9.9 DTTOs: the Scottish way cuts the failure rate

Findings Non-compliance serious enough to lead the court to revoke the sentence is the norm for drug treatment and testing orders (DTTOs) in England and Wales, leading to high reconviction rates; in Scotland, such failures are rare. Two studies help explain the gap.

In London (study ❶) researchers studied all 12 DTTO teams and at seven interviewed 76 offenders four months after starting their orders. When they had agreed to the order, half had been unclear what it entailed. Already a quarter were in custody, nearly all after their orders had been revoked. Another 15% were in residential rehabilitation. The constraints on these offenders could have largely accounted for the overall reductions in drug use and offending. Though generally appreciative, a large minority of the full sample were critical of the links made by their treatment service to other agencies and (perhaps related to this) how the service had dealt with their other (presumably other than addiction) problems.

Just two of the seven teams were seen as effectively managed. Rather than a shared model of good practice, procedures were driven by individual preference and resource and staffing issues. What teams shared was a lack of individualised care planning. Only three said they were meeting national standards by breaching (formal notification of failure to comply) on the second missed appointment and there was inconsistency over using breach to motivate clients. Staff did not see court reviews of breach cases as helpful, partly because hearings occurred so long after the event. Half the nationally intended number of drug tests were conducted. There was no consistency in whether tests were used as a therapeutic or a disciplinary tool nor in how they were used in these capacities.

In 13 and nine months respectively, at pilot DTTO schemes in Glasgow and Fife just three out of 96 orders had been revoked (study ❷). Interviews with 28 offenders show the typical DTTO participant to be a male heroin addict in their late twenties with an extensive criminal record, who was previously spending hundreds of pounds weekly on drugs raised through prolific property offending. The similarity to DTTO offenders in England makes it unlikely that the disparity in DTTO failure rates is due to differences in the type of offenders.

In context Of those which have ended, 69% of DTTOs in England and Wales were revoked because the offender was convicted or did not comply with the order, the cause of 51% of the revocations. Findings from the earliest schemes in England show that nearly all offenders whose orders are revoked are soon reconvicted, that their offending changes little from before the order, and that a scheme's revocation rate parallels its reconviction rate. If this applies nationally, DTTOs in England and Wales are failing to make the anticipated impacts on offending and on diverting drug using offenders from prison. In Scotland just a fifth of offenders are reported to the courts for breaching their orders and even fewer have their orders revoked.

By 'tripping up' offenders and contributing to a high failure rate, certain features of DTTO schemes probably impede rehabilitation and reduce their impact on recidivism. What these might be can identified from the featured studies, from earlier work on English pilot schemes (☛ *Links*), and from international research on drug courts. Several features of DTTOs in England and Wales contradict the lessons of this research: many offenders are unsure what they are signing up to and do not know what the consequences of their actions will be; commonly these consequences are inconsistent and distant from the action; treatment options are limited and not systematically tailored to the individual; offenders often see different judges or magistrates for sentencing and for reviews.

The biggest issue for England and Wales is revocation. Here the lesson from drug courts is that a willingness to persist despite some initial offending and non-compliance turns the tight structure imposed by the court into a positive feature, rather than one which leads most offenders to fail. A range of more minor sanctions means that transgressions can be responded to (the offender doesn't simply 'get away with it') without ending the order. In England and Wales the requirement to initiate breach on the second unacceptable failure to comply, coupled with the lack of alternatives to revocation, results in a high failure rate and resort to imprisonment, an escalation which still fails to curb their offending. In London, many teams felt the standards were unrealistic when offenders had to attend daily. Often they were stretched, creating inconsistency in how far that stretching should go. In turn this makes it difficult for offenders to be made fully aware of what will be required of them and later what the consequences will be if they fail to comply. Consistency between the order and its implementation was associated with better drug use and crime outcomes.

Scotland's less stringent national guidelines are subject to the court's discretion and to the overriding objective of keeping the offender in treatment. Missing appointments with the supervising officer is not normally a breachable matter. Rather than simply recording a transgression, Scottish guidance mandates an 'assertive' and rapid response by the supervising officer to address underlying problems. Courts and DTTO staff share the understanding that their target group has a 'chronic relapsing' condition which makes it unrealistic to expect near-complete compliance, reflected in the choice of long-term methadone prescribing as the most common treatment, a relatively rare choice in the English pilots. Scottish national guidance stresses individualised care while English guidance leaves less room for discretion, stipulating an onerous treatment and testing regime which provides many opportunities for failure.

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Scottish teams prefer the DTTO to be a standalone order, partly because the extra requirements of a probation order provide more opportunities for failure. Two out of three of the English pilots operated concurrent probation orders. Scotland's approach may be related to its retaining the option of a probation order with a condition of treatment, used mainly for offenders whose criminality is unlikely to be tackled by treatment alone. The lack of this option in England and Wales, compounded by national DTTO intake targets, may lead to unsuitable offenders being placed on DTTOs. This pressure might have been moderated if intake targets had been balanced by completion-rate targets. England and Wales have none and neither are local completion rates monitored in national reports. In Scotland, the completion rate is a nationally set performance indicator.

Drug courts were established in Glasgow and Fife after the end of study ❷, but some elements seem to have been in place beforehand. A few sentencers accounted for a great number of orders and typically the offender saw the same sentencer for sentencing and review. This close relationship may have helped DTTO teams and offenders anticipate and avoid transgressions which the sentencer would see as serious enough to warrant revocation.

When breach is reported, Scottish national guidance recommends that treatment continues and courts generally do not revoke an order unless it is clearly not working. Additional to the sanctions available across the UK, Scottish sentencers can fine offenders and force absconders to attend the court to have their order reviewed. In the English pilots, breach almost always resulted in revocation.

Practice implications If permitted by national policy, changes could be made to DTTO schemes to reduce the failure rate and probably also (the evidence is insufficient) reduce recidivism. Among these are a more extensive range of rewards and sanctions. More realistic standards would reduce the failure rate directly, and because they would be implemented more consistently. Completion rate targets and/or a national emphasis on keeping offenders on the order might encourage compliance-enhancing measures. Prescriptive guidance on treatment could be replaced by a stress on individualised packages of care, with a large role for methadone maintenance for opiate-addicted offenders. Impending or actual non-compliance should elicit a swift and assertive response to help the offender get back on track. Finally, there is an urgent need for research which systematically varies features of DTTO provision to explore the causes of the high failure and recidivism rates in England and Wales.

Featured studies ❶ Best D. *et al*. *Evaluating the effectiveness of drug treatment and testing orders in London.* 2003. Copies: Barbara Burns, 020 7740 8524, or Darian.Mitchell@london.probation.gsx.gov.uk ❷ Eley S. *et al*. *Drug treatment and testing orders: evaluation of the Scottish pilots.* Scottish Executive Social Research, 2002. Copies: www.scotland.gov.uk/cru/kd01/green/dtts-00.asp.

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