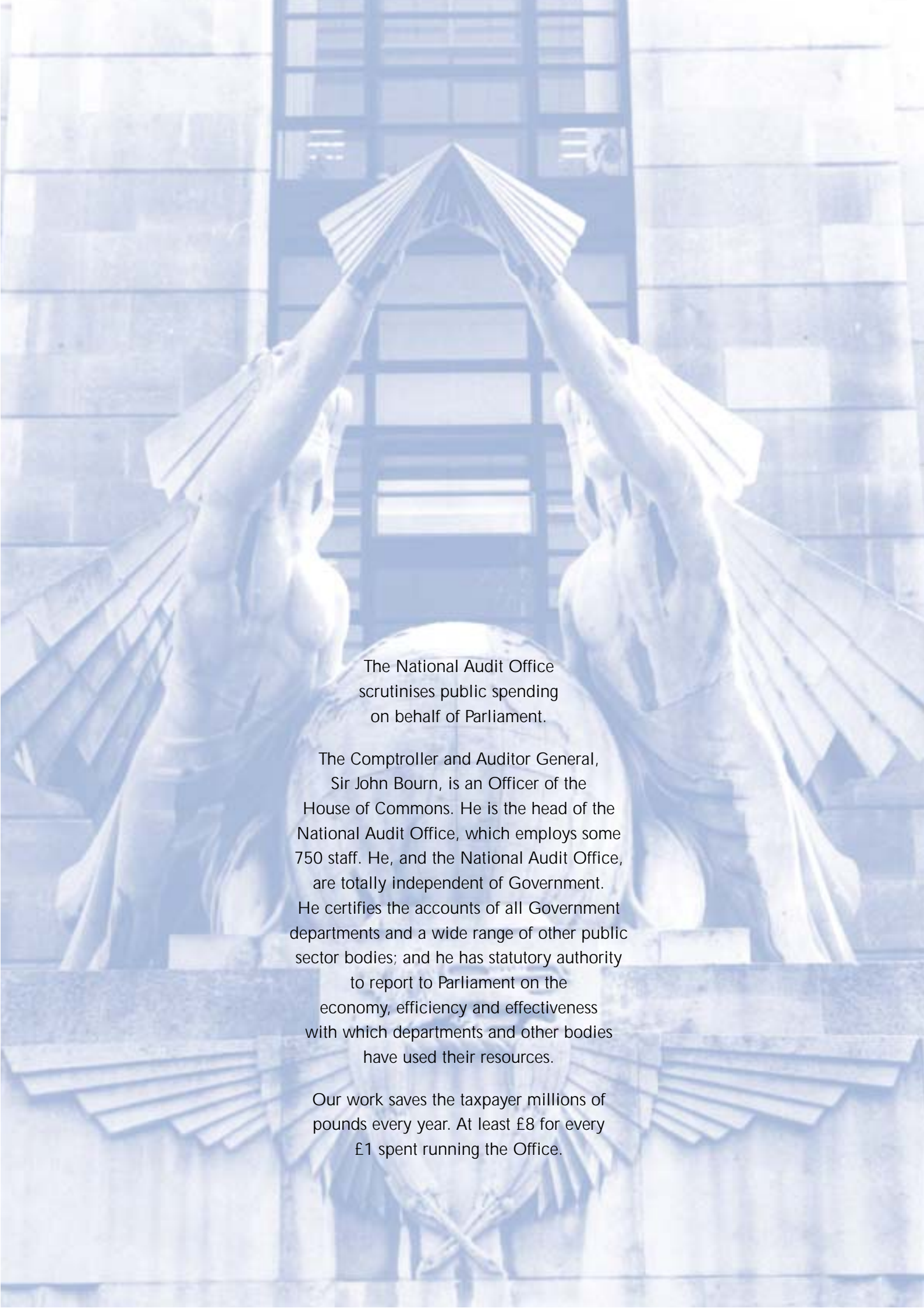


# The Drug Treatment and Testing Order: early lessons

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL  
HC 366 Session 2003-2004: 26 March 2004



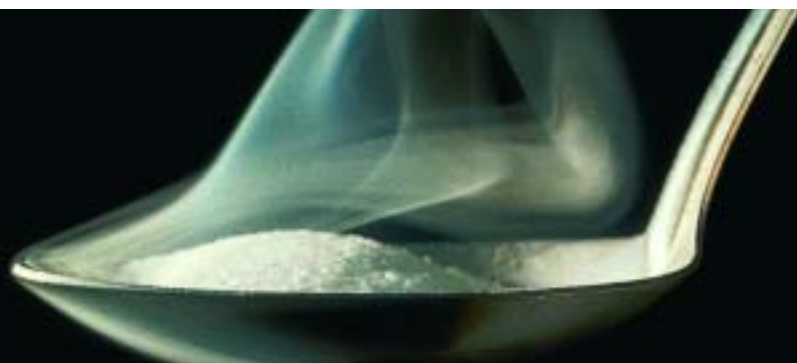


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# The Drug Treatment and Testing Order: early lessons



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This report has been prepared under Section 6 of the National Audit Act 1983 for presentation to the House of Commons in accordance with Section 9 of the Act.

