



Problem-solving courts:
A delivery plan

Executive Summary

In their joint vision statement published on 15th September 2016, the Lord Chancellor, the Lord Chief Justice, and the Senior President of Tribunals said that they want to “explore the use of innovative ‘problem-solving’ criminal courts, which seek to change offender’s behaviour by tackling underlying problems, such as drug and alcohol addiction or mental illness.”

What are problem-solving courts?

Problem-solving courts can and do operate across adult criminal, youth and family jurisdictions. And the evidence shows that, when problem-solving courts are used correctly, they can reduce crime and social harm, keep everyone in our communities safer and improve the legitimacy of the justice system itself. Problem-solving courts do this by putting judges at the centre of rehabilitation. Housed in existing court buildings, they yoke together the authority of the court and the services which can address the causes of crime and social harm. Each court specialises in a distinct issue, whether it’s a problem such as drug addiction, or a type of crime like domestic abuse. They focus on working with people in the community, providing them with support services such as treatment and rehabilitation programmes, and bringing them to court regularly to be held accountable for their progress.

There are already a handful of problem-solving courts in England and Wales. These range from the Choices and Consequences programme in Hertfordshire, a Crown Court project which works with prolific, non-violent offenders, to pilot problem-solving projects in the youth courts through to the thirteen Family Drug and Alcohol courts (FDAC) that tackle parental substance misuse in the family justice system.

Delivering problem-solving courts

This paper sets out an ambitious plan for the wider adoption of the problem-solving approach over the course of the current Parliament. Central to the plan is our insight from existing projects that they are built on leadership from local judges and the commitment of local services to a new way of working. This local commitment highlights that the resources to deliver sustainable approaches are already present and provide a platform on which new initiatives can build.

Therefore, our plan calls for the support and replication of existing approaches while also initiating a new suite of problem-solving court projects. In order to ensure consistency and evidence-based practice, new pilot sites will need to be carefully selected by senior judiciary and supported by a national practice development team. But the key to extending the problem-solving approach across criminal and family courts is to ensure that problem-solving courts are delivered cost-effectively and sustainably by unlocking local initiative and enthusiasm, from both the judiciary and service providers.

We believe that by combining this kind of local commitment with the strategic oversight of the senior judiciary, and providing the courts with practical support and additional powers, we can develop a set of pilots which are evidence-based, sustainable and ripe for replication if they prove successful. This paper sets out a practical and affordable programme for developing 10 new pilot projects which can begin to hear cases in 2017, as well as support for existing problem-solving courts. The goal is to provide clear evidence of their impact by 2020. In doing so, we hope that problem-solving courts can make our courts better and keep our communities safer.

An ambition for change

In their joint vision statement published on 15th September 2016,¹ the Lord Chancellor, the Right Honourable Elizabeth Truss MP, the Lord Chief Justice, The Right Honourable The Lord Thomas of Cwmgiedd and the Senior President of Tribunals, Sir Ernest Ryder, said that they want to “explore the use of innovative ‘problem-solving’ criminal courts, which seek to change offender’s behaviour by tackling underlying problems, such as drug and alcohol addiction or mental illness.” In the same statement, they also envisaged an expanded role for problem-solving in the family justice system. This endorsement of problem-solving courts echoes previous calls for the introduction of problem-solving courts, notably the Carlile Parliamentarians Inquiry into youth courts,² Policy Exchange’s paper, Future Courts,³ and others.

Problem-solving courts put judges at the centre of rehabilitation and behavioural change. Problem-solving courts yoke together the authority of the court and the services necessary to reduce reoffending and improve outcomes. Generally operating out of existing court buildings, they embrace a wide family of distinct models across criminal and family courts, but all seek to improve public safety, realise the human potential of all our citizens and reinforce the legitimacy of the justice system. The key features of problem-solving courts⁴ are:

- Specialisation of the court model around a specific group of defendants or type of crime;
- Collaborative multi-agency programmes of treatment and supervision;
- Holding offenders to account through judicial monitoring;
- An emphasis on ensuring offenders feel fairly treated;
- A focus on measuring and improving outcomes.

