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The impact of Drug Treatment and Testing Orders on offending: two-year reconviction results

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Drug Treatment and Testing Orders (DTTOs) were introduced as a new community sentence under the Crime and Disorder Act 1998. They were designed as a response to the growing evidence of links between problem drug use and persistent acquisitive offending. The order was originally piloted at three sites – in Croydon, Gloucestershire and Liverpool – over an 18-month period, beginning in late 1998. This report summarises the impact of the order on reconviction rates two years after the start of the order.

Key points

- Overall two-year reconviction rates were 80% for the 174 DTTO offenders for whom criminal records were located on the Home Office's Offenders Index database.
- Completion rates for DTTOs were low: of the 161 offenders for whom outcome information is available, 30% finished their orders successfully and 67% had their orders revoked.
- There were statistically significant differences in reconviction rates between those whose orders were revoked (91%) and those who completed their orders (53%).
- Those who completed their orders reduced their annual conviction rate to levels well below those of the previous five years.
- The DTTO sample had more serious criminal histories and was older than a comparison sample sentenced to 1A(6) probation orders, which were forerunners of the new order.
- Those serving 1A(6) orders had significantly higher reconviction rates (91%) and had a higher average number of convictions in the year after the order than they did in the previous year.
- The challenge facing DTTOs is to improve retention rates, so that the proportion completing their order rises. This will involve the provision of more timely, more responsive and more appropriate treatment than was often the case in the pilot projects.

In total, 210 offenders had been sentenced to DTTOs by the end of the pilot evaluation period on 31 March 2000. Roll-out across England and Wales took place from October 2000.

The three pilot schemes were independently evaluated by the Criminal Policy Research Unit, South Bank University. The results suggested that drug-dependent offenders can be successfully 'coerced' into treatment as they pass through the criminal justice process. Offenders who continued

with the order reported large reductions in drug use and offending. Offenders whose orders were revoked also reported reductions but these were not sustained to the same extent. 46% of orders had already been revoked by the end of the pilot evaluation period – when most offenders still had many months of their order to serve (Turnbull et al., 2000). When all the orders had reached their natural or premature conclusion, this figure had risen to 67%.

1A(6) Schemes

These were forerunners of Drug Treatment and Testing Orders. Orders made under Section 1A(6) of the 1991 Criminal Justice Act required offenders to attend drug treatment as a condition of a probation order (since renamed community rehabilitation order). Some but not all 1A(6) programmes involved drug testing. When DTTOs were rolled out nationally, courts lost their 1A(6) power in relation to drug treatment.

The rate of referrals was slow at the start of the pilot period, as the pilots encountered implementation problems of the sort that often characterise innovative programmes. These difficulties meant that by the time the original evaluation had ended only ten offenders had completed their orders. Findings from the follow-up study, examining subsequent progress are summarised below. The bulk of the analysis consists of a two-year reconviction study for those offenders who were sentenced to a DTTO in the three pilot schemes, although this has been supplemented with data provided by the three probation areas about the outcome of orders.

Method

Names of DTTO offenders were matched with their criminal records held on the Home Office's Offenders Index (OI). The OI database holds information on convictions in England and Wales, and includes information on the date of court appearance and the type of conviction.

Although OI data are becoming increasingly accurate and complete, there are inevitably some gaps in the database, where details of convictions are wrongly entered, or returns are not made. There is also the possibility of mismatches – where, for example, offenders share names and dates of birth.

It was possible to match OI data to 174 of the 210 DTTO offenders and have outcome data on 161 of these. There is no reason to believe that there is any systematic bias introduced by the failure to match 36 (or 17%) of the sample; for example the lack of information about offenders was broadly the same across all three sites. OI data are available for various other groups:

- 78 offenders who were assessed by the DTTO team but not proposed to the courts for DTTOs in Liverpool and Croydon
- the 40 offenders who were proposed for DTTOs but not accepted by the courts in Liverpool and Croydon
- 84 offenders who were assessed by the DTTO team but not placed on an order in Gloucestershire (it was not possible to separate the data for offenders who were assessed and proposed to the courts for an order and those who were not proposed to the courts)

- 80 offenders who participated in the Wakefield and Hastings 1A(6) schemes, which were forerunners of the pilot schemes.

