

INTERVENTIONS WITH DRUG MISUSING OFFENDERS AND PROLIFIC AND OTHER PRIORITY OFFENDERS

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I. INTRODUCTION: BACKGROUND

In England and Wales, there is a long history of supervising offenders and trying to reduce reoffending by the use of programmes and interventions.

Any offender serving a sentence of 12 months or longer and all offenders aged 18-21 are subject to supervision on licence by the National Probation Service following their release. All additional licence conditions have to be 'necessary and proportionate' in order to comply with Human Rights legislation. The Probation Service manages a very large number of offenders on licence - around 50,000 offenders are discharged from prison on licence every year with licence conditions which, in the case of 'lifers,' may last for many years.

Any offender given a community sentence – (the Community Order, introduced by Section 177 of the Criminal Justice Act 2003 replaced other community sentences) will be managed by the Probation Service. The Order consists of one or more of twelve requirements determined by those passing sentence from a 'menu' of available options.

The same requirements can also be applied to a suspended prison sentence. Around 135,000 offenders each year are given a community sentence that requires supervision in the community by the Probation Service. A number of 16 and 17 year olds who are sentenced under pre-Criminal Justice Act 2003 legislation can be sentenced to Community Rehabilitation Orders, Community Punishment Orders, Community Punishment and Rehabilitation Orders and DTTOs. These orders may be supervised by probation authorities; otherwise, sentences for those under 18 are managed by the YOT.

In addition, about 13,000 high risk offenders are managed under the Multi Agency Public Protection Arrangements (MAPPA), of whom about 1,500 are considered very high risk.

But significantly, there is a 'gap' in these supervision arrangements relating to those offenders sentenced to periods in custody of less than twelve months and a significant number of offenders who are criminally active or at risk of being active but are not being routinely detected and are not being managed in the criminal justice system. This was particularly true in relation to drug misusing offenders (defined in this context as those offenders who commit significant amounts of crime to support their own substance misuse) and prolific and other priority offenders.

In addition, a study conducted by the Social Exclusion Unit on behalf of the Prime Minister in 2002 to explore how to cut rates of reoffending by ex-prisoners reported that prison sentences were not succeeding in turning the majority of offenders away from crime. Of those prisoners released in 1997, 58% were convicted of another crime within two years; 18-20 year old male prisoners were re-convicted at a rate of 72%.

The report concluded that there was considerable evidence of the factors that influence reoffending. Building on criminological and social research, the SEU identified nine key factors:

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- education
- employment
- drug and alcohol misuse
- mental and physical health
- attitudes and self-control
- institutionalization and life skills
- housing
- financial support and debt
- family networks.

The evidence showed that these factors can have a huge impact on the likelihood of a prisoner reoffending. For example, being in employment reduced the risk of reoffending by between a third and a half; having stable accommodation reduced the risk by a fifth.

Many prisoners had experienced a lifetime of social exclusion. Compared with the general population, prisoners are thirteen times as likely to have been in care as a child, thirteen times as likely to be unemployed, ten times as likely to have been a regular truant, two and half times as likely to have had a family member convicted of a criminal offence, six times as likely to have been a young father, and fifteen times as likely to be HIV positive.

Many prisoners' basic skills are very poor: 80% have the writing skills, 65% the numeracy skills and 50% the reading skills at or below the level of an 11 year old child. 60-70% of prisoners were using drugs before imprisonment. Over 70% suffer from at least two mental disorders. And 20% of male and 37% of female sentenced prisoners have attempted suicide in the past. The position is often worse for 18-20 year olds, whose basic skills, unemployment rate and school exclusion background are all over a third worse than those of older prisoners.

There is a considerable risk that a prison sentence might actually make the factors associated with reoffending worse. For example, a third lose their house while in prison, two-thirds lose their job, over a fifth face increased financial problems and over two-fifths lose contact with their families. There are also real dangers of mental and physical health deteriorating further, of life and thinking skills being eroded, and of prisoners being introduced to drugs. By aggravating the factors associated with reoffending, prison sentences can prove counter-productive as a contribution to crime reduction and public safety.

II. DRIVE FOR CHANGE

The absence of supervision arrangements for a very significant number of offenders and the identification of the wide range of unmet needs of many offenders, raised the question of whether programmes directed specifically at the needs of targeted groups of offenders might deliver significant and disproportionately large reductions in offending and reoffending by those groups. Further research into those groups supported this proposition. The key research findings are summarized below.

A. Research Findings Relating to Drug Misusing Offenders and Crime

1. General

Drug-related crime has been the subject of considerable attention in recent years. As well as imposing substantial economic and social costs upon society and victims of crime, it has a high profile among the public, the media and politicians. The question of how addiction treatment influences criminal behaviour is important for the implementation and evaluation of drug treatment programmes and the development of policies to tackle drug misuse. Although clinical services mostly focus on tackling drug misuse and its associated health problems, the reduction of crime is also seen increasingly as a goal of drug misuse treatment.

Drug misusers frequently come into contact with the law, as the use of illegal drugs makes them liable to arrest. There are also other links between drug misuse and crime. The regular use of illicit drugs places an excessive economic burden upon the user which, in most cases, cannot be met by legitimate means. Two common ways of obtaining drugs, or obtaining money for drugs, are through acquisitive crimes and through drug dealing or supply. Some drug users support their habit through prostitution, though this is less common.

2. Economic Costs

The economic costs and consequences of drug misuse and treatment were investigated among 549 clients recruited from 54 residential and community treatment programmes to the National Treatment Outcome Research Study (NTORS). This update to a previous analysis using NTORS showed that addiction treatment had an estimated cost of £2.9 million in the two years prior to treatment and £4.4 million in the subsequent two years. Economic benefits were largely accounted for by reduced crime and victim costs of crime. Crime costs fell by £16.1 million during the first year and by £11.3 million during the second year. The ratio of consequences to net treatment investment varied from 18:1 to 9.5:1, depending on assumptions. In short, the most conservative estimate suggests that for every £1 spent on treatment, £9.50 is saved in the costs of reduced crime. Thus there are clear economic benefits to treating drug misusers. The original cost-savings analysis using NTORS had shown a ratio of consequences to net treatment investment of 1:3.¹

3. Link Between Drugs and Arrestees

The New English and Welsh Arrestee Drug Abuse Monitoring (NEW-ADAM) programme is a national research study of interviews and voluntary urine tests designed to establish the prevalence of drug use among arrestees (suspected offenders arrested by the police). This rolling programme covers 16 locations in England and Wales and each data collection cycle lasts two years (eight sites were visited in the first year and the remaining eight sites in the second year). The first eight sites were revisited in the third year.

The survey data collected provided information on the characteristics, drug use and offending behaviour of adults entering the criminal justice system. Summary data are presented from the 16 custody suites visited in the first two years. As interviewed arrestees are also asked about their offending behaviour (focusing on acquisitive crime), the relationship between drug use and certain types of criminal activity can be explored. The key points were:

- Urine tests of arrestees revealed that 69% of arrestees tested positive for one or more illegal drugs, and 36% tested positive for two or more such substances;
- 38% of arrestees tested positive for opiates (including heroin) and/or cocaine (including crack);
- 18% of the interviewed arrestees were repeat offenders, regularly using heroin and/or cocaine and/or crack;
- average expenditure on drugs, by those who had reported using drugs and spending money on them in the last 12 months, was highest for those consuming heroin and cocaine and crack, at £323 in the last seven days compared with £190 for drug users generally;
- arrestees who reported using heroin and cocaine and crack in the last 12 months represented just over one-tenth of the arrestees interviewed, yet they were responsible for nearly one-third (31%) of the illegal income reported. On average, arrestees who had generated illegal income and who used heroin and cocaine and crack in the last 12 months reported an average illegal income of more than £24,000 per year (median £12,490);
- 60% of arrestees who reported using one or more illegal drugs in the last 12 months and committing one or more acquisitive crimes acknowledged a link between their drug use and offending behaviour. This proportion rose to 89% among arrestees who said that they had committed one or more acquisitive crimes and that they had used heroin and cocaine and crack in the last 12 months.