A new generation of problem-solving courts can learn from many existing examples. Problem-solving informs current practice like the drug rehabilitation requirement, which gives criminal courts the power to order offenders to undergo drug treatment. And there are a number of fully-fledged problem-solving courts already up and running, such as the Choices and Consequences programme at St Alban’s Crown Court, which operates as drug court for the most prolific offenders, and the Sefton Complex Cases Court which has a dedicated court room for the most vulnerable offenders which receives extra support from liaison and diversion services. In the family justice system, there are thirteen Family Drug and Alcohol Court (FDAC) teams, servicing over 16 courts. There are also other projects in development including five magistrates’ courts that are exploring new approaches to young adult offenders and at least four youth courts adopting problem-solving approaches. There is also much to learn from previous trials of problem-solving models, notably at the North Liverpool Community Justice Centre and the Home Office’s dedicated drug court pilot. Learning and sharing practice from existing projects should, therefore, be as much part of the future approach to problem-solving as trialling brand new ideas.

The need for a deliverable plan

It is our view that the time has come to set out an ambitious plan for the delivery of problem-solving courts, over the course of the current Parliament. In order to facilitate this, we have drawn on our experience developing, supporting and evaluating innovation in the criminal courts to lay out what we see as a practical model for such a plan. In developing the plan, we have tried to learn from prior explorations of problem-solving in this country.

In her first appearance before the Justice Select Committee on 7th September 2016, the Lord Chancellor rightly placed heavy emphasis on ensuring that proposed justice reforms were deliverable.⁵ The Centre has long argued for, and worked with local practitioners, to achieve that aim. In this paper, we outline what we believe is a deliverable plan for implementing, testing and rolling out the principles of problem-solving in our courts, including a timeline for delivery and an estimate of direct programme costs. We have focused on the criminal courts, both adult and youth, recognising that parallel efforts are already underway in the family division.

We present our delivery plan to provoke both debate and discussion, but also to map out a road to a new suite of problem-solving courts. In doing so, we hope to provide policymakers and practitioners a clear sense of what they can do to deliver reforms that will increase our courts' contribution to the reduction of crime and social harm.

A vision for problem-solving courts

We believe that Government and the senior judiciary should set out clearly their ambition for problem-solving courts in the criminal and family jurisdictions, as part of the effort to transform our justice system over the course of the current Parliament. Problem-solving court approaches are crucial to realising the wider vision to build a justice system that is just, proportionate, innovative and accessible.⁶ The ambition should be to set up and support a number of good quality, sustainable problem-solving pilots in the criminal courts system in order to test the value of the approach and prepare the ground for a wider roll out. These efforts should be made alongside existing ones to support and replicate innovative problem-solving approaches like the Family Drug and Alcohol Courts (FDAC) in the family courts.

In order to realise this ambition, the approach to delivery should be built around five interlinked principles.

1. Combining judicial leadership with local service innovation

Building sustainable problem-solving courts will demand a combination of judicial leadership and the commitment of local services. The most successful of our existing problem solving courts are ones where the approach has grown out of a pre-existing attempt to improve outcomes. For example, the Sefton Complex Cases Court is closely linked to a liaison and diversion team provided by MerseyCare as part of the NHS England pathfinder sites. It uses this resource to provide extra support for vulnerable defendants. The court is overseen by a single, dedicated judge who has had an important role in shaping the project.

Another example is St Albans Crown Court's Choices and Consequences (C2) programme. C2 works with prolific offenders engaged in non-violent acquisitive crime, usually related to substance misuse. It is a partnership between the court and Hertford Constabulary's Integrated Offender Management (IOM) team. Offenders receive support from an assigned police officer member of the IOM team, and drug treatment from Hertfordshire's commissioned drug treatment service.

These problem-solving courts combine pre-existing service provision with court-based innovation. In Sefton, for example, the court clerk chairs a daily pre-court where prosecutor, probation officer and liaison and diversion workers can share case information. In our work on youth court, we have come across a number of youth courts that have developed varying forms of post-sentence reviews held outside the court itself, holding in-court post-sentence reviews with a range of services for high-end youth cases where these may avert custody.

As these examples demonstrate, it is the coming together of judicial leadership and enthusiasm with local services that holds the key to building good quality, sustainable problem-solving courts and which is the bedrock of our approach to delivery.

