferential analyses, and how these will meet the aims/research questions. Bidders must detail how they will analyse the findings from all strands of the research to identify emerging themes and draw conclusions.**

The successful contractor is expected to update HMCTS regularly with emerging findings.

6. Outputs

The successful contractor must provide:

- Research tools (e.g. topic guides, questionnaires, data collection protocol and templates, protocols for consent and data sharing, sampling strategy paper setting out the sampling and recruitment approaches);
- Detailed evaluation project plan (following meetings with stakeholders) including a set of criteria for defining success for each pilot along with the metrics that will be used to measure the success (this is likely to include counterfactual and baseline measures prior to pilot compared to measures during/post pilot);
- A formal set of criteria for defining success for each pilot along with the metrics that will be used to measure the success (this is likely to include baseline measures prior to pilot compared to measures during/post pilot);
- Regular progress updates;
- Mid-point pilot evaluation presentation at HMCTS outlining the emerging findings;
- Presentation of final results (to HMCTS project team, policy, and pilot area representatives);
- A skeleton report setting out the main headings and subheadings to be included in the report, and including the technical details on the proposed methodology;
- An initial draft report in the MoJ format, covering all aspects of the research including background, methodology, and findings;
- Further draft reports incorporating feedback from the HMCTS project team and peer reviewers;
- A final pilot evaluation report of a publishable standard (approximately 25-30 pages in length, excluding appendices and annexes); and
- Final project data (including anonymised qualitative data);
- Catalogue of cases heard in the pilot courts.

Bidders must confirm that they will be able to provide all the necessary quality assured outputs within the expected timescales.

The successful contractor will need to produce a write up of their findings; it is anticipated that this will constitute a final published report. The report must: be consistent with HMCTS/MoJ style, providing a summary of the main findings and a high level summary of the methodologies used, along with any research materials used, for inclusion in the annexes of the report. The report is planned for publication and must therefore be written to a very high standard. It needs to be accessible to the general public, other analysts and policy officials within the Department. The report should be clear, concise, set the work in context, spell out the research questions, have the necessary technical information, have a clear narrative and draw out policy and practice implications. The content of the report will be agreed between HMCTS and the successful contractor.

7. Project management

7.1. Contractor obligations

The project manager nominated by the contractor must have sufficient experience, seniority and time allocated to manage the project effectively.

It is expected that following the project initiation meeting, regular contact will take place between the contractor and the HMCTS by telephone, email and face to face meetings. The frequency of contact will be agreed at the project inception meeting.

The pilots involve several court users and multiple processes within the justice system, and the successful contractor will be able to demonstrate having justice experience in the proposed research team in order to inform the evaluation.

Bidders must outline the anticipated members of the project team and demonstrate their skills and expertise essential to the delivery of this project, their role in the project and their estimated time to be spent on the project. Please provide details of any support that would be needed and from whom, in order to undertake and complete this project.

Bidders must also:

- **Outline how the contract will be delivered in the event of staff changes during the project;**
- **Provide details of how they will keep the HMCTS updated on the progress of the project;**
- **Describe in detail how they will manage this project to ensure that it runs smoothly, specifying the project management techniques that will be used; and**
- **Identify risks associated with the successful completion of the research and how they plan to mitigate them.**

7.2. Reporting and governance arrangements

HMCTS will nominate a contract manager, who will be the successful contractor's first point of contact during the project and will manage all administrative issues and contractual and technical matters. They, or a nominated replacement, will be available to deal with queries, be responsible for liaising with other colleagues in HMCTS during the course of the project, and ensure all parties are kept up to date on progress.

The contractor will be obliged to keep the HMCTS project manager informed of progress by means of regular updates as required. Arrangements will be agreed by the project manager and the successful contractor, and will likely include a combination of telephone and email updates alongside some face to face meetings to be held at the Ministry of Justice over the course of the project. The HMCTS project team shall reserve the right to call additional meetings when deemed necessary.

HMCTS has set up a working group, comprising government officials, agency representatives, and other local representatives from the areas involved in the pilot. Further to this, an evaluation advisory group is intended to be set up to deal specifically with the evaluation. The successful contractor may be invited to attend some of the evaluation advisory group meetings, to be held at Ministry of Justice HQ (London). Any issues emerging between meetings will be discussed between the HMCTS contract

manager and the successful contractor. HMCTS will also make available experienced staff to support and guide evaluators on operation of the courts and tribunals.

A secure email account will be set up for the contractor by HMCTS. Email communications between HMCTS and the successful contractor will be via secure email for exchange of any raw data, draft and final reports and presentation slides.

7.3. Quality assurance

All outputs shall be tightly and accurately drafted, and poor quality outputs will be rejected by HMCTS. The bidder must commit to undertaking quality assurance of all deliverables, and provide details of the quality assurance procedures they have in place. The successful contractor will guarantee the accuracy of all outputs to HMCTS, and detail what quality assurance processes have been undertaken. All research tools and project outputs will be agreed with HMCTS.

7.4. Risks

Bidders must identify and assess the risks associated with undertaking the research, and propose how these may be managed and overcome. The successful contractor will develop and manage a full risk register.

8. Response

The response (tender) must be limited to **30 pages exclusive of references, footnotes, and costing tables. The response must include:**

- How the work will be conducted and how the listed aims will be met;
- An itemised outline timetable of the stages of work;
- Details of the project team that will be involved in working on the project, outlining their grade, number of days on the project, skills experience and nature of their involvement in the research;
- How the contract will be delivered in the event of staff changes during the project;
- What project management techniques and reporting will be used;
- Details of the quality assurance procedures in place;
- Details of any ethical issues, data protection relevant to the proposal and how these will be addressed;
- A risk register identifying risks associated with the completion of the research and how bidders plan to mitigate them; and
- Clear separate costings for each aspect of the project including a detailed breakdown of what activities each member of the research team will conduct with a specification of the time allocated and their daily rate; and any assumptions associated with the costs.