

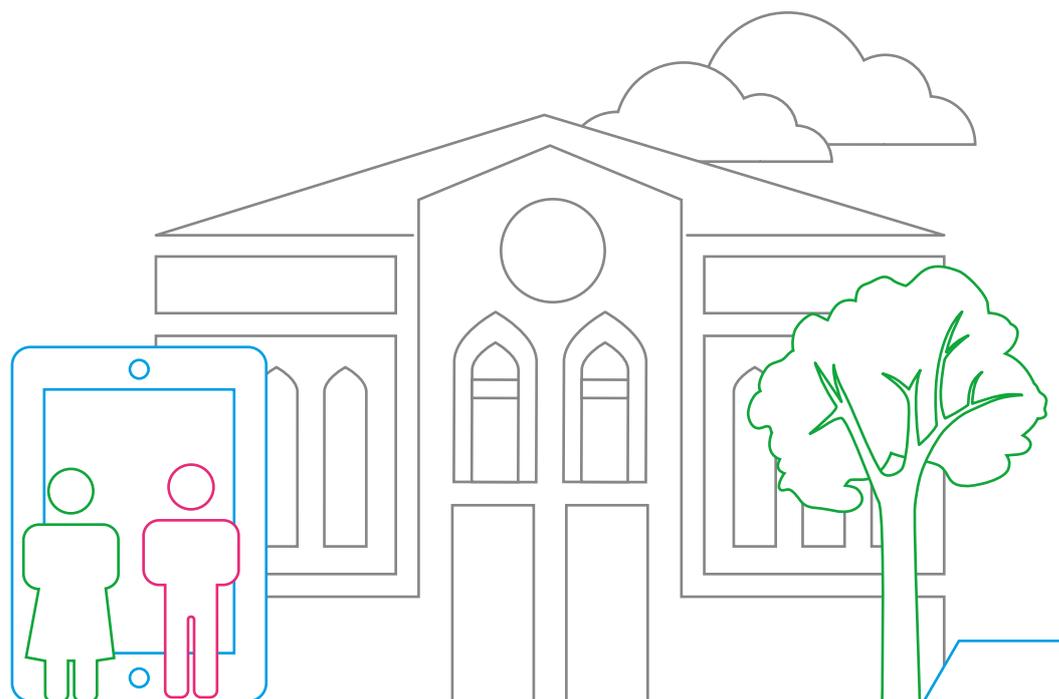


HM Courts &
Tribunals Service

Flexible Operating Hours Pilots

Evaluation Plan

Summary - 18 July 2019



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1. Evaluation of the Flexible Operating Hours (FOH) Pilots in Context

1.1. FOH Pilots

1.1.1 Introduction

Background and overarching policy principles

HMCTS has set up the Flexible Operating Hours (FOH) project to look at maximising the use of time in specific court and tribunal hearing rooms to support a more flexible, efficient and effective justice system. The FOH project sits within the HMCTS Reform Programme¹.

Offering greater accessibility to the courts is a potential way to increase the usage of the court room estate. More importantly, for users, FOH offers a possible means to reduce waiting times, increase speed of and access to justice, and reduce the number of hours needed to be taken off work. For professionals, the FOH pilots might increase the flexibility of working hours.

The quality of justice must be sustained – greater access must not compromise the quality and integrity of the justice system. This means continuing support for the fairness, impartiality and autonomy of the judiciary, the workplace wellbeing of court staff and legal professionals at all levels, in addition to mindfulness in respect of public user experience, including society's more vulnerable, and their needs.

Pilot announcement and overview

On 16 November 2018², it was announced that late sittings (4:30pm to 7pm) involving civil and family work would be piloted at Manchester Civil Justice Centre and early (8am to 10:30am) and late sittings (4:30pm to 7pm) involving civil work only would be piloted at the County Court at Brentford for six months.

HMCTS plans for the pilot FOH court rooms to begin hearing FOH cases in the Manchester Civil Justice Centre and Brentford County Court, on 2 September, 2019. FOH pilots seek to gradually increase the operational hours, and the variety of case types heard, in court rooms at the two courts that serve as the pilot institutions. The approach incorporates both flexibility and responsiveness. Its precise evolution continues to be based on the feedback of the judiciary, legal professions, court staff and representative bodies, in collaboration with HMCTS, as the project develops.

A variety of case types have been deemed as potentially appropriate for FOH listings through ongoing consultations involving court professionals, including the judiciary, operational managers, ushers and clerks, in addition to stakeholder representatives. These are set out in section 1.1.2.

