



Ministry
of Justice

Process evaluation of the flexible criminal justice system pilots

**Nilufer Rahim, Tom Kenny, Rachael Owen, Caroline Turley,
Carol McNaughton Nicholls, Natalie Jago, Jasmin Keeble
and Professor Julian Roberts**

NatCen Social Research

Ministry of Justice Analytical Series
2013

Analytical Services exists to improve policy making, decision taking and practice by the Ministry of Justice. It does this by providing robust, timely and relevant data and advice drawn from research and analysis undertaken by the department's analysts and by the wider research community.

Disclaimer

The views expressed are those of the authors and are not necessarily shared by the Ministry of Justice (nor do they represent Government policy).

First published 2013

© Crown copyright 2013

You may reuse this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit: <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or email: psi@nationalarchives.gsi.gov.uk

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at: mojanalyticalservices@justice.gsi.gov.uk

This publication is available for download at: www.gov.uk/moj

ISBN 978-1-84099-616-6

Acknowledgements

We would like to thank Caroline Logue and Lizzie McKee at the Ministry of Justice for their support and guidance throughout the study. Thanks also to all those at MoJ who provided comments and guidance on early findings and report outputs.

We would like to express our thanks to all the people representing the various parts of the criminal justice system who participated in this research for their time and openness. We are particularly grateful to the individuals who helped to organise fieldwork in each of the case study sites.

We would also like to thank the peer reviewers: Professor Alan Clarke from Aberystwyth University and Professor Christopher Fox from Manchester Metropolitan University.

Finally, we are extremely grateful for the contribution of the defendants and victims for giving up their time to take part in the study.

Contents

List of tables

List of figures

Summary	1
Methods	1
Key findings	1
Recommendations	4
1. Introduction	5
1.1 Policy context	5
1.2 Research aims	6
1.3 Research design	6
2. Pilot implementation	9
2.1 Pilot selection	9
2.2 Pilot set-up	10
3. Extended courts	13
3.1 Experiences of delivery	13
3.2 Perceived effects on courts and efficiencies	15
3.3 Perceived effects on staff and partner agencies	16
3.4 Perceived effects on court users	17
4. Saturday courts	19
4.1 Experiences of delivery	19
4.2 Perceived effects on courts and efficiencies	20
4.3 Perceived effects on staff and partner agencies	21
4.4 Perceived effects on court users	23
5. Sunday courts	25
5.1 Experiences of delivery	25
5.2 Perceived effects on courts and efficiencies	27
5.3 Perceived effects on staff and partner agencies	27
5.4 Perceived effects on court users	29

6. Video courts	31
6.1 Experiences of delivery	31
6.2 Perceived effects	31
7. Conclusions and recommendations	32
7.1 Pilot implementation	32
7.2 Specific pilot models	33
7.3 Recommendations and lessons learned	34
References	36
Appendix A	37
Sampling and recruitment	37
Appendix B	42
Data collection	42
Appendix C	44
Analysis	44
Appendix D	45
Glossary	45
Appendix E	47
Abbreviations	47

List of tables

Appendix Table A1: Flexible courts pilots by case study site	37
Appendix Table A2: Coverage of partner agencies by site	38
Appendix Table A3: Number of participants by agency	39

List of figures

Figure 2.1: Flexible models sampled	7
-------------------------------------	---

1. Summary

The flexible criminal justice system (CJS) pilots were trialled for six months from October 2012 in 42 magistrates' courts across England and Wales.¹ During the pilot period, around 6,000 cases were recorded as being dealt with flexibly by a pilot court and also completed by March 2013.² The pilots tested the effectiveness of different operating models in improving the timeliness and efficiency of the CJS. Six different models were piloted which extended traditional operating hours on weekdays and weekends and extended the use and operating hours of Prison to Court Video Links (PCVL) as well as video courts. A qualitative process evaluation was commissioned by the Ministry of Justice (MoJ) to understand experiences of the pilots from the perspectives of stakeholders who experienced a flexible model and to identify good practice.

1.1 Methods

The evaluation used a qualitative case study design in which nine pilot sites were selected, covering the range of flexible models. In-depth interviews and group discussions were conducted within each site to capture the perspectives of the different stakeholders involved in the pilots. A total of 176 personnel took part, including – but not limited to – magistrates, defence and prosecution solicitors, court staff and police, as well as victims and defendants. These interactions were supplemented by observations of court proceedings.

1.2 Key findings

Pilot implementation

Decisions around which pilot models to trial and in which local courts were informed by discussions between key local strategic stakeholders. Decisions were made based on which local partner agencies and staff supported the pilots; which models were recommended by Her Majesty's Courts & Tribunals Service (HMCTS) or MoJ; and which fit best with existing resources given that no additional funding was provided to pilot areas.

Pilot sites were typically given between one and three months to prepare before implementation. The amount of preparation required, and sites' experience of the given timescales, were shaped by the scale of change required by the pilot model selected. Local Implementation Teams, composed of participating agencies, met regularly before the pilots

¹ There were 48 flexible pilot schemes in 42 magistrates' courts across England and Wales.

to plan for pilot delivery. Agreeing a shared protocol posed challenges where partner agencies were resistant to the pilots (such as defence firms), or could not easily adapt their practices in line with the pilots (such as prisons).

Organising staff resources was a priority across models during the set-up period. While each case study site found sufficient staff to run the pilots, some found resourcing more challenging than others. Staff were generally more willing to start earlier than work late or at weekends. However, experiences of staffing the pilots also depended on the financial incentives offered, court accessibility and whether staff supported the aims of the pilot.

Experiences of pilot delivery and perceived effects

Extended courts involved earlier starts, later-finishing trials and time added to both the beginning and end of the day. Insufficient caseload was a key issue for extended models and led to courts generally finishing no later than they had pre-pilot. Certain case types were found to be more suitable for extended courts than others – namely those that were more predictable in duration and required less preparation on the day of the hearing, such as PCVL and motoring offences as opposed to remand cases. Earlier starting courts were generally more popular with staff as they were considered to impose fewer additional costs than other models and involved a relatively small change in hours. However, some staff experienced fatigue from working longer days. While defendants' attendance at early start courts was generally found to be good, listing staff reported a high number of requests from defendants for later slots after being allocated an earlier time.

The **Saturday court** models included in the evaluation were a dedicated traffic court, a Saturday remand court and a small number of one-off trials and breach courts. Saturday courts were delivered without many operational difficulties, perhaps due to some courts already being open on a Saturday pre-pilot. Sufficient case volumes and staffing, as well as access to information, were key to smooth delivery. Otherwise cancellations and adjournments could occur. If partner agencies did not adapt their practices in line with the model, delays resulted, and this affected the cooperation of other partner agencies. Saturday remand and traffic court models were valued for alleviating existing weekday scheduling issues by bringing about greater case completion and throughput on Saturdays.

² Cases treated under the flexible CJS were identified by court staff and captured in the data through a free text field once the case was completed. Therefore there were cases treated flexibly which were not completed in the time frame, so they couldn't be included in the analysis.

For defendants, the main benefits reported were earlier release from police custody and avoiding having to take time off work to attend court.

The **Sunday courts** included in the evaluation were all remand courts. Sunday operation posed a range of delivery challenges and to a greater degree than the other flexible models. This may be because this was the first time courts were operating regularly on Sundays for an extended period. Sundays attracted the most resistance and even complete withdrawal by some partner agencies who felt the pilots were not financially or operationally viable, and involved sacrificing their work-life balance. Opposition to Sunday working, alongside limited access to support staff and information systems, meant adjournments were perceived to be more common and prisoners and paperwork tended to be late, causing delays. As a result, Sunday courts were felt to exacerbate weekday scheduling issues rather than create efficiencies. Although defendants benefited from an earlier hearing, reduced transport and accommodation options were a concern for vulnerable defendants released on bail.

Questions were raised by some CJS practitioners about whether Saturday and Sunday courts provided the best, most cost-effective solution to existing problems with efficiency and throughput compared to fuller utilisation of weekday courtrooms, particularly if they affected the work-life balance and finances of some partner agencies.

The **video court** pilot tested the concept of linking one court to three different police custody suites, whereas previously each court had connected to only one. The pilot proved this could work in practice, while highlighting some delivery issues. These included the need for sufficient space for solicitors and others to consult with clients, and the need for adequate resources in police custody to facilitate these consultations. Furthermore, video courts did not appear appropriate for all types of case, such as those with multiple defendants.

1.3 Recommendations

The findings point to a number of elements that would be essential to the delivery of flexible courts if they were to be rolled out more widely:

- Dedicated **partnership working**, with cohesive planning and strong communication within and across agencies.
- The ability for models to develop over time and **take account of local needs**.
- **Case volumes** sufficient to justify implementation of extended hours.
- The targeting of the most **appropriate cases** for flexible schemes.
- **Access to information**, including paperwork, IT and support systems.
- Adequate **supply of staff** and **equitable incentives** for participating personnel.

The pilots illustrated that flexible arrangements are possible and can be effective. However, they also highlighted a number of challenges around implementation which have to be considered alongside the potential benefits of each model.

2. Introduction

2.1 Policy context

Recent government policy has stressed the need to ensure that justice is efficient and effective as well as sensitive to victims' needs (Ministry of Justice, 2012a and 2010). This is consistent with the aims of the Government's 2010 Spending Review and 2015/16 Spending Round, which both emphasise the need to improve value for money across the public sector, including the criminal justice system (CJS). The 2011 disturbances demonstrated the CJS can respond in a flexible, responsive and efficient manner. In many cases defendants were arrested, charged, and presented at court within a few hours.

