



# Better courts: Cutting crime through court innovation.

*By Phil Bowen and  
Stephen Whitehead*



# Contents

.....

Executive Summary.....	2
Purpose of this paper.....	4
1. Why Create Better Courts?.....	5
2. Better Courts in Action .....	11
3. Challenges for Better Courts .....	19
4. Creating Better Courts.....	24
Afterword .....	31
End Notes.....	32



## Better courts: Cutting crime through court innovation.

.....

This paper is the first in a series of publications, events, and projects in which the Centre for Justice Innovation and **nef** seek to articulate and promote a new vision for our courts.

# Executive Summary

---

**By encouraging courts to innovate and become better – faster, fairer, more authoritative and more people focused – we can cut crime and improve the way resources are allocated across the justice system in England and Wales.**

The criminal courts of England and Wales do a tough job, ensuring the rights of citizens are protected and that the guilty are sentenced. But they are often seen as conservative institutions, reluctant to embrace change unless it comes from central government.

Away from Westminster and Whitehall, however, some courts are using their own initiative to find ways to cut costs, speed up court cases and reduce re-offending – in many cases without additional funding. Encouraging and learning from these innovations will be key to meeting the significant challenges faced by our justice system in 2013 and beyond.

Having reviewed the evidence base on court innovation, and conducted in depth studies of a number of innovative courts in action, we identify examples of courts that are:

- Saving time by diverting low-level anti-social behaviour cases into community-led restorative justice panels;
- Improving victims' experiences and making more effective decisions by specialising in certain types of issue such as domestic violence or drug addiction;
- Providing at-court support and advice services to help their users access support with issues like mental health, addiction debt or housing;
- Making faster and more effective decisions by taking new approaches to pre-sentence assessments of offenders;
- Expanding and improving their on-going supervision of offenders, delivering swift and certain enforcement of court orders.

Our case studies demonstrate it is possible for courts in England and Wales to innovate to improve the way they do their job. Underpinning the most effective court innovations we have studied are four basic principles:

- **Fairness** – better courts are seen by all parties, especially victims and defendants, to be fair
- **A focus on people as well as crimes** – better courts understand the backgrounds and needs of the people who come before them
- **Authority** – better courts impose credible, proportionate sentences and take a greater role in enforcing them
- **Speed** – better courts act swiftly, processing cases efficiently and responding quickly to breaches.

**But examples of court innovation are still too few and too far between. A range of practical and structural challenges stand in the way of widespread court innovation.** For example, would-be court innovators currently have difficulty identifying which innovations to trial, and monitoring and evaluating innovations once they are in place. This is aggravated by a general lack of practice sharing between court practitioners and programmes. Court managers and other key agents often lack the autonomy or opportunity to pursue local innovation or influence the decisions occurring around them in the justice system. Some potential innovations (such as sentencer supervision programmes) are barred by legal and operational constraints.



**Overcoming these obstacles will, in part, require action at the national level.** The Government should consider how best to reform the governance of courts in order to deepen local discretion and judicial empowerment. We recommend:

- a. Giving court administrators and sentencer representatives a role in approving and monitoring the new prison and probation contracts;
- b. Revisiting s178 of the Criminal Justice Act in order to remove the legal obstacle that currently bars courts from reviewing community orders.

**The innovations we document also highlight the scope for practitioners to get on and try new things, regardless of national policy and reform.**

We urge practitioners to look seriously at testing out the following four practice innovations in their courts:

- a. **Diverting simple summary cases to more proportionate ways of dealing with them**, such as Neighbourhood Justice Panels
- b. **New ‘procedural justice’ training for magistrates**, ensuring a higher quality of communication between the court and victims, witnesses and defendants
- c. **Improving the information provided to sentencers** about defendants and the services available in their communities to support them to desist from crime;
- d. **Extending and strengthening the use of sentencer supervision.**

To support these efforts, the Centre for Justice Innovation and **nef** plan to provide technical support to practitioners. We will also explore the evidence around particular innovations such as sentencer supervision to help providers understand what has been shown to work and in what contexts.

We believe that innovation can make our courts better: faster, more efficient and more effective at reducing crime. But the only people who can drive this improvement are court innovators working at ground level – for it is our courts themselves which should be engines of change. Only then will they, and the justice system, become better.

# The purpose of this paper

***Better courts: Cutting crime through court innovation* outlines a new, practice-based vision for the adult criminal courts in England and Wales.**

## **This paper sets out**

- Why we ought to create better courts.
- What better courts can look like in practice.
- The challenges to developing better courts.
- How we can create better courts.

This publication has been developed jointly by the Centre for Justice Innovation and **nef** (the new economics foundation). Together, the two organisations have studied the international evidence base on the contribution of the courts to reducing crime and have identified and documented case studies of court innovation from England and Wales and elsewhere. Based on our findings, we believe that our courts can not only process cases more quickly and efficiently and at a lower cost, but also reduce crime and protect our communities.

In setting out this new vision for our courts, we seek to build on the strengths of current practice, based on an understanding of what is realistic and achievable within the current climate.

This paper is the first in a series of publications, events, and projects in which the Centre for Justice Innovation and **nef** seek to articulate and promote this new vision for our courts.

.....  
Our courts can not only  
process cases more  
quickly and efficiently and  
at a lower cost, but also  
reduce crime and protect  
our communities.  
.....

# 1. Why create better courts?

---

## **In this chapter we suggest that:**

- The criminal courts of England and Wales have many strengths – delivering the due process that protects citizens' rights and sentencing offenders to ensure that the public is protected.
- Nonetheless, our courts are challenged by a difficult financial settlement, by demands for increased efficiency, and by a set of government reforms that change the way providers of legal aid, prison, and probation deliver services.
- By embracing four interlinked principles – fairness, a focus on people as well as on crimes, authority, and swiftness – our courts can get better at reducing crime and allocating resources more efficiently across the justice system.

## **The strengths of our criminal courts**

Our criminal courts are at the heart of our justice system. Every day, the criminal courts of England and Wales try to deliver justice for victims and communities and to protect the rights of our citizens. They are one of the most visible representations of justice in our society; we all have, and should cherish, the right to 'have our day in court'.

In many respects, our courts remain the envy of the world. As Justice Secretary Chris Grayling said, 'British law has an unrivalled reputation in the world: a decision from a UK court carries a global guarantee of impartiality, integrity and enforceability.'<sup>1</sup> That is not just political hyperbole: in general, they deliver justice – protecting our due process rights as citizens,<sup>2</sup> they sentence consistently,<sup>3</sup> and they retain a considerable amount of public legitimacy.<sup>4</sup> The courts of England and Wales also have some unique features, not least our lay magistracy – around 22,000 trained volunteers, hearing the vast majority of criminal cases.

## **The challenges for our criminal courts**

Despite these strengths, our courts face significant challenges. In 2013, many more cases are being dealt with outside of court,<sup>5</sup> putting courts under pressure to reduce costs.<sup>6</sup> This pressure has already directly resulted in the closure of 93 court buildings in the last 3 years, with the possible closure of more to come.

In addition to needing to save money, there are areas where our courts could perform better. Despite considerable effort, they still process cases slowly.<sup>7</sup> Over the past few years, the time taken to move a case from the date of the offence to the completion of the case has lengthened – in 2012 this process took an average of 139 days, whereas in 2010 it took only 128 days.<sup>8</sup> Processing is often still unnecessarily delayed, with cases having to be rescheduled – either because preparation has not been effective or because the incentives for defendants to plead guilty earlier are not strong enough (leading to trials being set and then cancelled at the last minute as defendants plead guilty on the day).<sup>9</sup>

Perhaps more significantly, courts are part of a criminal justice system that is often seen as under performing in its duty to reduce crime. In their sentencing role, there is considerable disquiet, particularly from the Government, that the sentences our courts pass<sup>10</sup> could be more effective<sup>11</sup>

at reducing re-offending and protecting the public. Efforts to tackle re-offending have been at the heart of justice policy for decades but the perception, as the Secretary of State for Justice observed earlier this year, is that rates have remained ‘stubbornly high’.<sup>12</sup>

**The four principles of better courts**

The Government, with a tight financial settlement to work within and with considerable exasperation about how quickly and effectively our courts operate, has identified a number of issues that need to be tackled. They are certainly not the first government to do so.<sup>13,14</sup> But, at present, the Government’s proposed court reforms focus almost exclusively on reducing the cost of legal aid<sup>15</sup> and delivering process efficiencies.<sup>16,17</sup> The court reforms seem to have only a weak connection to current offender management reforms,<sup>18</sup> which primarily concentrate on diversifying the range of providers delivering court sentences. Taken together, the reforms fail to recognise the contribution that courts themselves can make to reducing crime.

Our vision of better courts draws from real-life evidence around procedural justice<sup>19</sup> and problem-solving justice<sup>20,21</sup> to set out what this contribution can be. Evidence surrounding procedural justice suggests that the fair treatment of individuals in court improves the likelihood that they will consider the institutions making the decisions in their lives as legitimate. This, in turn, means that individuals will be more likely to obey the law in future. Likewise, evidence on problem-solving justice suggests that when courts, working in partnership with other parts of the justice system, understand and respond to the circumstances that influence personal behaviour and community resilience, they can make a material difference to re-offending.

So what do these ideas tell us about changing our courts for the better? We argue that four basic principles underlie more effective and efficient courts:

1. **Better courts are seen to be fair:** Fairness has long been an important institutional value of the courts. Protecting individuals’ legal rights has informed a great deal of court reform over the past century. But perceptions of fairness matter, too. When individuals involved in court cases perceive that the institutions involved in their case are treating them fairly and are willing to take their views into account, they are more likely to comply with court orders and have reduced levels of future offending.<sup>22,23</sup> The same is true for victims: victims who feel their views and concerns are ignored are less likely to be witnesses again and likely to make that view known to others in a similar situation.<sup>24</sup>

The work of Tom Tyler in the United States and Mike Hough in the UK suggests that public perceptions of the fairness of the justice system are more significant in establishing its legitimacy than perceptions of its effectiveness. As Hough’s recent Ministry of Justice research puts it:

*‘Fair and respectful handling of people, treating them with dignity, and listening to what they have to say, all emerge as significant predictors of legitimacy, and thus preparedness to cooperate with legal authorities and comply with the law. In other words, procedural fairness may not only be valued in its own right, but it may actually be a precondition for an effective justice system.’<sup>25</sup>*

2. **Better courts concentrate on people as well as on cases:** Many court cases are not complicated in a legal sense but involve individuals and families with complex lives. A court case ought to be seen as a window of opportunity to make a difference in someone’s life. Courts which understand how and why people desist<sup>26</sup> from crime can be effective in cutting crime and protecting the public.<sup>27</sup> Instead of trying to find an

.....  
‘Fair and respectful  
handling of people,  
treating them with dignity,  
and listening to what they  
have to say, all emerge  
as significant predictors  
of legitimacy, and thus  
preparedness to cooper-  
ate with legal authorities  
and comply with the law.’  
.....



intervention that 'fixes' the offender, these courts seek to understand how best to work with the person in front of them, making better decisions about sentencing and the use of resources.

Understanding why people do and do not obey the law also means courts need to understand how difficult it can be to stop a career in crime. The reality is that even those individuals seeking to get out of a life of crime can relapse. Even the most effective proven interventions available still see many recipients go on to re-offend. Consequently, courts need to have and set realistic expectations.

Better courts also need to have the services available to them that help promote desistance, such as access to treatment, employment, and

## Case study 1: Swindon Neighbourhood Justice Panel

**Overview:** The Swindon Neighbourhood Justice Panel (NJP) meets weekly to hear new cases of anti-social behaviour and low-level crime. It aims to resolve offending behaviour, enable offenders to make good the harm they have caused, and facilitate the victim having a voice in the justice process. They do so by developing a contract between the offender and victim. In doing so, the panel draws on ideas of restorative justice.

**Location:** The panel currently sits at the Council Chambers in Swindon. There are plans to expand the approach across Wiltshire, in partnership with the Centre for Justice Innovation.

**Administration:** The panel is administered by Swindon Borough Council. It has a governance board including Wiltshire Constabulary, the HMCTS, a magistrate, and Wiltshire County Council.

**Clients:** The panel hears cases of offenders and victims of low-level offences and anti-social behaviour from the city of Swindon. It only hears cases where offenders have accepted responsibility for their infraction.

**Origin:** Swindon is one of the 15 Ministry of Justice test areas for the implementation of NJPs set up in 2012.

**Funding:** The police and Swindon Council have contributed resources through the use of police officer and police community support officer time and Swindon Council have dedicated part of a manager and administrator to run and train the panel.