1.1.2 Pilot objectives and plans

Core objectives of the pilot

There are three core objectives for the pilots set out in the FOH pilot prospectus³:

- Testing whether operating courts and tribunals at different times of the day offers more open and accessible justice to citizens
- Evaluating the impact of FOH on professional and public court users, and the agencies working in the justice system
- Testing whether FOH can provide a sustainable, scalable and efficient way of working across the justice system, including the context of wider changes made in the Reform programme.

The initial plans for the pilots are set out in table 1, below. Table 1 includes proposed case types that have been identified as potentially suitable for pilot FOH court rooms as the project moves forward.

1 <https://www.gov.uk/guidance/the-hmcts-reform-programme>

2 [The Flexible Operating Hours Pilots: Prospectus for Civil and Family Court Pilots document](#), published on 16 November, 2018, sets out FOH objectives and plans in more detail.

3 See *supra* 2.

Table 1. Initial Plans and Hours for Brentford and Manchester FOH Pilot Courts



Brentford County Court

Manchester Civil Justice Centre

All court rooms are of potential use during the FOH pilots. FOH court rooms may vary.

Some court rooms to be used during pilots and these may vary.

Civil cases to be tested under the revised court session schedule.

Specific case types to be introduced based on ongoing monitoring.

Case type examples for potential inclusion:

- Housing possession, e.g. applications to suspend a warrant
- Mortgage possession, e.g. bank seeking repossession
- Small claim trials – including money claims, e.g. road traffic accident; unpaid loan

Case type examples for potential inclusion:

- Small claims;
- Housing possession;
- Chancery applications;
- Financial dispute resolutions;
- Urgent family work

Capacity testing style of approach has been agreed – beginning with 5 additional hours (one morning, one evening), building to 12.5 additional hours in week 10.

Initially 5 hours of additional afternoons (2.5 hours on two days in a week) are planned, with a view to monitoring and increasing these.

This initial 12 week schedule agreed with Brentford County Court is set out in the prospectus (see footnote 2, above).

Based on feedback from the implementation, Manchester Civil Justice Centre will move towards an additional day per week after the pilots are established.

1.2. Introduction to FOH pilot evaluation

What is the FOH pilot evaluation?

The FOH pilot evaluation is an independent research project running concurrently to the preparations for and implementation of the FOH pilots. The FOH pilot evaluation has been commissioned by HMCTS with a view to assessing the pilots against the objectives set out above.

What is the purpose of the FOH pilot evaluation?

The over-arching purpose of the evaluation is to provide independent research evidence as to whether or not the pilot has been successful, and in which ways. Potential benefits and dis-benefits of the project, and where possible, an estimate of costs, will be drawn out from a combination of research approaches. The evaluation will assess the impact of the pilots on eight domains of public user and professional experience and the utilisation of court rooms themselves, namely:

- Efficiency of court room utilisation
- Access to justice
- Quality of justice
- Speed of justice
- Public user experience
- Professional experience
- Equality and diversity
- Costs to users, professionals and the public

Where will the findings of the FOH pilot evaluation come from and how will they be presented?

Primary and secondary research data will be collated and analysed from:

- bespoke data collection tools (court room utilisation logs and opt out surveys);
- management information (MI) data;
- public user survey responses;
- in-depth interviews with multiple stakeholders

This will lead to thematic analysis of interviews, statistical analysis of the public user survey, a balanced scorecard and a revised theory of change. This is intended to contribute towards the next generation of policymaking in the contemporary modernisation of the UK court system.

The evaluation framework document

The complete evaluation framework document, authored by IFF Research and Frontier Economics in consortium, is published alongside this summary and explanatory paper.

The principles of the evaluation framework were approved by HMCTS' FOH Steering Group, following advice received from an Evaluation Advisory Group comprising representatives of the legal professions, judiciary, and others⁴.

The framework may be adjusted in response to developments during the course of the pilots, if necessary. Governance arrangements are set out in section 2.4.

⁴ See *infra* 6.

2. Characteristics of the Evaluation and Evaluation Assurance

2.1. Public user and professional experience

In this evaluation, HMCTS recognises that, alongside testing improvements to user experience, it is essential to ensure that the judiciary, other legal professionals and court staff are able to conduct their work without disruption.

Processes involved in the design and implementation of the pilots and their evaluation have included engagement, communication and collaboration with internal and external stakeholders.

2.2. Independence of the evaluation

The evaluation is independent such that policymaking can be informed impartially and using recognised robust research methods. Following an invitation to tender (ITT) exercise, the contract to evaluate the pilots was awarded to a consortium of consultancy companies consisting of IFF Research and Frontier Economics teams.

The evaluation takes a methodological approach that is systematic and thorough in its exploration of court room use, public user and professional experiences, while reasonably acknowledging limitations.

