

Knowledge
Transfer
Partnerships

*“Creating a knowledge-base of public confidence
in the Criminal Justice System”*

A Knowledge Transfer Partnership between Newcastle University and
Northumbria Local Criminal Justice Board



Report 1: Base-line Audit

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Sociology

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Executive Summary

1) The objectives of the Base-line Audit are:

1. To identify limitations and difficulties of official conceptualisations of public confidence and their operationalisation in performance measurement and other data
2. To make a robust case for the need to produce an alternative knowledge of public confidence
3. To prepare the ground for the research through providing a statement of aims and guiding principles and initial indications about the nature and time-scale of research processes

Policy Context

2) Research into public confidence should have regard to a policy framework structured by four key themes:

- **New Public Management** – focus on efficiency and accountability
- **Civil Renewal** – maintaining trust and confidence of the public in government institutions
- **Community Safety** – the subjective feelings of the public matter
- **Community Engagement** – institutions need to engage with the communities they serve

What do we mean by confidence?

3) Confidence can be linked to the belief that expectations will be satisfied however, in respect of the CJS, this belief is often based on incomplete or inaccurate knowledge, not gained through first-hand experience. Confidence is therefore also entwined with the idea of trust, levels of which can reflect more general feelings of personal optimism and perceptions of institutions and society in a broader sense.

4) The role of the media in influencing attitudes towards the CJS is well-documented. It is a source of frustration within the CJS that strong, statistically-evidenced performance does not necessarily translate into high levels of public confidence. However, there is evidence that the public are sceptical of statistical claims of success.

5) To understand the formation of confidence it is necessary to explore both the information sources to which the public are exposed and the mechanisms by which they process this information. Both rational and emotional processes are likely to come into play, and research into confidence should explore these.

Confidence in what?

6) Some concerns about the general confidence measure in the BCS, which is used to measure NCJB performance, are:

- It refers to a narrow range of CJS business that cannot accommodate the wider frame of reference that the public may apply to its assessment of whether or not the CJS is generally effective.
- The function asked about consists of multiple processes carried out by multiple agencies, making it difficult to discern which areas of the system the public lacks confidence in.
- There appears to be a mismatch between the official conception of when an offence has been “brought to justice” and public conceptions of this.
- Responses may be “value-expressive” of a more general sense of dissatisfaction.

The limitations of current knowledge

7) The dominant model for researching public confidence apes market research approaches to customer satisfaction. It can be summarised as:

1. Identify the issues of importance to the public in relation to the CJS
2. Understand how opinions are formed on these issues
3. Apply knowledge of the above to ‘correct’ opinions

This model lacks a critical perspective on the way confidence is conceptualised and measured by the BCS and assumes a passive customer-like relationship between members of the public and the CJS. It seeks to inspire confidence mainly through the provision of information about performance. It is not well suited to a policy framework which emphasises ideas of civil renewal, community engagement and the importance of the subjective and emotional responses of the public because it is primarily focussed on persuading rather than involving people.

An Alternative Approach

8) An alternative model for researching confidence would explore:

- **Understandings** - of crime, justice and the CJS including subjective interpretations of these
- **Influences** – the arenas in which and media through which understandings of crime, justice and the CJS are formed
- **Expression** – how people express their understandings of crime, justice and the CJS, recognising that different methodologies will yield different results and seeking innovative methodological solutions to facilitate a clearer communication between members of the public and the CJS

9) This model treats the public as citizens with an active role to play in shaping the CJS. Seeking to use this alternative model to explore public confidence is compatible with the aspiration expressed in The Home Office Strategic Plan 2004-2008: “We can only drive lasting and sustained change by empowering people to take greater responsibility for the strength and well-being of their own lives and communities in a way that establishes a different relationship between Government and the governed” (Home Office, 2004: 5-6).

Guiding Principles for the research

10) Drawing on the issues discussed above the guiding principles for the research are:

- It should be rooted in the idea of consensual justice
- It should aim to produce benefits for the public both through their involvement in the research and through the knowledge generated
- It should represent a critical departure from established approaches
- It should deepen our understanding of public confidence

Objectives

11) The key objectives for the research are:

- Challenge current thinking and develop robust alternatives
- Design an innovative methodological approach to the empirical work incorporating quantitative and qualitative methods
- Gain a deeper understanding of confidence through this empirical work
- Identify links between CJS policy and practice and public confidence
- Make recommendations for action to improve confidence

Research Process

12) The research will be carried out over a three year period and will consist of 5 key phases:

- BASE-LINE AUDIT
- LITERATURE REVIEW
- RESEARCH DESIGN
- EMPIRICAL RESEARCH
- ANALYSIS AND REPORTING

1. Introduction

1.1.1 This is the first report produced as part of a three year research project into public confidence in the Criminal Justice System (CJS). It is intended to provide a foundation upon which the wider research study can build. Its objectives are:

- To identify limitations and difficulties of official conceptualisations of public confidence and their operationalisation in performance measurement and other data
- To make a robust case for the need to produce an alternative knowledge of public confidence
- To prepare the ground for the research through providing a statement of aims and guiding principles and initial indications about the nature and time-scale of research processes

1.1.2 This report draws upon the initial work carried out for Northumbria Criminal Justice Board (NCJB) by Marina Dodgson and the survey company Public Knowledge (Dodgson et al, 2006; Dodgson, 2006; Addison, 2006; Public Knowledge, 2006), as well as incorporating insight gained from meetings with members of the NCJB and the Secretariat. The scope of the initial literature review carried out by Dodgson et al is expanded to include a closer examination of government strategy documents, and a wider range of sociological and methodological texts. The report is divided into three sections. The first section discusses the ways in which public confidence in the CJS is conceptualised with reference to the wider policy context and the operationalisation of confidence in survey methodology. The second section draws upon section 1 to identify the weaknesses of current approaches to the research and improvement of public confidence, before proposing an alternative approach. The third section explains how I will take this alternative approach forwards into the research project.

2. Conceptualising Public Confidence

2.1 Policy Context

2.1.1 The idea of public confidence in the CJS needs to be understood within the context of the wider policy framework. Changes in policy which may appear to be specifically concerned with the workings of the CJS will inevitably have been influenced by a ‘bigger picture’. In this section I briefly outline the major thematic developments in public policy which make up the essential backdrop to any investigation into the idea of public confidence in the CJS, and discuss the implications of this backdrop.