2. Evidence-led innovation

While we believe that the key to sustainable initiatives is development from the ground up, we are also clear that we should only trial and support approaches where there is clear evidence that they can be effective. Research on problem-solving courts⁷ suggests that:

- There is strong evidence that adult drug courts reduce substance misuse and re-offending. They are particularly effective with offenders who present a higher risk of re-offending.
- High quality international evidence suggests that mental health courts are likely to reduce reoffending, although they may not directly impact on offenders' mental health.
- The evidence on problem-solving domestic violence courts' impact on victim's safety and satisfaction is good. The evidence on their ability to reduce the frequency and seriousness of perpetrator re-offending is promising. This is encouraging when set against the lack of other effective options for reducing re-offending by perpetrators of domestic violence.
- There is promising evidence to support the application of the key features of problem-solving courts to two specific groups of offenders where the individual offenders have multiple and complex needs: female offenders at risk of custody, and young adults.
- The evidence suggests that key features of problem-solving courts may be especially relevant for young offenders with complex needs at risk of custody in youth court. However, any enhancement of problem-solving features in youth court needs to take into consideration clear evidence that, where possible, youth offenders should be kept away from the formal system through triage and diversion as prosecution as court appearances themselves can be criminogenic.

In addition, we also know a substantial amount on why problem-solving courts work:

- The effectiveness of judicial monitoring (ongoing supervision of an offender by a judge at regular review hearings) rests on certainty and clear communication. These factors are more important than the severity of the sanctions which the court can bring to bear. This may be especially relevant for mental health courts, where a more therapeutic and procedurally fair environment may be more important than a set of drug court-like incentives and sanctions.
- Ensuring that defendants feel fairly treated is may be the most important factor in driving better outcomes. This "procedural fairness" can be as important, if not more important, than both the decisions the court reaches and the interventions a problem-solving court can deliver.

3. Developing consistent approaches that can be replicated

While local enthusiasm is important, we are also mindful of the need to ensure that there is consistency across the approaches that are taken forward. The objective must be to develop projects which are scalable and replicable. That means from the very beginning these projects, should be built around the idea of going to scale. Thinking about scale early on will help projects be clear about what approach they are testing, how they will measure their impact and the feasibility for other areas to adopt those models.

Replication will be facilitated by adherence to a common, documented set of principles. In the family court, the successful trial of FDAC approach in London has been followed by the establishment of a set of standards which has enable other sites to adapt the model to their local context while retaining the core principles. A similar set of standards will be crucial to the expansion of criminal problem-solving beyond the initial pilots.⁸

4. Supporting sites with practice development

In our experience, many existing problem-solving courts stress their need for practice development support. They value support in understanding the evidence on what works, implementing new policies, practices, and technologies and in engaging with stakeholders locally.

Practice development support provides sites with advice on proven approaches that have been tested elsewhere and support in innovating and experimenting with new services. As President of the Family Division, Sir James Munby, recently made clear, this value of this has been demonstrated in the replication of FDAC, where the Department for Education has commissioned a national unit to support new sites. In his words, this practice development function, “plays a vital role as midwife and health visitor to new FDACs as they prepare and then implement their plans.”⁹

In our own work, we also hear time and again the desire for practitioners to understand how others are working on the same problems, and yet it often does not happen, due to managing the day to day operations and lack of knowledge about who is out there. Proper practice development support provides a forum in which practitioners can share effective practice because most problems have been solved by someone somewhere.

5. Integrating problem-solving within changing court technology

The plan for court reform set out in September's vision paper¹⁰ includes an increasing role for technology in how courts operate. It proposes the expansion of the use of virtual hearings and a single online system for managing cases. Problem-solving courts stand to benefit from these arrangements. A number of existing problem-solving court models, for example, use pre-court conferences where professionals from a range of disciplines may contribute data and information into progress reports on clients. The ability to collate this data online into coherent, multi-disciplinary reports has the potential of saving professional time currently taken up in physical meetings. Alternatively, phone and video conferencing could replace the requirement for service providers to travel pre-court meetings. At the same time, a single online system for managing cases across criminal, family and civil jurisdictions offers the opportunity to identify where issues are being dealt with simultaneously in different courts and identify opportunities for co-ordination.