**Operation:** The panel brings together offender and victim and takes them through a process of meaningful dialogue, structured around a restorative justice script. Each hearing lasts around 40 minutes. The panel seeks to facilitate the dialogue, rather than apportion blame, and uses questions such as 'Who do you feel has been affected by your actions?' and 'Who do you feel has been affected by your actions?' to draw out responses which will enable the parties to better understand each other.

In addition to the offender and victims other agencies such as police, housing, social services, and substance misuse teams may be represented. Agencies will brief the panel regarding the history of the case and resources they can contribute to the panel contract.

Panels result in a problem-solving contract which runs for six months. The offender attends progress panels to discuss the progress of the contract. If the offender is doing well this is celebrated, but if they are not complying, the panel has the option of referring the case on for further action, such as a formal prosecution.

**Impact:** In its first 12 months of operation, Swindon's NJP has succeeded in establishing a panel of 23 volunteers which hears a significant number of cases: the Swindon panel heard over 60 per cent of the cases heard across all 15 pilot sites. It is too early to identify impact, although the period of operation has seen a reduction in anti-social behaviour in the town.

High volume of panels: Swindon has completed over 60 per cent of all the panels that have been conducted across all 15 test areas.

Correlation of implementation with reductions in anti-social behaviour: Implementation of the NJPs in Swindon has contributed to a 36 per cent reduction in anti-social behaviour across Swindon over the last 12-month period. It is unclear at the moment what the relationship is between the implementation of NJPs and this reduction.

Mobilisation and skilling up of civic resources: Swindon currently has 23 community volunteers and has developed a 3-day training programme, which will soon be accredited.

training and mentoring programmes. Better courts work in partnership with a range of service providers and community groups to deal as effectively as possible with the people who come to court, using the authority and power of the court to promote positive change. This requires courts to have the flexibility to make individualised decisions. Some shoplifters, for example, are kids testing the limits of authority. Others are long-term addicts. Courts working with the various agencies which participate in court, can provide an integrated and individualised approach to both the cases and the individuals who attend court. The important thing is that courts should be encouraged to tailor their responses to their caseloads and to the needs of their communities, as well as drawing on the assets that their communities have. In doing so, courts develop a better understanding of the people and cases coming to court and they can act as a powerful force within the justice system for determining what the range and quality of services available ought to be.

3. **Better courts act with authority:** Courts, above all other actors, wield authority in the justice system. It is courts that pass sentence. It is to the court that the offender must explain their failure to comply with the terms of an order. When an offender is given a custodial sentence, they are in the cells that evening.<sup>28</sup> However, there is evidence that the authority of the court is still underused in England and Wales. Evidence from problem-solving justice in both the USA and Australia suggests that

## Case study 2: Court Integrated Service Program (CISP)

**Overview:** CISP is an Australian initiative which offers a coordinated, team-based approach to the assessment and treatment of defendants at the pre-trial or bail stage.

**Administration:** The programme is run by the court system.

**Clients:** Any party to a court proceeding can access CISP by way of referral, including applicants, respondents, and the accused from all jurisdictions of the magistrates' court, such as the Family Violence Division. However, the accused must consent to be involved in the programme. In order to be eligible, the accused must be on summons, bail, or remand pending a bail hearing. The programme is available to the accused regardless of whether a plea has been entered or whether they intend to plead guilty or not.

**Origin:** Based in Victoria, Australia, the Department of Justice and the Magistrates' Court of Victoria established CISP in November 2006. The programme currently operates at the Latrobe Valley, Melbourne, and Sunshine Magistrates' Courts.

**Operation:** CISP provides accused clients with case management support and links them to support services such as drug and alcohol treatment, crisis accommodation, acquired brain injury services, disability services, and mental health services. Additional services may be delivered by referral to external agencies, with brokerage funds available to pay for a range of treatment and support services including emergency accommodation, pharmacotherapy assessment or treatment, and education or other programmes.

Clients are allocated to one of three programme levels based on assessed risk. Once engaged, a client is the responsibility of a CISP case manager who coordinates their referral to services. Case managers are part of a multi-disciplinary team.

Clients come to CISP by three main routes. The majority of referrals (75 per cent) are made by clients' legal representatives, with referrals by magistrates accounting for a further 15 per cent of referrals and self-referrals representing around 5 per cent. During 2007–2008, there were some 37<sup>56</sup> referrals to the CISP with 72 per cent or 2679 assessed as suitable and accepted into the programme. The average age of all clients was 33 years. Each client received an average of 3.75 referrals, of which the most common services were drugs and alcohol (40 per cent), material aid (35 per cent), and housing (7 per cent).<sup>56</sup>

**Impact:** An evaluation in 2010 compared CISP clients with clients at other court venues. Offenders who completed CISP showed a significantly lower rate of re-offending in the months after they exited the programme. An economic evaluation showed that there was \$5.90 worth of savings for the community for every \$1 spent on CISP.

if the court can extend its authority by continuing to hold offenders to account after sentence has been passed, it can make a vital impact on crime in specific types of cases.<sup>29</sup> There is also emerging evidence that where the court is explicitly clear at sentencing about how it will use its authority, especially about how it will respond to non-compliance, this can help defendants desist from crime.<sup>30</sup> Authority through certainty requires that the court be clear about its expectations in each case, clear what the consequences of failure are, and then deliver on those consequences when an offender fails to comply with expectations.

4. **Better courts act swiftly:** The evidence on procedural justice and problem-solving justice suggests that how quickly courts process cases matters. Delays between the offence and the completion of a case undermine the effectiveness of the sentence in the eyes of both victims and offenders.<sup>31</sup> When courts respond swiftly to non-compliance with court orders, the evidence suggests they are more effective. Therefore, acting swiftly is not just a question of efficiency but also of the courts' effectiveness. Swift resolution of cases is not just about processing efficiency; it is also about the system treating the cases it hears seriously and being seen to do that.

### Case study 3: Specialist Domestic Violence Courts in the UK

**Origin:** Specialist Domestic Violence Courts (SDVCs) were established as part of the Specialist Domestic Violence Programme launched by the CPS in 2005. The programme began with pilot specialist sites in five courts between 2003 and 2004. As of November 2012, there were 127 courts in England and Wales.

**Overview:** SDVCs are specialist court arrangements which have additional resources to support victims of domestic violence and hold perpetrators to account. They identify domestic violence cases before they come to court and hear them in specialist sittings staffed by trained and dedicated personnel, including magistrates and prosecutors.<sup>57</sup> Also present in court on the SDVC days are Independent Domestic Violence Advisers (IDVAs) who are in contact with the victims and ensure that the court is aware of relevant issues.

**Location:** SDVCs operate in courts throughout England and Wales.

**Administration:** SDVCs are administered by Ministry of Justice while the IDVAs are administered by the Home Office, although the funding goes to Local Areas.

**Client group:** SDVCs hear the full range of domestic violence cases and work closely to support victims.

**Funding:** SDVCs receive funds from within existing mainstream budgets by reallocating roles of the police, prosecutors, magistrates, legal advisers, and others. Court-based IDVAs are funded separately by the Home Office.

**Operation:** SDVCs are characterised by a partnership between police, prosecutors, court staff, the probation service, and specialist victim support services. They seek to identify domestic violence cases and offer comprehensive and immediate victim services, multi-agency information sharing, and interventions to reduce perpetrator violence. They offer a number of innovations including fast-tracking of domestic violence cases and safe court houses and facilities.

In the SDVC system, domestic violence cases are identified at an early stage, by police, the CPS, and courts. After identification, listing clerks and legal advisers ensure they are clustered in specialist sittings and fast-tracked to trial. Specialist domestic violence support services are provided or referred through the local areas. Each SDVC also employs a trained IDVA to support victims at points of crisis. IDVAs link with Victim Support and Witness Services. Victim Support offers practical help (legal, housing, financial) emotional support and information to victims of crime as well as running the Witness Service which provides support around issues such as giving evidence.

**Impact/outcomes:** According to the 2011–2012 Violence Against Women and Girls Crime Report, 'between 2005–6 and 2011–12 attrition rates have fallen as the proportion of successful outcomes has risen from 60% to 73% over this six-year period. Ten areas improved their prosecution outcomes in the last year and the volume of defendants prosecuted decreased over the last year by 3.6% to 79,268.'<sup>58</sup>

Of course, delivering swiftness is easier said than done. And being prescriptive from the centre about what will work has been tried multiple times and has come up short. It is time to put the frontline in charge, with different court practitioners across the country innovating to solve their own problems. Improving the swiftness of the court could require a number of things: (i) the diversion of cases which can be resolved in more informal settings, such as Neighbourhood Justice Panels; (ii) high volume, low-level, 'regulatory' cases could be heard differently, maybe with experienced magistrates sitting on their own; (iii) the management of those cases that are bound for court could be simplified, with a presumption towards early guilty pleas and a presumption against adjournments, just as it set out in the Government's Transforming the Criminal justice system White Paper; and (iv) more of the assessments that the court requires for sentencing being conducted on the day. However it is done, it should be for practitioners, rather than policymakers, to best identify and fix process inefficiencies.

## Conclusion

In a time of financial constraint, it is imperative to build on what exists. In outlining our four principles for better courts, we recognise that English and Welsh courts achieve all of them to some extent – but argue that they could do better on each one. The principles embrace a more positive vision of what role the courts can play in the twenty-first century. Courts are more than just an instrumental institution, concerned only about processing cases. Our courts are public institutions which can reduce crime by treating victims and offenders fairly and working with them to ensure that they never return to court. As the former Lord Chief Justice Phillips said in 2006: '...we need to place the Court at the heart of the way in which the community deals with offending, the causes of offending, the prevention of offending, and the punishment of offending.'<sup>32</sup>

Moreover, we believe that these principles, if adopted, provide the key to a more efficient justice system. By focusing on the contribution it can make to reducing crime, a court can make better use of its own resources for greater public impact. In arguing for swiftness, we join the Government in recognising that justice delayed is justice denied, but also argue that it is important in ensuring people do not come back to court again. In acting with authority, swiftness, fairness, and with a focus on people as well as crimes, the courts can make more intelligent sentencing decisions which use resources in the most effective manner possible.

In the next chapter, we set out what the principles of better courts look like when put into practice.

.....  
By focusing on the contribution it can make to reducing crime, a court can make better use of its own resources for greater public impact.  
.....

# 2. Better courts in action

**In this chapter we suggest that:**

- Practice that embraces the four interlinked principles of better courts – fairness, a focus on people as well as on crimes, swiftness, and authority – can already be found throughout the criminal court system, sometimes in mainstream practice and sometimes in local innovation.
- This ‘better courts’ practice occurs across five areas – charging and remand, court hearings and trials, offender assessment, sentencing, and enforcement of sentences.
- The practical examples we have identified in these areas suggest that innovative court processes can often achieve better outcomes with existing resources.

**Introduction**

In this chapter, we set out what better courts, based on our four principles – fairness, a focus on people as well as on crimes, authority, and swiftness – could look like in practice. We highlight where we already believe those principles operate, whether in mainstream provision or in local innovations, both home-grown and international.

We have identified five major areas of innovation in practice: charging and remand, court hearings and trials, offender assessment, sentencing, and enforcement of sentences.

**Charging and remand**

*What happens*

When defendants are arrested for a crime, the police conduct an interview, and then, together with the Crown Prosecution Service (CPS) decide on what, if any, charge is to be brought. The defendant can then either placed be on police bail or remanded in custody.

*Better courts practice*

*Diverting low-level crimes and anti-social behaviour into community-led restorative justice panels, saving court time:* Anyone who has sat in a magistrates’ court will have seen cases where the original offence is of such a low-level that bringing the case to court at all seems like a poor use of resources. A better court system can hold offenders to account with a transparent, independent, and authoritative process which is more appropriate to low-level cases than a court hearing.

The Swindon Neighbourhood Justice Panel (Case Study 1), for example, is a volunteer-led community resolution panel that hears low-level crime and anti-social behaviour cases such as street drinking or neighbour disputes. Normally, these offences are dealt with via an out-of-court disposal or a discharge, giving victims little sense of a meaningful response. But in this scheme, offenders and victims get a chance to explain their views on the incident, using restorative justice conferencing.<sup>33</sup> The community, represented by a panel, asks the respondents to develop a way to resolve the case in a satisfactory way. This panel, and other approaches like it, offer a glimpse of how our court system could more effectively resolve issues before they need to escalate to court.

.....  
A better court system can hold offenders to account with a transparent, independent, and authoritative process which is more appropriate to low-level cases than a court hearing.  
.....