The Government's 2012 White Paper (Ministry of Justice, 2012a) noted that the response to the disturbances suggested that justice could be dispensed more efficiently, and in ways which would benefit victims of crime and other parties. The government is keen to learn from this experience to better understand how the CJS:

- can become more flexible and responsive to local needs;
- could act more swiftly in dealing with defendants; and
- can better meet the needs of victims and witnesses.

The flexible CJS pilots looked to help achieve these aims by testing the impact of extended court opening times and technology on the timeliness and efficiency of the CJS. The pilots also sought to establish whether such measures improve the service for victims and witnesses.

From October 2012 to March 2013, 48 flexible pilot schemes were trialled in 42 magistrates' courts across England and Wales. During the pilot period, around 6,000 cases were recorded as being dealt with flexibly by a pilot court and also completed by March 2013.³ The models piloted were:

- **Extended traditional courts:** extended weekday operating hours to hear cases earlier and later in the day.
- **Extended Prison to Court Video Links (PCVL) courts:** maximised use and extended operating hours of PCVL.

³ Cases treated under the flexible CJS were identified by court staff and captured in the data through a free text field once the case was completed. Therefore there were cases treated flexibly which were not completed in the time frame, so they couldn't be included in the analysis.

- **Saturday courts:** maximised Saturday opening hours, including introduction of Saturday opening hours in some courts where they did not already exist.
- **Sunday courts:** enabled courts to open for the first time on a Sunday.
- **Extended video courts:** extended the operating hours of preliminary hearings held over video link where the defendant is located at the police station.
- **Regional video courts:** enabled preliminary hearings held over video link in the magistrates' court to be heard by a court in a different region.

2.2 Research aims

A qualitative process evaluation was commissioned by MoJ in order to:

- understand flexible CJS pilot implementation, including the choice of pilots, experiences of setting up and resourcing the pilots, and partnership working between different agencies;
- identify good practice and lessons learned; and
- explore the views of victims, witnesses and other stakeholders who had experienced a flexible model.

While it was beyond the remit of this research to measure the impact of the pilots, views were gathered about the ways in which they had affected the stakeholders involved, and are presented here. As this is a qualitative study, the prevalence of particular views and experiences cannot be estimated.

2.3 Research design

Nine sites were purposively selected⁴ (Ritchie and Lewis, 2003) from the 42 courts piloting flexible models across England and Wales. Between them, the nine sites represented six models, with between one and five being piloted per site (see Appendix A for further details). Regional diversity was also sought, and at least one court from each HM Courts and Tribunals Service (HMCTS) region⁵ was selected. London was not involved in the pilots, so another metropolitan area was included.

The flexible models included in the evaluation sample fell under four main pilot types, as illustrated by Figure 2.1. The models trialled under each pilot type varied in terms of hearing

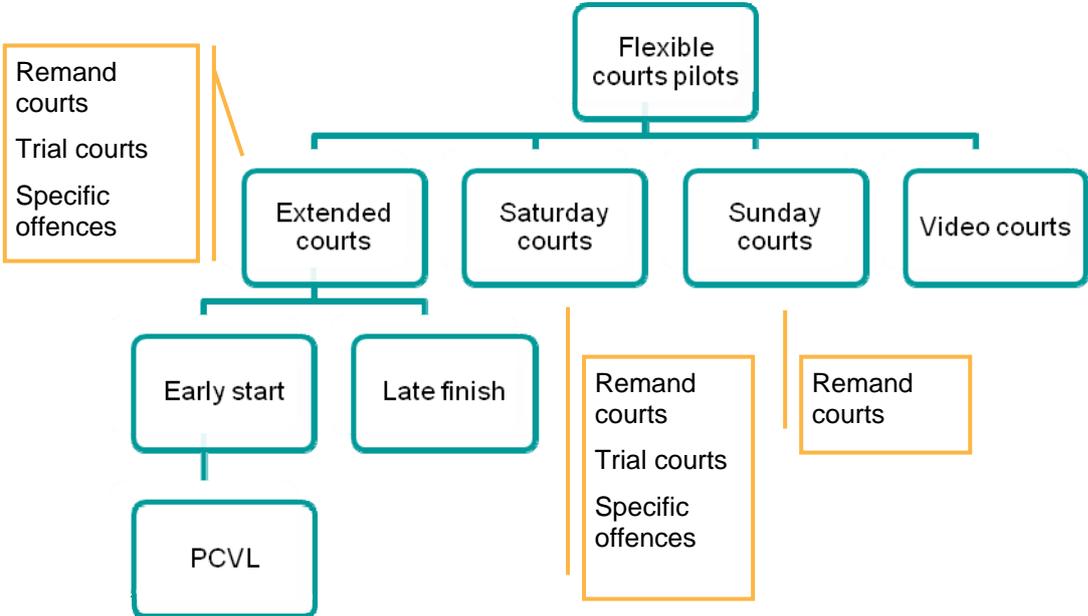
⁴ Sampling in this way involves selection based on dimensions that reflect key differences in the study population that are relevant to the research objectives.

⁵ HMCTS has seven regions: North West, North East, Midlands, South West, South East, London, and Wales.

type, offence type and pleas.⁶ Due to the range of flexible pilots that ran in the 42 pilot areas, the evaluation sample will not have covered all variations of each model.

A case study design was used to capture the range of stakeholder and user perspectives within each pilot site using qualitative in-depth interviews, group discussions, and observations of court proceedings. Topic guides and an observation pro forma were developed in collaboration with MoJ (see Appendix A for more detail).

Figure 2.1: Flexible models sampled



A total of 92 interviews or group discussions (with 170 CJS personnel, five defendants and one victim) were conducted with individuals involved in the design and delivery of the pilots including – but not limited to – magistrates, defence and prosecution solicitors, court staff and police, as well as court users. It was not possible to interview all participant groups within each site; however, all key partner agencies were included across the sample as a whole. Between nine and 14 interviews were completed in eight of the sites. In the ninth site, four interviews were completed. A breakdown of research interactions and staff roles can be found in Appendix A.

⁶ For example, courts may have only piloted remand cases, traffic cases, or Criminal Justice: Simple, Speedy, Summary (CJSSS) cases with guilty pleas in the first instance under the model being trialled.

Methodological challenges

While the research approach aimed to be as robust as possible there were some challenges, and so there are potential limitations to the findings.

It was not possible to interview defendants, victims and witnesses in every pilot site which limits what can be said about their experiences. Defendants were approached to take part in an interview after their hearings, but were not always willing or able to do so. At one site, it was not possible to interview defendants who were remanded in custody. Victims and witnesses had limited involvement in most of the case study pilots. The only flexible model in which they were directly involved and present in court for was later-finishing trials. However, witnesses generally gave evidence within the first hour of the trial, after which they could leave, and so few experienced the extended hours aspect of the pilots. None of the witnesses who were identified as being present during extended hours responded to invitations to take part in the evaluation.

3. Pilot implementation

This chapter explores how pilot sites and models were selected, as well as pilot set-up and implementation from the perspective of strategic and operational staff.

3.1 Pilot selection

In 2011, key strategic stakeholders such as HM Prison Service (HMPS), HMCTS, chief justice clerks, regional heads of crime (HoC) and police explored the feasibility of various models of flexible working in the CJS. Subsequent discussions in early 2012 formalised the policy, and HoCs were asked to establish which flexible models their regions would run. Strategic boards were convened to select pilot sites and model(s) in the case study sites.

Strategic staff described three factors underpinning pilot selection:

- **Fit with existing practices and resources:** High turnover and accessible courts with good transport links were considered particularly suitable for the pilots as they could attract and support sufficient case turnover to test the models. Available resources were also a consideration, given there was no central funding for the pilots. PCVL and video courts were only chosen if the required technology was already in place.
- **Engagement of local partner agencies and staff:** This shaped decisions around which pilots could successfully run. For example, one site did not choose a Sunday court due to opposition from various practitioner groups, particularly defence solicitors.
- **Direction from the centre:**⁷ Beyond the expectation that each Local Criminal Justice Board (LCJB) area would run a pilot there was diversity in how much direction staff reported coming from the centre. Some felt that their region had been steered towards certain pilot(s), while other sites reported being given autonomy. Staff described how direction from the centre to choose certain pilots meant that these were less attuned to local need, while pilots decided upon locally were felt to reflect local resources and circumstances.

In some cases a wide range of partner organisations were included in pilot selection. In others, the pilot(s) had been selected with limited consultation. Operational staff were generally not consulted, and some felt that the pilots were disadvantaged as a result.

3.2 Pilot set-up

The intention was for the pilots to commence in September 2012, but delays meant that some case study sites had three months to prepare their pilot before implementation, and others just one month. Once a decision had been made on which pilots were running, set-up tasks included: agreeing and communicating a shared protocol; organising staff; and preparing for the first hearing(s). Each of these is discussed below.

Agreeing and communicating a shared protocol

Local Implementation Teams (LITs)⁸ met regularly before implementation to inform and update partner agencies about the pilots and consult over practicalities. A broad range of agencies were involved,⁹ and membership varied by site and model(s) piloted. For example, an early start pilot or traffic court did not involve as many agencies as a Sunday court.