*John Bourn* National Audit Office  
Comptroller and Auditor General 17 March 2004

The National Audit Office study team consisted of:  
Ms Goldsmith and Mr Boyle under the direction of Mr Gray

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**For further information about the National Audit Office please contact:**

National Audit Office  
Press Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

Tel: 020 7798 7400

Email: [enquiries@nao.gsi.gov.uk](mailto:enquiries@nao.gsi.gov.uk)

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# executive summary

- 1 Drug misusers commit a high proportion of acquisitive crimes. In nine areas where there has been mandatory drug testing of people charged with offences such as shoplifting, burglary and drug offences, between 36 and 66 per cent have tested positive for use of heroin, other opiates or cocaine<sup>1</sup>. Criminal activity can introduce offenders to drugs, and whatever the cause of the initial addiction, once addicted to illegal drugs, a serious habit can cost some £400 a week, with many misusers offending to fund their drugs. The Government's ten year strategy for tackling drugs misuse, published in 1998<sup>2</sup>, set out to increase the number of drug-misusers in treatment. By increasing the capacity to identify and treat drug misusing offenders, from the point of arrest through to community sentences or custody and release, the Government's aim is to break the link between drug misuse and crime.
- 2 The Drug Treatment and Testing Order, a community sentence for offenders who misuse drugs, was introduced within the Crime and Disorder Act 1998. The Order requires offenders to submit to regular drug testing, to attend an intensive treatment and rehabilitation programme, which is expected initially to be for 20 hours a week, and to have their progress reviewed regularly by the courts. Following a limited introduction in 2003-04, from April 2004 the Order will also be available in all areas with a less intensive treatment and rehabilitation programme for offenders with less serious drug misuse and offending. Offenders on a Drug Treatment and Testing Order are supervised by the Probation Service; and attend drug treatment and offending behaviour programmes provided by the Probation Service, other statutory providers or the voluntary sector. The Order is for a minimum period of 6 months up to a maximum of 3 years. The Drug Treatment and Testing Order is intended to complement other interventions which target treatment at drug misusers within the criminal justice system, including mandatory drug testing of individuals charged with certain offences, voluntary referral into treatment following arrest, and drug treatment initiatives within prison.
- 3 The Drug Treatment and Testing Order was piloted in three areas in England from October 1998. In May 2000, the Home Secretary decided to make the Order available to all courts in England and Wales from October 2000. By December 2003, 18,414 Orders had been made. In 2003-04, the Home Office allocated £53.7 million to probation areas and treatment services in support of the Order in England and Wales. The National Probation Directorate and National Treatment Agency for Substance Misuse have joint responsibility for overseeing delivery of the Drug Treatment and Testing Order in England. In Wales, the National Probation Directorate works with the National Assembly to oversee the Order. The Government has announced that from June 2004 the National Probation Service, including the National Probation Directorate, will form part of the new National Offender Management Service.

<sup>1</sup> *Evaluation of drug testing in the criminal justice system in nine pilot areas, Home Office Research Findings 180, 2003.*

<sup>2</sup> *"Tackling drugs to build a better Britain" 1998. Updated in the Government's "Updated Drug Strategy 2002".*



- 4 We examined the progress made in implementing the Order in England and early evidence of its impact. The first phase of the audit was carried out in collaboration with Her Majesty's Inspectorate of Probation, which carried out a thematic inspection of the implementation of the Drug Treatment and Testing Order in England and Wales published in March 2003. The second phase of our audit took place in August and September 2003.