It has been established in previous studies (Lloyd et al., 1995) that previous offending is a good predictor of future offending. Assessed on this basis, all these groups were highly likely to reoffend. The DTTO group were the highest-risk group, with an average of 42 previous convictions per person.

The Offender Group Reconviction Scale (OGRS) is another measure of reoffending. It provides an estimate of the probability that a convicted offender will be reconvicted at least once within two years of release from custody or from the start of a community sentence, for any offence type. Using information about age, criminal history, breach and experience of youth custody, predicted rates of reoffending can be calculated and compared with actual rates. (For a more detailed discussion of OGRS see Taylor, 1999.) According to OGRS, the DTTO group had a risk of reconviction of 72% – comparable to the offenders who were assessed for, but not given, DTTOs (71%) but higher than those who served probation 1A(6) orders (66%).

Reconviction rates for the DTTO offenders

The two-year reconviction rates for the DTTO offenders were high. Overall 80% of the 174 offenders on whom data are available had been reconvicted within two years – eight percentage points higher than the OGRS expected rate of reconviction (Table 1).

Table 1 shows that there are significant differences in reconviction rates between the three sites ($p < .01$ for difference between Gloucestershire and Croydon; $p < .05$ for difference between Gloucestershire and Liverpool), as well as differences between the actual and expected reconviction rates for Gloucestershire ($p < .05$). Gloucestershire had much higher rates than the other two sites, and a much larger gap between actual and expected reconviction rates.

On the face of it, the OGRS scores suggest that DTTOs performed poorly in preventing reoffending. However, the

Table 1 Two-year actual and expected reconviction rates (n=174)

Reconvicted	Actual %	Expected %	No.
Croydon	65	60	34
Liverpool	73	74	55
Gloucestershire	91	76	85
Total	80	72	174

OGRS score is computed simply on the basis of each offender's age, sex and criminal history. It is highly likely that any group of drug dependent offenders will have a much higher risk of reconviction than non-drug users with comparable criminal histories. In other words, OGRS is unable to take into account a key risk factor – problematic drug use – and thus is likely to understate the expected rate of reconviction for problem drug users.

Table 2 compares reconviction rates for those who completed their orders and those who had them revoked. Data were missing for 13 cases. Of the remaining 161 cases, 30% (49) completed their orders; 67% (108) had their orders revoked and 3% (4) had other outcomes – one offender died, two moved out of the area, and one had an unspecified change of circumstance. Reconviction rates were significantly lower amongst programme completers than for non-completers ($p < 0.001$).

Table 2 Two-year reconviction rates, by outcome of order (n=157)

Reconvicted	%	No.
Completed	53	49
Revoked	91	108
Total	79	157

Reconviction is a relatively crude measure, which is insensitive to reductions in the frequency of offending. To determine whether any reduction in frequency of offending occurred, an analysis of conviction rates for DTTO offenders was carried out over a seven-year period beginning five years prior to the start of the DTTO and

ending two years after the start of the order. The measure of conviction rates used was the number of *convictions* per offender per year, rather than the number of court *appearances*. In other words the measure is sensitive to the number of convictions that are dealt with at any single court appearance.

Figure 1 compares the schemes in Croydon, Liverpool and Gloucestershire. The figure shows that the Gloucestershire sample had higher annual conviction rates than the other two groups across the seven-year period. In all three areas conviction rates peaked in the year before the order – markedly so in Gloucestershire. They then fall back in the year after the order and continued to fall in the following year. The conviction rate for Liverpool appears to have been less volatile than in the other two sites.

One Gloucestershire offender had 481 convictions recorded for the year preceding the order. This appears not to have been an error. To avoid skewing the findings through a single case, this figure was recoded to 30 to reflect the conviction rates of other very persistent offenders.

The average number of convictions in the year prior to the order includes the conviction that led to the order.