There were sometimes challenges to agreeing a shared protocol. For example, the defence community was particularly resistant to several of the pilots. Some solicitors felt they had not been sufficiently consulted and that the pilots were adverse to their interests. Negotiating with prisons also raised a number of challenges, in part due to the difficulties associated with altering prison regimes. For example, prisons are normally in lockdown¹⁰ on Sundays, meaning that defendants remanded to custody during the pilot could not be transferred to the prison. As prisons did not normally accept detainees on a Sunday it was also necessary to put staff in place to receive new inductions from court, such as assessment and healthcare staff. Levels of engagement with the pilots varied between prisons. Some went to great lengths to accommodate the pilots, particularly after receiving direction from the National Offender Management Service (NOMS) and HMPS. Others considered the changes required to be unfeasible for the short pilot period, especially given low anticipated prisoner intake.

Once the pilots were chosen and protocols put in place, a crucial step was to communicate the changes to operational staff. Success of this varied, with one suggestion being that a central source of communication would have ensured clarity and a consistent message.

⁷ This refers to strategic parts of the organisations involved that have a national remit, such as HMCTS head office, the MoJ, or relevant ministers.

⁸ LITs are the groups that formed in each area after the pilot(s) had been chosen, with the aim of facilitating implementation. The format and membership of these varied between sites, but generally included strategic staff from the agencies and partners involved in the pilots. They met regularly before implementation and some continued to meet once the pilots had been established.

⁹ This included but was not limited to: HMCTS, probation, Crown Prosecution Service (CPS), HMPS, police, Criminal Justice Units (CJUs), Youth Offending Service (YOS), Legal Services Commission (LSC), G4S, Serco, National Health Service (NHS), victim support (and Witness Service), Prisoner Escort and Custody Service (PECS), National Offender Management Service (NOMS), local prisons and local charities.

¹⁰ Lockdown is where movement of inmates around the prison is temporarily restricted.

Organising staffing changes

The organisation of staff resources was a priority across models. While individuals' participation in the pilots was largely voluntary, experiences of staffing the pilots depended on the stakeholder group and pilot model. For example, partner agencies with smaller teams implemented involuntary staff rotas, while some agencies such as the police did not need to engage volunteers since their employees were already on six- or seven-day contracts.

Each of the case study sites had sufficient staff to run the pilots, but some found resourcing more challenging than others. At one extreme there were staff groups, such as the magistracy, where there were so many volunteers that some were not able to work under the pilots. At the other, some managers had to staff pilots themselves due to a lack of volunteers, or the feeling that it was too much of a burden to place on staff. Five factors were identified as affecting staff engagement in the pilots:

- **Financial incentives:** This was felt to be a key motivation and both operational and strategic staff were clear that the pilots could not have gone ahead without premium pay. For HMCTS, a widespread approach to incentivising staff was to offer one and a half to two and a half times the standard rate. There was a preference for overtime rather than time off in lieu (TOIL), with the exception of some staff who felt particularly overworked. Part-time staff were sometimes excluded from the pilots as they could not claim overtime due to not meeting the minimum hours. At the partner/agency level, solicitors firms felt they could not participate in many of the pilots as they would not be adequately compensated. Crown Prosecution Service (CPS) budget constraints were also evident and they did not participate at all in one of the case studies.
- **Accommodating flexible working:** For some staff, flexible working fitted in well with aspects of their lifestyle. Others did not want to take part in extended hours or weekend courts due to caring responsibilities or a feeling that this impacted on 'family time' or their work-life balance. Some staff felt they were already overworked and so were not willing to take more on, especially those regularly working a six-day week due to being on call or working at existing Saturday remand courts. Agencies such as the police, Public Defender Service (PDS), and some private contractors found this easier as they were used to working flexibly.
- **Catchment area:** City courts were generally easier to staff than rural courts, and pilots that drew from a wide range of courts saw more volunteers than those using only local staff.

- **Motivation and sense of duty:** A ‘give it a go’ attitude was described by some staff, who welcomed the opportunity to participate in something new for a limited period. Others felt pressure after colleagues volunteered, or believed that volunteering would be beneficial for their career in the longer term.
- **Understanding of pilot aims:** A lack of clarity over pilot aims was felt by some to have dissuaded volunteers.

“If I’d have known the reasons behind why they [HMCTS] were doing it, maybe I could have sold the idea to them [staff] a bit more.” (Operational staff 01)

Preparing for the first hearings

There was variation in the time each site had to prepare for the pilots. Sites with early implementation dates had less time to prepare, while for some sites delays made timely preparation difficult. Sunday pilots were particularly likely to be pushed back due to the scale of change. However, some staff felt that not much needed to be done to prepare for the first hearings since the pilots looked very similar to traditional court sessions. Again, this depended on the stakeholder group and pilot model.

Perhaps reflecting the importance of existing resources in pilot choice, additional training and support was not widely required. However, where needed it was important this was factored into timescales. Guidance that staff found particularly useful included policies on overtime for HMCTS staff and on communicating with defence solicitors. The former meant that sites could avoid protracted negotiations with staff and unions, while the latter helped with what was described as a challenging relationship. Some staff would have liked more guidance, but others were keen for the models not to be so prescriptive as to preclude organic development.

4. Extended courts

This chapter explores experiences of delivery and the perceived effects of the extended court pilots, which included: all-day, earlier starts, and later-finishing trial courts:

- **All-day extended courts** started earlier and continued later into the afternoon. At one site, this model had been used to fit three traditional days of Criminal Justice: Simple, Speedy, Summary (CJSSS)¹¹ cases into two extended days per week which ran from 8.30am to 5pm, rather than the traditional hours of 10am to 4–5pm. At another site, all drug and alcohol cases were allocated to an extended court day, which ran once a week.
- **Earlier starts** began half an hour to an hour earlier than traditional courts, and included twice-weekly PCVL courts and daily remand courts starting at 9.30am instead of 10am.
- **Later-finishing trial courts** comprised longer trials listed for weekday afternoons, for those expected to last three hours rather than two.

4.1 Experiences of delivery

Practitioners' views on delivering the extended court models were affected by caseload, case type, resourcing issues, partnership working, and support staff, as discussed below.

Sufficient caseload

In practice, all-day extended courts and later-finishing trial courts tended to finish no later than they had pre-pilot (between 4–5pm). This was due to: insufficient caseload in all-day extended courts; trials 'cracking'¹² early in the afternoon; or other courts taking on the later-finishing trial court's workload. It should be noted that cracked trials happen in traditional courts as well, but courts over-list cases to account for this. This did not happen to a great enough extent in the extended court pilots. In addition, courts were already flexible in how work hours were organised prior to the pilot and would work later if they had sufficient caseload. This further minimised perceived differences between traditional courts and the later-finishing models.

¹¹ These courts hear cases that are anticipated to be simple, such as anticipated guilty pleas. Grouping these cases together means they can be dealt with efficiently.

¹² A cracked trial means that the defendant has pleaded guilty to enough of the charges or the prosecution are offering no evidence against the defendant, so that the defendant is acquitted (XHIBIT, Justice).

Insufficient caseload affected earlier start courts, particularly PCVL courts at sites where the abolition of court committal hearings¹³ had come into effect during the pilot and considerably reduced caseloads.

Case type

Certain case types were found to be more suitable for extended courts than others – namely those that were more predictable regarding the time they would take to hear, and required less preparation on the hearing day. For these reasons, PCVL cases worked well in earlier start courts as solicitors were likely to have already met their client before the day, could prepare in advance of the hearing, and proceedings were unlikely to overrun. Similarly, motoring offences with a guilty plea were a largely administrative exercise and did not require the presence of solicitors, so were scheduled for the first hour of earlier start and all-day extended courts. In contrast, remand cases required more preparation from partner agencies on the morning of the hearing, including paperwork completed by the police and instructions taken by defence solicitors, who are likely to have had less time to prepare than in PCVL cases due to the short time between charge and appearing at court. Consequently, the chance of delays to the court start time were greater.

Resourcing

Resourcing earlier start courts was largely found to be easier than later-finishing courts, with some staff more willing to start work earlier than stay later. A number of volunteers from HMCTS and other partner agencies stressed that they had volunteered for a short-term pilot out of goodwill, and were unlikely to volunteer on a permanent basis.

Partnership working

Although partnership working under the pilot models was generally viewed positively, model success depended on each partner agency adjusting their practices so that all parties were available at the earlier start time.

“We can be as flexible as the agencies who work within [the CJS]... It’s only as flexible as the least flexible agency.” (Strategic staff 01)

¹³ Committal hearings are a procedural part of the court process used to officially transfer a case from the magistrates’ court to the Crown Court. They were abolished in 2001 for indictable only offences, and from 5 November 2012 were also abolished for ‘either way’ offences in a number of justice areas, including Manchester and Salford, South Cheshire and West Cheshire (Green, 2012).

Delays led to a sense of frustration and disillusionment in the value of the pilot, as partner agencies felt it was not worth the inconvenience of arriving early if they were kept waiting for others to arrive. Delays were felt to be particularly common in all-day extended courts and earlier starting remand courts.

Support staff

A lack of administrative and managerial support for staff working earlier in the morning meant that if, for example, a solicitor needed advice from a manager, or a member of court staff needed to call in sick, there was no one available to contact. Over time this issue had been addressed by some agencies putting this support in place, which had helped to prevent delays in earlier start and all-day extended courts. However, this extra resource was noted as an additional cost for the respective partner agency.

