The Additional Courts and Tribunals Capacity programme

In the early stages of the COVID-19 pandemic, many court activities were paused to implement appropriate social distancing measures. Where possible Her Majesty's Courts and Tribunals Service (HMCTS) started to redesign courtrooms and install Perspex screens so that courts could re-open within public health guidelines. However, this drastically reduced court capacity. Where one court previously might have had up to six jury trials running simultaneously, now only a single jury trial was possible.

The ***Additional Courts and Tribunals Capacity programme*** (ACTC) was created to increase the physical capacity of courts. It formalised and expanded HMCTS's early efforts to adapt existing court rooms, and sourced new venues to function as temporary courts. These venues became known as Nightingale Courts. Examples included conference rooms in hotels, cathedral precincts, theatres and town halls.

Who was involved?

The COVID-19 pandemic reduced the number of physical hearings that could take place due to social distancing. In Spring 2020 the team at HMCTS began working to restart court activities on a larger scale by first looking at how the existing estate could be redesigned to meet social distancing requirements. Later in the year, these efforts were formalised in the ACTC programme, which also sought to increase court capacity by establishing new Nightingale Courts.

The programme was developed and overseen by multiple teams in HMCTS. A central team managed the overall programme working with regional teams to assess venues and provide local background and knowledge. Responsibilities were divided as follows:

1. **The ACTC central team:** This brought together individuals with expertise across HMCTS, including commercial, technology and property experts, acting under the Lord Chancellor and the Lord Chief Justice (both of whom HMCTS is accountable to). At the start of the programme, the central team was responsible for evaluating and overseeing adaptations to the original estate. As the programme expanded, they became responsible for locating suitable venues for Nightingale Courts in the regions in greatest need of extra capacity. They worked with specialist in-house corporate teams to produce a venue specification. They then worked with professional property service providers, as well as stakeholders such as the Crown Prosecution Service (CPS) and local Police and Crime Commissioners (PCCs). The central team was also responsible for delivering all contractual arrangements. This included Information and Communications Technology (ICT) and other procurement processes, communications, fulfilling other legal requirements necessary for setting up courts, and programme management and reporting.

2. **HMCTS regional teams:** Prior to the pandemic, regional teams in HMCTS were responsible for court operations, ensuring court venues remain functioning and seeing to any logistical or technical needs. As part of the ACTC programme, on-the-ground operations and delivery staff conducted in-person inspections of potential venues which had been identified by the central team, assessing their suitability against strict programme criteria (e.g. size, accessibility, physical security, exit routes). After a venue was selected, regional teams were responsible for

collaborating with venue managers to convert them into courtrooms, working with ICT and other corporate delivery colleagues.

3. **HMCTS leadership**: There has been significant support for and involvement with the ACTC programme by many of the Senior Management Team (SMT) within HMCTS. As the programme is cross-cutting, there has been engagement across many directorates. More specifically, the Acting Chief Executive Officer has represented ACTC at ministerial forums and has engaged nationally with stakeholders regarding the phases of the programme.

   The Chief Financial Officer (CFO) within HMCTS is the Senior Responsible Officer (SRO) for the programme. As SRO, the CFO is accountable for the programme meeting the objectives and realising the required benefits as well as being the owner of the business case and is accountable for all aspects of governance. The CFO submitted a paper regularly to Ministers to provide a detailed update on progress during each of the phases.

4. **Wider partners**: ACTC worked closely with other areas of the organisation. Programme delivery was made possible by the support of HMCTS ICT (for venue kit), Ministry of Justice commercial teams, HMCTS communications, other members of HMCTS' Property directorate such as asset management and facilities management teams, and the Ministry of Justice Legal directorate.

Given the scale of the task, namely to establish venues across England and Wales, and the stringent physical requirements of potential venues, the central team initially approached the Office of Government Property to understand what government property was available. Subsequently, the ACTC team got in touch with local authorities via the Local Government Association (LGA) and, later in the pandemic, by contacting local authority Chief Executives directly to inquire about potential venues such as town halls. The priority was to source public sector venues which could be repurposed as Nightingale Courts meaning that the central team liaised directly with the Chief Executives and their teams to secure their buy-in. Where this was not feasible, the team reached out to private sector venues based on their existing contractual networks, research and recommendations from local staff and court users.