Another area in which technology could play a role is in judicial monitoring. Although regular appearances in front of a judge are a key component of problem-solving courts, experimentation with online review hearings, with professionals participating via telephone or video conferencing, could be explored. Moving review hearings online after a period of compliance could act as an incentive for certain defendants. Caution should be expressed here though: it is currently unclear whether defendants appearing via a video link are as likely to feel fairly treated and to feel the process is a serious one with consequences as defendants appearing in person.

A delivery plan for problem-solving courts

With these five principles at the heart of this new approach to delivery, we turn now to the actions that we believe should be taken (see Appendix B for a suggested timeline).

Identifying courts and areas to trial problem-solving approaches

We believe that the first round of pilots should include existing problem-solving courts as well as new ones, and cut across both youth and adult criminal courts. However, building effective, sustainable problem-solving courts will require judicial leadership and the active, committed support of local services. In other words, the commitment of local actors will be key to their success. In our experience, this is best achieved by having an element of ‘self-nomination’ for pilot sites

Problem-solving requires dedicated judicial time and can also require courts to reconfigure how cases are listed. Ultimately, it is, of course, for the Lord Chief Justice to decide the allocation of work in courts and the deployment of judges. Equally, it is for the executive, both central and local, to provide the services to offenders that underpin problem-solving.

We are aware that there is considerable interest in the potential of problem-solving courts in many areas of the country. For example, a number of Police and Crime Commissioners would be interested in supporting and funding new court based problem-solving initiatives. This could allow areas to develop new problem-solving approaches to issues like domestic abuse. There is also potential for local authorities, Public Health and other statutory bodies to play a role. For example, the Sefton Complex Cases court connects defendants into existing mental health and other services provided by Public Health, with the court providing court space, coordination and a judge all from existing resources. Therefore, the process for identifying courts and areas to trial approaches we lay out is designed to both knit together projects where there is commitment from the judicial and executive branches.

DELIVERY ACTIONS

- The Ministry of Justice and the senior judiciary communicate a clear ambition for the number of criminal court projects they are willing to support over the course of the current Parliament, in both adult and youth court;
- The senior judiciary, through the network of Presiding Judges and Resident Judges, request judges and courts to nominate themselves either as interested in developing new problem-solving courts or as wanting to bring their existing problem-solving courts into the pilot programme. This process should take account of existing initiatives and capacity in courts;
- In tandem, the Ministry of Justice liaise with other Government departments and local bodies, including Police and Crime Commissioners, the National Probation Service and Youth Offending Teams to identify areas where existing services wish to integrate their work with the courts or are doing so already;
- Once areas are identified where both judicial leadership and service commitment is strongest, judges and services could then receive practice development support to develop proposals. We envisage this process would take 4-6 months, as, in some areas, new approaches will need to the time for suitable local arrangements to be explored and assessed;
- Ultimately, the final selection of pilots from the proposals is will be done by the Lord Chief Justice.

Building sustainable projects based on existing local services

Making problem-solving courts sustainable will rest on local services and judges working together. Local areas already have services such as drug treatment, liaison and diversion and integrated offender management which can form the backbone of a problem-solving service offer. The key to the success of problem-solving courts will be joining those services up more effectively with court and judicial resources.

Given the importance of local sustainability, it would be dangerous to make projects dependent on central funds for the delivery of day-to-day services. Previous attempts at problem-solving which relied on central funds for operations found themselves isolated from other local services and unsustainable when government funding was exhausted. However, especially in the early stages, investment from the centre to build the sites' capacity to set up and deliver projects may be necessary. These small investments would not support local operations or additional services but rather provide the resources needed to get projects off the ground. For example, this could fund a project manager to oversee the development of a new project, or for initial training for practitioners.

There may be some new problem-solving projects that would look to expand the range of services available in the area. These issues could be resolved at a local commissioner level but may also find their resolution at national level through agreements between Government departments. But it remains our view that problem-solving courts need to live within their means and that the addition of new services should primarily be resolved locally. We are aware that local commissioners may question whether they are being expected to pick up the tab for a Ministry of Justice project. Providers and commissioners should be made aware that probation, court and judicial resources are also being committed to deliver outcomes which meet the goals of many different agencies, such as reduced drug use in addition to reduced reoffending.