## Case study 4: West London Drug Court

**Overview:** West London Drug Court seeks to address drug-related crime by using the authority of the court to both support and coerce problem drug users into successfully engaging with treatment.

**Location:** The court sits within Hammersmith Magistrates' Court, a busy facility covering the London boroughs of Hammersmith and Kensington and Chelsea and Westminster, a densely populated and demographically diverse area.

**Administration:** The drug court is administered by the magistrates' court staff. Additionally, a steering group made up of stakeholders from involved agencies regularly meets to discuss the drug court's operation.

**Client group:** The court works with clients who have tested positive for Class A drugs on being arrested, and who are resident in Hammersmith and Fulham, Kensington and Chelsea, or Westminster.

**History:** West London Drug Court has been in operation since 2005 as one of the first two sites in the Home Office's dedicated drug court pilot. The pilot aimed at exploring whether drug courts operating within the context of the England and Wales court system had the potential to reduce re-offending and drug use, improve interagency working, provide a replicable model, and offer value for money.

**Funding:** A small amount of funding was allotted to the court to support its initial development and launch, but it now operates within the resource constraints of a standard magistrates' court.

**Operation:** The court is built around the Drug Rehabilitation Requirement (DRR), a community order requirement mandating sentence-supervised drug treatment, and requiring offenders to attend regular in-court reviews. The DRR is available to all courts and is widely used. West London Drug Court builds on the DRR by additionally filtering drug-related cases into dedicated weekly drug court sittings staffed by specially trained professionals. Drug offenders will enter the dedicated drug court either at arraignment or sentencing and from that point will have their cases heard by the drug court until the completion of their order. Client reviews and magistrate sittings follow the same six-week schedule, ensuring that clients have their progress reviewed by their original sentence. The drug court is supported by management arrangements and protocols which promote increased cooperation and information-sharing among court staff and partners, including community-based treatment providers.

**Impact:** At present, West London Drug Court has not been the subject of an impact evaluation. However, international evidence suggests that drug courts, in partnership with drug treatment providers, probation, and other key partners can produce long-term reductions in re-offending and drug use. Stakeholders also suggest that the court produces a range of additional positive outcomes, including improvements in client stabilisation, social inclusion, and well-being.

Crucial to the development of the Swindon Neighbourhood Justice Panel model has been the Government's emphasis on local discretion. This has enabled the project to focus on those problems prioritised by local police, local authorities, and the local courts; an important benefit of community-based justice.

*Using structured bail support to provide an alternative to expensive custodial remand:* Custodial remand is expensive and can often be unnecessary.<sup>34</sup> Custodial remand should be reserved for situations where there are clear and serious risks to the public. One example of how this can be achieved is the Northamptonshire Bail Supervision and Support Programme, which works to ensure that young people awaiting sentencing remain in the community, with appropriate conditions and supports, rather than being remanded to custody.

The overuse of custodial remand is not limited to the UK. Many jurisdictions<sup>35</sup> around the world have recognised this problem and have taken measures to address it. For example, the Court Integrated Services Program (CISP) in Australia offers a coordinated, team-based approach to the assessment and treatment of defendants at the pre-trial or bail stage (Case study 2). The CISP service model uses a multidisciplinary team to case manage clients.

Compared with offenders at other court venues, offenders who completed CISP showed a significantly lower rate of re-offending in the months after they exited the program.<sup>36</sup>

These two schemes suggest better courts can, with the right services at their disposal, make more intelligent remand decisions.

## Court hearings and trials

### *What happens*

Defendants are either produced at court from custodial remand or attend court following notification of their court hearing. Based on their plea, defendants can either be tried or proceed straight to sentencing.

### *Better courts practice*

*Using specialised court arrangements for particular types of crime to improve the court experience for victims and help courts make better decisions:* By dedicating regular hearings, or in some cases whole courts, to particular categories of offenses, defendants, or victims, courts can build up expertise and better deal with sensitive cases. Worldwide, by far the most common form of specialised courts is the drug court, but other examples include domestic violence courts and mental health courts.

England and Wales have a number of specialised courts. Most widespread are the over 140 Specialist Domestic Violence Courts (SDVCs), which seek to identify and hear relevant cases at dedicated court sittings at which all court professionals are specially trained (Case study 3). Within the best operating SDVC arrangements, victims are referred quickly after arrest to supportive services which address safety issues while keeping them informed about the progress of the case. The goal is to increase confidence in the justice system, to improve conviction rates and, crucially, to prevent harm to victims. SDVCs seem to be making a difference, with the number of convictions increasing from 30,000 in 2005/06 to 58,000 2011/12 (a 93 per cent increase).

Like SDVCs, drug courts hold regular sittings with specially trained staff and managers. Their focus is on correctly identifying candidates who would benefit from a drug rehabilitation requirement as part of community order, and helping manage those offenders through their order (Case study 4).

These examples suggest that expanding the use of specialised court arrangements for certain types of cases can improve both service for victims and outcomes for the public.

*Offering at-court support and advice to help court users access services to assist them with issues like debt, housing, and health:* By providing support and advice directly at court, sentencers can refer defendants to services before they pass sentence. They can also support victims and others attending court who may need access to services. For example, the Community Advice and Support Service (CASS) at Plymouth Magistrates' Court (Case study 5), offers assistance and support to people who attend court, as victims, defendants, or families and friends of those involved in court proceedings. The service helps people with practical issues like benefits claims or outstanding fines. It helps them to understand and access long-term support to meets their needs – whether that be drug or alcohol treatment, or a community mental health service. It also helps magistrates understand the circumstances of offenders prior to sentencing, and in some cases can avoid delaying cases by providing a rapid alternative to a pre-sentence report.

.....  
Expanding the use of specialised court arrangements for certain types of cases can improve both service for victims and outcomes for the public.  
.....

These examples suggest that at-court advice and support, available right away and to all who visit the court, can help court visitors with practical problems, enhancing court efficiency and improving outcomes.

## Offender assessment

### *What happens*

Following trial or a guilty plea, convicted defendants await sentence. This can occur straight away or the court can request an assessment from probation to inform its sentencing practice. This can be available on the day or prepared for another sentencing date.

### *Better courts practice*

*Improving the information courts use to make sentencing decisions by bringing in specialised pre-sentence assessments for particular cases:*

In some cases, courts need professional advice to identify the most appropriate sentence for a particular defendant. Sentencers have the option of requesting that probation provides pre-sentence reports

## Case study 5: Community Advice and Support Service (CASS)

**Overview:** CASS is an advice and support service that works in three magistrates' courts in Devon and Cornwall. It accepts referrals from the courts and also sees clients on a drop-in basis. The service is primarily delivered by volunteers who offer practical support with issues like benefits and help clients to access long-term support for chronic problems like addiction and mental illness. CASS also helps vulnerable defendants with the court process.

**Location:** CASS operates in three magistrates' courts in Devon and Cornwall – Plymouth, Bodmin, and Truro.

**Administration:** CASS is a voluntary sector agency that is part of Rethink Mental Illness, a national mental health charity.

**Client group:** CASS does not impose any eligibility criteria on clients. The service is open to anyone on a drop-in basis regardless of needs or criminal justice status. However, the focus is on low-level offenders with a range of support needs including mental illness, drugs and alcohol addictions, financial problems, and relationship issues.

**Origin:** CASS began in 2006 as a project of the Prison Advice and Care Trust with a grant from the Lankelly and Tudor Foundations. The service was bolstered in 2007 when Plymouth Magistrates' Court became a test site for the second generation of community courts. In Plymouth the service works closely with the magistrates' court, providing reports to the court on defendants and taking referrals for support.

**Funding:** The service receives funds from Devon and Cornwall Health and Well-Being Board and the Hadley Trust, a charitable foundation. The HMCTS provides support in kind in the form of office space inside the courts. Support is delivered by volunteers with leadership and co-ordination functions handled by two paid staff members.

**Operation:** The service is based in offices in the public areas of the three court buildings. As well as offering a drop-in service and accepting referrals, volunteers attend hearings to identify vulnerable clients. CASS offers a combination of practical help with administrative issues such as benefits and fines and support in accessing long-term support for chronic problems. Volunteers follow up with clients by phone after their initial assessment to track their progress and offer further support.

CASS also works closely with the community court. During community court sittings, magistrates have the option of adjourning cases while CASS provides a 'problem-solve' – a formal, structured, needs assessment and action planning session. CASS reports back to the court on the outcome of the problem solve – such as a choice to access addiction support – can inform sentencing.

**Impact:** As yet, there has not been a formal outcome study on CASS. However, interviews with stakeholders, including clients, suggests that outcomes of the service may include reduced re-offending, greater compliances with orders, improved physical and mental well-being, better managed addiction, and more stable finances.

about offenders' risk, needs, and circumstances. These assessments identify the causes of the offending behaviour and propose solutions, with the option of tailoring punitive, restrictive, and rehabilitative elements to individual circumstances. This kind of pre-sentence report already embodies the better court principle of focusing on people. In some courts, probation expertise is being supplemented with other professional advice such as mental health liaison and diversion services. For example, Berkshire's DIVERT service (Case study 6), works closely with local magistrates' courts, conducting psychiatric assessments to inform decisions around prosecution and sentencing, often appearing in court to deliver oral reports as well as submitting reports in writing.

*Reconfiguring offender assessment (pre-court and post-court) to best use the skills of different court participants and save court time:* When probation assessments are not ready on the day of conviction or guilty plea, it can lead to significant delays in sentencing. Equally, for probation, rushing reports to meet court timescales can often mean a less accurate and less comprehensive assessment than could be achieved in the less time-pressured post-sentence timescale. In an innovative pilot run by West Yorkshire Probation Trust (Case study 7), courts and probation have moved the formal and lengthy assessment process to after sentencing. This not only helps courts conclude cases more quickly but also gives probation time to do its assessment properly. In the new scheme, the majority of cases receive short assessments on the day. When delivering a community sentence, the courts set punitive requirements and give a broad indication of the intensity of the order. However, the decision of precisely what elements make up the order is passed to probation who can select them after making a comprehensive assessment and can later vary the order based on progress achieved.

Other probation providers have refocused their court work with a greater emphasis on the delivery of reports on the same day. Overall, the probation service has improved its ability to deliver same-day reports, with a 50 per cent increase in the number of reports delivered orally on the same day in magistrates' courts over the last period for which there is data.<sup>37</sup> This trend is encouraging.

What these practice examples suggest is that enhancing and rethinking the current arrangements for the assessment of defendants prior to sentence can lead to more intelligent sentencing decisions and reduce delays.

## Sentencing

### *What happens*

The court, operating within appropriate sentencing guidelines, determines the sentence that the convicted defendant will receive.

### *Better courts practice*

*Providing clear communication and certainty to offenders and victims at the point of sentencing in order to improve compliance with court orders:*

As part of Hawaii's HOPE (Hawaii's Opportunity Probation with Enforcement) programme (Case study 8), the judge gives offenders clear instructions about what the programme entails and what will happen should they fail to comply with the court order. The judge warns offenders that if they fail a drug test or fail to show up, they will be remanded. This clear statement of intent is backed up with swift enforcement when non-compliance occurs. The statement of intent itself is a crucial part of the courts' leverage. Similar approaches are used within the context of gang call-ins, a tactic whereby gang members are given a stark choice between taking the offer of support to move out of the gang lifestyle and tough and swift enforcement action.<sup>38</sup>

.....  
Clear communication and certain consequences for non-compliance can help bolster the authority of the court and deliver greater compliance.  
.....

Clear communication and certain consequences for non-compliance can help bolster the authority of the court and deliver greater compliance.

*Providing at-court induction for offenders placed on community sentences in order to improve compliance with court orders:* In many American community courts, social service and community payback programmes are based within the courthouse, increasing the likelihood that offenders will be successfully inducted into their community sentences. Additionally, courts can offer on-site support for offenders who are seeking help to change (Case study 9).

## **Enforcing sentences**

---

### ***What happens***

Following sentence, the court will involve itself in the case again only if (i) the offender is subject to sentencer supervision (periodic formal reviews of an offender's progress while under a community order which take place in court and are presided over by judges or magistrates ); or (ii) the offender fails to comply with a community sentence and is 'breached' (brought back to court for further punishment) by community sentence providers.