2.3. Logic model

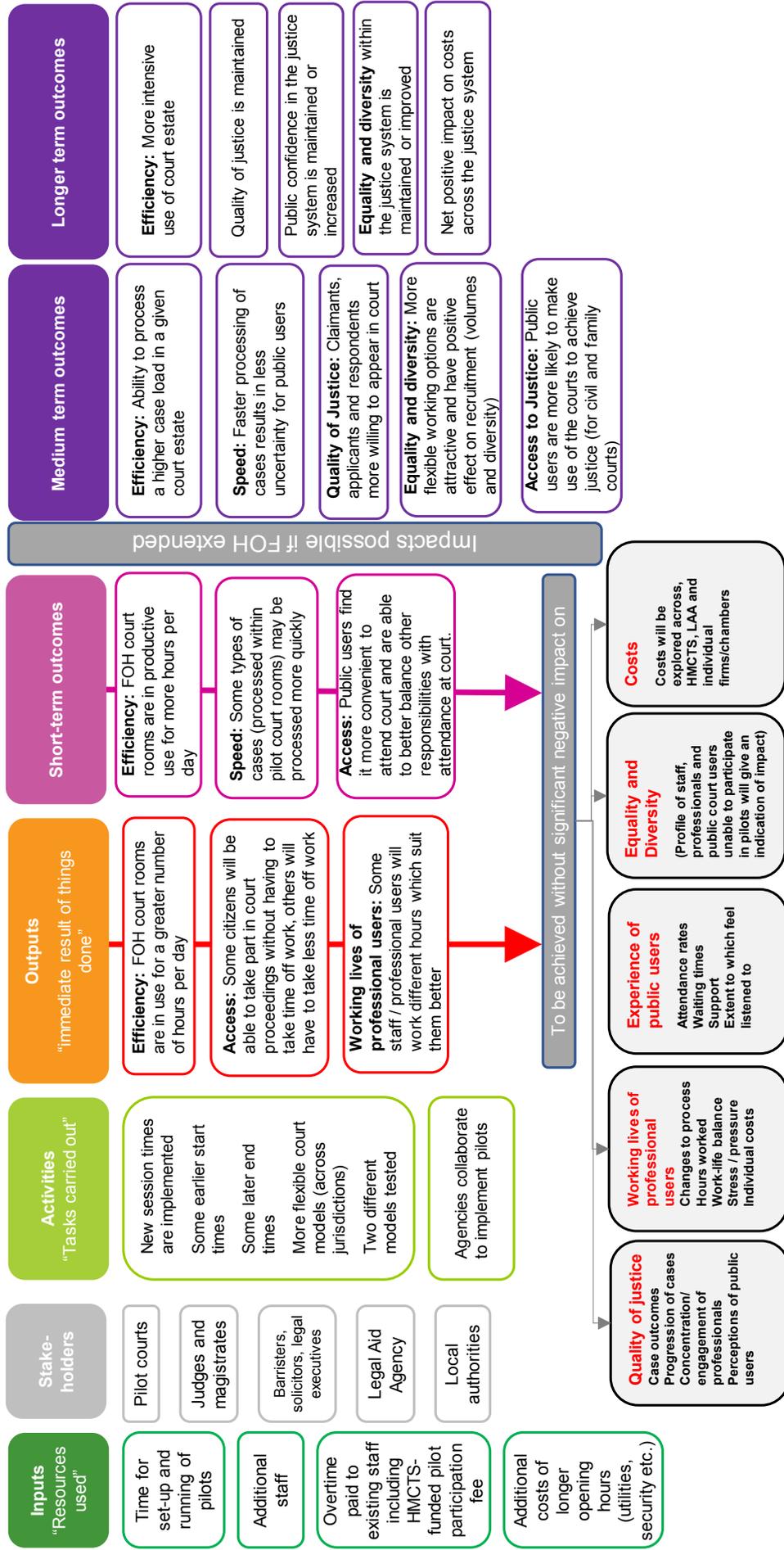
The independent evaluators have developed an initial logic model (see figure 1) from a review of published literature and reports on the application of similar or related policies internationally, in addition to consultations and meetings with HMCTS staff and local implementation teams (LITs).

The logic model traces the expected mechanisms for implementation and impact of the piloted FOH policy. A list of the reviewed documents and stakeholders consulted is set out in the References section of this paper (section 5)⁵.

⁵ While this list aims to capture the reviewed documents and stakeholders that have been consulted, it may not be entirely exhaustive.

Figure 1. Logic Model

Pilot rationale (“the problem to be addressed”): The current usual sitting hours of 10am – 4.30pm (including 1 hour for lunch) do not make best use of the courts’ estate and are not convenient for public users.