It appeared that, in practice, extended courts made little difference to the operating hours in the courts where they were piloted. Earlier courts had the most impact, but their success relied on all parties attending court at the correct time, and appropriate cases being allocated to the earlier sitting.

4.2 Perceived effects on courts and efficiencies

The perceived effects of the extended court model on court processes and efficiency were specific to each model, discussed below.

All-day extended courts

Perceived benefits of all-day extended courts included more time for probation staff to produce pre-sentence reports (PSRs), which increased the likelihood of the report being returned to magistrates and sentencing taking place on the same day as the initial hearing. Some magistrates also noted increased use of oral reports in all-day extended courts, which was perceived to be more efficient.

However, some probation staff felt that the higher volume of cases during an all-day extended court put their resources under greater pressure. This meant they had less time to interview defendants and carry out in-depth assessments for their PSRs, which led to concerns about the quality of reports produced. The higher volume of work in an all-day extended court also led to greater variation to caseload during the rest of the week, as cases put into all-day extended courts took work away from other weekdays. It was felt that these

quieter days became less efficient, and that over the week there was ultimately no change to case throughput.

Earlier starting courts

Low caseloads impacted on efficiency as cancellations were sometimes not communicated to magistrates in a timely manner, and as a result they arrived earlier to find no cases listed. Similarly, if only one hearing was listed it might finish before 10am, leaving staff without any work to do until the traditional court started. Despite these issues, various benefits were identified. For example, earlier start PCVL courts were better aligned with prison regimes and freed up more time in the afternoons for other courts to link to the same prison. At one site, motoring offences had been centralised and the earlier start allowed the increased caseload to be dealt with in one court without having to open another. Earlier starting courts were also perceived to have a positive impact on listing, as work from other court rooms could be absorbed, therefore increasing overall throughput and efficiency.

Later-finishing trial courts

Although later-finishing trial courts rarely finished later than traditional courts, the pilot had enabled courts to list longer trials in the afternoon which had added flexibility to the listings. Prior to the pilot, longer trials would only have been listed in the mornings.

4.3 Perceived effects on staff and partner agencies

Morale and workload

Staff experiences of the pilot were linked to any incentives they had been given to work in extended courts, with defence solicitors at one end of the spectrum dissatisfied as they felt they were working extra hours without compensation, and CPS solicitors at the other who were happy to have one day off each fortnight as TOIL for the weekly all-day extended court. Differences in incentives offered to staff within the same agency also caused discontent.

The impact of earlier start courts on HMCTS staff was mitigated by the fact that staff were often in work early anyway. However, under the pilot they and other partner agencies, such as the police, were under extra pressure to prepare for court before court started. It was noted that where staff were working flexitime to cover the earlier start, they left work earlier in the afternoon, which left their department under-resourced. Prisons described how the earlier start of remand courts made no difference to their establishments as prisoners were ready to leave prison in advance of the earlier start time anyway.

Impact of fatigue

Many magistrates, legal advisers, solicitors and ushers reported increased fatigue due to the longer working day, and concerns were raised about how the model, if implemented long term, would impact on staff effectiveness.

“My view is that [the early start traffic court] is too much for a bench to do. It may not be academically challenging, but it’s exhausting work and I’ve had a number of issues where magistrates say they just find it too much.” (Operational staff 02)

This impact was also linked to how far away staff were based, with longer journey times exacerbating the perceived burden of earlier start and all-day extended courts.

4.4 Perceived effects on court users

Defendants

Views on effects on defendants came largely from staff, who perceived that earlier or later sitting hours could be a benefit or drawback depending on defendants’ own circumstances and needs. For example, people with substance misuse could find early sittings difficult to attend, especially if they were receiving treatment that was administered in the morning. Conversely, defendants who were employed during traditional work hours were felt to welcome the opportunity to attend court early. In practice, attendance at early start courts was found to be good, and some unemployed defendants interviewed felt the earlier start time had no real impact on them. Those who were appearing in court for the first time were not aware that the earlier start was a change from the norm and accepted it as a time they had to attend.

“Time-wise, whether it’s ten o’clock in the morning or eleven o’clock at night, you gotta be in.” (Defendant 01)

However, the inability of police software to identify specific defendant types in order to allocate them to earlier court times was considered problematic. Listing staff in all-day extended courts reported a high number of calls from defendants whose case had been allocated to an earlier slot requesting that it be changed to a later time. These requests were accommodated where possible.

Victims and witnesses

Victims and witnesses were generally not involved in the type of hearings that featured in extended court models, though they could attend later-finishing trials if necessary. However, as trials did not tend to finish later than normal, and prosecution witnesses gave evidence within the first hour, they were not affected in practice. Nevertheless, staff speculated that an extended court was more likely to conclude a case quicker, and so would benefit victims and witnesses as they would not have to return to court on another day.

“[If] I can get my evidence dealt with and... leave at 5pm rather than then have to come back, I would think they would see that as a benefit... Most victims and witnesses want it dealt with on that day.” (Strategic staff 02)

5. Saturday courts

This chapter focuses on the delivery and perceived effects of Saturday courts. Two of the models were trialled for the six-month pilot period. They included a weekly Saturday remand court that sat for longer and accepted detainees until later in the day than a standard Saturday remand court, and a dedicated traffic court held every third Saturday. The third model consisted of three, one-off Saturday courts held over a one-month period which included youth trials, adult traffic trials and breach of community order courts.

5.1 Experiences of delivery

Experiences of delivering Saturday courts were underpinned by the following factors.

Case volumes

The one-off Saturday trial and breach courts were reported to have had insufficient case volumes and, as a result, were felt by CJS practitioners to waste resources and court time. A lack of appropriate cases led to the cancellation of a one-off Saturday court for youth community order breaches. In another pilot site originally intended for inclusion in this qualitative evaluation, there was not enough throughput in the Saturday court for researchers to gather sufficient data, and so an alternative site was selected. Few trials could be listed because defendants, witnesses or police were unavailable, and trials that were listed finished early due to defendants entering a guilty plea. In contrast, traffic courts saw high case volumes and were therefore considered worthwhile.

Staffing levels

The wide range of staff and partner agencies working on pilot Saturdays (compared with traditional Saturdays) was thought to have enhanced pilot delivery and impact. For example, the presence of probation officers at Saturday remand courts was considered critical to finalising more cases. One participant explained the situation prior to this.

“You weren’t able to progress any case that would need the involvement of probation, particularly for sentencing reports, so the only cases that you would complete would be where the offence was relatively low level.” (Strategic staff 03)

Despite this, Saturday pilots were not staffed as fully as weekday courts and this was reported to have had some detrimental effects. For example, due to funding restraints, back office CPS staff in one site did not work on Saturday and therefore could not send over missing files and information. This could lead to delays and adjournments.

Access to information

Access to comprehensive documentation and IT systems facilitate the smooth running of court. It was therefore important for staff to be available on the day to deal with any problems regarding access to information. Insufficient time and resources to prepare the necessary documentation, for example at police stations, could lead to papers being delivered late. While such issues arose on weekdays too, they were more significant to court staff and solicitors on Saturdays because time was considered to be more precious because of the impact on work-life balance. In addition, as other courts were closed on a Saturday it was not possible to access certain information (for example, outstanding warrants) and these cases had to be adjourned to a weekday.

During the pilot, later-finishing traffic and remand courts were occasionally affected by maintenance works to Libra¹⁴ (the system was unavailable over the weekend).

Partnership working

Effective partnership working was essential to smooth pilot delivery, and was underpinned by strong existing relationships and regular cross-agency meetings. Where courts already opened on Saturdays, protocols and working relationships were already well established, providing a sound basis on which to build. Pilot delivery also relied on partner agencies adjusting their practices in line with the pilot model. Failure by some partner agencies to do so could cause delays and affect the overall cooperation.

5.2 Perceived effects on courts and efficiencies

Improving timeliness and efficiency within the CJS were key aims of the flexible CJS pilots. The extent to which the Saturday pilots were felt to do so was shaped by the factors below.

¹⁴ The case management IT system used nationally in magistrates' courts.

Alleviation of weekday scheduling or turnover issues

The pilots were viewed as bringing greater efficiency only if they provided a solution to difficulties with existing weekday scheduling or turnover. For example, weekday youth trials had not been considered problematic, so the Saturday youth trial model was not thought to have added value. In contrast, Saturday traffic courts were valued for removing high-volume, low-level offences from weekday lists, enabling greater and more efficient throughput of these cases on a Saturday.

Pre-pilot Saturday remand courts were described as causing a 'Monday bulge' in remand cases by the LIT in the case study site. This was because few Saturday cases were finalised and were therefore adjourned to Mondays, or because detainees were not ready for court by 9am on Saturdays and were remanded in custody. Solicitors suggested that increasing the number of courtrooms open (i.e. reopening weekday courtrooms closed down before the pilots due to low case volumes) would address the 'Monday bulge' issue more cost-effectively than Saturday opening.

Ability to progress and resolve cases

Despite the issues above, flexible Saturday remand courts were felt to resolve significantly more cases than standard Saturday courts due to the presence of more court staff and partner agencies, and the later acceptance of defendants by the court.