### ***Better courts practice***

*Expanding and improving the on-going sentencer supervision of offenders can reduce re-offending:* There is international evidence that, sentencer supervision can help reduce breaches and crime in some types of cases<sup>39</sup> Sentencer supervision provides opportunities for the defendant to discuss with a judge or magistrate their progress on a court order, exploring why they are doing well or poorly. Evidence suggests that these opportunities for offenders to explain themselves and what is going on in their lives tends to make them feel fairly treated, which in turn makes them more likely to comply with the current order and with legal requirements in future. While other professionals can fill this role, research suggests that supervision by a sentencer produces the biggest improvement in outcomes. Recent research on drug courts in the USA suggests that: 'Judicial interactions with drug court participants are key factors in promoting desistance... perceptions of the judge were the strongest predictor of reduced drug use and crime.'<sup>40</sup>

At present, the use of sentencer supervision in England and Wales is predominantly limited to drug rehabilitation requirements, plus a few exceptional circumstances permitted under section 178 of the Criminal Justice Act 2003. An example of the latter is the group of Intensive Alternative to Custody projects, an innovation aimed at providing the courts with a demanding community alternative to short-term prison sentences. In some of the projects, courts and probation work together to bring offenders back in front of courts at regular intervals (Case study 10). Recent Ministry of Justice evidence suggests that offenders and staff found this element particularly important in maintaining the compliance of a relatively chaotic group of offenders. The latest results from those projects also suggest that participants are re-offending at a lower rate than if they had gone to prison (and at far less cost to the taxpayer).<sup>41</sup>

Another example of this practice is the use of court reviews in the Sefton Magistrates' Court (Case study 11). As part of a community court project, the court focuses on providing an enhanced service for medium-to-high risk offenders who have poor compliance histories with probation, the court reviews progress on orders.

Evidence on sentencer supervision suggests that a consistent relationship between defendant and supervisor (or supervisors) is the key to effective monitoring. In West London Magistrates' Court (Case study 4),



## Case study 6: Berkshire DIVERT

---

**Overview:** DIVERT is a longstanding liaison and diversion project which aims to identify and address the mental health needs and other vulnerabilities of offenders as they enter the criminal justice system, including as they come to court. It is linked in to local magistrates' courts and provides assessment and information to sentencers.

**Location:** DIVERT serves the whole of Berkshire with offices in Reading, Slough, and Newbury. The Reading and Slough offices are co-located with Probation.

**Administration:** DIVERT is part of Berkshire Healthcare NHS Foundation Trust, under the management of Reading Community Mental Health Services.

**Client group:** DIVERT formally sets out to work with clients who have a mental illness or behavioural disorder which is severe enough to require treatment, and are being processed through the criminal justice system. In practice, the service will often also work with referred clients who have mental health or other needs which are not currently eligible for treatment.

**Origin:** DIVERT was established in the wake of the 1992 Reed Review of health and social services for mentally disordered offenders. The review recommended that there should be nationwide provision of properly resourced care and treatment from health and social services rather than dealing with vulnerable people via the criminal justice system.

**Funding:** DIVERT is funded by Berkshire Healthcare NHS Foundation Trust.

**Operation:** DIVERT is staffed by five community psychiatric nurses supported by a substance misuse worker and an administrator. The service works with offenders referred primarily from either courts or police custody. It provides all incoming clients with a comprehensive assessment which covers mental and physical health, drug and alcohol use, and practical issues such as finance and accommodation. It liaises with statutory services to help clients access required support, including frequent referrals to community mental health teams, where appropriate, and liaises with other services to implement long-term support packages.

DIVERT works closely with local magistrates' courts, conducting psychiatric assessments to inform decisions around prosecution and sentencing, often appearing in court to deliver oral reports and well as submitting reports in writing.

DIVERT has also been instrumental in improving the availability of mental health treatment requirements to sentencers in Berkshire, improving clinician's understanding of how to work with patients on the requirement and what expectations are made of them.

**Impact:** Over its 20-year history, DIVERT has built close working relationships with key partner agencies including police, courts, and probation, making it an integral part of criminal justice practice in Berkshire. The service has not yet been the subject of a formal outcome evaluation. However it is currently taking part in a project being co-ordinated by the Offender Health Research Network to study the impact of Liaison and Diversion services which should report later this year.

for no additional cost, the court has committed itself to ensuring that at least one of the three magistrates that the defendant sees is consistent across the course of an order. The court has further enhanced the reviews by securing pro-bono support from a specialist psychiatrist. While there has been no formal evaluation on this project so far, qualitative evidence suggests that staff and others perceive that it is reducing re-offending and drug use.

*Delivering swift and certain enforcement of court orders can improve compliance with court orders and help further reduce crime:*

The evidence suggests that courts using graduated sanctions and emphasising accountability are particularly likely to reduce re-arrest. Non-compliance needs to be dealt with swiftly and certainly, with defendants feeling that the rules are clear and are being applied consistently. As Hawaii's HOPE case study makes clear, the threat made by the court needs to be carried out swiftly when necessary (Case study 8). HOPE clients, when breached, are escorted straight to jail. Crucially, following these jail sentences (which are typically as short as a few days) they are returned to the community-based programme. Evidence from HOPE showed that 'two days in jail is as good a deterrent to drug use as six weeks, as long as the two days actually happen, and happen every time.'<sup>42</sup>

What these better court examples show is that courts could have a greater role post-sentence, by using the emerging evidence base to engage sentencers in compliance monitoring. This could enhance the courts' ability to reduce crime.

**Conclusion**

In this chapter we have begun to offer a realistic vision of how courts can be improved, exploring real world examples that demonstrate how the evidence-based principles of better courts can be enacted in practice. Crucially, these practices are all achievable within the current constraints faced by the criminal justice system; indeed, many are already in place in our courts (and are in some cases being funded entirely from normal operating budgets).

Nevertheless, some of these innovations would require reconfigurations of existing resources. In particular, sentencer supervision would require courts to hold extra sittings and take on additional co-ordination responsibilities. We recognise that there may be some upfront costs. So far in England and Wales, however, where sentencer supervision has been deployed outside of drug courts, it has been done on the initiative of local agencies and has drawn on resources already available in the local area; central funds have not been required. Of course, the ultimate intention of better courts practices like sentencer supervision is to reduce crime in our communities, and reduce demand on custody places taken up by 'breached' offenders. If successful, therefore, they have the potential to pay for themselves many times over.

In the next chapter, we outline how better courts can be created in our criminal courts at a time of shrinking resources.

.....  
These practices are all achievable within the current constraints faced by the criminal justice system; indeed, many are already in place in our courts  
.....

# 3. Challenges for better courts

---

**There are a number of challenges to court innovation, some structural and others more practice based:**

## **Practical challenges**

- It can be difficult for court innovators to identify the 'right' innovations to try out and to generate evidence about whether the innovations they have put in place are working.
- There is a lack of practice sharing between court innovation practitioners and programmes nationally and internationally.
- There are legislative and operational constraints to sentencer supervision.

## **Structural challenges**

- Court managers are often denied the autonomy they require to effectively develop local innovation.
- Courts have little opportunity to influence the decisions occurring around them in the justice system.
- There are financial constraints on court innovation.
- It is unclear what role senior and local sentencers can, and want, to play in initiating court innovation.

## **Introduction**

In setting out our four principles of fairness, a focus on people as well as on crimes, authority, and swiftness, and the practice changes that they imply, we have argued for a particular vision for our courts. This vision is based on our understanding of the evidence base about effective court practice. However, we recognise that there are a number of challenges for local court innovators in adopting these practices, both practical and structural.

## **Practical challenges for court innovators**

---

*It can be difficult for court innovators to identify the 'right' innovations to try out and to generate evidence about whether the innovations they have put in place are working:* There is strong international evidence to suggest that many of the changes we outline can lead to better outcomes. However, it can prove difficult for local innovators to know what innovations might work in their specific context.

Once innovations have been put in place, properly monitoring and evaluating outcomes can be difficult, especially for smaller projects. There are a number of reasons for this: (i) the volume of business going through local projects is unlikely to yield statistically significant results; (ii) proper monitoring and evaluation is expensive to commission; and (iii) data collection is often poor. The difficulties in collecting evidence compound the problem for practitioners seeking to identify promising models as there is often only limited evidence about the effectiveness of innovations in different contexts.

## Case study 7: Post-sentence assessment in West Yorkshire

**Overview:** Post-sentence assessment is a re-design of the role that probation plays in sentencing, which is being trialled by West Yorkshire Probation Trust, in partnership with the criminal courts. It moves the main assessment of offenders to take place after a sentence is passed, rather than pre-sentence as is the standard in England and Wales.

The pre-sentence assessment system is intended to ensure that sentencers have all the necessary information when deciding a sentence. However, scheduling assessments prior to sentencing has in some cases led to delays in the conclusion of cases, absorbing significant court time and resources. West Yorkshire Probation Trust also identified that the limited time available for pre-sentence assessment was impacting reliability and leading to offenders receiving interventions which were not as well targeted as they could have been. The post-assessment period was designed to ensure that assessment could be conducted thoroughly without delaying court proceedings, improving the targeting of interventions to reduce an offender's likelihood of committing a further offence.

**Location:** Post-sentence assessment is conducted at West Yorkshire Probation Trust and West Yorkshire courts in England.

**Administration:** The post-sentence assessment initiative is run by West Yorkshire Probation trust in partnership with the HMCTS and with the agreement of the Legal Trainer and the Justice's Clerk.

**Client group:** Post-sentence assessments are available for all offenders who would ordinarily receive a pre-sentence report in West Yorkshire.

**Origin:** West Yorkshire Probation Trust introduced Post Sentence Assessment in January 2012.

**Funding:** Required a realignment of the Probation Trust's resources.

**Operation:** Under post-sentence assessment, sentencers using a community order specify the punitive requirements as normal. However, instead of sentencing people to specific rehabilitative programmes they impose a generic Activity Requirement which is split into three levels: low (15 days), medium (30 days), or high (60 days) level.

The detailed content of the Activity Requirement is determined by the probation officer at the post-sentence assessment. In-depth assessments are carried out by a probation officer to determine the root causes of an offender's behaviour and the most effective means of addressing the rehabilitative need for each offender. The offender is fully involved in the process to identify the activities. It can include a range of meaningful rehabilitative options such as education, training, employment, group activities, group supervision, and one-to-one work.

The probation officer also oversees the sentence plan to ensure the offender completes all the elements. Once this requirement and other elements of the sentence are complete, the sentence is considered fulfilled. However, if the offender fails to complete the activities in the sentence plan, they will be returned to court for further sentencing as per the usual breach process.

**Impact:** Within four months of the initiative being put in place, courts, staff, and offenders had responded with positive reviews, suggesting that it helped the offenders become more self-reliant and set future goals and that for staff it brought a more meaningful engagement with the offenders and a more realistic assessment of the offenders' risks and needs. Targeted interventions for offenders also meant that there were fewer breaches. There were 332 fewer breaches across all courts (compared to January–September 2011).

The initiative also seemed to reduce delays – the first 10 months of the initiative saw 2,162 fewer adjournments (January–October 2012 compared to the same period in 2011).

*There is a lack of practice sharing between court innovation practitioners and programmes nationally and internationally:* At present, there is limited ability for court-based projects to distil, promote, and share their experiences. Consequently, practitioners seeking to innovate have difficulty in identifying practice to learn from. In short, the perennial problem that people don't know what is happening outside of their own projects is acutely felt in this area.

This issue is not limited to practice sharing within England and Wales; our courts can also be slow to respond to developing practice in other jurisdictions. For example, the history of SDVCs in England and Wales suggests that although they were inspired by US projects, since inception they have paid little attention to the ongoing refinement of their American predecessors. For example, the basic SDVC model never incorporated the post-sentence arrangements that are increasingly favoured and evidenced as effective in the USA<sup>43,44</sup> and there is little indication that such change is likely to be adopted in the near future.

*There are legislative constraints to sentencer supervision:* The framework which the Government sets can either enable or frustrate innovation by frontline practitioners. For example, we have already argued that courts should have a greater role in monitoring offenders after sentence. However, the ability of our courts to do that is constrained by current legislation (under Section 178 of the Criminal Justice Act 2003), where the power to 'review' community orders at court following sentence is limited to only 11 courts (some of which have subsequently closed). Yet we know of practitioners who want to use this power, where local courts, sentencers, and probation agree it would be beneficial.