Source: IFF Research and Frontier Economics – Evaluation Plan for Revised FOH Pilots

2.4. Governance and Quality assurance of the evaluation

Governance Arrangements

To support a cross-system approach to the evaluation, an Evaluation Advisory Group (EAG) has been put in place. The FOH Steering Group (SG) and Evaluation Advisory Group (EAG)⁶ each meet regularly.

The EAG brings together stakeholders and delivery partners specifically focusing on the evaluation of the pilots and supporting the external evaluators to understand the different impacts on participants in the pilots. The group facilitates access to data and provides an advisory function to the evaluators in addition to providing assurance to the Steering Group about the ongoing progress of the evaluation.

The independent evaluation researchers have their own quality assurance processes. The FOH project team also has evaluation expertise that offers an additional layer of quality assurance for the evaluation.

2.5. Limitations of the evaluation

The scope of the pilot is limited to certain cases listed into court rooms of two different courts. Some findings will be indicative and it may not be possible to generalise in a conclusive manner, e.g. posit with certainty the expectations for policy rollout in further courts.

Policymakers will need to weigh in the balance of the potential benefits and dis-benefits discovered, confirmed or disconfirmed in the research process to some degree or another, in their decision-making. On a case-by-case basis they may be able to consider the findings from the FOH pilots as hypotheses for future pilots of a more accessible court system that aims to maximise the productive use of its estates, in conjunction with other evidence.

2.6. Publication plans

Reporting

HMCTS plans to publish the evaluation report following the end of the pilot, following appropriate review (see also section 4).

⁶ This group includes representatives from the judiciary, partner government agencies, the Bar Council, the Bar Standards Board, the Law Society and Chartered Institute of Legal Executives (CILEX). The EAG is responsible for providing guidance to the Project Steering Group and external evaluators throughout the pilot period.

3. Data and Research Methodology

3.1. Data

The research strategy for evaluation has three main aspects in its approach towards data collection. These are set out along the broad timeline in figure 2.

Three main evaluation data approaches

1. MI Data

The collection of quantitative data during court utilisation hours, by court staff.

- A combination of bespoke information collected during approximately 250 live court days between the two courts, and routinely collected management information (MI) data, going back up to 12 months, and then collected during the 6 months of the pilots themselves.
- Some of this information is collected 6-8 weeks prior to the start of the pilots in the period leading up to the pilots, known as the 'pre-pilot' period. This is where a counterfactual for a given indicator⁷ (see table 2, below) is not readily available over a longer period.

2. Public User Survey

The collection of questionnaire survey data, seeking to yield at least 250 responses to set alongside at least 500 baseline responses.

- A public user survey targeting a minimum of 750 respondents throughout the pre- and during- pilot stages.

3. In-depth, semi-structured interviews

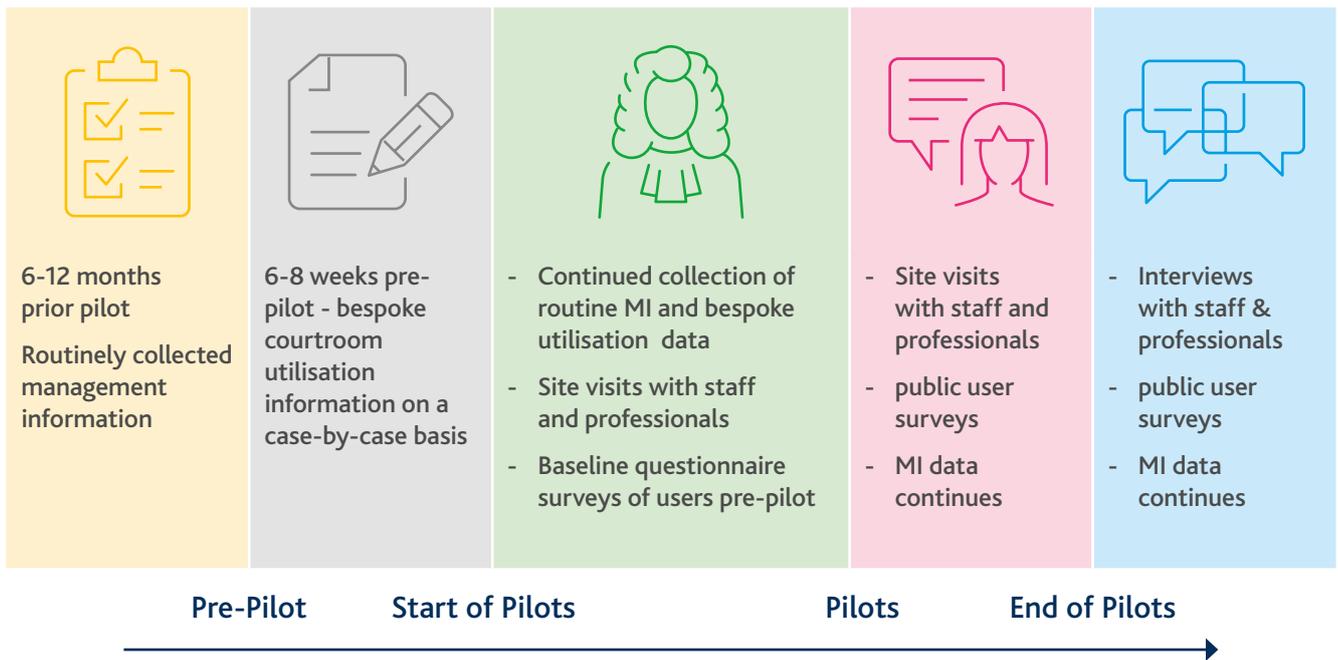
Interviewing of professionals and related organisations