Figure 2 presents an analysis of conviction rates by the outcome of the orders across the three pilot sites. It shows that for the period before the order, trends were broadly similar both for offenders successfully completing the order and those who had their orders revoked. Conviction rates for both groups seemed to increase over the five years reaching a peak in the year before the DTTO sentence.

Figure 1 Trend in conviction rates, by Drug Treatment and Testing Orders pilot area (n=174)



Note: The average number of convictions in the year prior to the order includes the conviction that led to the order.

Figure 2 Trend in conviction rates by outcome of Drug Treatment and Testing Orders (n=157)



In the first year after the start of the order, the conviction rate fell very steeply for the group who completed, but only marginally for those who were revoked. In the second year after the order, the group of completers continued to have a conviction rate that was lower than in all the five years preceding the order. The revoked cases show a marked fall in conviction rates from the very high rates in the years immediately before and after the order was made. However, a large part of the explanation for this is that a significant proportion would have received custodial sentences when their order was revoked, limiting their opportunities for offending. The completers, by contrast, had the opportunity to offend, but – in general – did not act on this.

Comparison with 1A(6) schemes

Some limited comparison can be made with the Hastings and Wakefield 1A(6) schemes. Numbers are small – 28 in Hastings and 52 in Wakefield – and conclusions must be very tentative. Overall these two schemes had very similar – and high – reconviction rates, in combination totalling 91%. This was higher than the DTTO group's 80%, a difference which was statistically significant ($p < .05$). In contrast to the DTTO group, the 1A(6) group had a conviction rate that was highest in the year after the order. There were other differences between the 1A(6) and DTTO groups. As Figure 3 shows, the number of convictions per offender per year was lower for the 1A(6) group than for

Figure 3 Trend in conviction rates: Drug Treatment and Testing Orders and 1A(6) Orders (DTTOs n=174, 1A(6) Orders n=80)



the DTTO group in the five years before the order, the difference being marked in the year before the order. In the first year after the order, 1A(6) rates were marginally lower than the DTTO group's and in the following year marginally higher. The revocation rate for 1A(6) orders was 49%. This was much lower than that of the DTTO group – 67% ($p < .05$).

Leaving numbers aside, it is hard to draw any conclusions about the relative effectiveness of the two types of scheme. DTTOs were targeted on a group of more persistent offenders with higher OGRS scores (72% as against 66%) – probably with more entrenched drug problems. The DTTO group was also slightly older with an average age of 28, compared to 26 for the 1A(6) group – and arguably nearer to the natural conclusion of their drug-using and criminal careers (see May, 1999).

It is possible to make some limited comparisons with other groups of offenders who were assessed for DTTOs in the pilot sites but not placed on orders. Reconviction information is available on 202 of these cases. This figure includes two distinct groups of offenders: those assessed by teams as unsuitable for DTTOs and those recommended for the order by probation following a positive assessment but rejected by the courts. Both groups of offenders will have been judged as bad risks and many are likely to have been sent to prison – but probably been released within the two-year reconviction period. The reconviction rate for these two groups in combination was very high indeed at 96%.

Who succeeds on DTTOs?

Completion rates were by far the strongest predictor of who was reconvicted on DTTOs. This is not surprising, of course, because revocation is often triggered by reconviction. Logistic regression was used to identify additional predictive factors. Variables entered into the model were whether the offender completed the order, age, sex, ethnicity, number of previous convictions, number of previous court appearances and the OGRS2 score. Neither the demographic variables nor those measuring criminal history emerged as statistically significant. Whilst the OGRS score was correlated with reconviction rates ($p < .025$), it was also excluded from the logistic regression model as a significant predictor of reconviction – adding weight to the argument that OGRS is an insensitive guide to the risks of reconviction for problem drug users. Only one variable apart from completion rates was a statistically significant predictor in the model: offenders serving their orders in Gloucestershire had a significantly greater chance than those in Liverpool or Croydon of acquiring further convictions within two years.