### Structural challenges

*Courts lack the autonomy they require to effectively develop local innovation:* Research on multi-agency working suggests that organisations need a significant degree of flexibility and autonomy to develop the joint aims and objectives, shared protocols, joint funding agreements, and shared accountability<sup>45,46</sup> which facilitate effective working. The current structure and practices of Her Majesty's Courts and Tribunals Service (HMCTS), the agency which administers courts in England and Wales, often denies courts this flexibility and autonomy.<sup>47</sup> The England and Wales court system is characterised by being slow to develop change from within, often waiting for permission from central government. In a recent survey, only 30 per cent of court staff thought it was safe to challenge the way things are done in HMCTS.<sup>48</sup> Prior to 2003, magistrates' courts were run by committees of local magistrates – magistrates' courts committees. Each committee managed all the courts in their area with the help of a chief executive, and of a justice's clerk, who advised on legal matters. Funding came indirectly from Whitehall and directly from the local authority. The Auld Report 2001 suggested that this system was inefficient, ineffective, and unaccountable and the Government took on Auld's recommendation to centralise the administration of all the courts in the HMCTS.<sup>49</sup> Critics have suggested that the centralisation of authority has distanced courts from their local agencies and acted as a brake on innovation.<sup>50</sup>

The formal barriers to court innovation are compounded by cultural ones. According to Professor James Nolan, local court officials in England and Wales tend to defer to central government. He describes how local officials working on the implementation of Drug Treatment and Testing Orders were reluctant to take the program in new directions, preferring instead to stay carefully within the lines of government guidelines. He observes that these officials 'clearly lack(ed) the enthusiasm and entrepreneurial energy of American problem-solving court advocates'.<sup>51</sup> This suggests that it has proved difficult to encourage court managers to do anything other than meet centrally directed priorities, leaving little space for local variation and innovation.

*Courts have little opportunity to influence the decisions occurring around them in the justice system:* The justice system is undergoing radical change as reforms to legal aid, prisons and probation are pushed through. The risk for courts is that, even where changes to the mixture of cases

.....  
In a recent survey, only  
30 per cent of court staff  
thought it was safe to  
challenge the way things  
are done in HMCTS  
.....



coming through the courts may change, the courts will have no clear role in arguing for changed or new services. Instead, changes to the services offered in court will be determined at the national level between the Ministry of Justice and those organisations that choose to bid on the new contract package areas. This may prove frustrating for courts especially if there are real concerns about the new providers' ability to deliver credible supervision.

*There are financial constraints on court innovation:* In arguing for greater local court innovation, we are acutely conscious that, in the current fiscal climate, any proposal which relies on fresh injections of new money from the Treasury is doomed to fail. The recent announcement of the public spending review suggest there is even less money than previously thought. At the same time, courts' ability to receive and raise revenue is sharply constrained.

*The ability of judges and magistrates to drive innovation is limited:* The commitment in the mid-2000s of Lord Chief Justice Harry Woolf to community justice led to the importation of the Red Hook Community Justice Center to North Liverpool. His successor, Lord Chief Justice Philips, went out of his way to endorse the principle in 2006 speech— '...we need to place the Court at the heart of the way in which the community deals with offending, the causes of offending, the prevention of offending and the punishment of offending.'<sup>52</sup> Clearly, the senior judiciary can help inspire new innovation. However, their direct power to develop new court innovation is limited. They are unlike, for example, the Chief Judge of New York State, who is in charge of court administration, makes their own budget request to the Governor of the State of New York and can choose what their courts do. Therefore, a senior judge's role in initiating and nurturing local court innovation is limited.

We also acknowledge that the relationship between the paid judiciary and magistrates can sometimes be uneasy, especially over the issue of preserving judicial independence, and this can present an obstacle for new practice.<sup>53</sup> It is hard not to conclude, therefore, that sentencers' ability to lead court innovation, which is such a marked facet of court innovation in the USA, is extremely limited.

**Conclusions**

In this chapter, we have laid out some of the challenges which must be overcome in order to facilitate the kind of evidence-based local innovation which will lead to better courts. Despite these challenges, there is no doubt that our courts are already the site of much under-recognised innovation. As the examples we have gathered show, many practitioners in England and Wales are already finding ways around the obstacles to reform in order to improve the efficiency and effectiveness of their courts. In the next chapter, we suggest how these challenges can be overcome, both at a practice level and in influencing how the justice system is redesigned.

.....

‘...we need to place the Court at the heart of the way in which the community deals with offending, the causes of offending, the prevention of offending and the punishment of offending.’

**Lord Chief Justice Philips**

.....

## Case study 8: Hawaii's Opportunity Probation with Enforcement (HOPE), Hawaii, USA

**Overview:** Hawaii's Opportunity Probation with Enforcement (HOPE) is an intensive supervision programme for drug users on community sentences. It subjects clients to closer observation including frequent random drug tests. Clients who miss meetings or fail drug tests face immediate consequences which may include very short jail terms.

**Location:** HOPE is situated within the Integrated Community Sanctions Unit in Honolulu, Hawaii.

**Administration:** The HOPE model is run by Hawaii State Courts, supported by the involvement of judges, probation officers, probationers, and assistant public defenders.

**Clients:** HOPE is open to men and women over the age of 18. It is targeted at offenders who have been identified as likely to violate the conditions of their community supervision. HOPE participants include offenders who have committed a violent crime, including sex offenders and domestic violence offenders.

**Origin:** In 2004, Judge Steven Alm created HOPE, starting with three dozen offenders. Preliminary data on HOPE, released by the research unit of the Office of Hawaii's Attorney General, showed impressive improvements in probationer compliance. With support from the Hawaii legislature, the programme was expanded. By early 2009, more than 1,500 probationers had been placed on HOPE.

**Operation:** HOPE induction commences with a warning hearing which takes place in a group format in open court. New clients, with their attorneys, and the prosecutor appear in person before the judge, who impresses on each probationer the importance of compliance and the certainty of consequences for non-compliance.

HOPE participants can receive randomised and frequent drug tests throughout the duration of the programme. Probationers are warned that if they test positive for drugs they will be arrested immediately, and warrants issued immediately for probationers who miss an appointment or a drug test. Those found guilty face a short stint in jail – usually starting with a few days but increasing with repeated violations. Clients who abscond are subject to quickly enforced warrant service and sanctions. The programme mandates drug treatment on request or for those probationers who do not abstain from drug use while on the testing and sanctions regimen.

**Impact:** A randomised controlled study compared probationers assigned to HOPE ( $n = 330$ ) to individuals assigned to regular probation ( $n = 163$ ). After one year, HOPE probationers were 55 per cent less likely to be arrested for a new crime, 72 per cent less likely to use drugs, 61 per cent less likely to miss appointments with their supervisory officers, and 53 per cent less likely to have their probation revoked than those on regular probation. HOPE participants were sentenced on average to 48 per cent fewer days of prison than regular probationers.

## 4. Creating better courts

---

**In this chapter, we make two sets of recommendations on how to stimulate better court innovation.**

**First, based on evidence from this and other jurisdictions, we have identified four types of innovation which we recommend are piloted and evaluated within the English and Welsh context.**

- Finding new ways to deal more proportionally with simple summary cases.
- Building more procedurally fair courts.
- Taking advantage of the renewed impetus behind liaison and diversion services to improve the information provided to courts on defendants.
- Extending and strengthening the use of sentencer supervision, which will require the removal of the legal obstacle that prevents courts from using their power to review community orders (s178 of the Criminal Justice Act 2003).

Many innovations in these areas are achievable within existing resources. Where additional resources are required, however, court innovators could seek to form relationships with local partners, such as police and crime commissioners and public health authorities.

**Second, structural reforms are needed to enhance the courts' capacity to develop and implement local initiatives. We offer two recommendations for changing the structure of the criminal justice system by localising it over time.**

- The Ministry of Justice should consider options for reforming the court administration system that emphasise local discretion and judicial empowerment.
- The Government should give court administrators and sentencer representatives a role in approving and monitoring the prison and probation contracts within the 21 contract package areas proposed in the Transforming Rehabilitation consultation document.

### **Laying the groundwork for better court innovation**

While acknowledging the challenges we face, we believe there are real opportunities to reform the court system to unlock better courts. Indeed, some of the challenges, especially the grim fiscal settlement, demand that reforms are instituted. In this chapter, we explore the practical steps that can be taken to kick-start this innovation.

First, we look at practice changes that have the potential to contribute to better courts. We argue that the capacity of practitioners to innovate is sometimes under-estimated. We note that eight of our case studies are projects that have emerged within the current system, which indicates that while court innovation may be the exception rather than the rule, it is certainly not impossible.

Second, while we believe that court innovation will be at its most creative and sustainable when it is developed by the frontline, we also believe that if the Government is due to embark on systemic change to our courts, it should do so by aiming to enhance the capacity of frontline practitioners to

innovate. We argue throughout this publication that it is only practitioners who can deliver change on the ground. We therefore call for a governance structure for courts which is enabling rather than prescriptive – one which gives local courts the autonomy to respond to their particular contexts rather than seeking to apply a one-size-fits-all approach to court reform.

### **Promising innovative practices**

Local court innovators seeking to plan the next generation of reforms can look at evidence of what has been successful in other contexts. There are many resources available which will enable practitioners to make reasonable judgments as to what approaches might be worth exploring with their particular client groups and contexts.<sup>54</sup>

#### ***Dealing more proportionately with summary cases***

The demands on courts' budgets necessitate developing new approaches to high-volume, low-level offences. As the Government's recent White Paper – Transforming the CJS: A Strategy and Action Plan to reform the Criminal Justice System – states, 9 per cent of all those found guilty in our courts were accused of speeding. The evasion of a variety of taxes and levies, like the TV licence and road tax, accounts for large volumes of court appearances every year. Similarly, there are a range of very low-level, 'nuisance' offences like street drinking which often proceed to court where sentencers have little option other than sentencing offenders to conditional discharges as the threshold for further action is too high.

*Recommendation 1: Court innovators should pilot new ways to deal more proportionally with simple summary cases*

- Adopt the Neighbourhood Justice Panel approach to low-level crime and anti-social behaviour, as used in Swindon and elsewhere, which ensures that matters that can be resolved out of court are.
- Identify high volume, low-level, 'regulatory' cases that can be heard quickly and efficiently by magistrates sitting on their own.

#### ***Enhancing procedural justice***

Perhaps the most fruitful area for low-cost innovation could be in procedural justice; as a new Ministry of Justice research paper suggests: 'implementing principles of procedural justice is not cost-free, but neither is it necessarily resource-intensive.'<sup>55</sup> One example is the work conducted by the Center for Court Innovation in Milwaukee, providing training to all judges and court staff in how to improve the information court users have on their case and in treating them with respect.

*Recommendation 2: Court innovators can help build more procedurally fair courts*

- Work with the Center for Court Innovation and the Centre for Justice Innovation to develop a training package for sentencers and a training package for court staff on procedural justice.
- Work with defence lawyers to ensure they can provide better information to clients about the services available to them and the process they are going through.
- Work with the CPS and police to ensure that victims are informed of what is going on in their case and its outcome.
- Use victims groups and ex-offender groups in a process of user-centred design to suggest changes to court buildings and procedures, and to improve the information that is currently provided and available to all those who use courts.

#### ***Improving information for sentencers***

As we have seen, the impetus given to court and pre-court liaison and diversion services since the Bradley Review in 2007 have opened up new opportunities to ensure that courts are better informed about defendants

## Case study 9: Bronx Community Solutions (BCS), New York City, USA

**Overview:** Bronx Community Solutions (BCS) is a support agency located with Bronx's main criminal court. It provides judges with increased sentencing options for non-violent offences such as drug possession, prostitution, and shoplifting.

**Location:** BCS is located in an office in the centralised criminal courthouse in the Bronx.

**Administration:** BCS is run by a partnership between the Center for Court Innovation and the Unified New York State Courts Systems. Partners include the Bronx District Attorney's Office, the Criminal Justice Coordinator's Office of the City of New York, the local defence bar, and dozens of local service providers and community groups.

**Client group:** BCS works with offenders who would otherwise receive conditional discharges but who have identified needs and also with offenders who would otherwise receive short jail sentences of between 1 and 15 days. Each year, BCS handles more than 11,000 cases.

**Origin:** BCS started in 2005 as one of the first attempts to bring learning from community courts into a centralised courthouse.

**Funding:** BCS operates on an annual budget of £837,000 per annum. The majority of funds come from a split between the New York State Unified Court System and the New York City Criminal Justice Coordinator, and there's a smaller portion that comes from private funds.

**Operation:** All judges in the Bronx are provided with a broad set of sentencing options, including drug treatment, job training, family services, and mental health counselling.

Offenders are assigned to community service work in neighbourhoods throughout the Bronx. Project staff will work with residents and community groups to create community service options that respond to local problems (e.g. trash in a local park or walls marred by graffiti). By quickly assigning offenders to social service and community service sentences, and by rigorously monitoring their compliance, BCS sends the message that community-based sanctions are taken seriously.