New Public Management

2.1.2 The idea that target setting and performance measurement are eminently necessary to ensure that standards are maintained and that public sector organizations are accountable for their actions rose to prominence in the 1980s and 1990s as a result of what has been labelled New Public Management (NPM) (Fielding and Innes, 2006: 131; Hood, 1991; Hough, 2003). For a summary of the key doctrinal characteristics of NPM see Table 1 (on page 4 below).

2.1.3 The “business-like” principles of NPM can be observed at work in the police reforms of the early 1990s (Reiner, 2000), the requirement to seek ‘best value’ in the provision of criminal justice services contained in The Crime and Disorder Act 1998 (Fielding and Innes, 2006: 132), the introduction of the National Intelligence Model (NIM) for policing, and the pursuit of more stream-lined and efficient services which has led to the reorganization of the court service and the expansion of a “mixed economy” of providers in the probation and prison services. The need to set targets by which performance can be gauged, and to rationalise public sector organizations in the pursuit of increased efficiency and effectiveness, have become entrenched (if not universally welcomed) tenets of management within the CJS. LCJBs, by facilitating regular meetings of high-level figures from each of the CJS agencies, help contribute to a more ‘joined-up’ approach to delivering criminal justice services consistent with the drive for efficient and rational organizational procedures underpinning NPM. My interviews with the board members in Northumbria have confirmed that in their view the LCJB structure helps with “oiling the wheels”, “unblocking blockages” and providing a “more business-like focus”. This is consistent with the government’s “Strategic Plan for Criminal Justice 2004-2008”.

Civil Renewal

2.1.4 NPM rationales have played a substantial part in creating the conditions that make this piece of research necessary. However, whilst the NPM regime requires the setting of targets for performance, the definition of what constitutes *good* performance appears, in respect of confidence, to have been influenced by another central theme of current government policy: civil renewal. The motivation behind the civil renewal agenda has been described as “a desire to re-engage citizens in decisions that affect their lives and the life of their community; restore

trust in political and state institutions; and promote social cohesion and social inclusion” (Jochum et al, 2005: 15).

Doctrinal components of NPM (Hood, 1991: 4-5)

Doctrine	Meaning	Typical justification
1. Hands-on professional management	Active, visible, discretionary control of organizations from named persons at the top who are ‘free to manage’	Accountability requires clear assignment of responsibility for action, not diffusion of power
2. Explicit standards and measures of performance	Definition of goals, targets, indicators of success, preferably expressed in quantitative terms	Accountability requires clear statement of goals; efficiency requires ‘hard look’ at objectives
3. Greater emphasis on output controls	Resource allocation and rewards linked to measured performance; breakup of centralized bureaucracy-wide personnel management	Need to stress results rather than procedures
4. Shift to disaggregation of units in the public sector	Break-up of formerly ‘monolithic’ units, unbundling of management systems into corporatized units around products, operating on decentralized ‘one-line’ budgets and dealing with one another on an ‘armslength’ basis	Need to create ‘manageable units’, separate provision and production interests, gain efficiency advantages of use of contract or franchise arrangements inside as well as outside the public sector
5. Shift to greater competition in public sector	Move to term contracts and public tendering procedures	Rivalry as the key to lower costs and better standards
6. Stress on private-sector styles of management practice	Move away from military-style ‘public service ethic’, greater flexibility in hiring and rewards; greater use of PR techniques	Need to use ‘proven’ private sector management tools in the public sector
7. Stress on greater discipline and parsimony in resource use	Cutting direct costs, raising labour discipline, resisting union demands, limiting ‘compliance costs’ to business	Need to check resource demands of public sector and ‘do more with less’

Table 1: Doctrinal components of NPM

2.1.5 A key theme of the government’s “Strategic Plan for Criminal Justice 2004-2008” is maintaining levels of public confidence by engaging with the community in order to reflect its concerns, and the plan explicitly links public confidence in the CJS to confidence in government institutions more generally. Furthermore, crime is described as an action against society, and linked closely to disorder and anti-social behaviour (ASB). All of these categories of behaviour are said to be damaging communities. This mingling of criminal justice with notions of community and trust ties the strategic priorities for the CJS into the civil renewal agenda, wherein the functions fulfilled by criminal justice agencies are treated as crucial components in a broader social vision. The assessment of CJS performance with respect to maintaining and improving public confidence underlines this fact.

Community Safety

2.1.6 To further tie its functions into the civil renewal agenda the CJS is included under the umbrella of community safety policy, which seeks to ensure that communities are stronger and more effective, that there are reduced levels of crime and anti-social behaviour, that local environments and community spaces are safe, and that the public are protected and feel confident that they are protected (Home Office, 2005b). One element of this “community confidence” is confidence that “where crimes are committed, the perpetrators will be brought to justice, that effective sentences and penalties will be imposed and rigorously enforced, and that the needs of victims and witnesses will be a priority” (Ibid: 6). Here the CJS is given responsibility for discrete and identifiable areas of community safety business (bringing offences to justice, imposing sentences and caring for victims and witnesses), however this responsibility is assigned within a framework that demands that “People need both to be safe and to *feel safe*” (Ibid: 6, my emphasis).

2.1.7 An increasing emphasis on subjective feelings has contributed to recent changes in the way the CJS works; for example the National Reassurance Policing Programme has fed into the national roll-out of Neighbourhood Policing, and the targeting of Prolific and Priority Offenders (PPOs) has meant an increased focus on those who, although not necessarily the most serious offenders, are causing the most distress for local communities. The underlying implication of all of these changes is that the subjective feelings of the public *matter* and that their emotional responses to threats, whether perceived or actual, are to be taken seriously.