4. Changes in Crime after Treatment

The reductions in crime are among the more striking findings from NTORS. One year after starting treatment, there were substantial reductions in the numbers of crimes, and these reductions were maintained through to follow-up after four to five years. There were also reductions in the use of heroin and other illicit drugs, reduced injecting and sharing of injecting equipment and improvements in psychological health.

There were substantial reductions both in the numbers of crimes committed and in the percentage of clients engaged in crime. At the one year follow-up, acquisitive crimes were reduced to one-third of intake levels, and the rate of involvement in crime was reduced to about half of intake levels. The number of shoplifting crimes was reduced to about one-third of intake levels, and for the more serious offence of burglary, offending was reduced to less than one-quarter of intake levels. Many of the greatest reductions in criminal activity occurred among the most criminally active drug misusers. Among high-rate offenders, crimes were reduced to 13% of intake levels. This represents a huge reduction in criminal behaviour.

¹ Godfrey, C., Stewart, D. and Gossop, M. (2004). *Economic analysis of costs and consequences of drug misuse and its treatment: two year outcome data from the National Treatment Outcome Research Study (NTORS)*. In *Addiction* 99(6): 697-707.

Similarly, for drug-selling crimes, one year after starting treatment, there were substantial reductions in the numbers of drug-selling crimes committed and in the percentage of clients engaged in drug-selling crime. The number of drug-selling offences was reduced to less than one-fifth of intake levels. In view of the massive number of offences committed prior to intake, this represents a large and important reduction. The percentage of NTORS clients who were involved in drug-selling was also reduced to less than two-thirds of the level at intake.

The reductions in crime were found among clients from both the methadone and the residential programmes and reductions were found for acquisitive crime and for drug-selling offences.

Among the methadone patients, the number of acquisitive crimes after one year had fallen to less than one-third of intake levels and this type of crime remained low throughout the follow-up period. After four to five years, rates of acquisitive crime fell to less than one-quarter of intake levels. Drug-selling crimes were also significantly lower during the full follow-up period than at intake. For drug-selling offences, the numbers after four to five years fell to 17% of intake levels.

B. Research Findings Relating to Disproportionate Impacts by Groups of Offenders

Research carried out in 2001 concluded that, of a total offending population of around one million, only approximately 100,000 offenders (10% of all active offenders) were responsible for half of all the crime committed in England and Wales (Home Office, 2001). In other words it appeared that a small number of offenders were far more criminally active than others, contributing disproportionately to the overall crime rate. Indeed, further analysis showed that the most active 5,000 people in this group were estimated to be responsible for one in ten offences (Home Office, 2002). Although some of the assumptions behind this figure have been challenged (e.g. Garside, 2004), it is generally accepted that focusing additional resources on these most active offenders could bring about a better outcome in terms of reduced crime rates and could improve public confidence in the criminal justice system.

The Persistent Offender Programme was launched in 2002 as part of the Narrowing the Justice Gap programme (Narrowing the Justice Gap, 2002) with the aim of targeting resources from across CDRPs at offenders in the community with six or more convictions over the previous 12 months. These schemes were evaluated in 2003 (Home Office, 2005c). However, this evaluation was primarily focused upon staff and offender perceptions of the scheme and did not conduct a full reconviction analysis.

Other research on the effectiveness of similar schemes, such as the Burnley/Dordrecht Initiative (Chenery and Pease, 2000) and Intensive Supervision (Gendreau, Goggin, and Fulton, 2001) showed mixed findings but indicated little evidence of a reduction in reconviction due to the schemes.

Some schemes did report promising early results on convictions (Chenery and Deakin, 2003; Worrall, Mawby, Heath and Hope, 2003). However, such research was limited by small sample sizes and the lack of well matched comparison groups. Other PPO research has had more of a focus on implementation issues such as emphasizing partnership working (Mawby and Worrall, 2004; Worrall and Mawby, 2004). For a fuller discussion of effectiveness please refer to Moore *et al.* (2006).

The Home Office evaluation (Home Office, 2005c) reported that the selection criteria for the Persistent Offender Programme were seen by practitioners as being too rigid. They felt the scheme did not take into account important factors in an offender's pattern of behaviour, such as:

- the number of crimes that an offender could be responsible for without a conviction;
- offences that were left unreported; and
- the type of offence committed.

As a result, areas operating the scheme felt that offenders who were included were not necessarily those causing the greatest harm to their communities. Areas involved argued for a more flexible and localized definition that could include a wider definition of 'other priority' offenders.

These themes – tackling the most active offenders, local criteria for selection and local delivery of programmes to address offending – were central to the development of the Prolific and other Priority Offenders Programme.

III. A NEW POLICY APPROACH

The above findings and other factors – such as the unwillingness of drug misusing offenders to refer themselves to drug treatment services – pointed to the need for a new policy response. A response that focused on groups of individuals with specific characteristics rather than a response directed at crime types. Most importantly an approach would be required that took account of some of the reasons for some of the highest harm-causing individuals and addressed those reasons as well as the specific offending. Such a holistic approach would need the involvement of a wide range of agencies. Two programmes were designed to meet these needs – the Drug Interventions Programme (DIP) and the Prolific and other Priority Offenders (PPO) Programme.

A. The Drug Interventions Programme (DIP)

The Drug Interventions Programme (DIP) began in 2003 as a three-year programme to develop and integrate measures for directing adult drug-misusing offenders out of crime and into treatment. The Programme involves criminal justice and drug treatment providers working together with other services to provide a tailored solution for adults - particularly those who misuse Class A drugs - who commit crime to fund their drug misuse. Its principal focus is to reduce drug-related crime by engaging with problematic drug users and moving them into appropriate treatment and support. It aims to break the cycle of drug misuse and offending behaviour by intervening at every stage of the criminal justice system to engage offenders in drug treatment.

The programme took as its premise two key facts: a) significant numbers of drug misusing offenders were not referring themselves to drug treatment services and their Class A drug use (and accordingly levels of offending) were escalating; and b) those same offenders were in constant contact with the criminal justice system. The programme set out to use the criminal justice system as a way of coercing offenders into drug treatment and at the same time ensuring they were closely managed and connected to the other services of which they were in need.

The Programme was constructed around a combination of new laws (described in more detail later in this paper), new working practices, new investment and a renewed emphasis on partnership working and multi-agency delivery. It was supported by very strong political sponsorship, being amongst the Prime Minister's top projects.

Drug testing on charge had been originally introduced on a pilot basis in 2001 and had been successful in engaging offenders. Extended extensively as part of the Drug Interventions Programme, drug testing is central to the Programme and is used to identify problematic drug misusing offenders in order to try to encourage them to enter drug treatment. It is also a key component that enables other measures such as required assessment and restriction on bail to be implemented.

Key partners to the Home Office are the criminal justice agencies such as the police, prisons, probation officers and the courts, along with the Department of Health, the National Treatment Agency, treatment service providers and those who provide linked services such as housing and job-seeker support.

The Programme is continuing beyond the original three-year period, with the aim of gradually ensuring that the constituent interventions and processes become the established way of working with drug-misusing offenders across England and Wales.