BCS invites community groups and local residents to play a number of concrete roles in ongoing operations, including identifying hot spots and eye sores for community service projects, and participating in a neighbourhood advisory board.

**Impact:** BCS has cut the use of incarceration by a third and has doubled the use of community-based sanctions, which include community restitution and links to social services. Each year, supervised work crews contribute thousands of dollars worth of labour to the Bronx. As yet, there has been no recidivism study completed.

when they are being sentenced. Alongside providing defendants, and their defence lawyers, with ways to access new services, court liaison, and diversion services can improve the information provided in pre-sentence assessments, helping sentencers to make more intelligent decisions.

*Recommendation 3: Court innovators should take advantage of the renewed impetus behind liaison and diversion services to improve the information provided to courts on defendants.*

- Liaison and diversion services should work closely with probation court staff to ensure that sentencers are provided information about the services defendants have accessed and information about additional assessments that have been undertaken.

### **Expanding and enhancing sentencer supervision**

One particularly rich field for new ideas is the growing body of evidence on sentencer supervision and its use within drug and domestic violence courts. As we have suggested, at present, the use of sentencer supervision within drug courts is limited, and unresponsive to the emerging US evidence base. Similarly, there is now emerging robust evidence that sentencer supervision



in domestic violence cases can be effective in reducing batterer reconviction and helping victims feel safer.

As well as looking to the evidence base, practitioners can also look close to home for ideas. While courts are naturally conservative institutions, engaging with people who use courts can give fresh insights into how they are run.

*Recommendation 4: The Government should remove the statutory bar on courts from using the power to review community order cases in court (s178 of the Criminal Justice Act 2003).*

*Recommendation 5: Court innovators should trial a new generation of accountability courts' which adopt the latest practices in sentencer supervision.*

This might involve:

- Trialling sentencer supervision of domestic violence perpetrators, with the technical assistance of the Centre for Justice Innovation.
- Expanding the scope of sentencer supervision of offenders on community orders and improving the consistency of reviewers.

**nef** and the Centre for Justice Innovation propose to examine the barriers to court specialisation and consistent sentencer supervision in practice, and how they can be overcome. We will present our findings in a report aimed at practitioners and policymakers.

### ***Building local partnerships***

As our examples show, many innovations can be introduced to magistrates' courts in England and Wales within existing resource constraints. However, some projects will require staffing, expertise, or other resources which are simply not available to courts. We suggest however, that in cases like this, courts can consider the relevance of their projects to other local stakeholders and build partnerships accordingly. For example, projects that support vulnerable offenders may produce outcomes relevant to health and well-being boards or adult social care commissioners, while work oriented towards prolific offenders may have particular relevance to police and crime commissioners, or probation providers operating under 'payment by results' contracts.

### **Structural changes to promote innovation**

In order to facilitate innovative court practice, the Government should consider how any new design of both justice administration and court administration can help local courts develop capacity to implement promising innovations.

#### ***Building the capacity of local courts***

Any change to the governance of courts should put localism at its centre. Devolving greater powers to courts supports the development of innovation in three ways.

First, it enables innovators to tailor their approach to their particular local context. Our courts serve areas which vary widely in terms of their geography, their crime patterns, and their social make up. What makes sense in a court in, say, Central London, will not necessarily be appropriate for a court covering a wide rural area.

Second, locally driven projects can more easily co-ordinate with the relevant local stakeholders. Many services relevant to crime reduction such as youth offending services, community safety partnerships, social workers, small voluntary sector agencies, and further education colleges are run at a local

.....  
'implementing principles  
of procedural justice  
is not cost-free, but  
neither is it necessarily  
resource-intensive.'  
.....

level. In order to work effectively to reduce crime, courts will need to work in partnerships with these local actors.

Third, local court innovation can more easily benefit from the expertise and enthusiasm of judges and magistrates. Sentencers, as they do in the USA, should have the freedom to act as champions for innovation, bringing together different stakeholders to set the ball rolling on reform. Magistrates in particular can use their authority as community representatives to open up opportunities for the community to feed into conversations about local criminal justice needs. Although some aspects of the better courts agenda, such as sentencer supervision, would make greater demands on them, many sentencers we have talked to would nonetheless welcome the greater scope and flexibility which is implied by the better courts agenda. This judicial leadership role can be powerful: research from the USA has demonstrated how powerful the leadership of senior judges can be in driving better court innovation.

*Recommendation 6: The Ministry of Justice should consider options for reform to the court administration system that emphasise local discretion and judicial empowerment.*

- The establishment of local magistrate court boards, with responsibility for managing their own budgets, making decisions about resource allocation, and hiring staff in regions aligning to police and crime commissioner boundaries. The boards would be sentence-led, with representatives from court staff, prosecutors, defence lawyers, local stakeholders such as the Police and Crime Commissioner, local authorities, health providers, probation providers, victims' representative groups, and others as determined by the board. Each court would have freedom to innovate, as long as changes did not compromise judicial independence.
- Transferring the administration of courts to local authorities: Local authorities that have a magistrates' court in them could manage the administration of the court, as they do coroners' courts. Strategic local decisions on administrative matters would be made by the local councillors sitting in committee. Budgets would be delegated from Whitehall to the local authority. Court administrative staff would work for the local authority, while the judiciary would continue to be appointed under the existing system.

### ***Extending the influence of the court***

If courts are to play this more autonomous role, they need to have influence in the design and implementation of the sentences that they impose. They should, therefore, be more closely involved in the proposed reforms to the commissioning of offender management. Courts should have a clear role in influencing the way services are contracted in their area and must also have a means by which they can ensure contracts are varied in the contract period, especially if they are dissatisfied with the service being proposed.

*Recommendation 7: The Government should give court administrators and sentencer representatives a role in approving and monitoring prison and probation contracts.*

Similar to the recent changes the Government has made to recognise the role of the police and crime commissioners, we suggest providers should work with courts in an analogous way, working with them collaboratively, engaging them in local forums such as local criminal justice boards, and ensuring that the courts and the providers have strong operational relationships. The new contract managers should actively engage with court administrators and sentencers when reviewing aspects of new providers' delivery, provide them with relevant performance information, and work to improve the integration of courts within local partnerships.

## Case study 10: Intensive Community Order sentencer reviews in Wales

**Overview:** Welsh Probation Trust provides local courts in South Wales and Dyfed Powys the option of regular court reviews for offenders on an Intensive Community Order (ICO). This means an offender on the ICO can be required by the court to reappear at regular intervals while being supervised. An ICO is a rigorous sentence including a combination of community payback, activity, and supervision requirements. The ICO aims to reduce re-offending.

**Location:** ICO reviews take place in South Wales and Dyfed Powys courts.

**Administration:** The Welsh Probation Trust collates information from various agencies and case management systems to write reports for the court reviews which are carried out by the magistrates and judges.

**Client group:** Offenders on an ICO.

**Origin:** ICO reviews in South Wales and Dyfed Powys courts commenced in 2008.

**Funding:** The reviews did not require additional funding. They were made possible by a realignment of existing probation and court staff time resources.

**Operation:** Court staff and probation staff agree on the cases to be reviewed and the frequency of the reviews. The reviews are based on reports by Welsh Probation Trust which are compiled using information on compliance and offender progress from a multi-agency partnership including the police.

The court reviews are brief and sentencers look at an offender's progress on the order, considering the various issues and problems offenders face while holding them to account for their actions. Reviews can be flexible; therefore where good progress is made, offenders can be reviewed less regularly and even have their sentences terminated early if they are fully compliant.

**Impact:** The project has been operating court reviews for four years, and while no quantitative evidence of impact is available, the perception of local court players is that compliance has improved. An outcome evaluation of ICO schemes suggests they have reduced recidivism and were accurately targeting offenders. No formal outcome study has been carried out on whether ICOs with reviews were more or less effective than ICOs without reviews; however there is qualitative evidence that court reviews do make a difference. Court reviews were viewed as a positive experience for offenders to receive compliments rather than criticism and also for sentencers to witness progress and problems.<sup>59</sup>

Court administrators and sentencers should be able to commission rehabilitation providers to deliver additional services in partnership with courts and in line with their own priorities.

### Conclusions

In this chapter, we have laid out some recommendations to help courts and court innovators overcome the challenges which can stand in the way of court innovation. There is no doubt in our minds that our courts are already the site of much under-recognised innovation. Our research has identified many examples of practitioners in England and Wales finding ways around the obstacles to reform in order to improve the efficiency and effectiveness of their courts.

We believe that there are both specific innovations that should be trialled, and ways that courts can better involve users and communities in co-producing tangible change. Finally, we believe there is a real opportunity for the Government to take the lead in ensuring that our courts have the autonomy and discretion they need from central government to unlock pent-up enthusiasm for better court innovation.

.....  
If courts are to play this more autonomous role, they need to have influence in the design and implementation of the sentences that they impose.  
.....

## Case study 11: Sefton problem-solving court initiative

---

**Overview:** Sefton Magistrates' Court employs an innovative community sentence scheme that seeks to provide problem-solving solutions to offenders through a process of regular reviews with magistrates. Problem-solving involves offering housing, finance and other support in order to assist offenders in completing their community orders and reduce re-offending.

**Location:** Sefton's problem-solving initiative operates at Sefton Magistrates' Court.

**Administration:** Sefton's problem-solving initiative is administered by Sefton Magistrates' Court under the HMCTS, and the Merseyside Probation Trust.

**Client group:** The service is targeted at medium-to-high-risk offenders who have poor coping skills and lifestyles that impede the completion of their community orders. The offenders have two or more problems linked to their offending and plead guilty at the first hearing. This initiative was initially only available to those who were repeat offenders but is now open to all offenders that may be deemed suitable for problem-solving.

**Origin:** Sefton's problem-solving court was set up in early 2009 by Sefton court staff alongside Merseyside Probation Trust (MPT). The first problem-solving case was heard 5 January 2009. It has won the Merseyside Criminal Justice Board Awards 2010 in the Team category for an outstanding contribution to community engagement and the Merseyside Police and O2 Innovations Awards 2010 in the Most Innovative Community Initiative category. The initiative was not part of the initial problem-solving court pilots rolled out by the Government.

**Funding:** The problem-solving court is funded within the existing budget.

**Operation:** The problem-solving initiative hears cases in Sefton Magistrates' Court every Thursday. However cases can be referred to the problem-solving initiative throughout the week and there are a number of referral routes into the problem-solving scheme. Some potential problem-solving cases are identified in the courtroom, and are adjourned to problem-solving court. Trained probation officers also sit in the court and identify relevant cases. Solicitors can also approach probation with cases. Offenders that meet the problem-solving criteria are interviewed by probation officers who identify their needs, highlight relevant agencies that need to be involved, and document them in a report. Every case is checked against a database to see if it's a recurrent case and if any previous assessments have been made.

A number of relevant agencies meet the offender and probation officer at court on Thursday mornings to mutually decide on a programme of interventions for each offender. This forms the sentence plan which is presented to a problem-solving panel of magistrates. Compliance with the plan is mandated by the order and non-engagement can lead to breach proceedings. In addition to the interventions, clients return to the panel every five weeks for a review. Magistrates sit on the panel every five weeks, ensuring that the offender is reviewed by the same magistrates who originally heard the case.

Reviews take place on Thursday afternoons in a court normally used for youth court hearings as the layout is more conducive to a problem-solving hearing. Part of the offender's order is to comply with the probation service's interventions and report for review. Non-compliance is considered a breach of the review and the probation service can use its remit to enforce the breach.

**Impact:** According to Merseyside Probation Trust, during the first six months of the initiative, 24 offenders attended the problem-solving court. At the 12-month stage, the police reported a 66 per cent drop in the arrest rate for that group.

# Afterword

## Next steps for the nef and Centre for Justice Innovation ‘Better Courts’ programme.

Helping our courts fulfil their potential is a major challenge. We don't have all the answers. What we do know is that the answers exist out there in the world of practice and are only going to be uncovered through the slow and iterative process of trying and learning from trying. Over the coming year, nef and the Centre for Justice Innovation 'Better Courts' team will deliver a work programme which strives to make this process easier and more successful. We will seek to provide the inspiration and evidence which will fuel innovation as well as work to understand and find solutions to some of the structural constraints on changing court practices.

The programme will have three strands. First we will be working to strengthen the evidence base around better courts. To this end, we are keen to support practitioners willing to innovate with expert technical assistance. Practitioners can receive support from us on project design, project implementation and-- crucially--- evaluation, enabling them to contribute to a growing body of evidence. We will also explore the evidence around particular innovations such as sentencer supervision to help providers understand what has been shown to work and in what contexts.