5.3 Perceived effects on staff and partner agencies

Partnership working

Saturday models were felt by some to enhance collaborative working. Probation officers, for example, explained that with fewer courtrooms open they did not need to split their time between rooms and found it easier to communicate with other partner agencies such as the bench. The presence of administrators in the courtroom was useful for magistrates and legal advisers, who welcomed drawing on their knowledge. However, as discussed above, the failure or inability of one partner to adapt their practices in line with the pilot model could counteract potential benefits and increase costs and workload for other agencies.

Agencies

Understandably, the pilots had more of an impact on partner agencies involved in models lasting all six months of the pilots, rather than on one-off Saturdays. Cost was a common concern across the agencies involved.

- **Defence firms:** Saturday working was reported to have had detrimental effects on firms' finances because they absorbed additional costs without generating more in fees. Furthermore, legal aid applications were not being processed due to a lack of administrative resource at one site. Concerns were also raised about the welfare of staff who were doing substantial amounts of overtime, as well as being on call, and therefore working unpredictable and unsocial hours on some weekdays. Exacerbating this problem, TOIL arrangements could not be honoured if resources were needed in the week.
- **CPS:** The Saturday pilots did not present the CPS with any staffing issues because a large enough pool of volunteers had come forward, possibly as a result of TOIL.
- **Police:** More police cells were freed up through the later acceptance of defendants by the Saturday remand court. However, the police could also incur additional costs of transporting and accommodating defendants.

Personnel

Fulfilment from work

Administrators serving Saturday remand courts and traffic courts carried out 'resulting' work (processing of case outcomes) inside the courtroom. Compared to the standard practice of a team of administrators resulting in a separate room, administrators reported that they found in-court resulting more interesting and efficient. However, if Libra closure interfered with resulting on a Saturday, dealing with the subsequent backlog of cases on Mondays could be stressful. Administrators also reported having to carry out additional preparatory work for Saturday courts on Fridays.

Some HMCTS staff thought the atmosphere in traffic courts was calmer and more enjoyable due to fewer people being present. Saturday traffic courts were also favoured by ushers because they no longer had to manage tensions on the waiting concourse

Some magistrates enjoyed models such as remand courts because they found the broad spectrum of cases stimulating. Case variety was also considered better for developing skills by providing exposure to different case types needed particularly for wingers¹⁵ to progress in the appraisal system. In contrast, all-day traffic matters were felt to be monotonous and magistrates preferred the traditional system of listing these in mixed weekday lists. Concerns were also raised about the potential for 'case hardening' and harsher sentencing due to case

monotony. These negative experiences of dedicated traffic courts were described as significant barriers to magistrates volunteering to work under this flexible model in the future.

Work-life balance

Saturday courts did not appear to have had a significant impact on the work-life balance of personnel, apart from some of the defence solicitors for the reasons discussed above. The impact on work-life balance for those who did not already work on Saturdays was dependent on how large the pool of volunteers was, or how convenient it was for particular staff types.

5.4 Perceived effects on court users

Defendants

Views around the potential effects on defendants were mixed, particularly as some defendants were not listed to appear in their local court.

Saturday remand courts and traffic courts were thought by some personnel to benefit defendants by bringing about swifter justice. Saturday remand courts were valued for the earlier release of defendants who were bailed. Employed defendants appearing in traffic courts benefitted from not requiring time off work to attend (unless they did not work traditional hours) and from shorter waiting times. Ushers and legal advisers considered shorter waiting times for these defendants to be fairer because they usually waited considerably longer to be seen on weekdays, compared to defendants of more serious crimes. While some members of the LIT and magistrates did not think making processes more convenient for defendants should be a priority, some magistrates did praise models that enabled swifter punishment, thinking this would benefit defendants in the long run.

Negative impacts of Saturday courts were that it reportedly took longer to confirm accommodation places for young offenders because agencies outside of the court tended to have fewer available staff. This meant that these defendants experienced longer waiting times. As noted above, some prisons could not accept defendants later than their agreed time due to regime schedule, and for some this meant spending another night in police custody. On a related point, Saturday remand courts did not always mean defendants would appear in court and be sentenced earlier. If defendants who had breached bail conditions were delivered to court later than the locally agreed time for listing, they could not be accepted and had to be released again because they could not be kept in custody for more than 24 hours.

¹⁵ The two magistrates who sit either side of the Chair of the magistrates' bench in court.

The one-off Saturday trials and breach courts that took place were considered beneficial for defendants because they brought about an earlier court date, and therefore earlier resolution. However, these cases were centralised with one court servicing the whole county, and this meant that local justice was not necessarily provided. Centralisation made travel to and from court by defendants (as well as friends and family) lengthier and more costly, particularly for users of public transport. Travel issues were noted as particularly problematic for young defendants.

Victims and witnesses

Saturday remand courts and traffic courts did not involve victims and witnesses directly, so they were not interviewed. Staff speculated that victims and witnesses of remand cases may have benefitted from faster resolution of cases to help them to achieve 'closure' and move on from the experience.

Victims and witnesses identified as having been present in Saturday trial courts did not respond to invitations to take part in the research. Among staff interviewed, there were mixed views about the benefits of Saturday trial courts for victims and witnesses. It was thought that parents benefited from not having to take time off work to attend a Saturday youth trial and that young victims and witnesses (as well as defendants) did not have to miss school. However, these benefits were felt to have been offset by the extra distance that had to be travelled due to weekend courts being centralised, and therefore not necessarily taking place in a court local to victims and witnesses.

6. Sunday courts

This chapter presents experiences of delivery and perceived effects of Sunday courts. The models piloted were all remand courts tested over the six-month pilot period, with some variations between the three models. The first two models were held weekly and utilised two courtrooms, with one model taking cases from a wider catchment area than on a traditional day. The third was held fortnightly, with one courtroom, and took cases from two police stations rather than one. Remand courts began between 9.30 and 10am, and ran until all cases were processed – generally half a day, but sometimes a full day. Saturday remand courts were already running in each of the pilot sites.

6.1 Experiences of delivery

Regular Sunday remand courts were implemented for the first time under the pilot. Courts had not opened on a Sunday before, and so delivering these pilots was more challenging than the other models. This was exacerbated by some partner agencies' refusal to participate in the Sunday court pilots. Similar to Saturday courts, experiences of delivery were shaped by the adequacy of staffing, access to IT systems and paperwork, the quality of partnership working, and infrastructure.

Staffing levels

Staff attending from the necessary agencies, and with the right knowledge and experience, were required for the successful delivery of Sunday courts. This could not always be achieved due to a lack of engagement from some stakeholders or volunteers. For example, courts relied on a small pool of duty and PDS solicitors where local defence firms had withdrawn from the pilots. These solicitors described delays and adjournments due to unmanageable caseloads and because defendants sometimes only wanted to speak to their own solicitors. If Sunday court staff were drawn from other courts, progress could be slow while they familiarised themselves with local systems and processes. It was also difficult to deal with issues and emergencies without surplus or support staff who would usually be available on weekdays. For example, a prosecutor had not reported for work; and since no CPS office staff were working, no one knew who to call.

Access to information

As discussed in section 5, the Libra system was sometimes unavailable on Sundays due to maintenance work. This meant information had to be recorded elsewhere and then entered into Libra on Mondays by administrators, causing duplication of work.

Weekday adjournments occurred if it was not possible to access the information necessary to progress cases to completion on a Sunday. For example, there was greater sharing of caseloads by different staff from the same agency on Sundays, and staff could not always access the necessary case information stored on their colleagues' electronic databases. Sunday remand courts also took cases that would usually be dealt with by other local courts, and without access to other courts' diaries it was not possible to set trial dates.

Finally, paperwork such as charge sheets¹⁶ and basic court papers was reported to arrive late, causing delays. This was thought to have occurred more often on Sundays than on weekdays because detainees were transported from further afield. In addition, paperwork from Sunday remand courts that had to be sent to defendants' local courts was sometimes not delivered in time. If it was not quickly recovered, the CPS had to release some defendants, depending on the length of time they could be kept in custody.

Partnership working

Partnership working and communication between pilot participants was felt to be effective. This may, however, have been influenced by a 'pilot effect' whereby partner agencies worked collaboratively knowing it was just for a short period. Early on in the pilots a lack of communication did lead to difficulties. For example, some partner agencies were not initially aware that courts were operating on a Sunday, which in turn led to absences or delayed arrival of paperwork, prisoners and staff.

Infrastructure

Problems relating to infrastructure arose due to restricted access to courthouses on a Sunday. At one site, disabled access to the court was unavailable on that day. In addition, the electronic passes for certain types of court personnel, such as defence solicitors, were deactivated. This made it difficult for them to access buildings and courtrooms and also to consult with clients in private.

¹⁶ A charge sheet sets out the details of the crime the defendant is being charged with.

6.2 Perceived effects on courts and efficiencies

Sunday court models were the most negatively received of the pilot models. Rather than creating efficiencies, the pilots were felt to cause delays to cases, exacerbate weekday scheduling issues, and be costly to implement.

Delays to cases

Sunday operation was felt to inhibit case progression, leading to more adjournments than would occur on weekdays.¹⁷ This was because all the necessary agencies, such as the police, probation service and psychiatric assessment teams, were not always present or contactable for reports and information.