- In-depth interviews lasting 45-60 minutes each aiming to involve more than 90 professionals (including court staff) and their organisations combined with site visits during the early, mid and late stages of the pilots.
- Figure 2 shows the various datasets that are being collated for the purposes of the evaluation, beginning prior to the pilots, and then developed throughout the pilots themselves.

⁷ Indicators are listed in the second column of table 2, below, and refer to various data points that provide a measure of potential change that may have arisen as a result of the pilots. They vary from quantitative MI, to the responses to surveys, to answers to interview questions, or extensions of those answers through the semi-structured nature of the interviews. Being able to compare policy pilot results with a baseline scenario is critical to understand potential changes and statics that might be indicated by the analysis. While some changes, e.g. change in patterns of work, might seem obvious, there may be subtler experiential changes that can be captured either by survey, or by interview. But with no baseline to compare to, it is not possible to know whether any change has occurred at all. The baseline is established using counterfactuals.

Data Collection pre- during- end- and post- pilot

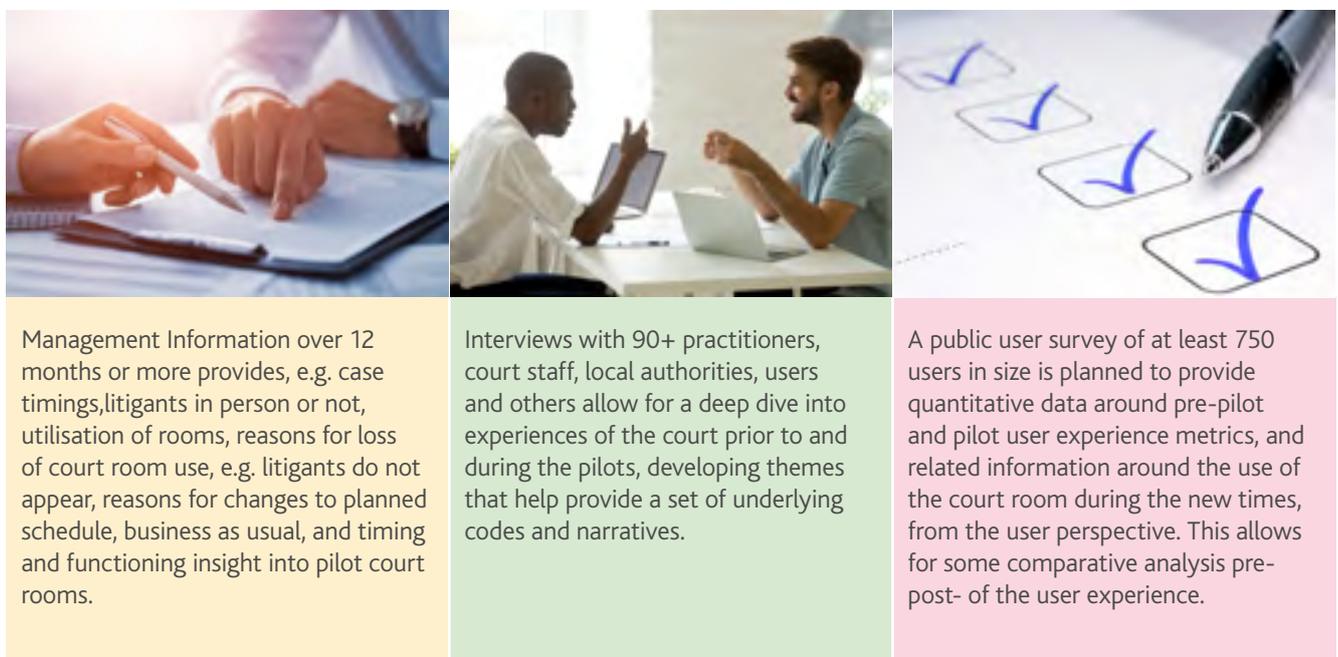
Figure 2. Data collection along time axis. Timings not to scale. Pilot expected to last 6 months.