B. The Prolific and other Priority Offenders (PPO) Programme

The PPO Programme was announced by the Prime Minister in March 2004. The Programme was conceptualized as being an end-to-end process that specifically targeted the small number of most active and/or problematic offenders. In essence, it was designed to give offenders a choice between the cessation of offending with the acceptance of support in the form of rehabilitative programmes or to carry on offending resulting in prompt arrest and punishment.

The PPO programme is comprised of these three complementary strands.

- *Prevent and Deter*

This strand is aimed at those young offenders who are most at risk of becoming the next generation of prolific offenders. Principally, the Prevent and Deter strand aims to stop the supply of new prolific offenders by reducing the opportunities for reoffending, so that those who are already criminally active do not graduate into prolific-offending lifestyles; and more generally reducing the numbers of young people who become involved in crime in the first place.

- *Catch and Convict*

The goal of this strand is to prevent PPOs from offending through apprehension and conviction, through licence enforcement, and by ensuring a swift return to the courts for those PPOs continuing to offend. Catch and Convict (C&C) reflects the need for robust and proactive criminal justice processes to ensure that there is effective investigation, charging and prosecution of PPOs.

- *Rehabilitate and Resettle*

This strand aims to rehabilitate PPOs who are in custody or serving sentences in the community through closer working between all relevant agencies and continued post-sentence support. Rehabilitate and Resettle (R&R) provides support and priority access to services in the community, and pre-release support for those serving custodial sentences.

The essential feature of the PPO programme was that it should tailor responses to local problems and should avoid a prescriptive approach regarding implementation. In doing so, the PPO programme embraces the use of local knowledge, practitioner expertise and previous experience of similar schemes. The individual stakeholders, practitioners and specific agencies are responsible for all the decision-making aspects of the programme throughout; from how to choose the prolific offenders through to which interventions they may receive and how often they may receive them. These factors were all designed with a specific intention: to reduce the crime levels of the offenders on the PPO programme.

IV. LEGAL FRAMEWORK

A. Drug Interventions Programme

Although the overall intention of the programmes was to work in co-operation with drug-misusing offenders, it was recognized that these were a difficult group to access and that many of them were resistant to any form of intervention. There was accordingly a need to have a set of powers to form a structure that increased the chances of offenders engaging with drug treatment workers and moving out of crime and into treatment. These powers are set out below.

1. Drug Testing in Custody Suites

The power to drug test in custody suites was first introduced in the 2000 Court Services Act and required individuals charged with certain offences ('trigger offences' – see below) to undergo a drug screening test for crack, cocaine and heroin. The intention of the provision was to identify those offenders who had Class A drug habits and move them into treatment.

Following successful early pilots, the 2005 Drugs Act included a provision to move the point at which a drug test may be carried out to a time post-arrest rather than post-charge. Drug testing on arrest has become the preferred alternative to drug testing on charge. Testing on arrest enables us to identify adults misusing specified Class A drugs earlier in their contact with the criminal justice system, so that they may be steered into treatment and away from crime as soon as possible. It has also increased the volume of drug-misusing arrestees identified – approximately three times more offenders are arrested than charged. This provides an opportunity to screen more people at some stage of their detention - and ensures that those who misuse drugs but are not charged with an offence are nevertheless helped to engage in treatment and other programmes of help.

Testing on arrest has been implemented in individual police stations through notification letters to the Chief Constables of the affected forces from the Home Office. Only police stations named in these notification letters can test on arrest. If, for operational reasons, the police in an affected police force area wish to set up an additional police station with drug testing facilities the Home Office must be consulted in

advance.

Section 63B of Police and Criminal Evidence Act 1984 (PACE) (as amended by Section 7 of the Drugs Act 2005) provides for a sample of urine, or a non-intimate sample, to be requested by a police officer and taken from persons in police detention for the purpose of ascertaining whether they have a specified Class A drug (crack, cocaine or heroin) in their body if:

- (a) the person concerned has been arrested or charged with a 'trigger' offence; or
- (b) the person concerned has been arrested or charged with an offence and a police officer of the rank of Inspector or above, who has reasonable grounds to suspect that the misuse by the person of any specified Class A drug caused or contributed to the offence, has authorized the taking of the sample.

Trigger offences are primarily drawn from the Theft Act 1968, the Misuse of Drugs Act 1971 and the Vagrancy Act 1824. The Theft Act offences are generally concerned with acquisitive property crime, of the kind often committed by drug users to finance their drug habits. The Misuse of Drugs Act offences concern heroin and crack/cocaine. The Criminal Justice and Court Services Act 2000 (Amendment) Order 2004 (S.I. 2004/1892) added new trigger offences to Schedule 6: handling stolen goods, begging, and persistent begging, as well as attempts at the existing trigger offences, where relevant.

Under Section 63B(6) of PACE a sample may only be taken by a person prescribed by regulations made by the Secretary of State. The persons so prescribed are set out in the Police and Criminal Evidence Act 1984 (Drug Testing of Persons in Police Detention) (Prescribed Persons) Regulations 2001 (S.I. 2001/2645) which came into force on 19 July 2001. The persons so prescribed are:

- a) a police officer;
- b) a person employed by a police authority or police force whose contractual duties include taking samples for the purpose of testing for the presence of specified Class A drugs;
- c) a person employed by a contractor engaged by a police authority or police force whose duties include taking samples for the purpose of testing for the presence of specified Class A drugs.

Under the Drug Interventions Programme, the sample taken will be oral fluid and not urine.

Persons are requested to give a sample for testing and cannot be forced to do so. However, persons commit an offence under Sections 63B and 63C of the Police and Criminal Evidence Act 1984 where they refuse without good cause to provide a sample for which they are liable, on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding level four on the standard scale (£2,500), or both.

An individual's detention without charge may be extended up to 24 hours of the relevant time solely for the purpose of conducting a drug test.

2. Required Assessment

In the early days of the Drug Interventions Programme, an individual offender would have been asked whether they wished to see a drugs worker based in the custody suite. Accepting this offer was voluntary on the part of the individual. This caused some problems as many offenders would refuse the offer and engagement accordingly failed.

Part 3 of the Drugs Act 2005 introduced a new power for the police to require persons who have tested positive for a specified Class A drug when tested on arrest or charge to attend two assessments of their drug use, an initial assessment (Section 9) and a follow-up assessment (Section 10) with a suitably qualified person. A "suitably qualified person" is somebody who is competent to carry out the initial assessment and will, in almost all instances, be a Criminal Justice Integrated Team worker, who will also be employed to carry out voluntary assessments in the same area. All such workers will have, or be working towards, the relevant Drug and Alcohol National Occupational Standards (DANOS) competencies.

The person is required to attend and stay for the duration of either assessment in question. If they fail to do so, without good cause, they commit an offence and may face criminal sanctions. While the expectation is

that competent drug workers will be able to gain the co-operation and active engagement of the individuals they assess, the legislation does not actually require input from the individual. This avoids the potential difficulties of workers having to make subjective judgements in each case about the degree of the individual's engagement.

These powers can only be exercised in respect of persons aged 18 and over, (with provision for the Secretary of State to amend this minimum age by an order, which must be approved by both Houses of Parliament). In addition the powers can be exercised only where the relevant Chief Officer of police has been notified that arrangements for conducting initial and follow-up assessments have been made for the age group concerned.