A further logistic regression analysis was carried out to see if predictors of successful *completion* as opposed to *reconviction* could be identified. Only one variable was identified as statistically significant – offenders serving

orders in Croydon were more likely to complete them than others. It should be recognised that these logistic regression analyses have been mounted on small data-sets, which in any case included only a limited set of potential predictors of success.

The very substantial differences in reconviction rates between those who complete their orders and those whose orders are revoked suggests that the key to success in DTTOs lies in retaining people on their orders. The fact that there are clear differences between pilot sites in performance suggests that revocation rates and reconviction rates will vary to some extent according to local differences in implementation.

Summary and conclusions

Overall, the reconviction rate in the three pilot sites is high. However, the rate is comparable to those found in other studies of drug-using offenders on community penalties (May, 1999) and masks a number of important differences and encouraging signs.

There were reductions in the average number of convictions per year in the first and second 12-month period after the start of the order in all three DTTO pilot areas. It is not possible to set much store by the fall in the number of convictions for those whose orders were revoked, at least in the first year after the order's start, for many of these will have received a custodial sentence when their order was revoked. However, those who completed their order showed very substantial falls in conviction rates. Again this is consistent with findings from other research comparing programme completers with non-completers (Hedderman and Hearnden, 2001).

In interpreting the results the possibility of a 'spontaneous improvement' effect (or a 'regression to the mean') cannot be ruled out. That is, the DTTO group's conviction rate peaked in the year before the order. This raises the possibility that the period before the orders were made may have been marked by uncharacteristically chaotic drug use. In this case, improvements in the two years following the start of the order could reflect a return to the slightly less chaotic levels of drug use and offending displayed in previous years. However the falls in offending rates for completers were dramatic – and this group shared with revokees a long history of persistent offending. The discontinuity in completers' offending rates points to a genuine effect. Furthermore, if the 'spontaneous improvement' effect were applicable to the DTTO group, one might expect similar patterns to emerge for the 1A(6) group. In fact, this group's rates appeared to worsen in the year after the order.

The failure to find any predictors of success amongst demographic or criminal history variables is an important finding in its own right. It implies that the point at which

drug-dependent offenders decide – or can be persuaded – to address their drug problems is a product of more idiosyncratic characteristics. There is an obvious need for further research on desistance from problematic drug use, mirroring work on desistance from offending.

The first DTO report (Turnbull et al., 2000) concluded that the orders were ‘promising but not yet proven’. These findings are less encouraging. Revocation rates were high, and reconviction rates were higher still. As implemented, it is clear that all three pilot schemes struggled to retain offenders on the programme and the large proportion of drop-outs continued to use drugs of dependence and to commit crimes to support their habit. However, those who completed their orders showed considerable reductions in convictions.

The key question is whether these results should be taken as evidence of ‘theory failure’ or ‘implementation failure’. In other words, could more rapid interventions or more responsive and appropriate interventions have achieved more? The answer is almost certainly a positive one. The considerable problems that the pilots encountered in delivering coherent programmes, in avoiding long waiting lists and in simply working together as effective teams were outlined in Turnbull et al. (2000).

There is no reason in principle why DTO teams should not be able to surmount these hurdles and thus be more effective in retaining offenders on DTO programmes. It is

important that when conditions of orders are broken, standards of enforcement are applied that maximise the chances of retention. Since the pilots, the National Treatment Agency has been set up to improve treatment provision, and to shorten waiting times in England. In addition, in order to improve the coherent delivery of programmes probation areas now have guidelines, in the form of a National Standard, within which orders should be delivered and offenders supervised.

It remains to be seen how much progress will be made as the experience of those responsible for the commissioning and delivery of DTOs grows. If teams struggle to establish their programmes, and lack the resources to deliver rapid and appropriate responses, then DTOs could become expensive precursors to imprisonment. The challenge that needs to be faced is to find ways of engaging with and encouraging offenders to continue with the order. The long-term viability of DTOs needs to be judged not against the outcomes achieved in the pilot programmes, but against the performance of mature and well-resourced schemes that have had the opportunity to learn from experience.

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