Exacerbated weekday scheduling and turnover issues

Across pilot sites Sunday remand courts were felt to have exacerbated weekday scheduling and turnover issues, and at greater expense, particularly among participants who had not perceived any significant scheduling or turnover difficulties prior to the pilots. The impact on Monday workloads varied between sites. In quieter sites magistrates did not like having less work to do because this was not felt to be an efficient use of their time. Courts that remained busy on Mondays (if not busier) attributed this to the large number of cases that were adjourned on Sundays pending a weekday hearing.

6.3 Perceived effects on staff and partner agencies

Partnership working

Despite there being little positive impact reported on court efficiencies, the Sunday court pilots were felt to have improved partnership working. Participants valued the pilots for bringing them into contact with personnel from different areas of the CJS. This was reported to have enhanced understanding and appreciation of the work carried out by others.

“I think it’s been very, very good for partnership working to be honest. That doesn’t mean that everyone agrees with it or that [they] didn’t have some real concerns moving forward about the sustainability of it, but in terms of all of the agencies pulling together and seeing how we could operate a pilot then I think it has been a really good example of partnership working.” (Strategic staff 04)

¹⁷ Analysis of management data would be needed to verify this.

Where multi-agency meetings continued throughout the pilot they were considered helpful by allowing partner agencies to discuss experiences and challenges.

Agencies

While Sunday courts impacted on partner agencies in different ways, the implications for staff resources and the perceived operational costs (set against perceived benefits) were common themes.

- **Police:** The police service was considered to benefit most across the case study sites. From their perspective, the pilots allowed them to clear their cells on Sundays, enabling custody officers to concentrate on other work rather than oversee detainees. However, compounded with Libra downtime, the pilots placed additional pressure on police staff responsible for preparing court files and updating records.
- **Defence solicitors:** Participating defence firms reporting incurring heavier costs because their fee structure worked on a 'per case' basis, which meant they received the same fee regardless of how many times they appeared at court. Therefore it was difficult to cover the additional staff costs of Sunday working, and it was considered particularly unhelpful if Sunday cases were adjourned to later in the week.
- **PDS:** As discussed, PDS solicitors experienced significant workload pressures. They also reported that their efforts were duplicated because they were not informed about which defence firms were participating. This meant private solicitors sometimes arrived to represent defendants that they had spent time consulting. PDS solicitors also reported pressure from private defence firms to withdraw from the pilots, which affected morale.
- **CPS:** The use of agents to cover Sunday work was reported to be costly, particularly when agents (who were generally less experienced) required CPS solicitors to be on call to provide support. The pilot was also thought by CPS managers in one site to have led staff to drop out of working on Saturdays, due to concerns about being asked to work on Sundays as well as, or instead of, Saturdays.
- **Prisons:** Prisons had to put resources in place to accept detainees on a Sunday. Across sites, the costs of Sunday opening were not thought justifiable. This was because intakes were significantly lower than expected. This was particularly the case for female prisons whose numbers were already low, and led a female prison to withdraw from the pilot.

- **Transfer companies:** Experiences of delivering detainees varied between sites. At one end of the spectrum few operational issues were reported, with no problems delivering detainees on time and no issues with staffing. At the other, the pilots were described to have put a strain on already demanding operations and created logistical difficulties with staff rotas and hours. The operating costs for transfer companies, although paid for by MoJ, were considered higher per prisoner on a Sunday than on a weekday due to the low prisoner throughput.

Personnel

Fulfilment from work

A positive impact reported was that some court staff and personnel received the opportunity to take on new roles and develop skills in different areas because of the lower level of staffing. However, this came with increased workloads for some, such as solicitors, magistrates, probation officers and court administrators. Perceptions of higher rates of adjournments and duplication of tasks due to Libra system downtime also meant some teams reported higher weekday workloads. Also, the usual facilities for staff were not available on a Sunday in some courts, such as refreshments or canteens, which affected morale.

Work-life balance

Some staff felt their pilot pay arrangements were inadequate compensation for the impact of Sunday working on their work-life balance. Defence solicitors also considered themselves to be disproportionately affected in this regard, although the impacts varied according to size of the firm. Even staff who had maintained a good work-life balance expressed concern about Sunday working on a long-term basis.

6.4 Perceived effects on court users

Defendants

Time in police custody

Defendants generally valued spending less time in police custody as a result of appearing at court a day earlier, even if they were subsequently remanded in prison, because conditions in prison were considered better than in police custody. Staff were generally supportive of defendants being released from police custody earlier, particularly vulnerable defendants such as those with mental health issues. However, the benefits of an earlier court date for this group were seen to be counteracted by the lack of psychiatric support where this was not available on Sundays.

Swifter justice

Staff across partner agencies felt that the Sunday pilots did not achieve swifter justice due to the number of cases considered to result in adjournment to a weekday court.

Representation

Solicitors and magistrates were concerned that defendants being represented by PDS or duty solicitors (who were not as familiar with their cases as their own solicitors) were sometimes disadvantaged, for example with regard to bail decisions.

Practicalities

Difficulties were reported in arranging suitable accommodation for youth and adult defendants on a Sunday. Bail hostels and support services were also unavailable. The Sunday pilots also posed travel problems for defendants due to less frequent public transport. This was a particular problem for defendants who did not live locally.

Victims and witnesses

Sunday remand courts were not thought to have had a direct impact on victims and witnesses as they were not required to attend court. One victim who chose to attend a Sunday remand court was interviewed as part of this evaluation¹⁸ and would have preferred a weekday court to avoid interference with weekend plans.

Where Witness Care Units (WCU) provided a service on Sundays for the pilots, staff felt victims and witnesses benefited from hearing outcomes a day earlier as it relieved anxiety. However, victim support (VS) officers interviewed thought victims and witnesses would prefer to come in on weekdays due to potential childcare and travel issues at the weekend.

¹⁸ The findings from this single interview cannot be generalised to the wider victim population.

7. Video courts

Sunday video courts were remand courts and took place on three consecutive Sundays in January 2013 within different courts in one county. Although video courts had been running on weekdays in these courts since November 2011, for this pilot each video court linked one court to three different custody suites, whereas previously each court had connected to just one police station. This proof of concept was part of a longer term plan to implement a Regional Video Court. In addition to this Regional Video Court, another court participated in the pilots by extending the use of their existing video court. However, this was not included in the qualitative evaluation as the pilot ceased to operate due to a lack of throughput.

7.1 Experiences of delivery

The video court equipment and technology worked well on the three days the pilot ran. The technology was tested in the week leading up to the pilot, and on the day links were easy to complete and did not cause delays. However, the nature of some cases meant they could not be heard over video link and defendants had to be brought to court in person, which slowed proceedings considerably. This applied to cases with multiple defendants, a youth defendant, or defendants with mental health problems or other vulnerabilities, and was noted as a permanent issue for video courts dealing with remand cases.

Some solicitors and probation staff noted delays with consulting clients due to the lack of detention officers specifically allocated to assist with video links at custody suites. Each court house had one consulting room to enable solicitors to interview their clients, but delays increased where there was more than one solicitor as well as probation or Youth Offending Service (YOS) staff needing to interview their client.

Sunday video courts also experienced many of the delivery issues faced by other Sunday courts, discussed in more detail in section 6.1.

7.2 Perceived effects

Linking to more than one custody suite from each court caused no delays to court processes. However, delays related to the specific nature of the case meant that on the first Sunday eight defendants who were remanded to prison had to be kept in police custody on the Sunday night. This video court pilot had the same impacts of a Sunday court on defendants, efficiencies and staff, and again these are discussed in section 6.1.

8. Conclusions and recommendations

In this concluding chapter the key findings and recommendations from the research are presented. Before doing so, two caveats are necessary. First, due to the nature of the specific models piloted, the intended beneficiaries of flexible justice – victims and witnesses – could not be included in this research to a large extent. The way in which they could benefit from flexible court models has therefore not been fully examined. However, when CJS practitioners were asked about the likely benefits for victims, witnesses and defendants, a number of advantages were identified.

Second, assessing professional stakeholders' reactions to the pilots at an early point in implementation is likely to generate a less positive response, as participants react to 'teething problems', some of which appeared to be addressed over time. The amount of notice provided prior to implementation (as little as one month in some instances) might have underpinned any dissatisfaction. The findings should be considered with this context in mind.

8.1 Pilot implementation

There was some ambivalence about the net benefits of flexible courts, although there was variation in responses to the different models. While there was a consensus that flexible models were feasible, and that local partnerships had worked effectively to ensure they worked well, there was less agreement about their necessity. Defence firms saw particular difficulties in implementing some flexible models on a wider or permanent basis.

Recruiting personnel with the appropriate skills was key to case completion and crucial to pilot success, but was identified as a challenge across pilots. The long-term sustainability and cost-effectiveness of pilot arrangements around pay and working hours was also questioned.

A recurrent theme was that, while flexible courts accelerated the administration of justice, improvements in efficiency could instead be made in the current day-to-day administration of the courts.

8.2 Specific pilot models

Extended courts

The benefits of extended courts are less clear than the other pilots since, in practice, the all-day extended and later-finishing courts ended no later than they had pre-pilot. This was possibly due to listing practices not matching the extended court capacity. In addition, benefits varied in nature and extent across the different extended court models. Earlier starting courts appeared easier to implement than the other extended models.

As with the other flexible pilots, partnerships had functioned effectively across the sites. However, concerns were expressed about the impact of extended sitting hours on staff morale and energy levels. Sufficient case volumes were seen as an important factor in justifying the case for extended hours, without which courts finished at traditional times. The higher volume of work in an all-day extended court could, however, place greater pressure on some staff and create weekday scheduling problems by taking work away from other days.