2.1.8 So, although confidence is frequently cited as a resource for increasing efficiency, there is also a moral and political case being made, over and above the instrumental case, for seeking to increase confidence. The moral and political case centres on the need to acknowledge and *allay* people’s subjective fears so that they do not have to live in an environment blighted by anti-social behaviour and crime. This reflects the left realist criminological perspective which provided the theoretical basis for a political project to reclaim law and order for the left (Tierney, 1996: 283). In line with this the primary objective of the Strategic Plan for Criminal Justice is “to reduce crime and anti-social behaviour and to *make people feel safer*” (OCJR, 2004: 7). The relationship between confidence in the CJS and feeling safe is made explicit: “We must remember that the public will only feel safe if they have confidence that the agencies on whom they rely are responsive to their concerns and are providing high quality services to them” (Home Office, 2005b: 3)

Community Engagement

2.1.9 This application of both objective and subjective markers of achievement ensures that the boundaries of the CJS’s responsibility within the community safety agenda remain somewhat fuzzy, reflecting the recognition, at the core of the civil renewal agenda, that one public sector body working alone is rarely able to solve a problem faced by an individual or community in isolation from other public sector bodies and the community. The civil renewal agenda argues that policy solutions cannot simply be imposed or conferred from above by one agency focussed only on its own priorities, but rather that sustainable improvements require cooperation between public sector agencies, between functionally clustered agencies (e.g. the CJS) and other public bodies (e.g. Local authorities) and ultimately between the public sector and the communities it serves. The government claims that LCJBs are “committed to involving local people” as well as continuing “to build on existing networks such as the

community safety partnerships” (Home Office, 2005a: 18). So, as well as being valued for its own sake, confidence also fits within a policy framework which advocates an increased emphasis on engaging the public in the work of government. Increased confidence should help to facilitate closer engagement between the CJS and communities.

2.1.10 The wider policy backdrop for the idea of public confidence can be characterised then as structured by two linked policy themes: the target and measurement-driven version of accountability espoused by NPM, and the focus on trust, confidence and public participation advocated by the civil renewal agenda. Confidence in the CJS is explicitly linked to feelings of safety, which are treated as having both intrinsic and instrumental value; being something that the public has a right to expect as well as useful resources for social improvement within the framework of civil renewal. Any investigation into public confidence in the CJS will need to have regard to the fact that confidence is situated within a policy framework which places particular emphasis on the accountability of public sector bodies, the subjective feelings of the public and the need for institutions to engage with the communities they serve.

2.2 What do we mean by confidence?

2.2.1 In this section I build on the work carried out by Dodgson et al (2006) and Dodgson (2006) to explore the meaning of confidence in the context of this research.

Satisfaction

2.2.2 As noted by Dodgson et al “confidence looks forward to anticipate whether a potential service can bring about specific or desired results or outcomes in the future” (2006: 11). In other words it can be thought of as the belief that one’s expectations of a particular service will be satisfied and linked to the idea of customer satisfaction. In fact some researchers have gone as far as to suggest that confidence and satisfaction may become virtually synonymous (Roberts and Hough, 2005).

2.2.3 In the focus groups carried out by Public Knowledge (Addison, 2006) members of the older, ethnic minority and CJS staff groups all linked confidence to a sense of believing that expectations will be met; but some of the respondents interpreted confidence more generally, talking about confidence as feeling personally confident or having a sense that someone (friends or family) is looking out for you. This might suggest that the idea of confidence may be interpreted by some respondents as a diffuse sensation associated with feeling safe in one’s environment. However, within a research context it seems more likely that respondents interpret the meaning of confidence within the specific context of the particular research conversation.

2.2.4 The focus groups also applied confidence to specific entities (e.g. B&Q, Marks and Spencer) as well as talking about it in a more diffuse sense. This suggests that the link commonly made between confidence and the expectation of satisfaction might, in some instances, be robust.

Trust

2.2.5 Thinking of confidence as a level of belief that expectations will be satisfied poses a problem in the context of the CJS because most members of the public are “indirect” users of the CJS (Dodgson et al, 2006: 10). Confidence is therefore often determined not by direct experience of the services delivered, but by exposure to an indirect source of influence. It could therefore increase and decrease alongside an individual’s level of general confidence in public services, in government, and even feelings of personal confidence and optimism. Confidence as determined by indirect use can therefore also be a matter of trust - something which Dodgson identifies as often reflecting “more fundamental perceptions of an organization as a whole” (Ibid: 11). So although individuals may, generally speaking, interpret confidence in the sense of a belief that expectations will be satisfied, the knowledge upon which they base this belief requires exploration.

Knowledge Gap

2.2.6 Public knowledge about the CJS has been repeatedly found to be poor (For example see Hough, 2003). However, people are still ready to express opinions about it. It is clear that the factual basis for public confidence in the CJS, or lack thereof is, in many cases, extremely sketchy. For example, judges are frequently accused of being too lenient in their sentencing decisions, yet research has shown that the public tend to underestimate sentencing severity (Hutton, 2005; St. Amand and Zamble, 2001). This raises a question mark about the status of confidence as expressed through the BCS if confidence is not a measured evaluation based upon knowledge of performance but an emotional response shaped by other, more diffuse, factors.

2.2.7 This ‘knowledge gap’ is clearly a source of frustration for those working within CJS agencies. Apparently strong performance in many aspects of criminal justice in the Northumbria area has not been rewarded by increased public confidence as measured by the BCS. One result of this is the desire to communicate better with the public to ensure that they know how well the CJS agencies are performing against their targets. This “social marketing” approach formed part of the recommendations arising out of the research already carried out for the board, and is also endemic in central government publications. However, there is no guarantee that accurate information has the power to alleviate feelings of dissatisfaction or mistrust and research has found that statistics can be a weak tool for persuading the public about matters relating to criminal justice (Rethink Briefings, 2002).

Media Influence

2.2.8 The lack of knowledge about the CJS described above is felt to be exacerbated by sensational media coverage of certain criminal incidents. My interviews with the members of NCJB revealed a widespread sense that a major portion of the responsibility for low levels of public confidence lies with the way in which the media reports individual cases and crime more generally. The focussing of the mediated spotlight on certain events is captured in theoretical terms by the “signal crimes” perspective.

2.2.9 According to Innes (2004) “a signal crime is an incident that, because of how it is interpreted, functions as a warning signal to people about the distribution of risk throughout social space...people interpret and define incidents as indicators about the range of dangers

that exist in contemporary life and that might potentially assail them” (15) Signal crimes have “a disproportionate effect on fear of crime through their semiotic properties” (Jackson, 2004: 950). Innes (2004) suggests that media reporting can operate in such a way as to transform an isolated criminal incident into “an index of the state of society and social order” (17). The “disproportionate” impact of a signal crime could have a distorting effect on confidence levels as measured by the BCS.