Regional teams also contacted judges as delivery partners and identified stakeholders who worked in local courts including legal professionals, and the prison service. The regional team worked with judges and kept stakeholders informed throughout the process of adapting existing courts and establishing new venues. This included involving them in inspecting venues with regional teams, and in one location, they held a mock trial to test out the functioning of the court with local barristers. By involving judges and stakeholders from an early stage, the team sought both to prevent concerns which could have delayed the court opening and ensure that the perspectives of those who would be working in the courts were taken into account. This provided reassurance that the property would meet the needs of victims, defendants, professional users and juries. For example, confirming the venue had enough space to operate in line with social distancing guidance and in accordance with established court procedures around the placement of judges, witnesses, legal teams and juries.

Regional teams also collaborated with private sector partners and local authorities, who owned or managed the venues where Nightingale Courts were being established. The team drew on existing relationships, including private sector contacts they had previously worked with to host conferences, as well as approaching new suppliers. This included venue recommendations from local authorities and direct approaches from private sector suppliers keen to help.

While the relationships and partners involved varied with each court, they were typically close-knit and built on a strong willingness to find a solution to reopening courts. This was important to swiftly completing the new venues as teams were willing to assist HMCTS with the logistical work required to meet their requirements. For example, the theatre team converting the Lowry Theatre in Salford transformed the space after a briefing from the HMCTS regional team, helped with handling media interest, and appeared on the BBC's One Show to provide a tour of the transformed venue and educate the public about Nightingale Courts.

"The Lowry Theatre got to grips quickly with what it means to run courts. They had already done legal theatre productions and had hosted important events for government and other debates. They had an appreciation for what we were doing. They did amazing work within a very short space of time." - Clare Beech, Cluster Manager for North West, ACTC programme

How were decisions made?

A programme board was established to set the strategic direction and provide governance. Short form business cases were produced for each element of the ACTC programme to ensure proper governance but also the necessary speed of decision making. This included: modifications to the permanent estate, hire of modular buildings (from Portakabin) to act as jury deliberation space on the estate, set up of Nightingale Courts and light touch business cases for individual Nightingale sites to ensure proper scrutiny of programme spend.

At the start of the programme, the central team was responsible for evaluating and overseeing adaptations to the original estate. This included the installation of Perspex screens, removal of fixed furniture (e.g. jury boxes) to enable social distancing, and in some cases the installation of external modular buildings to act as jury deliberation rooms where existing spaces were too small. Alongside this, remote video courts were also established. However, this was not suitable for all cases, with the local judiciary deciding on whether a case was appropriate for a video trial.

In all, neither the work to adapt existing courtrooms nor the introduction of video courts was able to re-establish pre-pandemic capacity. One leader estimated these initial schemes provided approximately a quarter of the ordinary operating capacity of the courts. As such, the ACTC central team started to locate possible temporary venues in the regions in greatest need of extra capacity. Working with regional teams, they contacted local authorities and private sector providers within the relevant areas to identify possible venues for Nightingale Courts. Once a venue was identified, the central team worked with the relevant regional team and in-house technical experts to decide whether the venue was suitable, with particular regard to the need to meet safety and security requirements. To do this, they relied on local knowledge and connections from the local authority as well as detailed observations collected during inspections carried out by the local team and technical experts.

This approach worked well due to the strong appetite for collaboration among the various parties involved. Local authorities were willing to work with HMCTS, noting potential benefits to local businesses arising from the siting of a new court in the area. Private sector partners were keen to hire out their venues and to demonstrate their commitment to the wider community.

"There has been a cross mix of both centralised and distributed decision making. You have someone looking at one venue in one area and someone else looking at a different venue in a different area. That's how we were are able to achieve so much." – Helen Randle, Senior Project Manager, ACTC programme

Once a venue had been assessed, the central team would discuss the arrangements with the building freeholders and agree to a detailed proposal for a site. This culminated in a business case, which was considered by the CFO. Following this confirmation, they would write a submission to the Lord Chancellor requesting final sign off to designate the venue as a court.

What has been the impact?

The ACTC programme has greatly expanded available capacity during the pandemic. Much of the existing estate has been made COVID-secure including through the installation of Perspex screens in more than 450 courtrooms. The Nightingale Courts programme delivered 60 court rooms by the end of March 2021. The first of these temporary courts was established within six weeks from initial identification to first day of use. By comparison, the usual process for a permanent court, including procurement, full-scale fit out and set up takes between 24 to 36 months from start to finish.