## Overall conclusion

- 5 Probation areas and drug treatment services have made rapid progress in getting offenders onto the Order and delivering the programmes across the country. In the first three years of the Order there has been success with some misusers, for example in terms of reduced drug misuse and lower reconviction rates. But evidence also points to a low completion rate, reflecting the challenges faced by local services in keeping chaotic drug misusers on an intensive and highly structured programme.
- 6 To make best use of resources, there is a need for the new National Offender Management Service to strengthen management of the Order, for example, to ensure that standards governing contact hours and frequency of testing are met and to reduce the cost of the existing enforcement procedures whilst meeting the requirements of the law.
- 7 Now that the Order has become established, the focus of performance management for the new National Offender Management Service should shift its emphasis from achieving commencements towards improving the effectiveness of the Order in delivering positive outcomes. The National Probation Directorate's new requirement for probation areas to monitor successful completions from April 2004 should help work towards this. But the Directorate also needs to measure, on a routine basis, achievement in terms of reduced drug misuse and reoffending.

## Our detailed findings and conclusions:

- i Around 28 per cent of Drug Treatment and Testing Orders terminated in the latest full year, 2003, were completed in full or terminated early for good progress. However, data from one of the areas we visited, and experience reported to us in the other areas visited, suggests that a high proportion of offenders do not remain on their Order for long. Also some of those recorded as having completed their Order will have been in breach of the conditions of the Order but not had the Order formally revoked, for example where a warrant for the offender to attend court is outstanding. The Orders are targeted at a highly problematic group of drug misusers, often leading chaotic lives and for whom several attempts at coming off drugs may be needed before some success may be achieved. In 2003, 44 per cent of terminated cases were revoked due to non-compliance and a further 22 per cent were revoked for conviction of an offence - either an offence committed before the start of the Order or one committed while on the Order<sup>3</sup>.

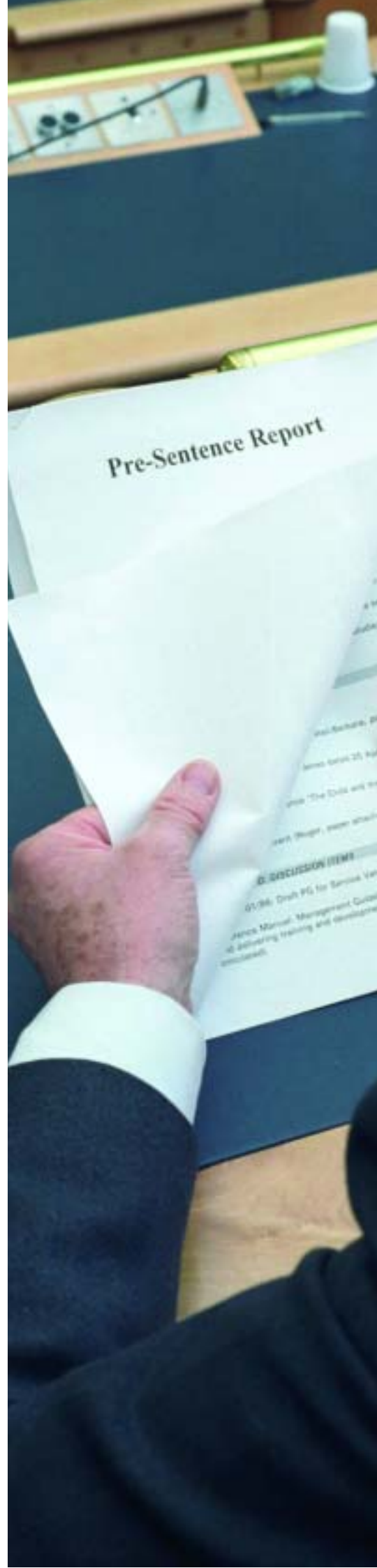
<sup>3</sup> The remaining 6 per cent of terminated cases were terminated for other reasons, including ill-health or death.