Problem-solving courts may produce a small increase in the immediate caseloads of probation services, but this will likely be balanced out by savings in custody and post-custodial supervision. For example, a Crown Court drug and alcohol court which manages community sentences for offenders otherwise bound for up to two to three years custody would lead to increased number of offenders under the supervision of the National Probation Service (NPS) and / or Community Rehabilitation Company (CRC). However, this would be offset by a reduction in the numbers sentenced to immediate custody. And, where offenders successfully complete their order, they will also avoid post-custodial supervision. However, at the scale of pilots we are proposing, any changes in workload for probation or prisons are unlikely to have measurable cost impacts.

There is the potential that the wider adoption of problem-solving models could increase the volume of offenders being supervised by CRCs to the point where it could trigger additional costs by moving caseloads into a higher payment band. However, it is likely that, given the scale of the approach we outline, the volume of offenders within any one contract area is unlikely to be significantly affected— and it is already evident that the anticipated volumes in the contracts are not being realised.¹¹ It is true, from our work with existing sites, that the split in probation services between the NPS and Community Rehabilitation Companies (CRCs) has created a number of challenges, especially around on-going collaboration in multi-agency partnerships and collaboration between the NPS and CRCs, the latter being an issue recently highlighted by the Public Accounts Committee.¹² However, these challenges have mostly been overcome, based on a recognition that the projects are delivering benefits for offender supervision.

DELIVERY ACTIONS

- The Ministry of Justice to set up a problem-solving court innovation fund from which pilot sites can request support with set up costs. The fund could be set up so only bids for central funds are approved if there are equivalent matched local funds (see initial costings in Appendix B);
- Once projects are established, they serve as test beds to highlight areas of service scarcity and inform commissioning discussions at local and national level.

Providing problem-solving courts with practice development support

We believe that the most valuable form of assistance which new and existing problem-solving courts can receive is practice development: help with tasks like understanding the evidence base project planning, stakeholder engagement and monitoring and evaluation. Developing a team to deliver support, equivalent to FDAC National Unit in the Family system, could be done in a number of ways such as commissioning the service from existing practice development providers.

We believe this support would have two key responsibilities. First, the immediate goal should be to help build sustainable problem-solving projects within the realities of local service provision. Instead of relying on the specification of models by the centre, a successful practice development approach should place a strong emphasis on co-design of approaches with the people and institutions who will deliver them. This is not only essential for ensuring adequate ownership to implement an approach effectively, but is also required so that any approaches implemented are appropriate within the local context. This is in line with approaches to practice development across sectors especially in health.¹³

Second, while we recognise that this is a sensitive subject, practice development support would need to encompass support for judges. There is a perception that there problem solving is the preserve of a finite number of naturally charismatic individual judges. The evidence counters this view. Rather, there are specific, well-understood techniques that judges can deploy to secure the best outcome. For example, simple procedurally fair practices such as eye contact and offering defendants opportunities to be important to effective judicial monitoring.¹⁴ Effective problem solving practice is a skill which judges can learn – both from the evidence base about what works and from each other.

This practice development support for projects and individual judges requires resources. In Appendix B, we set out initial costings, based on a rolling programme of trials over the course of the Parliament.

DELIVERY ACTIONS

- The Ministry of Justice establish a practice development team to provide support to new and existing problem-solving criminal courts, to complement practice development support already provided by the FDAC National Unit in family justice;
- The Government and senior judiciary examine who provides a training offer on judicial monitoring and procedural fairness for the judges involved.