The initial assessment is to enable the assessor to establish the person's dependency upon, or propensity to misuse specified Class A drugs and whether they might benefit from further assessment, or from assistance or treatment (or both). In addition the assessor will provide harm minimization advice and, as appropriate, an explanation of the types of assistance and treatment available. The Drugs Act 2005 (Section 10) provides that where a police officer requires a person to attend an initial assessment and remain for its duration [and where the age and notification conditions are met] that officer must at the same time also require the person to attend a follow-up assessment and remain for its duration (although this requirement will cease, if the person is informed at the initial assessment that he or she no longer needs to attend a follow-up assessment). The purpose of the follow-up assessment is to provide a further opportunity for the individual to discuss their drug misuse with a drugs worker and to obtain advice relating to that misuse and, if the follow-up assessor considers it appropriate, to draw up a care plan.

The requirement to undergo a required assessment and remain for the duration ceases if the person is charged with the related offence and the court grants conditional bail under the Bail Act to undergo a relevant assessment and participate in any relevant follow-up. If an individual is remanded in custody before the required assessment has been carried out, this will constitute "good cause" for not attending and they will not therefore be liable to prosecution for failure to attend.

3. Restriction on Bail

Section 19 of the Criminal Justice Act 2003 amended the Bail Act 1976 to provide for a Restriction on Bail for adults who have tested positive for specified Class A drugs (heroin, cocaine or crack). The purpose of the provision is to reduce reoffending whilst on bail. Given the compelling research evidence linking the use of crack, cocaine and heroin with acquisitive crime there is a real concern that if such offenders are placed on bail they will reoffend in order to fund their drug use. It is also important to take every opportunity to encourage drug-misusing offenders into treatment, where their drug use can be addressed.

Where the relevant conditions are met the defendant will be asked at the initial bail hearing to undergo an assessment of their drug problem (a relevant assessment) and agree to participate in any follow-up recommended by the assessor. If the defendant agrees, they will, in most cases, be released on conditional bail. However, if they refuse, the normal presumption for bail is reversed and the court will not grant bail unless satisfied that there is no significant risk of the defendant committing an offence whilst on bail. It acts as an incentive for those charged with offences to address any drug misuse or lose the right to be considered for bail pending trial. Restriction on Bail was extended to all Local Justice Areas in England from 31 March 2006. This means that any adult defendant who is brought before any court in England with a positive drug test result following testing on arrest or charge could have the provision applied to them irrespective of the area in which they live, within England.

Section 19 of the Criminal Justice Act 2003 amends the Bail Act 1976 by placing on the courts a new qualified obligation when considering bail applications, in cases where a defendant has tested positive for a specified Class A drug.

Subject to the notification to the courts by the Secretary of State, the provision applies when a defendant:

- a) is aged 18 or over; and
- b) has tested positive for a specified Class A drug either:
 - i) under Section 63(B) of the Police and Criminal Evidence Act 1984 (drug testing after charge)

- in connection with the offence; or
- ii) under Section 161 of the Criminal Justice Act 2003 (drug testing after conviction of an offence but before sentence)²; and
 - c) either the defendant has been charged with an offence under Section 5(2) or 5(3) of the Misuse of Drugs Act 1971 (possession or possession with intent to supply) relating to a specified Class A drug, or the defendant has been charged with any offence which the court is satisfied was caused, wholly or partly, by the defendant's misuse of a specified Class A drug or was motivated, wholly or partly, by his or her intended use of a specified Class A drug.

It is the accepted view that the combined evidence of a positive test and trigger offence amounts to "substantial grounds for believing that the offence in question was caused or motivated by the intended use of a specified Class A drug".

It does not apply when a defendant has refused to provide a sample for drug testing; a positive test is a prerequisite for the provision's application and even if the reason for it not being available is as a result of the defendant refusing to provide a sample the provision does not apply.

Where the person has either

- been offered and agreed to undergo a relevant assessment; or
- undergone a relevant assessment and been offered and agreed to participate in the relevant follow-up

the court, if it grants bail, shall impose as a condition of bail that the person undergo the relevant assessment and any proposed follow-up or, where the person has already undergone a relevant assessment, participate in the relevant follow-up.

Where the person has been offered but refuses to undergo a relevant assessment or, where the person has already undergone the relevant assessment, has been offered but refuses to participate in any follow-up, the court may not grant bail unless it is satisfied that there is no significant risk of the person committing an offence while on bail.

4. Conditional Cautioning

Conditional Cautioning was introduced by the Criminal Justice Act 2004 and allows, for the first time in England and Wales, for a condition that is conducive to restoration or rehabilitation to be attached to a police caution. Where the condition is not met, the offender may be charged and prosecuted with the original offence. Until Conditional Cautioning was introduced there was no statutory provision for cautions to have conditions attached, though some police forces had used voluntary schemes to encourage offenders into drug treatment (eg. deferred cautioning and "Caution Plus"). These schemes, although useful, had no statutory sanction in the case of non-compliance.

Conditional Cautioning with a Drug Interventions Programme drug rehabilitative condition provides an early opportunity in the criminal justice process to identify drug-misusing offenders. Individuals receiving a DIP drug rehabilitative Conditional Caution can be engaged and moved into appropriate treatment services before their lifestyle spirals into a more serious cycle of drug misuse and crime. Conditional Cautioning is not a soft option as it calls for a genuine and practical commitment to an individually-tailored programme. There is a sanction of prosecution for the original offence if the offender does not comply. National uptake of the scheme has so far been low across all conditions but the disposal is now being rolled out across England and Wales.

B. Prolific and other Priority Offenders Programme

No new legal arrangements have been constructed to support the Prolific and other Priority Offenders Programme. The designation of an offender as a "PPO" is purely administrative and has no specific statutory definition. Depending on the individual status of the offender there may be statutory provisions available (for example if the offender has been released from prison on licence or is on a community sentence); otherwise the levers with the offender are drawn more from the skills of the officers involved and the concept of 'legal

² Section 161 is not in force.

audacity'. In some circumstances, the absence of a legal status specifically defining a PPO can cause difficulty, for example during Court proceedings.

V. MAKING IT HAPPEN

The Drug Interventions Programme and the Prolific and other Priority Offenders Programme are both ambitious programmes. Key to delivery of both programmes is the ability of a range of agencies both within and outside the criminal justice system to work together at a national and local level. This is quite simply because the research evidence suggested that although the programmes were targeted at reducing crime and reoffending, the delivery of those reductions would only be achieved if there were a holistic approach to offenders. This meant that as well as involving traditional law enforcement agencies such as the police service, the Crown Prosecution Service and the Courts, there was a need to include drug services, health professionals, housing support workers, training experts and social workers.

A. Delivery Structures

The need for the involvement of such a wide group of agencies and stakeholders meant that it was not appropriate to ask a single agency to deliver the Programmes. It was decided that structures that had the best chance of engaging the widest range of agencies should be used.

1. Drug Interventions Programme

Drug Action Teams (DATs) are the partnerships responsible for delivering the Government's drug strategy at local level. DATs are partnerships combining representatives from local authorities (education, social services, housing), police, health, probation, the prison service and the voluntary sector. They were chosen as the key delivery route for the Drug Interventions Programme.

DATs ensure that the work of local agencies is brought together effectively and that cross-agency projects are co-ordinated successfully. Their work involves commissioning services, monitoring and reporting on performance and communicating plans, activities and performance to stakeholders.

Each DAT has a DAT Chair and Co-ordinator. The DAT Chair is the most senior official within the DAT and will also have a senior position within one of the constituent agencies. The DAT Co-ordinator is responsible for the day-to-day management of the DAT and has a team working for him or her. The DAT co-ordinator works alongside community safety managers in Crime and Disorder Partnerships (CDRPs). In some areas DATs and CDRPs are merged into one organization. Both DATs and CDRPs are accountable to the Home Secretary.