Rationality

2.2.10 Implicit in the ideas of satisfaction, trust and knowledge explored above is a debate about the existence of rational standards for evaluating CJS performance. The frustration felt by many within the CJS about low levels of public confidence indicates the existence of underlying assumptions about rationality as the basis for thought and action. This is characteristic of the administrative criminological tradition’s attitude towards fear of crime, which posits normative parameters around acceptable levels of fear amongst the public given the ‘objective’ probability of becoming a victim. In victimisation surveys, like the BCS, fear of crime has tended to be operationalised in terms of perceptions of risk (Walklate, 1995: 57). From the perspective of administrative criminology, ‘excessive’ levels of fear, as expressed through victimisation surveys, are assumed to indicate that judgments about risk and safety are being made under the influence of inaccurate or incomplete information, particularly the kind of sensationalist crime coverage disseminated through the media (Lupton and Tulloch, 1999).

2.2.11 In contrast to the administrative criminological perspective, left realist criminology seeks to “take crime seriously” by being responsive to public fears (Tierney, 1996: 282). From the left realist point of view there is “no objective measure of rationality” (Walklate, 1995: 63); fear of crime is seen as based on real-life experiences and, therefore, both grounded in accurate information, and sufficiently rational. However, as Walklate (1995) notes, the left realist approach is theoretically inconsistent because it both problematises, and *retains*, the notion of rationality as an adequate mechanism for linking probable risk to fear (64). Left realism then addresses itself to the question of what form a “rational fear” might take (Walklate, 1995: 64).

2.2.12 Critical criminologists disparage left realism for assigning to the concept of “crime” a one-dimensional character which is understood by all “good” people in a common sense way (Tierney, 1996: 285). If we apply this criticism to the project of determining appropriate levels of fear, left realist criminology might be seen as merging ‘rational’ with ‘common sense’, retaining what Lupton and Tulloch (1999) call a “stimulus-response” approach to understanding the formation of fear (510). They argue that, although left realists are right to insist on recognition for the fact that fear of crime has a material basis in people’s experiences, it is also important to explore “the situated narratives, myths and meanings within which fear of crime is generated” (Lupton and Tulloch, 1999: 515). This approach rejects the need to distinguish between rational and irrational responses to crime.

2.2.13 As fear is operationalised in terms of perceptions of risk, confidence is operationalised in terms of perceptions that the CJS is effective in carrying out a specific function. Is rationality an adequate mechanism for connecting effectiveness of the CJS to levels of public confidence? If we apply an administrative criminological perspective to thinking about public confidence then excessively low confidence might be seen as an indication that the public are

not receiving complete and accurate information about how effectively the CJS is performing, and are being influenced by negative news stories about CJS failures. They are therefore not able to rationally determine an ‘appropriate’ level of confidence. However, in the current climate, influenced by the left realist perspective, public sector bodies are required to heed the subjective and emotional responses of the public. Retreating behind the rational-valid/irrational-invalid binary of administrative criminology is therefore not an option.

2.2.14 If we are to respect and value the emotional responses of the public then we cannot simply see a disparity between levels of performance and levels of confidence as evidence that the public are not receiving sufficient accurate information. Assuming that the public will behave in a ‘rational’ manner when presented with the ‘right’ information assumes a universal standard of rationality of the kind rejected by left realists. Walklate (1995) has argued that if some kinds of fear of crime are deemed irrational the question needs to be asked “what [are] the structural mechanisms...which deem responses to situations as being abnormal, irrational and/or emotional...whose standards are being used as the markers of a reasonable or rational fear?” (68). If we apply this argument to confidence then we need to ask who determines what is a reasonable level of confidence and, perhaps more pertinently, who *should* determine this – experts or the public at large?

2.2.15 The debate around the relative merits of lay and expert knowledge is perhaps particularly charged in respect of criminal justice, largely because of the highly emotive substance of the subject. However, in the context of this research it is clear that lay, and not expert, knowledge is of central importance, because it will form the platform upon which public confidence is built. Expert knowledge on ‘rational’ levels of public confidence is of little relevance or use to understanding that phenomenon. In fact a preoccupation with what is rational and irrational would only impede research attempting to ascertain how it is the public come to make judgements about the CJS. Ideas of rationality and risk will need to be explored further as this research progresses, however, it is clear that, to transcend current knowledge and existing prejudices, any prior assumptions about what constitutes ‘rational’ patterns of thought and behaviour will need to be set aside.

2.2.16 The issues discussed above have shown that although confidence can be linked conceptually and empirically with notions of expectation and satisfaction, it is also closely entwined with the notion of trust, which has a distinctly emotional content. Within a policy framework that recognises the importance of the public’s emotional responses to crime and other negative stimuli within their social environment, public confidence in the CJS will need to be understood as an emotional reaction rather than as an evaluation of the likelihood of satisfaction based on knowledge of CJS performance. This requires that the notion of rationality as a mechanism connecting CJS effectiveness to levels of public confidence should be set aside in favour of an open-minded exploration of the full cognitive basis for confidence.

2.3 Confidence in what?

2.3.1 This research is about public confidence in the CJS. Levels of confidence are measured using the responses to a single question included in the British Crime Survey. In this section I discuss potential concerns with this method of measuring confidence, with particular reference to how respondents might process and interpret the question.

The general confidence measure

2.3.2 Confidence can be both specific and general: we can be confident that the CJS will perform a certain function or we can simply have confidence in the system without thinking about one single function. These two kinds of confidence – function-specific and general – seem likely to be closely related, and the performance target set for LCJBs appears to be based on the presumption that function-specific confidence maps onto more general confidence: public confidence in the CJS is measured using the ‘general confidence measure’, a single question included in the British Crime Survey (BCS). The question asked is “Thinking about the Criminal Justice System as a whole, that is, the police, the Crown Prosecution Service, the courts, prison and probation services... how confident are you that it is effective in bringing people who commit crimes to justice?” The kind of confidence asked about here is function-specific but it is the response to this one question which is used as a general measure of public confidence in the CJS, against which LCJBs are judged.

2.3.3 The street survey carried out by Public Knowledge found that in an open-ended question the most commonly mentioned thing that the CJS should do was “punish people for their crimes”. In a closed question asking respondents to rate the importance of various CJS activities the most important activity was “catching people who have committed a crime” (Public Knowledge, 2006). This coincides with findings from the 2004/2005 BCS which found that half of respondents thought that “bringing offenders to justice” should be the highest priority for the CJS (Allen et al, 2006) This data elicited from survey questions suggests that the general confidence measure is asking about the area of CJS business that is most important to the public. However, the freer flowing discussions in the focus groups conducted for the board (Addison, 2006) revealed a much wider range of issues concerning the public and therefore potentially exerting an influence on levels of confidence.