Second, we will be seeking to document the range of better courts practice already in existence in England and Wales via a case study series. The case studies will aim to capture practical details about how innovations function in a way which will be valuable to practitioners. The series will include Devon and Cornwall's Community Advice and Support Service, West London Drug Court, and the London Family Drug and Alcohol Court. We will also be offering thematic reviews of practice across the country in particular areas such as SDVCs, and liaison and diversion.

Finally, we will be exploring how the governance of our courts can create a more fertile environment for innovation. We will be seeking to learn from what works in other jurisdictions and consider how this can apply to England and Wales.

nef and the Centre for Justice Innovation do not have access to a special recipe book that can guarantee that every better court project will work. But what we have outlined here is sufficiently evidence-led that we think they have a good chance. In taking forward this argument, and in taking forward our recommendations, we are keen to hear from organisations large and small and individuals located in any part of our justice system and get a range of views on what we are arguing for. Within our limited means, we are keen to support practitioners and commissioners willing to give some of the ideas contained in here a try.

.....  
We will seek to provide  
the inspiration and  
evidence which will  
fuel innovation  
.....

# End Notes

---

1. Ministry of Justice. (2013). Press Release: UK legal services are key to boosting growth. Retrieved from <https://www.gov.uk/government/news/uk-legal-services-are-key-to-boosting-growth>
2. 'A MORI poll found that over three-quarters of the public have confidence that the system respects the rights of accused persons and treats them fairly.' Taken from Hough et al. (2013) Attitudes to Sentencing and Trust in Justice: Exploring Trends from the Crime Survey for England and Wales. London: Ministry of Justice. Retrieved from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/203008/Attitudes\\_to\\_Sentencing\\_and\\_Trust\\_in\\_Justice\\_web\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/203008/Attitudes_to_Sentencing_and_Trust_in_Justice_web_.pdf)
3. Ministry of Justice. (2007). Local Variation in Sentencing in England and Wales. London: Ministry of Justice. While there is some variation in sentencing across the country in general, offenders are treated fairly consistently in terms of the sentences they receive. There is limited discretion given to judges about what sorts of sentences they can pass for types of offences and guidance to help them make consistent decisions based on the various factors surrounding the offence itself.
4. Jackson, J., Hough, M., Bradford, B., Pooler, T., Hohl, K. & Kuha, J. (2011). Trust in Justice: topline results from round 5 of the European Social Survey. European Social Survey, Figure 5, p.9. Retrieved from <http://www.icpr.org.uk/publications-team/courts,-sentencing-and-attitudes-to-justice/trust-in-justice-topline-results-from-round-5-of-the-european-social-survey.aspx>
5. There has been a drop of 17 per cent in caseload since 2008. The reasons for the decline in caseload are complex – in part, it is a direct result of declining recorded crime levels as well as an increase in the use of 'out of court' disposals, a trend that sharply increased between 2003 to 2007 while leveling off over the last few years.

For caseload trends in criminal courts, see Ministry of Justice. (2013). Court statistics quarterly. Retrieved from <https://www.gov.uk/government/publications/court-statistics-quarterly--2>

For an analysis of the use of out of court disposals: Office for Criminal Justice Reform. (2010). Initial findings from a review of the use of out-of-court disposals. Retrieved from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/217353/out-of-court-disposals-june2011.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217353/out-of-court-disposals-june2011.pdf)

Sosa, K. (2012). Proceed with Caution. London: Policy Exchange. Retrieved from <http://www.policyexchange.org.uk/images/publications/proceed%20with%20caution.pdf>

6. The 2012/2013 court service business plan required the courts to save £132 million from an annual budget of £1,083 million. Ministry of Justice. (2012). HMCTS Business Plan. Retrieved from <http://www.justice.gov.uk/downloads/publications/corporate-reports/hmcts/2012/hmcts-business-plan12-13.pdf>
7. For processing trends in criminal courts, see Ministry of Justice. (2013). Court statistics quarterly. Retrieved from <https://www.gov.uk/government/publications/court-statistics-quarterly--2>
8. Ministry of Justice. (2013). Court statistics quarterly. Retrieved from <https://www.gov.uk/government/publications/court-statistics-quarterly--2>
9. The percentage of ineffective trials at magistrates' courts (trials that do not commence as scheduled and require re-listing) has remained at around 18 per cent for 5 years. In the Crown Court, it has increased slightly over the past 5 years from 12 per cent to 14 per cent. The percentage of cracked trials at magistrates' courts (trials where an acceptable plea is offered immediately before or at trial by the defendant or the prosecution offers no evidence) has remained at around 39 per cent for 5 years. In the Crown Court, it has decreased slightly over the past 5 years from 41 per cent to 37 per cent. Ministry of Justice. (2013). Court statistics quarterly. Retrieved from <https://www.gov.uk/government/publications/court-statistics-quarterly--2>
10. Courts are responsible for passing sentences that punish offenders, reduce crime, reform and rehabilitate offenders, protect the public, and deliver reparation by offenders to persons affected by their offences ('the five purposes of sentencing', as set out in Section 142, Criminal Justice Act 2003). The courts have four basic options when imposing a sentence – prison, community sentences, fines, and a discharge. In 2012, around 8 per cent of offenders were sentenced to immediate custody, 16–17 per cent was placed on a suspended sentence or a community sentence, 65–66 per cent received a fine and a further 9–10 per cent received absolute discharges, conditional discharges, or other low-level disposals (discharges).
11. Of the 1,318,000 offenders sentenced at court in 2011, we estimate that between 31 per cent and 32.5 per cent of them will have re-offended within a year. Looking at the trends in re-offending over time, the Ministry of Justice, controlling for the characteristics of the



offenders in the cohorts, estimates that overall re-offending (those both sentenced at court and those cautioned) has decreased by 3.1 percentage points in 2000.

12. This phrase was used by Justice Secretary Grayling in statements made in January and May 2013.

See: <http://www.justice.gov.uk/news/press-releases/moj/transforming-rehabilitation-less-crime-fewer-victims-safer-communities> and <https://www.gov.uk/government/news/12-months-supervision-for-all-prisoners-on-release>

13. There have been successive government reviews identifying inefficient case preparation and effectiveness as key issues for court reform. The 2001 Auld Review said: 'There is a culture of last-minute decisions, which must be attacked if there is to be any significant improvement. Too often cases are warehoused between hearings, so that little is done until the next hearing is imminent.' Home Office. (2001). The Auld Review. Retrieved from <http://webarchive.nationalarchives.gov.uk/+http://www.criminal-courts-review.org.uk/ccr-10.htm>

14. This criticism was again repeated in:

Department of Constitutional Affairs. (2007). Delivering Simple, Speedy and Summary Justice. Retrieved from [http://webarchive.nationalarchives.gov.uk/+http://www.dca.gov.uk/publications/reports\\_reviews/delivery-simple-speedy.pdf](http://webarchive.nationalarchives.gov.uk/+http://www.dca.gov.uk/publications/reports_reviews/delivery-simple-speedy.pdf)

Ministry of Justice. (2009). Engaging Communities in the Criminal Justice System. Retrieved from <http://www.official-documents.gov.uk/document/cm75/7583/7583.pdf>

Ministry of Justice. (2012). Swift and Sure Justice.

Retrieved from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/217328/swift-and-sure-justice.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217328/swift-and-sure-justice.pdf)

Ministry of Justice. (2013). Transforming the CJS. Retrieved from <https://www.gov.uk/government/publications/transforming-the-criminal-justice-system>

15. Ministry of Justice. (2013). Transforming Legal Aid. Retrieved from <https://consult.justice.gov.uk/digital-communications/transforming-legal-aid>

16. Ministry of Justice. (2012). Swift and Sure Justice. Retrieved from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/217328/swift-and-sure-justice.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217328/swift-and-sure-justice.pdf)

17. Ministry of Justice. (2013). Transforming the CJS. Retrieved from <https://www.gov.uk/government/publications/transforming-the-criminal-justice-system>

18. To further reduce re-offending, the Government is embarking on new reforms to radically improve performance. Ministry of Justice. (2013). Transforming Rehabilitation. Retrieved from <https://consult.justice.gov.uk/digital-communications/transforming-rehabilitation>

19. For US-based evidence on procedural justice:

Tonry, M. (Ed.). (2003). Crime and justice – A review of research. Vol. 30; pp. 431-505. Chicago, IL: University of Chicago Press.

Tyler, T. R. & Huo, Y. J. (2002). Trust in the law: Encouraging public cooperation with the police and courts. New York, NY: Russell Sage Foundation.

Tyler, T. R. (2003). Procedural justice, legitimacy, and the effective rule of law. New York, NY: Russell Sage Foundation.

Tyler, T. R. (2007). Legitimacy and Criminal Justice. New York, NY: Russell Sage Foundation.

For UK based evidence on procedural justice:

European Social Survey. (2012). Policing by Consent: Understanding the Dynamics of Police Power and Legitimacy. ESS Country Specific Topline Results Series Issue 1.

Hough, M., Jackson, J. & Bradford, B. (2013). 'The Governance of Criminal Justice, Legitimacy and Trust', in The Routledge Handbook of European Criminology. London: Routledge.

20. Woolf, R. (2007). Principles of Problem-Solving Justice. Center for Court Innovation. Retrieved from <http://www.courtinnovation.org/sites/default/files/Principles.pdf>

21. Fox, B. & Fox, A. (2009). Passing Fad or Lasting Change? London: Policy Exchange. Retrieved from <http://www.policyexchange.org.uk/images/publications/lasting%20change%20or%20passing%20fad%20-%20aug%2009.pdf>

22. Center for Court Innovation. (2009). Documenting Results: Research on Problem-Solving Justice. Retrieved from <http://www.courtinnovation.org/research/documenting-results-research-problem-solving-justice>

23. Frazer, S. (2006). The Impact of the Community Court Model on Defendant Perceptions of Fairness. Retrieved from [http://www.courtinnovation.org/sites/default/files/Procedural\\_Fairness.pdf](http://www.courtinnovation.org/sites/default/files/Procedural_Fairness.pdf)

24. Commissioner for Victims and Witnesses in England and Wales. (2011). 'Victims' Views of Court and Sentencing: Qualitative research with WAVES victims. London: Ministry of Justice. Retrieved from <http://www.justice.gov.uk/downloads/news/press-releases/victims-com/victims-views-court-sentencing1011.pdf>
25. Hough, M., et al. (2013). Attitudes to Sentencing and Trust in Justice: Exploring Trends from the Crime Survey for England and Wales. Retrieved from <http://www.icpr.org.uk/media/34605/Attitudes%20to%20Sentencing%20and%20Trust%20in%20Justice%20%28web%29.pdf>
26. Desistance is the process of abstaining from crime among those who previously had engaged in sustained pattern of offending.  
  
Farrall, S. & Calverley, A. (2006). Understanding desistance from crime: Theoretical directions in resettlement and rehabilitation. Maidenhead, UK: Open University Press.  
  
Maruna, S. (2010). Understanding Desistance from Crime. London: National Offender Management Service  
  
McNeill, F. & Weaver, B. (2010). Changing Lives? Desistance Research and Offender Management. SCCJR Project Report; No.03/2010. Glasgow: Scottish Centre for Crime & Justice Research
27. Reports available at: <http://www.courtinnovation.org>:  
  
Barnoski, R., & Aos, S. (2003). 'Washington State's Drug Courts for Adult Defendants: Outcome Evaluation and Cost Benefit Analysis. Olympia, WA: Washington State Institute for Public Policy.  
  
Belenko, S. (1998). Research on Drug Courts: A Critical Review: 1998. New York: The National Center on Addiction and Substance Abuse at Columbia University.  
  
Gondolf, E.W. (1998). The impact of mandatory on batterer program compliance. Court Review  
  
Rempel, M. & Fox-Kralstein, D. (2005). The New York State Adult Drug Court Evaluation; Policies, Participants And Impacts. New York: Center for Court Innovation.  
  
Sviridoff, M., Rottman, D., Ostrom, B. & Curtis, R. (2000). Dispensing Justice Locally: The Implementation and Effects of the Midtown Community Court. Amsterdam: Harwood Academic Publishers.  
  
Cissner, A., Labriola, M. & Rempel, M. (2013). Testing the Effects of New York's Domestic Violence Courts. New York: Center for Court Innovation.  
  
Frazer, S. (2006). The Impact of the Community Court Model on Defendant Perceptions of Fairness. New York: Center for Court Innovation.  
  
Rossman, S.B., Roman, J.K., Zweig, J.M., Rempel, M. & Lindquist, C.H. (2011). The Multi-Site Adult Drug Court Evaluation. National Institute of Justice.  
  