3.2. Mixed Methods Approach

Mixed Methods Approach

Figure 3. Data informing the mixed methods approach



Integrating qualitative and quantitative datasets

The FOH pilot evaluation research design is one of 'mixed methods', i.e. the amalgamation and integration of complementary quantitative and qualitative methods, whose data (see figure 3), methods and findings may or may not offer corroboration for one another⁸.

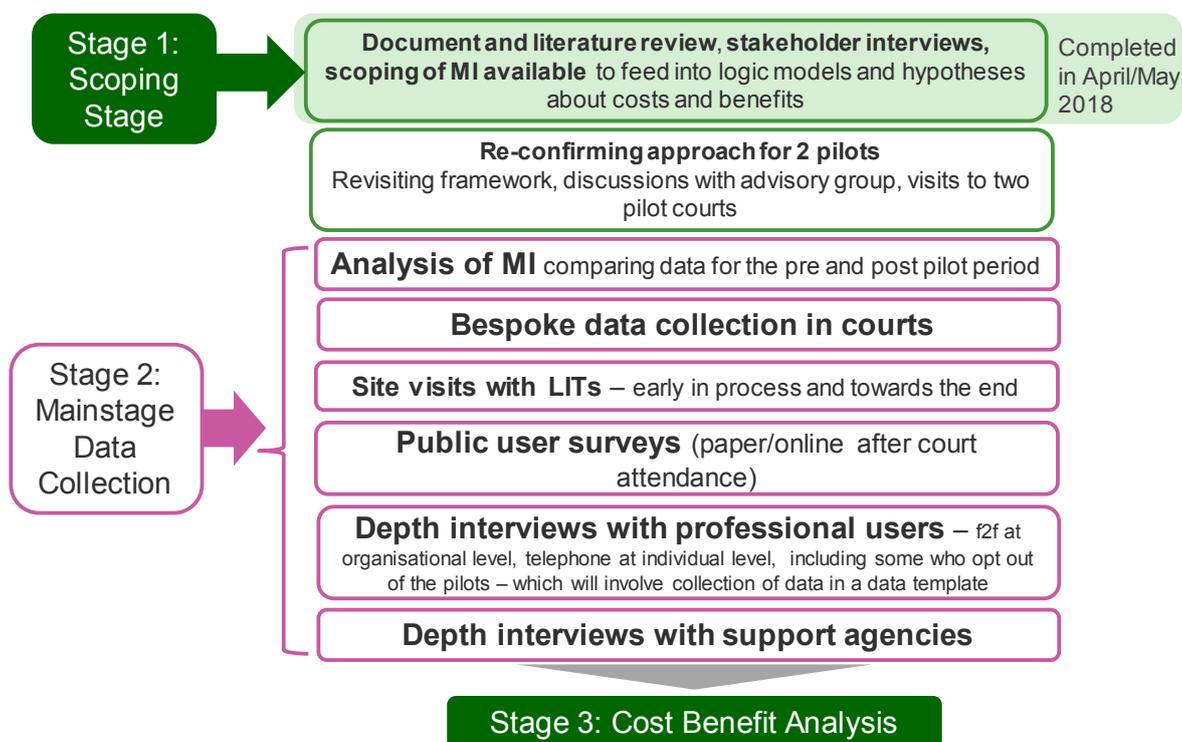
Quantitative data offer an indication of descriptive statistics, from MI data, and prevalence, e.g. changes in views or experiences from the public user survey. Analysis of qualitative interview data can lead to the discovery of contextual themes underlying respondents' words, potentially including important metaphors and specific examples from which to draw out categories or codes that represent underlying experiences.

The quantitative MI data collection strategy and public user survey will be considered alongside the in-depth interviews that aim to provide perspectives on the life of the court rooms whose utilisation is being tested, taking views into consideration from both prior to and after the implementation of the pilots.

3.3. Process elements

Figure 4 below shows the methodological process elements.

Figure 4. Elements of the evaluation design



Source: Evaluation Plan. IFF Research and Frontier Economics Consortium

⁸ Johnson, Onwuegbuzie & Turner (2007) define Mixed Methods as: 'an intellectual and practical synthesis based on qualitative and quantitative research; it is the third methodological or research paradigm (along with qualitative and quantitative research). It recognizes the importance of traditional quantitative and qualitative research but also offers a powerful third paradigm choice that often will provide the most informative, complete, balanced, and useful research results.' (p. 129).

3.4. Domains of impact

The specific objectives for the evaluation itself cover the impacts of the pilots on eight domains, each given equal weighting of importance, as set out with their associated indicators in table 2, below. Table 2 sets out the domains of impact from the logic model, and the anticipated data which will be used to explore those impacts, using the methods outlined above.