- ii Whilst an Order is often terminated early, probation staff reported that it can still have some benefit in helping to reduce the level of drug misuse. In all the areas we visited, probation staff and drug workers believed the Order was having a positive impact on offenders. Offenders on the Order who we interviewed believed that the intensity of the support offered was key to helping them address their addiction. However, to date, information on the impact of the Order, for example in terms of the proportion of negative tests for illegal drugs or levels of reoffending, has in many areas yet to be routinely collected. And, monitoring of cases by probation areas between July and October 2003, has found only 13 per cent of cases showed evidence that in the first 13 weeks two or more drug tests a week had been undertaken. Twenty-nine per cent of cases had had one drug test or more in subsequent weeks as required by the National Standard. In one area we visited, where information from drug tests had been collected, there had been an increase in the number of offenders generally testing negative for illegal drugs. However, after 12 months on the Order, nearly 70 per cent were testing positive for opiates. Research into the effectiveness of treatment more generally suggests that some misusers will continue to misuse drugs. The National Treatment Outcome Research study, commissioned by the Department of Health, found for example that about 40 per cent of people treated in residential or community methadone programmes in 1995 were still using heroin at least once a week four to five years later.
- iii In 2003 there was considerable variation in the proportion of Orders completed between probation areas, from 71 per cent in Dorset to 8 per cent in Kent. Whilst it is too early to attribute this solely to the effectiveness of local programmes, this variation in completion rates could reflect local practice in selection of drug misusers placed on the Order, local enforcement practice and the length of Orders made locally. When selecting offenders to place on the Order, all the areas we visited reported difficulty assessing an offender's commitment and ability to comply with an Order. Some offenders were dropping out of the treatment and testing programme at an early stage, with the risk that they will not re-present themselves at court for re-sentencing and where they do, incurring the taxpayer the additional cost of re-sentencing. However, some areas were focusing greater attention on improving offenders' motivation at the start of the Order to help improve retention. The Lambeth, Southwark and Lewisham team were, for example, running special groups for those new to the Order specifically to raise offenders' motivation. As more drug-misusing defendants are brought into treatment before trial, there should be further opportunity to undertake early work on motivation and to identify better those committed to treatment following sentence, in addition to work to build motivation through the Order. In January 2004 the National Probation Directorate introduced a new target for probation areas for 2004-05 to achieve 35 per cent successful completions.



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- A photograph showing a person from the back, wearing glasses and a dark jacket, looking down at a document held in their hands. The document has some text and a logo, but it is mostly illegible. The background is a blurred office setting with a wooden desk and a blue wall.
- iv We also found a considerable variation between areas in the level of contact with offenders and the type of non-clinical interventions available alongside treatment, ranging from attendance on offending behaviour programmes to the development of life skills. In cases examined by probation areas for compliance with the National Standard in the period July to October 2003, 44 per cent showed evidence that the minimum contact hours had been arranged in the first 13 weeks and 69 per cent after the first 13 weeks. Some offenders we spoke to, who were on the Order, felt that a lack of help in finding accommodation away from their drug-using peer group was a key weakness. Probation areas and Drug Action Teams had, in most instances, yet to examine the success of the different components of the Order provided locally in delivering positive outcomes.
  - v The Home Office initially set the probation service a target to achieve 6,000 commencements a year with effect from April 2001. In December 2002 it announced a new target to achieve 12,000 commencements a year on high intensity Orders by the end of March 2005. The national and local targets have provided an important incentive to establish the Order quickly across England and Wales. To achieve the increased target some areas we visited were widening the entry criteria to bring offenders convicted of less serious but persistent crime onto the programme. Probation staff and drug workers we interviewed suggested that for lesser crimes and less serious misuse of drugs a less intensive form of intervention requiring a lower level of contact each week over a longer period could lead to better use of resources. In December 2003 the Home Office issued a new National Standard and guidance for the implementation of the Order with a lower intensity treatment plan. These are subject to a separate target to achieve 1000 commencements in 2004-05, rising to 4,000 in 2005-06. Following the introduction of the Community Order and other new sentences under the Criminal Justice Act 2003, the probation service will in 2004 and thereafter need to assess drug-misusing offenders' suitability for a wider range of sentencing options.
  - vi The type of drug misuser placed on an Order does not necessarily reflect the make-up of the wider drug using population, in part a reflection of the type of drugs used, the type of crimes committed and the availability of suitable treatment services in the community. We found evidence to suggest that younger people, aged 18 to 21, amongst others, may be less likely to be placed on the Order. Some probation and drug treatment staff we spoke to believed that older users were more likely to be motivated to stick with the treatment and that the type of programmes available on the Order, designed to meet the needs of problematic drug misusers, were not currently appropriate for the younger age group. However, if successful, the impact of reducing an offender's habit at an early stage of a criminal career and the impact on an individual's health could be proportionately greater. We found probation areas also considered drug-misusing offenders with mental health problems to be unsuitable for the Order. Areas we visited were beginning to consider the accessibility of services to a wider range of drug misusers but, in some instances, lacked information on the characteristics of offenders currently on the Order and comparative information on those in treatment in the community.