2.3.4 The focus group data suggests that the performance of the CJS may be evaluated by the respondents through reference to factors including, amongst other things, a perceived lack of order and control in their local environments, police failure to respond promptly to complaints, courts’ failure to deal severely with offenders and prisons’ failure to punish offenders through giving them a sufficiently harsh experience ‘inside’. These findings appear to suggest, therefore, that the public assigns wide-ranging responsibilities to the CJS, including local order maintenance, the delivery of “just deserts” and providing a prompt and attentive service. This casts doubt on the appropriateness of using a single survey question to measure confidence in the CJS, suggesting that responses will be made with reference to a wider range of experiences and expectations than can be accessed from one question.

Confidence in Multiple Agencies

2.3.5 Bringing an offender to justice consists of multiple actions carried out by multiple distinct agencies. If the public tells us it is not confident that offenders will be brought to justice this does not tell us which parts of the process they lack confidence in (if indeed they do lack confidence in a specific component of the process rather than simply expressing a general lack of confidence). In figure 1 (on page 11 below) I have given a basic illustration of a number of actions involved in bringing an offender to justice. Clearly members of the public could lack confidence in any one or any number of these processes and express this as a lack of confidence in the whole process. It is important for our understanding of confidence to

know where, if indeed it is at any identifiable points, the public lack confidence in the process, what causes them to lack confidence in that action or actions and how they take that influence and convert it into a negative answer to the general confidence measure question. The common emphasis on sentencing as a major cause of low confidence suggests that people lack confidence in the part of the process that takes place at court; however this may be obscuring actions that take place at other parts of the process that may also have a negative effect on confidence.

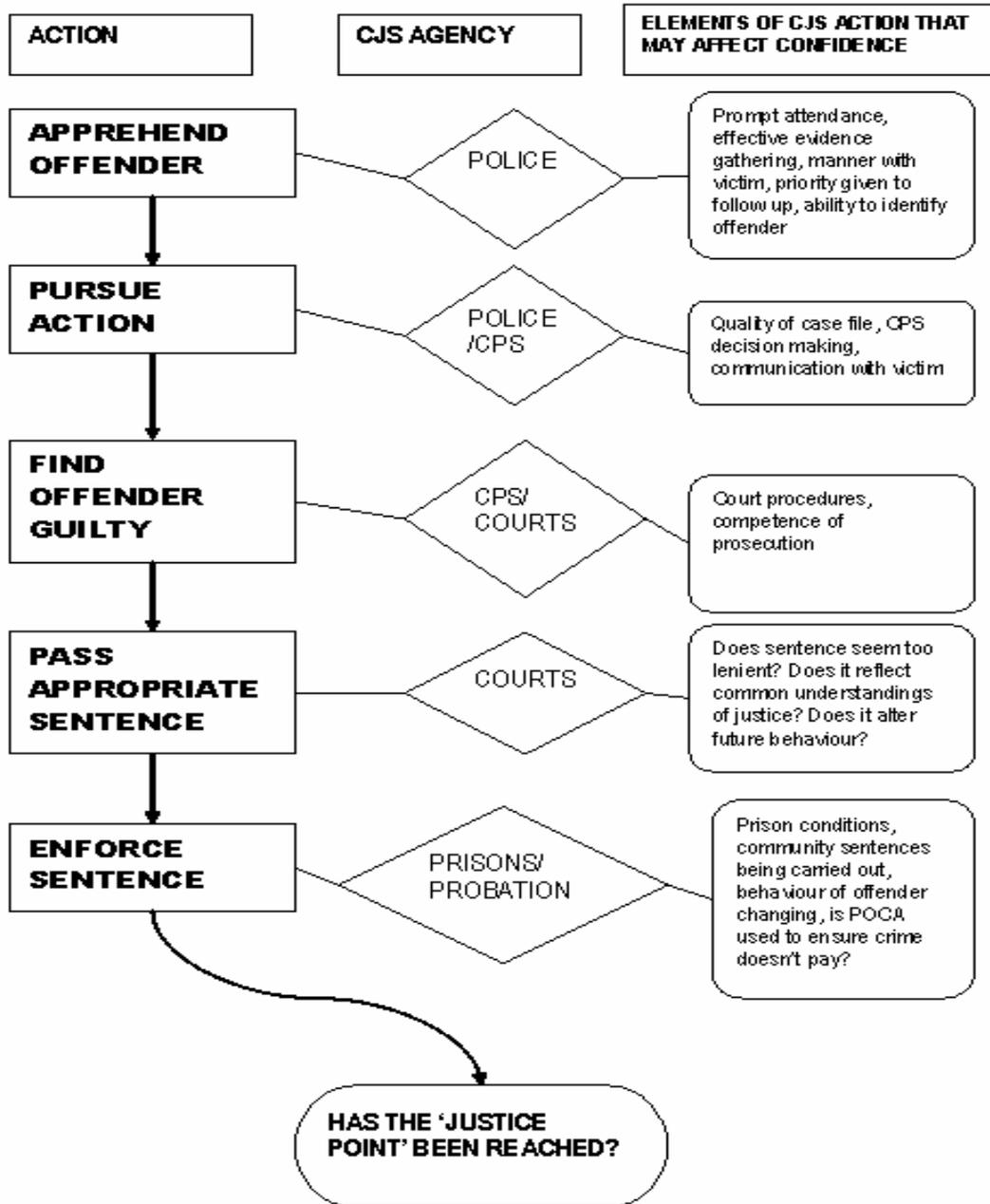


Figure 1: Bringing an offender to justice

The Justice Point

2.3.6 Figure 1 also illustrates another problem with the general confidence measure: the mismatch between what the system understands by bringing an offender to justice and what the public understands by the same. The use in the BCS of the idea of “bringing people who commit crimes (i.e. offenders) to justice” dovetails with another CJS target regarding offences brought to justice (OBTJs). This may seem to be a neat synchronising of terminology; however the extent to which the CJS definition of when an offence has been brought to justice and the public view of the same are in fact synchronised is very much in doubt. I use the term the “justice point” in order to describe this lack of synchronicity. The justice point is the point in time at which justice is enacted on the offender. The government target regime deems an offence to have been ‘brought to justice’ when there has been a caution, conviction, an offence has been taken into consideration by the court or a Fixed Penalty Notice has been issued. The public may view this matter differently seeing justice as the administration of a fitting sanction for criminal behaviour. The government and the public may therefore have different ideas of where the ‘justice point’ is.