Giving problem-solving courts the powers to review offenders

Giving courts an ongoing role in supervision of a sentence through regular reviews (referred to as “judicial monitoring”)¹⁵ will be crucial to effective pilots. Evidence has clearly demonstrated that the relationship between judge and offender is key to the effectiveness of problem-solving courts.¹⁶

Many of the powers the courts need to institute judicial monitoring can be activated by statutory instrument, while others are already part of the legislative plans. Currently, only a small number of adult criminal courts are able to regularly hold court reviews of community orders under section 178 of the Criminal Justice Act 2003. This power will need to be extended to all pilots sites in the adult criminal courts. For youth court cases, there is provision in the Criminal Justice and Immigration Act 2008 (Schedule 1, paragraph 35) which enables courts to review youth rehabilitation orders, which, in line with the recommendations in the Carlile Inquiry on youth courts, should be brought into force.

In addition, we understand that there are already plans to legislate to give courts the power to use short custodial sanctions for those on community orders as set out in the 2015 Conservative manifesto. This is consistent with the evidence base for some types of problem-solving courts: specifically for drug and alcohol courts that focus on offenders with a high risk of re-offending and who would otherwise be facing significant custodial sentences.

Lastly, the Ministry of Justice and HMCTS should look at options to enable judges in problem-solving courts to hear breach proceedings within their regular reviews. At present, enforcement action might take place in a separate breach hearing. While some existing projects have found a way, prior to court reviews, to notify offenders of the breach proceedings in advance of reviews, a more standard process might need to be found.

DELIVERY ACTIONS

- The Ministry of Justice enact secondary legislation, enabling courts to use section 178 of the Criminal Justice Act 2003 and Schedule 1, paragraph 35 of the Criminal Justice and Immigration Act 2008 so new problem-solving approaches can utilise these new powers where they have been confirmed as pilot areas;
- The Ministry of Justice introduce the power to use short custodial sanctions for those on community orders in the forthcoming Prisons and Courts Bill and deploy the power for those Crown Courts trialling a drug and alcohol court model;
- The Ministry of Justice and HMCTS examine whether and how judges could hear breach proceedings within regular review hearings

Assessing effectiveness robustly and at the right time

In order to establish the value of problem-solving, pilots will need to be subject to rigorous outcome evaluation. However, given the complexities of implementing these new models, pilots will benefit from a development phase which allows them time to get up and running, prior to the commencement of a formal outcomes evaluation.

This development phase will provide an opportunities for sites to explore what works operationally and how services can most effectively collaborate in and around the court. Of course, to ensure consistency, these approaches should be based around the common components of problem-solving and, as courts develop, practice should be shared across projects with similar aims. Practice development support should ensure that new approaches to problem-solving are documented and shared consistently across types of court project and across the country.

Initial success criteria, and the data needed to judge success, should be established in the development phase. However, it takes time for new projects to bed in, and looking for evidence too early may set them up to fail. Therefore, data, and the success criteria, should be reviewed after twelve months and, where needed, revised as more is learnt about outcomes the sites are seeking to achieve. Where more than one area is looking at a similar problem, those areas should be encouraged to share practice and learning to develop common approaches and processes.

Once the development phase in finished, new approaches must be evaluated to see their impact on outcomes. Given models for different types of problem-solving are likely to vary in terms of their aims, their target populations services and their court procedures, it is worth exploring whether different sites are evaluated separately or whether a single evaluation can be commissioned for all sites.

DELIVERY ACTIONS

- Once established, problem-solving court pilot areas should have a 12 to 18 months development phase, as judges, services and court staff test out what makes best sense operationally and develop their working relationships;
- During this phase, the practice development team should regularly convene areas working on similar issues to share practice;
- The Ministry of Justice should commission external evaluation to look at the impact of problem-solving courts on a range of outcomes which will be determined by aims of the individual pilots – though reoffending will obviously be a factor across all sites.

Conclusion

In setting this plan for pilots of problem-solving in the criminal courts, we recognise that we may not have covered the full range of issues that the Ministry of Justice and the senior judiciary have to face in taking them forward. However, having been involved in discussions about trialling problem-solving, both locally in sites and in discussions about it with policymakers, we hope we have set out a reasonable and thought provoking roadmap for their delivery.

It is, of course, for the Lord Chancellor and the Lord Chief Justice to decide if and how they take problem solving forward. We recognise that the choice about whether to go ahead raises issues that are beyond questions of deliverability. But we hope this paper has at least reassured them that, if they want to, it can be done, practically and cost-effectively.