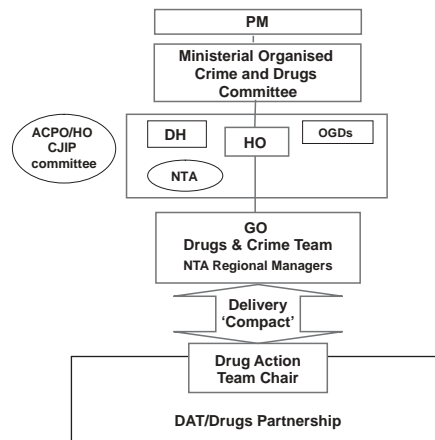
2. PPO Programme

For the PPO programme, every Crime and Disorder Reduction Partnership (or Community Safety Partnership in Wales) was responsible for setting up and implementing their PPO scheme. Occasionally, neighbouring CDRPs would collaborate to deliver a joint scheme. Additionally, there was a responsibility to establish a PPO scheme with the police and the probation service as lead partners in the delivery. In order to ensure that at least 5,000 offenders were identified for the programme across the country, CDRPs/CSPs were required to identify, as a minimum, between 15-20 offenders in their area for targeted monitoring and intensive management. In the high crime areas (such as some inner London boroughs), or in CDRPs that covered two or more police Basic Command Units, a larger number of offenders were required. Within the first two months of the programme's implementation (September and October 2004) a total of 7,801 individuals were identified as PPOs (Home Office, 2005a).

B. Governance

Although the delivery of both the DIP and PPO Programmes is concentrated at the point of delivery (the front line), the importance of successful implementation meant that central Government wished to ensure

The New Look: A clear line of command.



that some form of central influence was retained. The diagram below shows how the line of control was established.

C. Case management

1. Drug Interventions Programme

As indicated previously, an essential objective of the Drug Interventions Programme is to ensure that, while individual interventions are expanded, there is a step-change in the delivery of an end-to-end system for those drug misusers in the CJS and those leaving treatment, and that there is appropriate support in the community and in prisons.

‘Throughcare’ has been developed as the term used to describe arrangements for managing the continuity of care provided to a drug misuser from the point of arrest through to sentence and beyond. Those areas across England and Wales with the highest levels of drug related crime – commonly referred to as ‘intensive areas’ – have received additional resources to build capacity and establish Criminal Justice Integrated Teams (CJITs) to provide a more intensive response, using a case management approach. They provide a clear focus in the community for referrals and assessments. Although non-intensive areas may not have an integrated team in place, the DATs are ensuring delivery of key parts of the Programme such as ‘Throughcare’ and ‘Aftercare’ and are working towards the integrated approach.

The Drug Interventions Programme, the National Treatment Agency, prisons and probation have developed a national framework, setting out arrangements for continuity of care between the CJIT and custody. In many cases, the throughcare process begins in the police custody suite or, increasingly, at court, where an offender is given the opportunity to see a specialist non-police drugs worker. The aim is to provide information and, where appropriate, referral to treatment or other means of assistance.

This approach, known as arrest referral, had existed, in a variety of models and with varying degrees of effectiveness, for a number of years and arrest referral has been available across all police force areas in England and Wales since April 2002. Under the Programme, arrest referral has become part of the integrated programme of interventions. Arrest referral workers work in partnership with, or increasingly as part of, the CJITs. Their work goes beyond the initial model of simple assessment and onward referral to include a basic level of treatment services (known as ‘Tier 2’), delivered as part of the case management approach described above. This is key to bridging the gap between referral and entry into treatment, a phase at which a high proportion of people are at risk of being lost from the system.

‘Aftercare’ is the package of support that needs to be in place after a drug-misusing offender reaches the end of a prison-based treatment programme, completes a community sentence or leaves treatment. It is not one simple discrete process involving only treatment but includes access to additional support with issues

which may include mental health, housing, managing finances, family issues, learning new skills and employment.

2. Prolific and other Priority Offenders Programme

A similar 'case management' approach has been developed with PPOs. Once suitable individuals are identified, schemes are expected to manage offenders through a combination of enforcement measures and incentives to change behaviour and by multi-agency working. The aims of the schemes are to:

- enhance arrest, investigation, detection, charging and prosecution of offenders, bringing to justice as much of the criminality committed by the targeted PPOs as possible (by proactive police work such as increased supervision and tracking);
- reduce reoffending of PPOs, and consequently reduce the number of victims of crime;
- develop a rapid and effective partnership intervention which enables effective supervision and monitoring of PPOs; and
- address non-compliance/reoffending speedily and effectively.

The individual stakeholders, practitioners and specific agencies are responsible for all the decision-making aspects of the programme throughout; from how to choose the prolific offenders through to which interventions they may receive and how often they may receive them. In doing so, the PPO programme embraces the use of local knowledge, practitioner expertise and previous experience of similar schemes. These factors were all designed with a specific intention: to reduce the crime levels of the offenders on the PPO programme.

D. Workforce Development – Drug Interventions Programme

A key to the success of the Drug Interventions Programme is the quality and co-ordination of care delivered by the Criminal Justice Integrated Teams (CJITs) in the community, the CARATs teams in prisons and the role of key partners such as treatment providers. With the increased demand placed on the sector, it was vital that we both increased the workforce in real terms and ensured the continuing professional development of its members.

Specific work-streams to support those objectives included targeted recruitment campaigns, where appropriate; for example, a successful one in London helped recruit 34 new workers. A DIP Advanced Apprentices Scheme aimed at 18-24 year olds who do not currently work in the sector was developed and during the two-year scheme apprentices will work towards achieving a level three National Vocational Qualification. A DIP Drug Strategy Workforce Working Group reported directly to the Drug Strategy Workforce Steering Group covering apprenticeship schemes, the workforce HR monitoring tool, the DIP recruitment micro-site, and retention and validation studies.

E. Performance Management

Prior to the introduction of the Drug Interventions Programme, there were no reliable data about drug-misusing offenders and any interventions used with them.

DIP introduced the Drug Interventions Record (DIR) as a single form used by both community agencies and prisons to improve information sharing, avoid duplication and thereby improve continuity of care of drug-misusing offenders. It gathers comprehensive and accurate information from all areas, particularly by formalizing and standardizing arrangements in non-intensive areas. The DIR is providing comprehensive and reliable information for the first time. This is producing a much fuller and more accurate picture of the real work being carried out at a local level than was previously possible. The data gathered are also key to the wider work being undertaken on the effectiveness of the over-all Programme and individual interventions.

DIP performance management uses the data provided by the Drug Interventions Record (DIR), financial information and drug-related crime data through a comprehensive data collection, analysis and reporting tool – DIRWEB – into which all data are drawn from a wide variety of schemes. This product is fed into a monthly consolidated performance assessment (the DIP Performance Assessment Matrix) which also feeds into the joint police, crime and drugs monthly performance analysis (the Joint Interim Performance Assessment – JIPA). This enables schemes to be monitored for efficiency and effectiveness and for poor performers to be identified so that appropriate action can be taken.

F. Key Success Criteria

The key elements that make successful local programmes can be summarized as:

- strong local leadership;
- committed staff with limited caseloads;
- rapid information sharing;
- effective management of treatment and care plans;
- seamless and consistent messages for offenders;
- wrap-around services fully involved;
- consistency on breaches – i.e. follow up all RoB failures;
- intensive police surveillance for offenders who are non-compliant;
- convincing police commanders that drug offenders and PPOs can deliver their targets.