2.3.7 The street survey found that of the respondents who said they were not confident in the CJS’s ability to bring those who commit crime to justice more than a third, when asked why they were not confident, responded that sentences were too lenient. Although an offence may, in CJS terminology, have been brought to justice, for some members of the public justice has not been done unless the sentence fits the crime. Sentencing (particular lenient sentencing) is cited time and again as a determinant of public confidence in the CJS, suggesting a need to understand how the public understands the meaning of justice. This is an area that will require further attention as the research progresses.

Expressive responses

2.3.8 Jackson (2004) uses the concept of “expressive” fear to describe the way in which members of the public use survey responses to express wider concerns about perceived decline and deficiencies in society. Qualitative studies exploring narratives people construct around crime suggest that expressive responses can be a problem in fear of crime surveys. Jackson finds that expressing fear of crime in a survey may be “value-expressive” of attitudes; an individual may use a survey to express worry about crime because they feel it is important, but not because they themselves have experienced personal fear of crime. In this way “crime survey responses express underlying attitudes to the existence and prevalence of crime, the importance and cultural significance of crime and disorder locally, and the personal possibility of victimization” (Jackson, 2004: 961).

2.3.9 Similarly Hutton finds that views about crime may tend to replicate “general social narratives about risk, insecurity and anxiety, which exist in a context wider than the personal experience or knowledge of the respondents” (Hutton, 2005: 251). If we apply this knowledge about fear of crime to the context of confidence, it is clear that there is a danger that feelings of general dissatisfaction, or a lack of confidence in, for example, general standards of personal conduct, may be “expressed” through a response to a single survey question about a more specific issue. If this was to take place then it would devalue the utility of the information gleaned from the survey, as well as making the survey question an unreliable measure of performance.

2.3.10 The official conceptualisation of public confidence in the CJS uses function-specific confidence as a proxy for measuring general confidence levels. I have raised some concerns about this “general confidence measure”, which are:

- The general confidence measure refers to a narrow range of CJS business that cannot accommodate the wider frame of reference that the public may apply to its assessment of whether or not the CJS is generally effective.
- The function used as a proxy for general confidence consists of multiple processes carried out by multiple agencies making it difficult to discern which areas of the system the public lacks confidence in.
- There appears to be a mismatch between the official conception of when an offence has been “brought to justice” and public conceptions of this.
- Responses to the general confidence measure question may be “value-expressive” of a more general sense of dissatisfaction.

2.3.11 On the basis of these concerns it seems likely that the general confidence measure does not accurately capture the range of responsibility that the public assigns to the CJS, fails to provide information that is detailed enough to be usable by CJS agencies and does not match with public perceptions of the meaning of justice. Furthermore, if the public do give “expressive” responses to the question then it may not even accurately gauge levels of confidence in the specific action that it refers to.

2.4 The concept of confidence – A summary

2.4.1 In this section I have suggested that the target for public confidence is the product of a combination of NPM performance management and the civil renewal agenda, which values confidence as an outcome of the CJS because of its importance to the legitimacy of the CJS and its effect on levels of social trust more generally. Confidence and the CJS sit within a wider community safety framework that recognizes the importance of the emotional reactions of the public to their social environment. However, when operationalised in survey measurements, confidence is assumed to be linked to levels of effectiveness through the mechanism of a rational appraisal of CJS performance in respect of a specific function which, whilst important to the public, is not the sole determinant of their confidence level. This operationalisation raises serious concerns about both the utility and the appropriateness of the data collected on confidence. Furthermore this operationalisation does not seem compatible with the political aim of understanding and valuing people’s subjective feelings about the safety of their communities.

3. The Case for an Alternative Knowledge

3.1 The limitations of current knowledge

3.1.1 Reflected in the work carried out so far for NCJB (the literature review, the focus group research and the street survey), and in other literature on confidence, is a model for exploring confidence which can be summed up as:

1. Identify the issues of importance to the public in relation to the CJS and their relative weightings
2. Understand how opinions are formed on these issues
3. Apply knowledge of the above to ‘correct’ opinions

3.1.2 This dominant model for confidence research apes market research approaches to understanding customer satisfaction. It is rooted in an assumption that because the CJS is performing well but the public lacks confidence then at least part, if not all of the solution to improving confidence lies in managing to communicate the right messages to the right sections of the public in the right way. This seems to be the model for ‘community engagement’ events promoted by the OCJR, as demonstrated by the key messages card for Inside Justice Week illustrated in Table 2 (on page 15 below). This assumption is also implicit in the confidence strategy outlined in the Strategic Plan for Criminal Justice which is focussed on improving performance outcomes and communicating information about performance better (OCJR, 2004: 22).

3.1.3 This model reflects the perspective of administrative criminology because it constructs confidence as a mainly rational response to complete and accurate information. It does not pay sufficient attention to the emotional aspects of crime and justice, because it assumes that low confidence is mostly based on inaccurate perceptions of ‘objective’ facts. It would seem therefore that emotions are treated as largely irrelevant, illegitimate or false; however, it is perhaps more accurate to suggest that the model assumes a *uniformity* of emotional response.

3.1.4 This assumption of uniformity would be consistent with criticisms of left realist criminology, which accuse left realists of assigning to the concept of crime a one-dimensional character which is understood by all “decent” people in a very common sense way (Tierney, 1996: 285). The dominant model therefore lacks a critical perspective on the way confidence is conceptualised and measured by the BCS and associated central government targets, because it assumes a passive customer-like relationship between members of the public and the CJS which is structured by “common sense” knowledge of the nature of crime and justice and a uniformity of emotional response amongst “decent” people.

3.1.5 This model reflects the process of “consumerisation” identified by Needham (2003). She identifies consumerisation as a shift in government’s relationship with its citizens through the increasing incorporation of consumer-values into that relationship. Evidence for this process can be found in the government’s methods of communication, consultation and service delivery. Consumerised communications become “promotional” and “seek to sell

something” they are a “top-down, one-way process in which the government provides information and the citizen consumes. There is no expectation of interaction or dialogue” (Needham, 2003: 17). Communications therefore become organised around concepts more associated with commercial enterprises, such as branding and key messages. Consultation with the public can also be consumerist according to Needham and this applies both to its methods and its content. Consumerist methods mimic market research approaches and might be for example opinion polls, whilst consumerist content will ask about citizens’ individual experiences as service users. Consumerist service delivery focuses on the individual as a service-user, essentially a consumer whose expectations must be met.