Appendix 1 - The Common Components of Problem-Solving Courts

Problem-solving courts encompass a large range of court models, seeking to address and resolve a variety of issues such as drug-related offending, alcohol misuse and domestic violence amongst others. Each of these specific models, and the courts that operate those models, use some or all of their components, tailored to the needs of their caseloads. It is, therefore, worth stressing that there are few problem-solving courts that have all of these components in place. This reflects not just the adaptation that is needed to ensure problem-solving fits in with local circumstances but also because these core components attempt to encompass the vast range of problem-solving court responses to different and particular problems.

Common components of problem-solving courts

The way that problem-solving courts implement the principles of problem-solving differs significantly from court to court and model to model in but all of them include a number of the following elements:

Specialisation of the court model around a target group.

- **Targeting:** Most problem-solving courts (with the exception of community courts) focus on a specific issue. That issue can be defined as an underlying problem (such as drug addiction), a form of crime (such as domestic abuse) or a type of defendant (such as homeless or ex-armed forces defendants). In order to focus on a specific issue, most problem-solving courts have a set of simple targeting criteria, often brokered with and shared across a multi-agency team (see collaboration below), that allows them to quickly identify relevant cases within the wider court caseload.
- **Specialised assessment:** Problem-solving courts tend to have developed their own assessment capabilities or evolved existing tools to more specifically diagnose the risks, needs and assets of their target groups.
- **Specialised court proceedings:** Problem-solving courts tend to ensure that the cases are heard in specialised settings. Specialised settings can include specially trained court professionals who have an understanding of the needs, risks and assets of the target group and who hear the cases in dedicated sittings. Most problem-solving courts (with the exception of community courts) do this within existing court buildings.

Collaborative intervention and supervision.

- **Evidence-led programming:** Many problem-solving courts utilise a menu of programmes and interventions to tackle the root causes of the problems underpinning offenders, with a focus on addressing criminogenic needs and while recognising the offender's agency in moving towards desistance. A significant deal of attention is devoted to developing/using programming that is evidence-based and to focus on problems that are 'treatable and solvable' within the sentences time frame.
- **Coordinated case management:** Problem-solving courts tend to have co-ordinators that manage the contributions of multiple agencies. They ensure information is available to the court on compliance. In some courts, this is done through dedicated teams and coordination is led through the judge, at pre-hearing collaborative meetings. Co-coordinators can also play an offender management role, monitoring and motivating the offender through their sentence plan.

Accountability through judicial monitoring.

- **Judicial monitoring:** Problem-solving courts utilise the authority of the court to monitor progress and compliance. They bring the offender back to court regularly and in front of the same sentencer. Sentencers use sanctions and rewards to motivate compliance and, if necessary, can breach the offender. Judicial monitoring can take place prior to a plea or finding of guilt (for example, monitoring a domestic violence protection order), and before sentence (pre-sentence models) or after sentence (post-sentence models).
- **Consistency of sentencer:** Problem-solving courts tend to have a 'single judge', where a professional member of the judiciary oversees all hearings from the beginning to the end of each individual case. Problem-solving courts outside of England and Wales use the single judge model. In the UK, this model has been employed in Scottish drug courts, at the Community Justice Centre in North Liverpool and the Family Drug and Alcohol Courts.
- **Using recognition, incentives and sanctions:** Problem-solving courts tend to have a structured regime of recognition, incentives and sanctions that they use in monitoring and can be applied swiftly. Recognition can include simple things such as congratulating progress publicly in court to more formal recognition, such as graduation ceremonies. Incentives can range from shortening community orders and sealing criminal convictions to suspending a prison sentence in return for compliance with a community sentence. These types of incentive are sometimes also called 'legal leverage'. Sanctions for can cover minor punishments such as a day of community service up to the imposition of short custodial spells, prior to return to the programme.
- **Communicating recognition, incentives and sanctions:** Problem-solving courts clearly communicate the regime of recognition, incentives and sanctions to offenders at the start of their orders and throughout their supervision and monitoring. This clear communication emphasises the rules of the court, the expectations of the court and places the onus on the agency of the defendant to comply with them.

A procedurally fair environment.