Table 2. Domains and associated indicators, means of measuring and counterfactuals

Domain of Impact	Planned Associated Impact Indicators	Measured by: (data and counterfactuals ⁹)
Efficiency of court room use	Court's open hours; No. hearings; Volume of hearings and type; time devoted to hearings; notable delays, cases not heard, and reasons, replacement activity; proportion of cases starting on time.	MI and bespoke data. Counterfactual: collected during "business as usual" by the courts
Speed of justice delivery	Time to receive outcome; number of ineffective hearings ¹⁰	As above.
Access to justice	Time taken off work; perception of safety during travel; legal representation and advice availability; ease of travel; costs of travel; caring arrangements made; perception of time-slot convenience; time taken to travel to and from; no. and proportion of public users opting out of FOH sessions; distance travelled; perceived convenience of location.	Public user surveys and interviewing. Counterfactuals: public user survey of users prior to pilot; recall at interview
Professionals' working lives	Proportion of staff working overtime; adjustments to workloads/responsibilities; effect on total hours worked; effect on non-pilot work; caring arrangements made; perception of safety travelling to and from; reason for opting out; departure time after hearing; time to list FOH hearings and deal with questions and applications; effect on support services; effect on self-direction	Interviewing of stakeholders. Counterfactual: recall at interview
Public user experience	Effect on trust/confidence; waiting times; no. litigants in person; sufficiency of rest, whether or not received food and drink; attendance of family/friends; overall opinion of how well FOH worked	Public user surveys. Counterfactuals: public user survey of users prior to pilot; recall at interview
Quality of justice	Outcomes; failure to attend – who and how often; use of HPCDS; length of time to resolution of case; professional perception of quality impact; concentration levels; quality of engagement/sense of being rushed; matters listed then vacated and whether reason was timing; adjournment no. and whether reason connected to time	MI and bespoke data collected by the courts, and interviews. Counterfactuals: Routine MI data, MI data collected during "business as usual" pre-pilot and recall at interviews
Equality and diversity	Gender, age, ethnicity, pregnancy, disability of opt-outs; reason for an 'out-of-scope' decision; profile of opt-in and opt-out judges, solicitors, barristers and staff for FOH; change in advocate due to an FOH listing	Public user surveys and interviewing. Counterfactuals: public user survey of users prior to pilot; recall at interview
Costs of justice	Costs to solicitors, barristers (firm and personal), judges (personal); change in HMCTS and operation costs; change in LAA legal aid claims; change in Housing Possession Court Duty Scheme (HPCDS) Legal Aid Agency (LAA) claims; LAA collated participation fee data; Change to other organisations' costs (e.g. local authority (LA)); change in public user court attendance costs, including travel time/cost, time off work, childcare costs.	Interviews & public user surveys. Counterfactuals: public user survey of users prior to pilot; recall at interview

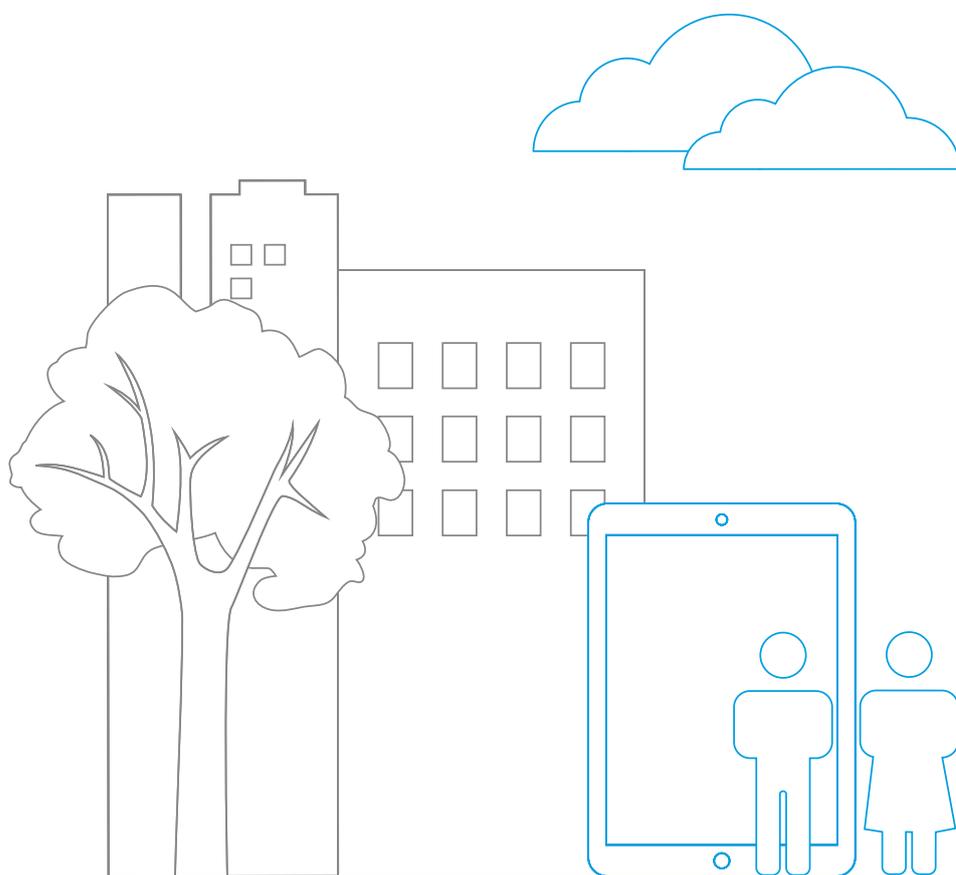
9 Where data exists, a counterfactual of 6-12 months duration will be used (preferred). Where data is not yet routinely collected, bespoke data will be recorded over a period of 6-8 weeks prior to the pilot to be used as a baseline approximation. Where interviews are conducted, interviewee experience will be relied upon as counterfactual, by way of recall.