VI. DOES IT WORK? – RESULTS AND EVALUATION

A. Drug Interventions Programme

Approximately 3,500 people are now entering drug treatment every month as a consequence of the Drug Intervention Programme, and this number has increased markedly since the introduction of Tough Choices in April 2006. By November 2006, the quarterly average number of new clients entering drug treatment through DIP had increased by 44% compared to the period preceding the onset of Tough Choices.

Home Office analysis shows that approximately eight out of every ten persons entering drug treatment through DIP are being retained in treatment for 12 weeks or more, and this is true of those persons committing the highest volume of crime. Tough Choices has boosted the overall number of persons entering drug treatment, but this would appear to be particularly the case for low-level offenders. This would suggest that these new measures are reaching offenders at an earlier stage in their offending careers. Analysis suggests that well over half of this group are assessed as requiring drug treatment, indicating that significant problems exist amongst these individuals. The vast majority of these individuals are also likely to have had prior contact with DIP or go on to have a subsequent contact, again suggesting that there are significant treatment needs for these offenders that were not previously being addressed.

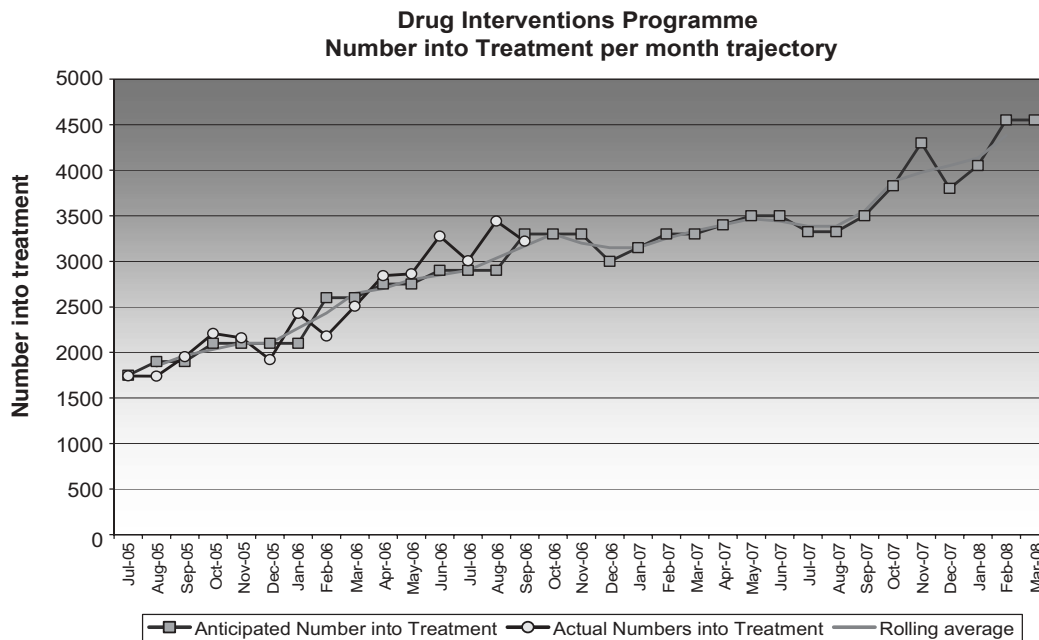


Figure 1. Number of persons into treatment each month under the Drug Interventions Programme

A number of high-level outcome measures have been developed to monitor the progress of the Drug Strategy. The Drug Harm Index (DHI) was developed as the overarching measure of the progress of the Drug Strategy and attempts to measure the overall harm caused by Class A drug use in relation to its social and economic cost. The overall cost of drug harm is calculated using data that describes a variety of health,

crime and community outcomes known to be associated with Class A drug use. These include information on new HIV and new hepatitis (B and C) cases, drug related deaths, acquisitive crimes known from research to be related to Class A drug use, and community or neighbourhood perceptions of the problems of drug use in local areas. It is not possible to collect data on all the harms caused by Class A drug use, only those for which sufficiently robust and reliable data exist. The overall costs of these harms are summed and expressed as an index and overall changes monitored on a yearly basis. A more detailed discussion of the methodology underpinning the Drug Harm Index can be found in Macdonald *et al.* (2005).

The latest calculation of the DHI shows that between 2003 and 2004 the DHI has fallen in value from 104.8 to 87.9, a drop of 16.9 points or 16.1% (Figure 2). This compares to a 9% drop between 2002 and 2003. The previously reported fall in the DHI between 2002 and 2003 was primarily driven by reductions in the number of drug deaths, Hepatitis C episodes, commercial and domestic burglaries, BCS perceptions of drug nuisance and thefts of (domestic) vehicles. Taken together these accounted for 75% of the change in DHI value between 2002 and 2003. The 16.9 point change in the DHI value between 2003 and 2004 is mostly due to substantial falls in a number of drug-related crime types (e.g. burglary, shoplifting, robbery and vehicle theft). The only significant health-related factor is drug-related deaths, but between 2003 and 2004 these increased from 1,255 to 1,427.

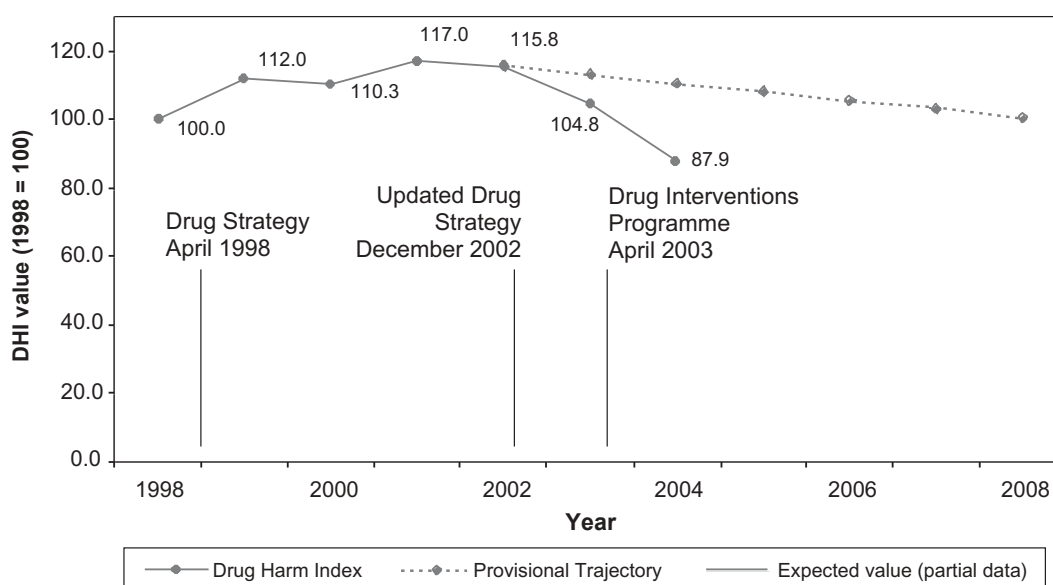


Figure 2. The Drug Harm Index and updated trajectory

One of the drawbacks of the DHI is that it has limited use as a performance management tool since much of the data is only available on a yearly basis and some measures have a substantial time lag. For example, new cases of HIV infection may be describing the harms that were generated several years previously and not in the year for which the data was recorded. As an alternative, a proxy measure of drug-related acquisitive crime has been developed to monitor trends on a monthly basis. This involves calculating the proportion of police recorded acquisitive crime that may be drug-related using data from the Arrestee Survey - a representative study of some 7,500 arrested persons in 60 police custody suites across England and Wales undertaken on a yearly basis. The survey asks a series of questions relating to offending behaviour and drug use, and participants are asked to undergo saliva testing for the presence of Class A drugs. In this way, drug-related fractions are calculated for each acquisitive offence type and these fractions are then applied to police-recorded crime data for the same offence categories. The totals are then summed to provide an overall estimate of the level of drug-related acquisitive crime.