	Young People	Parents	Older People	BME
Get involved	There are great career opportunities in the CJS	There are great career opportunities in the CJS for you and for young people	There are great volunteering opportunities in the CJS	There are great career opportunities in the CJS. Working with you to create a diverse CJS that reflects the community
Seeing justice done – fairer sentencing	This is how the CJS works	Sentences are tougher than you think	Sentences are tougher than you think	The CJS is taking racist crime seriously
Protecting the public and supporting victims	How to make sure you don't become a victim	If you or your family are a victim of crime the CJS will look after you	There is a low risk of you becoming a victim of crime. But if you are a victim, the CJS will look after you	The CJS will treat you fairly and sensitively

Table 2: OCJR key messages for Inside Justice Week

3.1.6 Treating citizens like consumers in this way leads to a model of citizenship which Needham calls the “citizen-consumer”. The relationship between citizen and government is reduced to something which is “individualized, instrumental and transactional” (Needham, 2003: 14). The defining act of the consumer is self-interested choice, not deliberation. By encouraging citizens to pay heed mainly to their own service requirements the scope for wider political deliberation about government action is reduced. Furthermore, claims Needham:

Consumerism may be fostering privatised and resentful citizen-consumers whose expectations of government can never be met. It presents government and the state as a realm utterly detached from the individual, rather than a realm that the individual is a part of and an active participant in (Needham, 2003: 33)

3.1.7 Writing 3 years ago Needham did suggest however that the government was starting to step-back from explicitly consumerist language, and perhaps the increasing emphasis on civil renewal and community engagement can be seen as part of this step back from consumerisation. However, as Needham notes, consumerist modes of operation have filtered down to the local and agency level and clearly much of the research into confidence so far, by conforming to the model outlined above, has been consumerist in method and content and has often advocated consumerist style communications as a way to increase confidence.

3.1.8 The use of consumerist methods perpetuates the construction of confidence as a uniform response to accurate information by ‘decent’ people. It assumes that data can be collected on the nature and importance of relevant stimuli and how these stimuli work on public perceptions and can then be used to manipulate confidence levels. Clearly, consumerist attitudes towards data collection will not, by their vary nature, be predisposed to epistemological reflexivity. But methodology is not neutral and can impact on the data collected by constructing the views it claims it is simply gathering in a neutral fashion (Jackson, 2004).

3.1.9 It is widely suggested that surveys elicit people’s unreflecting opinion, may fail to capture the multi-dimensional and ambivalent way that people talk about issues such as crime and may “reproduce elements of a broad narrative of anxiety” (Hutton, 2005: 254). In addition to offering an opportunity to make “expressive” responses discussed above, it has been argued that surveys have a tendency to collect “non-attitudes” or “pseudo-opinions” (Fielding and Innes, 2006: 136) Furthermore ways of questioning can become so established that they are not questioned as Farrall and Ditton (1999) claim: “The questions that were routinely employed in crime surveys had, to all intents and purposes, been reproduced without much thought given to why these questions had been worded in the way they had been, or to whether these questions were at all appropriate.” (56)

3.1.10 According to Hutton (2005) at least three characteristics of the research methodology used will impact on the data produced:

- “questioning technique” (eg. Survey, focus group, order of questions and so on)
- “discursive form” of the presentation of the issue (individual or structural account)
- “additional information” (how much and what kind given to respondents at time of research)

3.1.11 He claims that in the context of crime and punishment: “Survey questions, issues framed in a structural way and the absence of information tend to generate more punitive responses, while methods which allow respondents to interact and engage in dialogue, issues framed in individual cases and the provision of more information, tend to generate more liberal attitudes” (Hutton, 2005: 246). This suggestion is supported by research on the effect of giving information to the public and then asking them to suggest a sentence for an offender. St. Amand and Zamble argue that:

although general attitude surveys may accurately assess public sentiment, they yield impoverished information. When public knowledge and sentencing tendencies are assessed, it becomes evident that negative attitudes are not a straightforward reaction to an overly lenient system...In the absence of richer information...the problem of dissatisfaction with the criminal justice system remains murky and the results of general attitude surveys are susceptible to misinterpretation and to potential misapplication by legislators (St. Amand and Zamble, 2001: 526)

3.1.12 The above methodological concerns are just a taster of a large methodological literature yet to be explored. However they clearly demonstrate the potential for methodological choices to influence the data collected. In light of this it is important that this research project avoids the consumerist style of previous research in favour of a rigorous methodological reflexivity.

3.2 An Alternative Approach

3.2.1 An alternative model for investigating confidence would accord more respect to the opinions *and* feelings of the general public, rather than implying that a rectifiable deficiency in knowledge is responsible for low confidence. This model would allow for the fluid, overlapping, contradictory and *emotional* nature of the way the public understands the criminal justice system, treating knowledge as a more nuanced category, and acknowledging the validity of subjective and emotional knowledge. It would avoid a consumerist style of consultation and communication in favour of fostering a genuine two-way dialogue, involving the public in the production and use of knowledge.

3.2.2 This model would explore:

- 1. UNDERSTANDINGS** - Exploring cognitions of crime, justice and the CJS which will encompass both objective and subjective elements moving through awareness, expectations, attitudes, beliefs, perceptions, emotions.
- 2. INFLUENCES** - Exploring the arenas in which and media through which understandings of the CJS are formed.
- 3. EXPRESSION** - Exploring how people express their understandings (or cognitions) of the CJS, and how expressions which are elicited in order to measure public attitudes towards the CJS may in fact not represent an accurate expression on that exact subject, but rather express fears or feelings about a wider range of issues. This stage of the model acknowledges that different research methodologies foster different expressions of attitude, opinion and feeling and therefore produce different results, and seeks innovative methodological solutions to this problem.