10 On the hearing date, the hearing does not go ahead due to action or inaction by legal professionals or the court and a further listing for the case is required.

4. Key Outputs

- Key outputs from the research include:
- A detailed analysis of the survey and interview findings. This will lead to the production of a balanced scorecard¹¹, offering high level insight into the benefits and dis-benefits discovered during the pilot processes, as applicable to the two courts that were studied. Where possible this will include cost-benefit indications.
- A revised theory of change that utilises the original logic model and builds on it to present pathways of change that the evaluation has provided indicative evidence for future testing. Areas of change that seem corroborated among the methods used will be highlighted.
- A thematic analysis of the interviews to provide an overarching story of the experiences of users and professionals and to identify themes.

These outputs will form an integrated report of findings from the different approaches, addressing the key research aims.



¹¹ 'A balanced scorecard [BSC] combines the use of financial and non-financial measures and provides managers with richer, more detailed information than financial measures alone... it is can be an innovative, but relatively simple performance measurement tool, through to a complex performance management system.' (Perkins, et al, 2014, p. 149). Ibid conclude that the BSC is a 'powerful tool, that when applied in an appropriate manner, may have significant benefits for the organisation in question...but it must be understood that the BSC cannot be thought of as a miracle tool...' (p. 169). See Bibliography in section 6 for further references on BSC.

¹² Please refer to the Evaluation Framework itself for an example of what the proposed balanced score card might look like.

5. References

5.1. List of sources consulted in preparation of the evaluation plan¹³

Sources consulted:

- Initial pilot prospectus
- Revised pilot prospectuses
- Response analysis on pilot prospectus
- Flexible Operating Hours Equalities Statement
- Crown Double Shift Sittings Evaluation (Croydon pilot)
- Lord Chancellor's Department, Extended Sitting Hours Pilot 2002 (Bow Street, London and Manchester; Magistrates' Court)
- Nottingham Extended Sitting Days Pilot Evaluation
- Process evaluation of the flexible criminal justice system pilots
- Previous FOH pilots – summary reports with annexes (as provided with ITT for FOH Evaluation)
- Bar Council Protocol for Court Sitting Hours
- Brian Leveson's Review of Efficiency in Criminal Proceedings

5.2. Organisations consulted:

- Brentford Civil pilot
- Manchester Civil and Family pilot;
- The Judiciary;
- Bar Standards Board;
- Family Law Bar Association;
- Resolution's Children Committee;
- The Law Society;
- The Bar Council;
- Bar Standards Board;
- DTUS
- CILEx
- Shelter

5.3. Bibliography used in the development of this document

- Cresswell, JW, Miller, DL (2000). "Determining Validity in Qualitative Enquiry." *Theory into Practice*, vol. 39, issue 3.
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- Piore, M (2010). Qualitative Research: Does it fit economics? *European Management Review*, Volume 3, Issue 1

¹³ NB Over the longer term preparations to pilot FOH, criminal legal areas were included in plans, and therefore, relevant stakeholders were consulted. However, the criminal area of law is no longer included in the present FOH pilot plans. These former stakeholders' views and experience were considered through consultation in the formation of earlier plans for wider FOH evaluation and they are listed here: HM Prison and Probation Service; The Police; Prisoner Escort and Custody Service; Crown Prosecution Service; Blackfriar's Crown and Highbury Corner Magistrates Pilot; The Sheffield Magistrates Pilot.



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