Figure 3 describes the overall level of drug-related acquisitive crime for England and Wales. It would appear that, overall, since the onset of the Drug Interventions Programme drug-related acquisitive crime has fallen by around 22%. This downward trend has slowed in the last 12 months so that the average

monthly year-on-year reduction is just over 3% in the 12 months to November 2006.

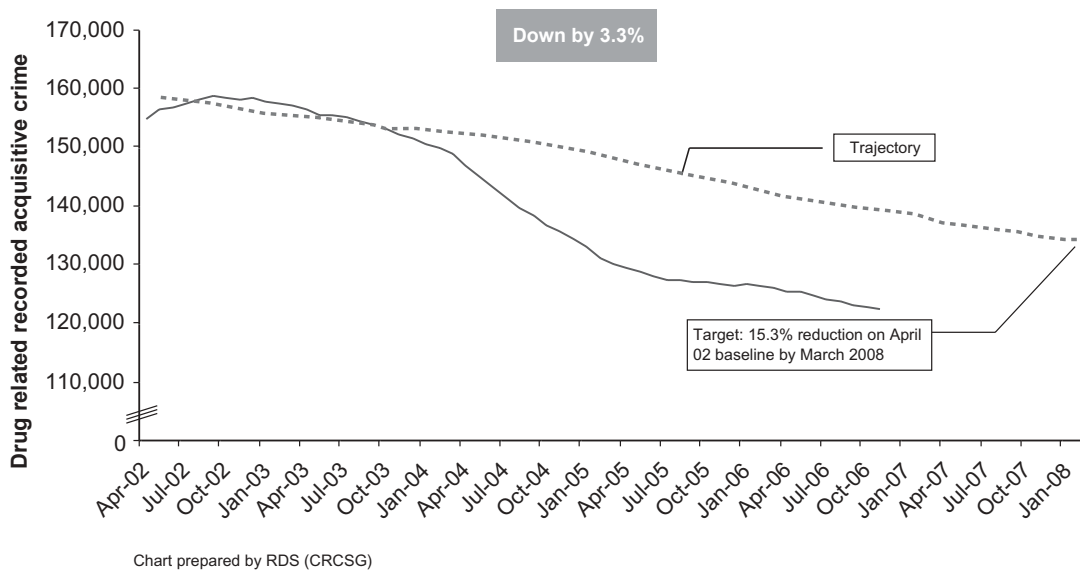


Figure 3. Drug-related recorded acquisitive crime: rolling 12 monthly average to November 2006

Of course, it is not possible to be certain as to what extent these overall changes can be attributed solely to the Drug Interventions Programme. Nonetheless, the accumulation of research evidence demonstrating the impact of treatment on reduced offending and performance data showing increasing numbers entering treatment through DIP and being retained in treatment for a minimum of three months would indicate that some positive outcomes on offending will have undoubtedly accrued from DIP.

This is confirmed by emerging findings from a Home Office evaluation of DIP. This showed significant reductions in self-reported offending, drug use and drug expenditure amongst those clients engaged in the DIP caseload for three months or longer. This is based on a comparison between the month prior to contact with CJIT and the month following engagement with CJIT for a period of three months or longer. The analysis indicates that these reductions are, in part, due to the provision of case management and treatment under DIP. However, in the absence of an appropriate control group we cannot say for certain that these reductions are solely attributable to CJITs. The key findings for self-reported offending and drug use are as follows:

- Self-reported crime amongst DIP clients engaged in the caseload for at least 3 months fell by 12%, from 36% of clients reporting crime in the month prior to contact with DIP to 24% in the month following engagement with DIP for a period of three months or more;
- The odds of DIP clients engaged in the caseload committing crime almost halved during this period, with a reduction in the mean number of crimes per client from 7.2 to 2.7;
- The use of heroin amongst clients engaged with DIP for three months or longer fell from 77% in the month prior to contact with DIP to 46%, a reduction of 31%. Frequent use of heroin fell from 63% of DIP clients to 15%, a reduction of 48%;
- The reported use of crack cocaine amongst clients engaged with DIP for three months or longer fell from 59% in the month prior to contact with DIP to 35%, a reduction of 24%. Frequent use of crack fell from 24% of DIP clients to 5%, a reduction of 19%;
- The proportion of clients spending £1,000 or more per month to fund their drug dependency fell by 38%, from 56% of DIP clients to 18%.

B. Prolific and Priority Offenders Programme

There are approximately 10,000 individuals currently subject to the PPO scheme in England and Wales, a number which tends to fluctuate as offenders leave the scheme and new offenders join. Home Office monitoring data shows that the most common reason for leaving the PPO scheme is an observable reduction in offending (54% of persons leaving), while a further 24% leave to join other schemes, such as the Drug Intervention Programme. Indeed the overlap between these two programmes has led to a decision to align the two schemes more closely to ensure greater co-ordination in the management of offenders.

Home Office analysis suggests that approximately 30% of PPOs have drug dependency problems. These people are markedly more likely to be high crime-causing offenders both in relation to the volume of offences committed and their seriousness. These individuals are also more criminally versatile with offences spanning a broader range of categories when compared to DIP clients who are not PPOs, and PPOs who are not dependent on drugs (see Figure 4).

Characteristics of caseload	DIP caseload	Drug misusing	PPOs
Estimate size of caseload	40,000	2,900	10,000
Average age	31	29	25
% of male offenders	81	96	96
Average number of convictions	42	67	47
... of which % acquisitive	50	52	37
% High Crime-Causing Users (HCCU)	18	36	Not known
% criminally versatile (convictions in 4 to 8 different offence types)	47	72	82
% with serious offences (burglary, robbery, violence, sexual)	34	68	Not known

Figure 4. Comparison of offending characteristics of DIP and PPO caseloads, and drug misusing PPOs

A national evaluation of the PPO scheme examined the offending behaviour of a cohort of 7,500 offenders who entered the PPO programme in the two months following its launch in September 2004. The evaluation also involved detailed interviews with PPO staff and offenders engaged on the programme. The main findings were as follows:

- The PPO cohort exhibited a sharp reduction in offending following entry onto the PPO programme. In the first 17 months of the scheme the PPO offenders had a reduction of 62% in the overall level of convictions compared to the beginning of the scheme. This is shown in Figure 5.

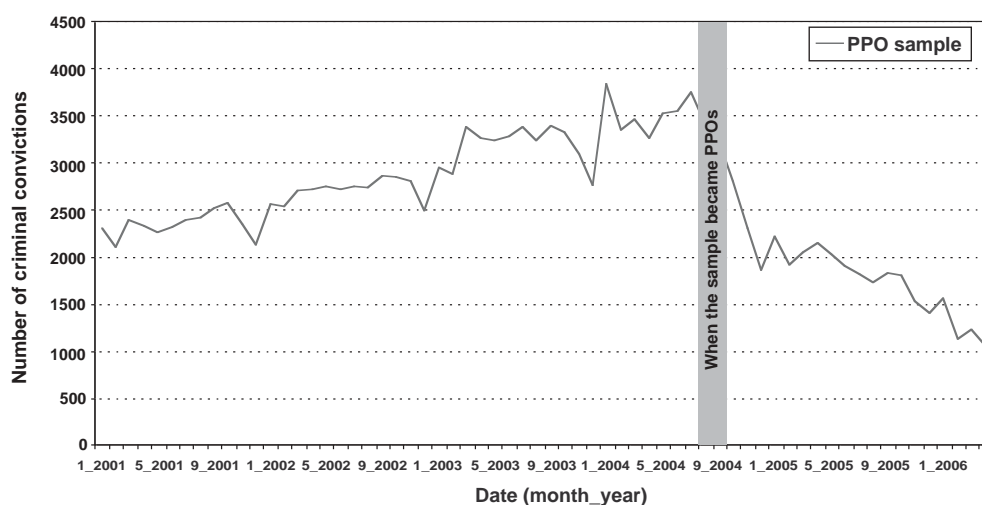


Figure 5. PPO cohort’s criminal convictions leading up to and following the PPO scheme