"We opened the first jury trial in six weeks from first examination of the building to first use of it. That is phenomenal when you consider how complex a jury trial court is. Even at their simplest our property requirements are significant as we have multiple parties attending cases, most of whom have to be kept apart. From sorting the contracts, the technology, making physical changes to the fabric of the building, getting in all those people needed to run a venue, and cases listed." - Noreen Razvi, Programme Manager, ACTC programme

By making courts COVID-secure, the programme has reduced the accumulation of cases exacerbated by the pandemic and meant that hearings can continue safely. It was acknowledged by one leader that, thanks to the programme, the UK has the only justice system in Europe that has continued to hear cases throughout the pandemic. Ultimately, this has supported victims of crime and other members of the public who have benefitted from the continuation of family, civil and tribunals cases. It is hoped it will also limit the extent of further delays.

Challenges for collaboration

Relationships

- Certain members of the justice community raised concerns about the safety of returning to reopened (or new) courts during the COVID-19 pandemic. Teams needed to ensure that all the various individuals involved in the operation and use of a courtroom would **feel confident in the new safety arrangements** and be willing to start using retrofitted or Nightingale Courts to deal with the outstanding cases.

- Publicity around the scheme in the press meant more venues volunteered to become Nightingale Courts than were required. Multiple PCCs also wanted to establish a court in their area. This created a challenge for the team to **delicately handle relationships with local partners** as they needed to focus resources on the areas where there was the least capacity to handle the level of demand. As well as identifying venues, the team faced **challenges promptly responding** to these requests and sensitively explaining why they could not take up all the offers of support.

Enablers of collaboration

Relationships

- HMCTS **proactively communicated** with PCCs and other external groups to inform them of the decision-making process regarding the location of new courts and the reasons for prioritising some areas above others.

- The ACTC programme had two individuals who were **clearly responsible** for both communications and engagement activity. One individual was hired specifically for the team and was responsible for overseeing the management of stakeholder relationships. The other was a member of the Communications team, who was responsible for ensuring news of ACTC measures such as Nightingale Courts reached stakeholders, the public and legal professionals.

- Additionally, HMCTS ensured their decision making was **led by the data** for where the number of outstanding cases was highest. This meant that if challenged, they were able to talk stakeholders through their reasoning for selecting some regions above others.

Motivations

- The HMCTS regional teams invited legal professionals and individuals from the CPS, Prison Service and other stakeholder groups to visit the various sites and share their opinions about the courtrooms. This allowed any concerns to be addressed early on and allayed fears about the safety of the venues, building **buy-in from the early stages of decisions**.

- The urgency to reopen courts **created a shared purpose** between HMCTS teams and their partners in local government and the private sector. This increased the willingness of venues wanting to help, with many eager to participate in their community's pandemic response as they saw the clear need for restarting the justice system.

"The difficult decision was where you put the courts. . . Nightingale Courts are very popular because they allow you to meet whilst social distancing in bright and welcoming surroundings. They feel safe and add capacity, so everyone wants them. But they are not necessarily needed in every area. We have to ask where the need is." - Sally Richards, Programme Director, ACTC programme

Structures

HMCTS made use of their central-regional internal structure. This enabled in-person inspections to take place at the local level with decisions taken at the central level, and learnings then shared across the organisation:

- Joint working between central and regional teams increased the pace of the programme by allowing activities to occur in parallel with **clear responsibilities** to swiftly eliminate unsuitable venues.
- The decision-making process involved a **balance of local ownership and centralisation.** Regional teams could make assessments and pass on their recommendations to the central team before a final decision was made centrally, reflecting needs across the country as a whole.
- The ACTC team treated the establishment of one Nightingale Court as an **opportunity to share learning**. As the commercial environment was new to the team, they quickly gained experience

with certain types of venues allowing them to identify issues with a venue type in one region and share this with others.

Table 1: Summary of challenges and enablers

	Challenges for collaboration	Enablers of collaboration
Motivations		• Stakeholder buy-in • Shared purpose
Structures		• Local ownership • Clear division of responsibilities • Shared learning
Relationships	• Stakeholder hesitancy • Managing relationships	• Proactive communication • Dedicated resource for managing relationships • Evidence-based decisions

Lessons learned for collaborative leadership

On an operational level, the experience of the pandemic has changed the scope of what is possible, and this will reshape HMCTS' business continuity plans in the future. For example, teams would now understand how to quickly establish alternative venues if there is an unexpected event such as flooding. More widely, teams are reviewing their design guide for courts to see how they could adapt their approach, particularly in terms of new technologies.

Leaders wanted to see a continuation of collaboration between central and regional teams within HMCTS. Although there was always an openness to collaboration, this process has shown how teams can work effectively and swiftly together, each bringing relevant skills to solve a problem.

"As a leader, if you can instil an institutionalised culture of collaboration from the very top, there are no bounds to what you can achieve as an organisation." - Sally Richards, Programme Director, ACTC programme