- **Clear understanding:** Problem-solving courts tend to make efforts to clearly explain the court and non-court processes, the options available, the consequences of actions and decisions at the start and during the case.
- **Respectful treatment:** Problem-solving courts attempt to emphasise that all those engaged in the process treat each other with respect, upholding the worth, autonomy and dignity of each individual.
- **Neutrality:** Problem-solving courts tend to emphasise that decisions are made and seen to be made with impartiality, transparency and neutrality.
- **Voice:** Problem-solving courts tend to involve offenders in the process and make sure they feel that they have a voice that is listened to and which can make a difference to the decisions made.

A focus on outcomes.

- **Monitoring outcomes:** Problem-solving courts use systematic data collection and analysis to measuring the impact that they have on the people and communities they work with. In particular they may seek to monitor both reoffending and changes in offenders' underlying levels of criminogenic need. Data is used to help improve day-to-day practice informing elements such as assessments, sentencing decisions and court room communications.
- **Using evidence to inform innovation:** Monitoring data is used alongside other sources of evidence including the perspectives of offenders and other stakeholders to inform a process of reflection and innovation. Evidence is used to improve existing services, to identify where new services might be useful and in some cases to inform decisions to bring a project to an end.

Appendix 2: A timeline for delivery

This timeline is based on trialling 10 problem-solving courts (3 existing and 7 new) in the criminal courts between 2017 & 2020.

	2017				2018				2019				2020	
	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun
Setting a clear vision for problem-solving courts														
The Ministry of Justice and the senior judiciary communicate a clear ambition	■													
Identifying courts its and areas to trial problem solving approaches														
Senior judiciary request judges and courts to nominate themselves	■	■												
The Ministry of Justice to identify areas with services	■	■												
Project proposals developed locally and assessed		■	■	■										
Pre-trial development & Operations for new sites				■	■	■	■	■	■	■	■	■	■	■
Operations for existing sites				■	■	■	■	■	■	■	■	■	■	■
Building sustainable projects based on existing local services														
Ministry of Justice to set up a problem-solving court innovation fund	■	■	■											
Giving problem-solving courts the powers to review offenders														
Secondary legislation to allow courts to review orders	■	■	■	■	■	■	■							
Power to use short custodial sanctions Prisons and Courts Bill	■	■												
Examine powers for breaching offenders at review hearings	■	■	■											
Providing problem-solving courts with practice development support														
Set up a national practice development function	■	■	■											
Developing judicial training on judicial monitoring			■	■										
Assessing effectiveness robustly and at the right time														
Commission external evaluation	■	■	■	■								■	■	■

Appendix 3: Direct programme costs

These costs are based on trialling 10 problem-solving courts (3 existing and 7 new) in the criminal courts between 2017 & 2020.

	2017	2018	2019	2020	Total
Court innovation fund (note 1)	£500,000	£350,000	£250,000	£150,000	£1,250,000
National practice development function (note 2)	£201,000	£268,000	£268,000	£134,000	£871,000
External evaluation		£150,000	£250,000	£100,000	£500,000
Total	£701,000	£768,000	£768,000	£384,000	£2,621,000

Note 1: Based on average costs of £50,000 per site in 2017 declining to £15,000 by 2020.

Note 2: Based on units costs in similar practice development projects delivered by the Centre for Justice Innovation, including staff and programme costs. Differing costs between years reflect differing periods of engagement with sites.

Endnotes

1. Ministry of Justice, *Transforming our justice system*, 2016.
2. *An Inquiry by Parliamentarians into the operation and effectiveness of the youth justice system*, Michael Sieff Foundation, 2014
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5. Justice Select Committee, *Oral evidence: The work of the Secretary of State*, 2016
6. Ministry of Justice, *Transforming our justice system* (2016).
7. For a full account of the evidence on problem-solving courts see our recent review of the evidence: Phil Bowen and Stephen Whitehead (2016) *Problem-solving courts: an evidence review* (London: Centre for Justice Innovation)
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15. Centre for Justice Innovation, *Problem-solving courts: An evidence review*, (2016) accessed at <http://www.justiceinnovation.org/better-courts/publications-and-toolkits/problem-solving-courts-evidence-review>
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Problem-solving courts: A delivery plan

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