- Comparing the total number of convictions in the 17 months before and following the PPO

- programme shows that there has been a 43% reduction in the offending of the entire cohort;
- The PPO cohort had a reduction in the rate of their offending following entry onto the programme. The average rate of offending fell from 0.51 convictions per month per PPO in the 12 months prior to entry onto the scheme to 0.39 for the 12-months following entry, a reduction of 24%;
- The PPO cohort had a marked decrease in the number of days between committing their offence and being sentenced in court in the year following entry to the programme. PPOs were, on average, likely to be processed 13 days quicker in the first 12 months of the programme than the corresponding period prior to their entry onto the scheme.

The evaluation attempted to generate a robust control group (using a statistical technique known as propensity score matching). This was judged to have been less successful than originally hoped and ultimately limited the conclusions that could be drawn about the specific impact of the PPO initiative on levels of offending, as distinct from other interventions and factors that may also have influenced offending levels amongst PPOs. Thus it is not possible to state the extent to which the reduction in offending observed in the PPO cohort is solely attributable to the PPO intervention. However, the interviews with both PPO staff and offenders engaged in the programme were positive.

- The majority of PPOs were largely positive about the programme and reported a reduction or had stopped offending altogether since engaging with the scheme;
- PPOs were aware of the additional enforcement aspects of the scheme and the consequences of non-compliance. The PPO programme was viewed by offenders as more stringent than their previous criminal justice experiences;
- Regarding the rehabilitative elements of the programme, the majority of PPOs welcomed the additional support and interventions they had received whilst on the scheme;
- Staff were largely positive about the scheme, and were able to discuss instances of success for the programme in terms of both 'Catch and Convict' and 'Rehabilitate and Resettle'.

While no firm conclusions could be drawn around the specific impact of the PPO scheme on levels of offending at this stage, (as distinct from other interventions targeting this group of individuals), the results are nonetheless encouraging.

VII. SUMMARY AND WHERE NEXT

A. Summary

The success of the Drug Interventions Programme and the PPO Programme has been well recognized nationally and at local level within partnerships who have seen the impacts on local offending and offenders. That success has undoubtedly been the result of empowering those local partnerships and of taking a holistic approach to the needs of offenders and ensuring that all agencies are engaged and can deliver as part of a co-ordinated system. The introduction of new powers has also been key to getting drug-misusing offenders engaged in treatment and for prolific offenders the intensive use of intelligence, surveillance and legal audacity have changed the way offenders are managed.

The current state of Drug Interventions Programme includes:

- drug testing in over 175 custody suites – 98 BCUs;
- drug workers in all custody suites and many courts;
- testing at the point of arrest and required assessment for those testing positive implemented in all DIP 'intensive' areas in England;
- Restriction on Bail rolled out to all Local Justice Areas in England;
- 'integrated teams' in intensive and non-intensive areas;
- Conditional Cautioning powers in place;
- targeted interventions for children and YP;
- better integration with CARATs staff;
- more DRR (community sentences) commencements and completions;
- over £500m spent.

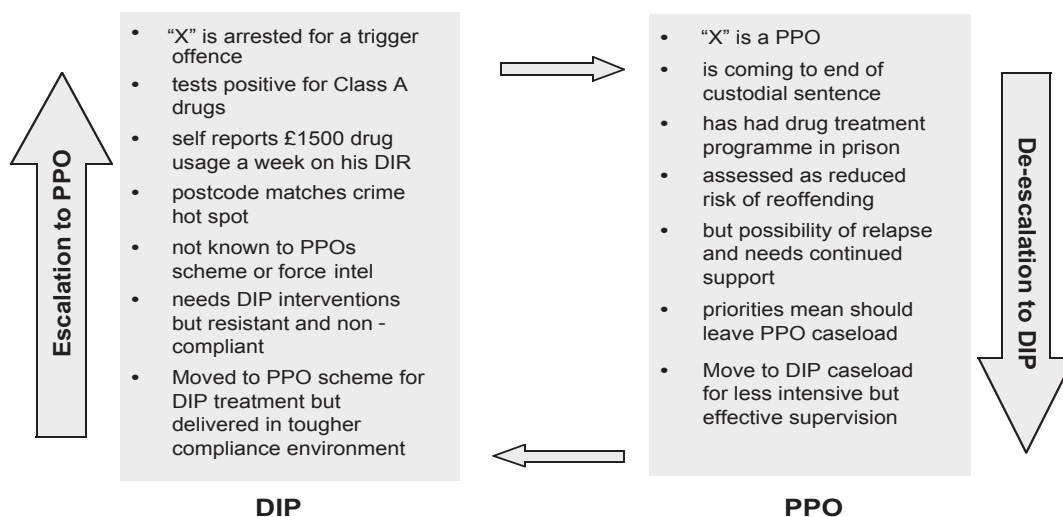
The current state of Prolific and other Priority Offenders Programme includes:

- schemes operating in every area;
- over 10,000 prolific adult offenders being intensively managed;
- 4,000 young people on the Prevent and Deter scheme;
- Premium service for PPOs in the criminal justice system – e.g. in the courts;
- Schemes being aligned with DIP programme;
- Evaluations evidencing significant crime reduction for PPOs.

B. Where Next?

The key challenge for the future is to convert these Programmes into an accepted way of working as a standard business model. The dangers of such a move are that the focus and enthusiasm that surround the Programmes dissipates into much wider ways of working. As we are already seeing, the local partnerships and agencies are taking the Programmes individually and jointly to new levels within their own areas.

In order to support this, the Home Secretary has given instruction that the Drug Interventions Programme and the Prolific and other Priority Offender Programme should be closely aligned at local level. This will provide an opportunity for offenders to be managed within and between both Programmes, depending on the nature and risk of their offending profile at any one time. For example, a drug-misusing offender who is using a very significant amount of Class A drugs and whose offending levels are escalating, and who shows little sign of voluntarily complying with the DIP model, may be moved on to the PPO model which contains a much more intense scrutiny regime with a much stronger enforcement component. Conversely, a PPO who has developed a more controlled life and who is no longer considered suitable for the PPO scheme, may be taken off that scheme and moved to the DIP scheme. A diagram of how this might work is given below.



Beyond the alignment of the two Programmes, there is a wider ambition to move the two Programmes into the wider offender management schemes. The United Kingdom is developing the National Offender Management Service, which will be responsible for the statutory supervision of both the Prison and Probation Service and the aspiration is to work towards a position where the DIP and PPO schemes can be integrated with the National Offender Management Service approach. This will be supported by the new Crime Reduction Strategy which, for the first time, will specifically focus on people as well as products, and a new Reducing Reoffending strategy which similarly recognizes the importance of case-managing individual offenders.

In a further exciting development, some larger police forces are adopting offender management as a key role at the centre of their force strategy. This is all in recognition of the fact that so much work takes place in crime reduction and target hardening of individual types of crime or circumstances, that all crime is connected by individuals and that the circumstances which drive those individuals to commit crime cannot be addressed simply by making it harder for them to steal cars or burgle houses.