Also:  
Neighborhood Justice Center. (2010). Evaluating the Neighbourhood Justice Centre in Yarra 2007–2009. Melbourne, Australia: Department of Justice. Retrieved from [http://www.neighbourhoodjustice.vic.gov.au/resources/64c5a8c8-ca59-4ac6-8a35-49e6161a4c7d/njc\\_evaluation\\_main\\_document.pdf](http://www.neighbourhoodjustice.vic.gov.au/resources/64c5a8c8-ca59-4ac6-8a35-49e6161a4c7d/njc_evaluation_main_document.pdf)
28. Norway and Poland have established processes for offenders to 'queue' for prison. Walmsley, R. (no date).  
  
IPPF Colloquium Stavern, Norway Prison policy and prisoners' rights. Retrieved from [http://www.internationalpenalandpenitentiaryfoundation.org/Site/documents/Stavern/31\\_Stavern\\_Outline%20summaries.pdf](http://www.internationalpenalandpenitentiaryfoundation.org/Site/documents/Stavern/31_Stavern_Outline%20summaries.pdf)
29. Reports available at: <http://www.courtinnovation.org>:  
  
Cissner, A., Labriola, M. & Rempel, M. (2013). Testing the Effects of New York's Domestic Violence Courts. New York: Center for Court Innovation.  
  
Frazer, S. (2006). The Impact of the Community Court Model on Defendant Perceptions of Fairness. Retrieved from [http://www.courtinnovation.org/sites/default/files/Procedural\\_Fairness.pdf](http://www.courtinnovation.org/sites/default/files/Procedural_Fairness.pdf)  
  
Rossman, S.B., Roman, J.K., Zweig, J.M., Rempel, M. & Lindquist, C.H. (2011). The Multi-Site Adult Drug Court Evaluation. National Institute of Justice.  
  
Also:  
Neighborhood Justice Center. (2010). Evaluating the Neighbourhood Justice Centre in Yarra 2007–2009. Melbourne, Australia: Department of Justice. Retrieved from [http://www.neighbourhoodjustice.vic.gov.au/resources/64c5a8c8-ca59-4ac6-8a35-49e6161a4c7d/njc\\_evaluation\\_main\\_document.pdf](http://www.neighbourhoodjustice.vic.gov.au/resources/64c5a8c8-ca59-4ac6-8a35-49e6161a4c7d/njc_evaluation_main_document.pdf)
30. Professor Mark Kleiman of Public Policy in the UCLA School of Public Affairs describes it in this way, '... make the rules less numerous, the monitoring tighter, and the sanctions swift, certain, and reasonably mild, and... clearly tell each probationer and parolee exactly

- what the rules are and what exactly will happen, every time and right away, when a rule is broken. Mildness – or proportionality, if you like – is essential to making the threat credible...' Kleiman, M.A.R. (2013). Smart on Crime. Retrieved from <http://www.democracyjournal.org/28/smart-on-crime.php?page=all>
31. Nagin, D. & Pogarsky, G. (2001). Integrating Celerity, Impulsivity, and Extralegal Sanction Threats into a Model of General Deterrence: Theory and Evidence. *Criminology* 39(4).
  32. Phillips, N. (2006). Alternatives to Custody: The case for community sentencing. Retrieved from <http://www.judiciary.gov.uk/media/speeches/2006/speech-lcj-10052006>
  33. For notes on restorative justice:
 

Ministry of Justice. (2012). Restorative justice action plan for the criminal justice system. Retrieved from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/162265/restorative-justice-action-plan.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/162265/restorative-justice-action-plan.pdf)

Mclvor, G. (2004). 'Reparative and Restorative Approaches', in A.E. Bottoms, S. Rex and G. Robinson (Eds.) *Alternatives to Prison: Options for an Insecure Society*. Cullompton.

Shapland, J. et al. (2008). *Does Restorative Justice Affect Reconviction? The Fourth Report from the Evaluation of Three Schemes*. London: Ministry of Justice.
  34. 'In 2009, 39 per cent of people remanded to prison did not subsequently receive a prison sentence. High numbers are sent to prison, charged with offences which would not merit a custodial sentence.' Prison Reform Trust. (2011). *Innocent until proven guilty: Tackling the overuse of custodial remand*. Retrieved from <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Remand%20Briefing%20FINAL.PDF>
  35. A number of organisations around the world promote the use of alternatives to remand internationally. These include the Open Society Foundation, The Organisation for Security and Co-operation in Europe, and Penal Reform International.
  36. Magistrates Court Service Victoria. (2010). *Court Integrated Service Programme- Tackling the Causes of Crime: Executive Summary Evaluation Report*. Retrieved from <http://www.magistratescourt.vic.gov.au/publication/court-integrated-service-programe-tackling-causes-crime>
  37. Probation Tables. Source: Ministry of Justice. (2013). *Court statistics quarterly*. Retrieved from <https://www.gov.uk/government/publications/court-statistics-quarterly--2>
  38. Department of Justice. (no date). *Operation Ceasefire and the Safe Community Partnership*. Retrieved from <http://www.justice.gov/usao/can/programs/ceasefire.html>
  - Knight, G. (2009). 'How to really hug a hoodie', *Prospect Magazine*. Retrieved from <http://www.prospectmagazine.co.uk/magazine/how-to-really-hug-a-hoodie/#.UacO6NLVCxA>
  39. Reports available at: <http://www.courtinnovation.org>

Caverley, A. & Farrall, S. (2011). 'The Sensual Dynamics of Processes of Personal Reform: Desistance from Crime and the Role of Emotions' in S. Karstedt, I. Loader & H. Strang (eds), *Emotions, Crime and Justice*. Oxford: Hart Publishing.

Rossman, S.B., Roman, J.K., Zweig, J.M., Rempel, M. & Lindquist, C.H. (2011). *The Multi-Site Adult Drug Court Evaluation*. National Institute of Justice.

Cissner, A., Labriola, M. & Rempel, M. (2013). *Testing the Effects of New York's Domestic Violence Courts*. New York: Center for Court Innovation.
  40. Rempel, M., & Lindquist, C.H. (2011). *The Multi-Site Adult Drug Court Evaluation*. National Institute of Justice.
  41. Kahn, S. & Hanbury, S. (2012). Initial analysis of the impact of the Intensive Alternatives to Custody pilots on re-offending rates. Retrieved from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/217391/iac-impact-evaluation-research-summary.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217391/iac-impact-evaluation-research-summary.pdf)
  42. Kleiman, M.A.R. (2013). Smart on Crime. Retrieved from <http://www.democracyjournal.org/28/smart-on-crime.php?page=all>
  43. Gondolf, E.W. (1998). The impact of mandatory on batterer program compliance. *Court Review*.
  44. Cissner, A., Labriola, M. & Rempel, M. (2013). *Testing the Effects of New York's Domestic Violence Courts*. New York: Center for Court Innovation.
  45. Atkinson, M. et al. (2007). 'Multi-Agency Working and its implications for practice: A review of the literature'. Reading: CfBT Education Trust.
  46. Bowen, P. (2012). *Going it Alone*. New York: Centre for Justice Innovation.
  47. Gibbs, P. (2013). *Managing Magistrates' courts —has central control reduced local accountability? Transform Justice*. Retrieved from [http://transformjustice.org.uk/main/wp-content/uploads/2013/05/Managing\\_magistrates\\_courts.pdf](http://transformjustice.org.uk/main/wp-content/uploads/2013/05/Managing_magistrates_courts.pdf)

48. HMCTS. (2011). Autumn 2011 Survey Report. London: HMCTS. Retrieved from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/172538/hmcts-people-survey-highlight-report-2011.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/172538/hmcts-people-survey-highlight-report-2011.pdf)
49. The Service was originally known as HMCS – (Her Majesty's Courts Service) until it took over the running of tribunals in 2011.
50. Gibbs, P. (2013). Managing magistrates' courts –has central control reduced local accountability? Transform Justice. Retrieved from [http://transformjustice.org.uk/main/wp-content/uploads/2013/05/Managing\\_magistrates\\_courts.pdf](http://transformjustice.org.uk/main/wp-content/uploads/2013/05/Managing_magistrates_courts.pdf)
51. Nolan, J. (2010). Legal Accents, Legal Borrowing: The International Problem-Solving Court Movement. Princeton, USA.
52. Phillips, N. (2006). Alternatives to Custody: The case for community sentencing. Retrieved from <http://www.judiciary.gov.uk/media/speeches/2006/speech-lcj-10052006>
53. See news reports on magistrates being prevented from applying to become police and crime Commissioners. Retrieved from <http://www.theguardian.com/uk/2012/aug/09/Magistrates-banned-police-commissioner-elections>
54. For summaries of effective practice at reducing re-offending:
- Justice Analytical Services. (2011). What Works to Reduce Reoffending: A Summary of the Evidence. Scottish Government. Retrieved from <http://www.scotland.gov.uk/Resource/0038/00385880.pdf>
- Lösel, F. (2007). What Works in Reducing Reoffending: A Global Perspective. Retrieved from [http://www.cepprobation.org/uploaded\\_files/Pres%20STARR%20Cam%2010%20Loesel.pdf](http://www.cepprobation.org/uploaded_files/Pres%20STARR%20Cam%2010%20Loesel.pdf)
55. Hough, M., et al. (2013). Attitudes to Sentencing and Trust in Justice: Exploring Trends from the Crime Survey for England and Wales. Retrieved from <http://www.icpr.org.uk/media/34605/Attitudes%20to%20Sentencing%20and%20Trust%20in%20Justice%20%28web%29.pdf>
56. Courts and Tribunals Unit. (2010). 'Court Integrated Service Programme - Tackling the Causes of Crime' Department of Justice. Retrieved from <http://www.magistratescourt.vic.gov.au/publication/court-integrated-service-programme-tackling-causes-crime>
57. CPS. (2008). Specialist Domestic Violence Courts review 2007/08 Justice with safety. London: Crown Prosecution Service.
58. CPS. (2012). Violence against Women and Girls Crime Report 2011-2012. London: Crown Prosecution Service
59. Based on interviews conducted with magistrates and other staff by Centre for Court Innovation.

# Case Studies

---

## **Case study 1:**

Swindon Neighbourhood Justice Panel..... 7

## **Case study 2:**

Court Integrated Service Program (CISP)..... 8

## **Case study 3:**

Specialist Domestic Violence Courts in the UK..... 9

## **Case study 4:**

West London Drug Court ..... 12

## **Case study 5:**

Community Advice and Support Service (CASS) ..... 14

## **Case study 6:**

Berkshire DIVERT ..... 17

## **Case study 7:**

Post-sentence assessment in West Yorkshire ..... 20

## **Case study 8:**

Hawaii's Opportunity Probation with Enforcement (HOPE),  
Hawaii, USA..... 23

## **Case study 9:**

Bronx Community Solutions (BCS), New York City, USA ..... 26

## **Case study 10:**

Intensive Community Order sentencer reviews in Wales ..... 29

## **Case study 11:**

Sefton problem-solving court initiative..... 30

# Better courts: Cutting crime through court innovation.

.....

This paper is the first in a series of publications, events, and projects in which the Centre for Justice Innovation and **nef** seek to articulate and promote a new vision for our courts.



CENTRE  
FOR  
JUSTICE  
INNOVATION

This work has been made possible by the generous support of the Hadley Trust, The Monument Trust, The Esmée Fairburn Foundation and the Barrow Cadbury Trust.

**Written by:** Phil Bowen and Stephen Whitehead

**Thanks to:** Arsheen Qasim, Anton Shelupanov, Ben Estep, Helen Kersley, Greg Berman, Aubrey Fox, Daniel Breger, Vicki Helyar-Cardwell, Penelope Gibbs, John Samuels and Peter Chapman

**Edited by:** Mary Murphy

**Design by:** [www.danfarleydesign.co.uk](http://www.danfarleydesign.co.uk)

THE HADLEY TRUST



THE MONUMENT TRUST

## **new economics foundation**

3 Jonathan Street  
London SE11 5NH  
United Kingdom

Telephone: +44 (0)20 7820 6300

Facsimile: +44 (0)20 7820 6301

E-mail: [info@neweconomics.org](mailto:info@neweconomics.org)

Website: [www.neweconomics.org](http://www.neweconomics.org)

Registered charity number 1055254

© September 2013 nef (the new economics foundation)

ISBN 978-1-908506-45-0



This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Unported License.  
To view a copy of this license, visit <http://creativecommons.org/licenses/by-nc-nd/3.0/> and [www.neweconomics.org/publications](http://www.neweconomics.org/publications)