Saturday courts

While the pilots demonstrated the feasibility of Saturday courts, personnel suggested that whether they were to prove a net benefit would depend on a number of factors, including the demand for additional sittings and whether there was evidence that Saturday courts would increase the likelihood of parties attending. If demand was high, and victims, witnesses and defendants were more likely to attend, then the argument for Saturday courts becomes more compelling. These benefits would have to be offset against any complications, such as prisons being unable to accept defendants detained in custody on the weekend.

Sunday courts

The Sunday courts appeared to be the least popular pilot, both because the benefits appeared less compelling and because they represented the most marked departure from current practice, as many courts already sit on Saturday but not Sunday. In addition, practical problems were more likely to be present on Sundays compared to weekdays. For example, IT systems were subject to disruption and travel to courts by public transport was more challenging. If Sunday courts were rolled out on a permanent basis, staff anticipated that this would provoke opposition from trade unions, particularly if participation was compulsory and not voluntary.

8.3 Recommendations and lessons learned

Consulting with key partner agencies

In some sites, pilot models had been selected before all partner agencies had been consulted. The research highlights the need to include a wide range of partner agencies in implementation planning from the outset.

Reflecting and accommodating local variation

A key lesson is that the implementation of flexible models needs to be sensitive to local variation in terms of caseloads, partnership working, timetabling, resources, and other features of local justice. This variation will need to be accommodated if flexible justice is to achieve maximum benefits in terms of cost-effective criminal justice.

Information sharing

If flexible models were implemented more widely it would be helpful to share ideas and gather feedback from sites piloting the same scheme, as implementation barriers may well be common and solutions can be adopted.

Communicating the rationale for flexible models

Some participants expressed scepticism with respect to the benefits and need for more flexible court arrangements. If future research were to evidence benefits such as higher attendance rates, lower costs, or enhanced victim and witness satisfaction levels, it would be important to communicate this in order to facilitate staff engagement.

Working conditions

Support for flexible models is contingent upon changes in the working environment – for example, weekend courts adversely affecting the remuneration or work-life balance of staff involved. The benefits of flexible justice need to be weighed against the burdens on professionals of administering a more flexible system. It is also important to ensure a degree of parity across different types of staff.

Impact on traditional court arrangements

The impact of redistributing cases should be monitored to ensure that Saturday or Sunday courts do not lead to underutilisation of resources during the week.

Delivering flexible CJS effectively

The experiences of case study sites point to a number of elements that are essential to the delivery of flexible courts, and that should be considered under any future roll-out:

- **Partnership working:** Strong relationships, regular contact and effective protocols for case management and information sharing are clearly important, as are well-coordinated agencies (for example, timely delivery of prisoners to court).
- **Flexibility:** Local variation is important, and models need to be allowed to develop organically over time and to take account of local contexts and needs.
- **Appropriate case assignment:** Flexible models should target the most appropriate type of cases in order to maximise benefits to court users.
- **Case volume:** It is vital to ensure that case volumes are high enough to justify implementation of a flexible model such as Saturday or Sunday courts. Low volumes may eliminate cost savings and will have an adverse effect on staff morale if they feel their time is not being used effectively.
- **Access to information:** If case volumes do justify extended hours of court sittings, then it is important to ensure adequate access to information, either through IT systems or the effective delivery of relevant papers.
- **Staffing and incentives:** Almost all pilot models operated under voluntary participation. If utilised more widely, flexible models would require an adequate supply of staff and an equitable scheme of incentives for personnel who participate in a specific model. Personnel stressed that the greater the change required by the model, the more attractive incentives needed to be.

The pilots illustrate that flexible arrangements, such as the use of video technology or Saturday courts, are possible and can be effective. However, they also posed a number of challenges around implementation which have to be considered alongside the potential benefits of each model. Most importantly, flexible courts depend upon dedicated partnership working, cohesive planning, and strong communication within and across agencies.

References

Green, The Rt Hon Damian (MP) (2012) *Making the Criminal Justice System more Efficient*, Ministry of Justice press release (5 November 2012)

<<https://www.gov.uk/government/news/swifter-justice-as-more-committal-hearings-are-abolished>> 17 April 2013.

Ministry of Justice (2012a) *Swift and Sure Justice: The Government's Plans for Reform of the Criminal Justice System*. London: Ministry of Justice.

Ministry of Justice (2012b) *Flexible Courts to Open in Dozens of Areas*, Ministry of Justice press release (11 October 2012) <<http://www.justice.gov.uk/news/press-releases/moj/flexible-courts-to-open-in-dozens-of-areas>> 14 January 2013.

Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*. London: Ministry of Justice.

Ritchie, J. and Lewis, J. (2003) *Qualitative Research Practice. A Guide for Social Science Students and Researchers*. London: Sage Publications Ltd.

XHIBIT, Justice, *Glossary of Terms – Court Events* [website]

<<http://xhibit.justice.gov.uk/xhibit/statusdescription.html>> 17 April 2013.

Appendix A

Sampling and recruitment

This section provides more information about the sample design and the recruitment of participants.

Site selection

From the 42 magistrates' courts piloting flexible court models across England and Wales, nine case study sites were selected for the evaluation. All pilot sites selected had adopted at least one of the six flexible courts models, and between them represented all six models. Sites were purposively selected to ensure regional diversity and variation across model types. At least one court from each HMCTS region was selected. As London was not involved in the pilots another metropolitan area was included. The achieved sample of case study sites and models piloted is set out in Table A1.

Appendix Table A1: Flexible courts pilots by case study site

	Extended traditional	Extended video ¹⁹	Regional video	PCVL	Saturday	Sunday
Site 1	Yes	No	Yes	Yes	No	No
Site 2	Yes	No	No	Yes	No	Yes
Site 3	Yes	No	No	No	Yes	No
Site 4	Yes	No	No	Yes	Yes	No
Site 5	No	No	No	Yes	No	Yes
Site 6	No	No	No	No	No	Yes
Site 7	Yes	No	No	No	No	No
Site 8	Yes	No	No	No	No	No
Site 9	No	No	No	No	Yes	No

A brief description of the flexible models can be found in section 1.1 of the main report.

¹⁹ While extended video courts were one of the pilot models, the court which originally intended to pilot them later pulled out, and so the model could not be evaluated.

Sampling and recruitment of personnel

Following the selection of case study sites, the MoJ provided the NatCen research team with the contact details of a coordinator for each pilot site who had agreed to assist with the evaluation. The coordinator was responsible for identifying key personnel for participation and assisting with the organisation of research observations of a flexible court proceeding.

Key personnel consisted of representatives from the CJS partner agencies involved in the design or delivery of the pilots. Once a list of key personnel had been established, introductory letters and information leaflets were sent to coordinators to pass onto nominated personnel. On agreeing to participate, personnel were contacted to arrange a suitable time and place for the interview or group discussion. The total number of interactions and agencies included within each pilot site are shown in Table A2. This table also details whether participants had a strategic or operational role, or both.

Appendix Table A2: Coverage of partner agencies by site

Site	1	2	3	4	5	6	7	8	9
Total interactions	11	13	9	9	11	14	9	12	4
HMCTS	Both	Both	Op	Both	Both	Both	Both	Both	Both
Magistrates	Op	Op	Op	Op	Op	Op	Op	Both	Op
CPS	Op	Both	Both	Op	Both	Op	Both	Op	Strat
Defence	Op	Op	Op	Op	Op	Op	Op	Op	None
Police	Both	Op	Both	Op	Op	Both	Both	Strat	Strat
Probation	Op	Op	Op	Op	Op	Op	Op	Both	None
HM Prisons	None	Both	Strat	Strat	Strat	Strat	None	None	None
YOS	None	Op	None	None	None	Strat	None	None	None
GeoAmey	None	Op	None	Op	None	Strat	Op	None	None
PDS	None	Op	None	None	Op	None	None	None	None
VS/WS/WCU	None	Op	Op	None	None	Op	None	None	None
Serco	None	None	Strat	None	None	None	None	None	None
G4S	None	None	None	None	Op	None	None	None	None
MITIE	None	None	None	None	None	None	Op	None	None
PECS	None	Op	None	None	None	None	None	None	None
Defendant	None	Op	None	Op	None	Op	None	Op	Op
Victim	None	None	None	None	Op	None	None	None	None

Key

Operational

Op

Strategic

Strat

Both

Both

A total of 86 interactions were conducted with personnel. This included 41 individual in-depth interviews, 15 paired in-depth interviews, 22 triad interviews, and eight group discussions of four to five participants. The achieved sample of participants, broken down by job role, is set out in Table A3.

Decisions to interview personnel in pairs and triads were led by participants' own views about how best to meet the needs of the evaluation where it was felt a more comprehensive picture could be offered in one session by two or three personnel with expertise on different aspects of the pilots. Participants' availability and efforts to minimise burden on agencies were also factors. Group discussions sought to bring together different personnel from the same or similar agencies. For example, a mix of HMCTS staff, or solicitors from CPS and defence firms, to explore similarities and diversity of experiences and views. Operational and strategic staff were rarely mixed in paired and triad interviews or discussion groups, except where this was the participants' preference. Reassurances were sought that views would not be inhibited as a result.