3.2.3 This model treats the general public as citizens with an active role to play in shaping the CJS rather than as passive recipients of the justice ‘product’. It recognises the legitimacy of the general public’s cognitions of justice, and acknowledges the public’s right to be involved with, influence and change the way justice is administered. This alternative approach to gathering knowledge about public confidence will conform to the guiding principles of action research which “commit those who seek valid knowledge to researching *with* their fellow citizens, rather than researching *on* them” (Wakeford et al, 2004: 6).

3.2.4 Although I have presented this alternative model in terms which may imply that it is a radical departure from the status quo it is important to recall that public confidence is being measured because of its vital importance to securing the consent of the public to CJS actions, and thereby ensuring that the CJS is seen as legitimate. In his foreword to The Home Office Strategic Plan 2004-2008 “Confident Communities in a Secure Britain” the then Home Secretary David Blunkett asserted that “We can only drive lasting and sustained change by empowering people to take greater responsibility for the strength and well-being of their own lives and communities in a way that establishes a different relationship between Government and the governed” (Home Office, 2004: 5-6).

3.2.5 This research offers a real opportunity to blaze a trail in criminal justice research by using the principles behind civil renewal as the basis for a research project, and accepting the concept of “co-production” in public services. This means that “citizens...are not passive consumers of what professional or specialised organisations provide, but a crucial part of the

production process” (Hood cited in Needham, 2003: 36). Co-production should be considered in the context of a civic republican view of citizenship and governance, starting from an assumption that people will be involved in debate about what policy is trying to achieve and how it should do that, “so that the laws and policies of the state do not appear to him or her simply as alien impositions but as the outcome of a reasonable agreement to which he or she has been party” (Miller cited by Needham, 2003: 39). In other words public confidence will be situated in the context of deliberation and debate rather than consumption and satisfaction.

3.2.6 Research carried out in line with this alternative model will aspire to engage the public in a process of co-researching by acknowledging the need to explore the full range of knowledge of crime and justice and how this maps on to confidence levels. It will do this by using methods that are not consumerist in style but rather participatory and deliberative, enabling those involved both to express their emotional responses (regarded as valid) and to deliberate about the issues rather than being asked to give snap responses to survey questions.

3.2.7 This way of researching represents a significant methodological challenge. To give an indication of the form this might take one method that will be explored is citizens’ juries. This method of action research seeks to change the passive status of citizens in research:

[challenging the] separation between analyst and subject...like a legal jury, the cornerstone of a citizens jury is the belief that once a small sample of a population have heard the evidence, their subsequent deliberations can fairly represent the conscience and intelligence of the community...because the decision is reached after extensive opportunity for deliberation, the conclusion is arguably of greater validity than when an instantaneous response is obtained from a thousand uninformed citizens (Wakeford, 2002: 2)

3.2.8 Combining deliberative qualitative research with quantitative research will be an additional challenge. Any survey designed will need to be subject to validity checks as used by Farrall and Ditton (1999). Validity checks focus on two things: (1) how respondents interpret questions and the social meaning they get from the questions and (2) the reliability of data. This will be a necessary part of ensuring that any reconceptualisation of confidence used in the survey design is interpreted in the intended way by respondents.

3.2.9 Having outlined the alternative approach I would like to adopt for this research I will conclude with a brief account of how I will take this forwards into the research.

4. Taking the Research Forwards

4.1 Guiding Principles

4.1.1 Drawing on the issues discussed in this report I have devised four guiding principles for this project. These are that it should:

- be rooted in the idea of consensual justice whereby the confidence of the public is considered vital for CJS legitimacy, necessitating the situating of the research within a framework of deliberation and debate, rather than consumption and satisfaction;
- aim to produce real benefits for the public both through their being involved with the research and through the knowledge generated by the research;
- represent a critical departure from established approaches to the measurement and improvement of public confidence by acknowledging the validity of lay knowledge in the form of the full range of cognitions of justice and confidence, and by pursuing innovative methodological techniques; and
- through application of the above principles, deepen understanding of the nature of public confidence.

4.2 Objectives

4.2.1 The objectives of the research are:

1. To engage in a process of deconstruction and reconceptualisation of the idea of public confidence as it is currently used in discourse, policy and research and, in so doing, to construct a critical epistemological framework for the enquiry which will inform the methodological design.
2. To deepen understanding of the nature of public confidence in the CJS, producing an alternative body of knowledge on the subject by designing and executing a mixed methodological empirical study, employing innovative interactive qualitative approaches both to inform the development of robust quantitative research instruments and to triangulate quantitative survey findings by probing and contextualising the statistical data collected.
3. Using the empirical data collected to investigate and, if possible, identify causal links between the policies and practices adopted by the agencies that make up the CJS and public confidence in the system as a whole
4. Drawing on the critical epistemological framework and the empirical data to propose and disseminate robust alternatives to the current measurement of public confidence

5. To make recommendations for actions that should, based on the evidence of the empirical research, lead to a measurable improvement in public confidence in the CJS in the Northumbria area
6. To evaluate shifts in thinking about the concept of public confidence (and its measurement), within the professional discourses of the partner organisation and, by so doing, assess the utility and sustainable impact of the methodological and substantive knowledge generated by the research

4.3 The Research Process

4.3.1 The research will be carried out over a three year period and will consist of 5 key phases. These will take place broadly sequentially although they will overlap in places. I have also given an indication here of the anticipated timing of each stage of the research.

1. **BASE-LINE AUDIT** carried out at the start of the research to identify the limitations and difficulties of official conceptualisations of public confidence and their operationalisation in survey, PSA and other CJS measures. (Sep – Dec 2006)
2. **LITERATURE REVIEW** of academic, policy and professional materials facilitating a process of theoretical and conceptual deconstruction leading to the production of a critical epistemological framework for the empirical research. This will differ from the literature review already carried out by accessing a wider body of literature including for example sociological literature on emotions and rationality and methodological literature on developing innovative deliberative approaches to research. (Ongoing throughout the research but the main focus from Jan – May 2007)
3. **RESEARCH DESIGN** to produce a triangulated, interactive methodology that satisfies the core principles of the research. (Apr – Jul 2007)
4. **EMPIRICAL RESEARCH** incorporating a quantitative component using the survey method designed and tested at the research design stage and a qualitative component focussed on key sub-samples identified through the quantitative stage. (Jul 2007 – Jul 2008)
5. **ANALYSIS AND REPORTING** will take place on an ongoing basis culminating in the production of a final report for presentation to the LCJB. (Dec 2007 – Sep 2009)

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