Appendix Table A3: Number of participants by agency²⁰

Agency	Job role	Total
CPS	Manager	4
	Prosecutor	8
	Solicitor	7
Defence	Solicitor	17
G4S	Court security	2
GeoAmey	Operational manager	2
	Court representative	1
	Senior custody officer	1
HMCTS	Administrator	6
	Case progression officer	1
	Chief / Deputy justice clerk	6
	Director / Head of Crime	3
	Resulter	1
	Justice clerk	2
	Legal adviser	10
	Legal aid worker	1
	Legal manager	6
	Listings officer	2
	Post court team	2
	Security guard	1
	Manager	8
	Usher	4

²⁰ Some job roles/titles have been amended slightly or merged to protect anonymity where the numbers participating were small.

Agency	Job role	Total
HMPS	Operations	3
	Governor	1
	Reception	1
Magistracy	Magistrate	26
Mitie	Court security officer	1
NOMS	Controller	1
PECS	Manager	1
Police	Chief superintendent	1
	CJU manager	4
	Custody sergeant	5
	Head role	1
	Inspector	2
	Manager	2
	Traffic officer	1
	Project team officer	1
	Sergeant	1
Probation	Manager	3
	Probation officer	3
	Senior probation officer	4
Public Defender Service	Solicitor (defence and duty)	5
	Head role	1
Serco	Courts manager	1
Victim support	Delivery manager	2
Witness Care Unit	Witness care officer	1
YOS	Court officer	1
	Team manager	2
		170

Sampling and recruitment of court users

On the day of the research observations defendants appearing in flexible courts were provided with leaflets by the usher or a member of the research team informing them about the interviews being conducted as part of the evaluation. Those who were willing to be interviewed were approached by researchers after their hearings for a 20- to 30-minute interview. Defendants were also given the option of being interviewed at a later date over the phone, if they preferred. Five defendants were interviewed. The flexible models experienced by those defendants included Saturday courts, Sunday courts and extended courts. The defendants interviewed were being prosecuted for offences including drug possession, motoring offences, theft, domestic violence and homicide. It was not possible to interview defendants in every area because they were not always willing or able to take part. Defendants in two areas were willing to take part in a telephone interview at a later date, but ultimately were not contactable. At another site it was not possible to interview defendants who were remanded in custody.

It was only possible to carry out one interview with a victim. Victims and witnesses were difficult to identify and engage in the research because they had limited involvement in the pilots. The only flexible model in which they were directly involved and present in court was later-finishing trials. However, witnesses generally gave evidence within the first hour of the trial, after which they could leave, and so few experienced the extended hours pilots. None of the witnesses present during extended hours responded to invitations to take part in the evaluation.

Appendix B

Data collection

Fieldwork took place between January and April 2013. At each case study site this consisted of observations of flexible court proceedings, interviews or discussion groups with personnel involved in the design or delivery of the pilots and, where possible, interviews with court users.

Observations

The following flexible models were observed:

- extended traditional courts;
- extended PCVL courts;
- Saturday courts; and
- Sunday courts.

The number of observations completed at each pilot site ranged from one to six. The length of hearings typically ranged from five to ten minutes, with some lasting between 35 and 40 minutes. An observation pro forma, developed in collaboration with MoJ, was used to capture data from observations. The pro formas were used to record:

- a summary of the offence and outcome;
- a description of the courtroom and how it was set out;
- the events of the hearing and how long each part of the process took; and
- any additional reflections and observations related to the pilot model.

Interviews with personnel

Interviews with pilot personnel took place face to face or by phone. They lasted between 30 and 90 minutes and were audio recorded digitally with the consent of participants, then transcribed verbatim. Interviews and group discussions were conducted using a topic guide which was developed in collaboration with MoJ. Tailored topic guides were developed for the following participant groups: the LIT, magistrates, solicitors, court staff, police, and victim and witness support services. The topic guides were used in every interaction with the relevant participant group to ensure consistency of topic coverage and approach across interviewers.

The topic guides for magistrates, solicitors, court staff, police, and victim and witness support services covered the same five broad topic areas:

- Participants' professional **background** and their role in relation to the pilots.
- **Pilot set-up**, including participants' perceptions of the pilot aims, early engagement with partner agencies and set-up tasks.
- **Pilot delivery** and details of flexible courts in practice. (Specific examples of hearings under the flexible models were explored and how this contrasted with traditional operation.)
- Perceptions of **the pilot's impact** on participants, courts and partner agencies as well as court users.
- **Concluding thoughts** about pilot delivery and feelings about potential roll-out of the pilots.

In addition to the above sections, the topic guide for strategic staff explored the decision to become a pilot site and reasons for selecting specific models, as well as further detail on pilot set-up and experiences of timetables, resources and infrastructure.

Interviews with court users

Interviews with defendants took place after their hearings in interview rooms or in the court custody block. The interview conducted with a victim was conducted over the telephone. The topic guide for court users covered experiences of the pilots before hearings took place in terms of information provided about the flexible court, the length of time between the offence and hearing, and perceptions of how this impacted on their case. The guides also covered details about the flexible hearing, the impacts the flexible model had on participants, and their concluding thoughts.

Appendix C

Analysis

Interviews were digitally recorded and transcribed verbatim. The interview data were managed and analysed using the Framework approach developed by NatCen (Ritchie and Lewis, 2003). Key topics which emerged from the interviews were identified through familiarisation with the transcripts. An analytical framework was then drawn up and a series of matrices set up, each relating to a different thematic issue. The columns in each matrix represented the key sub-themes or topics and the rows represented interviews or discussion groups with participants and the observations.

Data from transcripts were then summarised into the appropriate cells. The Framework method has recently been embedded into NVivo version 10. This software enabled the summarised data from the research to be linked to the verbatim transcript. This approach meant that each part of every transcript that was relevant to a particular theme was noted, ordered and accessible. The final analytic stage involved working through the charted data, drawing out the range of experiences and views, identifying similarities and differences, and interrogating the data to seek to explain emergent patterns and findings. Verbatim interview quotations are provided in this report to highlight themes and findings, where appropriate.

Appendix D

Glossary

Breach court	These are for defendants accused of breaching conditions of their community orders.
Caseload	Caseload refers to the amount of work (hearings and defendants) that the court processes.
Case hardening	This refers to the idea that magistrates habituate to cases, consequently becoming less surprised and more cynical.
Charge sheet	A charge sheet sets out the details of the crime the defendant is being charged with.
CJSSS	Criminal Justice: Simple, Speedy, Summary (CJSSS), is a cross-agency programme of work that aims to ensure that volume magistrates' court cases are dealt with and managed efficiently and effectively. CJSSS courts hear cases that are likely to be simple, such as anticipated guilty pleas.
Committal hearing	A procedure in the magistrates' court where the court hears evidence in relation to an indictable offence to decide whether the matter should be sent to a higher court.
Community order	These are non-custodial sentences which release the offender to the community with certain conditions – for example, that they need to attend supervision meetings with probation or carry out unpaid work.
Cracking / cracked trial	Where the defendant has pleaded guilty to enough of the charges or the prosecution are offering no evidence against the defendant so that the defendant is acquitted.
HMCTS region	HMCTS has seven regions: North West, North East, Midlands, South West, South East, London, and Wales. There are 34 court clusters in each region. Each region has a Head of Crime who leads the operational delivery of all of the courts in the region.
Legal aid	A means-tested benefit for legal advice, assistance or representation.
Libra	Case management IT system used in magistrates' courts.

Magistrates' court	All criminal cases start in magistrates' court and are heard by either three magistrates or a district judge without a jury. A magistrates' court normally handles relatively minor offences and hands over the most serious crimes to the Crown Court.
Magistracy	The body of magistrates (volunteers who adjudicate at magistrates' courts).
Oral probation report	These are reports prepared and delivered by the Probation Service on the day of the hearing. They are normally prepared for less serious cases where more detailed reports are not needed.
Pre-sentence report	These reports are generated by the Probation Service to inform sentencing for defendants who plead, or are found guilty. They assist the court in determining the most suitable way of dealing with an offender by assessing the nature and seriousness of the offence, as well as the risk of harm.
Remand court	These courts deal with defendants who have been remanded in police custody until their case can be heard at court.
Resulting	Processing the outcome of a case.
Time off In lieu (TOIL)	The practice of taking time off during work hours to make up for previous work done outside normal work hours.
Trial courts	These courts hear and make judgments on cases for defendants who have entered a not guilty plea.
Warrant	A judicial writ authorising an officer to make a search, seizure, or arrest or to execute a judgment.
Wingers	The two magistrates who sit either side of the Chair of the magistrates' bench in court.

Appendix E

Abbreviations

CJS	Criminal justice system
CJSSS	Criminal Justice: Simple, Speedy, Summary
CJU	Criminal Justice Unit
CPS	Crown Prosecution Service
HMCTS	Her Majesty's Courts and Tribunals Service
HMPS	Her Majesty's Prison Service
HoC	Head of Crime (of HMCTS region)
LCJB	Local Criminal Justice Board
LIT	Local Implementation Team
LSC	Legal Services Commission
MoJ	Ministry of Justice
NHS	National Health Service
NOMS	National Offender Management Service
PCVL	Prison to Court Video Link
PDS	Public Defender Service
PECS	Prisoner Escort Custody Services
PSR	Pre-sentence report
TOIL	Time off in lieu
VS	Victim support
WCU	Witness Care Unit
WS	Witness support
YOS	Youth Offending Service