- vii** Our interviews with probation staff and drug workers suggested differing views on how Orders should be enforced. Offenders placed on a Drug Treatment and Testing Order are expected to comply with the National Standard governing attendance and submission to drug testing. All staff we interviewed recognised the importance of upholding the National Standard and treating offenders fairly and consistently. Some expressed concern that some of the requirements, for example that failure to attend two appointments without reasonable excuse should lead to breach action, may be unrealistic for such a chaotic group of offenders with a relapsing condition. In 2003 there were 86 breaches for every 100 starts on the Order, a figure which will include more than one breach for some offenders. Whilst breach hearings do not necessarily lead to revocation of the Order they do tie up court and probation service resources, in addition to the court review hearings which are a feature of the Order. Our work suggested the most convincing local enforcement arrangements set clear expectations upon the offender, had robust monitoring arrangements, and a shared understanding between drug treatment workers, probation officers and the local courts on how potential breaches should be handled.
- viii** The supervision and treatment costs of the Order in 2002-03 in the areas we visited varied between £5,200 and £7,600 per Order, which we estimate equates to some £25 to £37 a day, compared with a cost of custody of £100 a day. Other costs not included, some of which are associated with being on a community sentence rather than in custody, include residential treatment, housing and benefit costs for the offender and the wider cost to society if new offences are committed. As greater numbers of Orders begin to be completed, further research will be needed on the costs and benefits of the variety of sentences and Community Order options available following the introduction of the Criminal Justice Act 2003, taking account of the sustainability of any reduction in drug taking and reduction in criminal activity. A recently published evaluation commissioned by the Home Office following up offenders who had been put on the Order during the initial pilots found that 80 per cent of those who could be traced had been reconvicted for at least some offence in the subsequent two year period. For those who had completed their Order, the reconviction rate was significantly better at 53 per cent<sup>4</sup>. This sample was not big enough to confirm whether the seriousness of the offences committed also reduced. There is, as yet, no evidence as to whether reductions in drug taking are sustained when Orders are completed or revoked. Our fieldwork suggested that treatment continued to be available to offenders beyond the end of their Order but often not at the same intensity, an issue that was of concern to some offenders making progress on the Order. The Criminal Justice Interventions Programme, introduced in 2003-04 in the police Basic Command Units with the highest levels of acquisitive crime, is expected to involve community drugs teams planning and coordinating care for offenders and is intended to help address potential weaknesses in the continuity of treatment. In general, as more Orders are completed, probation areas and their successors in the National Offender Management Service, and Drug Action Teams need to have in place agreed protocols for allowing continued access to treatment for those coming off criminal justice programmes.

<sup>4</sup> "The impact of Drug Treatment and Testing Orders on offending: two-year reconviction results" Home Office Research Findings 184, 2003.

# RECOMMENDATIONS

8 We make the following recommendations:

*On the selection of offenders:*

- i The National Probation Directorate and National Treatment Agency should reduce the rate of early revocation for failure on the Order. Better use might be made, for example, of time between arrest and sentence to help assess suitability for the Order. This time could also be used to build and sustain an offender's motivation for the Order.
- ii Probation areas need to collect data on the age, sex and ethnicity of drug misusers sentenced to the Order, and their completion of the Order. This information should be used by probation areas and Drug Action Teams to monitor the performance of treatment interventions in meeting the needs of different groups, review the content of the services delivered and inform future commissioning.
- iii Taking account of the introduction of arrest referral schemes and other initiatives, the criminal justice system now accounts for a large number of drug misusers in treatment. The Home Office and National Treatment Agency should determine whether, taken together, the various initiatives allow all drug misusing groups fair access to treatment services, including through the Drug Treatment and Testing Order, for example for people in the 18 to 25 age group, women, ethnic minorities and those who are homeless.
- iv Where drug-misusing offenders are considered not suitable for the Order due to mental health problems, probation areas should recommend to the courts that appropriate health assessments are undertaken to consider offenders' suitability for alternative disposals.
- v To ensure that benefits from the Order are not wasted, probation areas and Drug Action Teams should have effective arrangements to allow drug misusers coming off the Order, for whatever reason, to continue their treatment and receive appropriate support if necessary.



*On the enforcement of the National Standard:*

- vi The Home Office should examine ways of reducing the cost of enforcing the terms of the Order. Clearer guidance, for example, could be issued regarding what might be a "reasonable" explanation for failing to comply with the Order, leaving the full-formality, and cost, of the breach process for incidents of non-compliance without reasonable excuse.
- vii To improve the consistency of performance reporting between probation areas, the National Probation Directorate should specify clearly what activities can be counted towards the required number of contact hours set out in the National Standard.

*On measuring success:*

- viii Probation areas and Drug Action Teams should routinely monitor and review information on outcomes achieved, in particular the level of abstinence achieved or reduced drug use at the time of termination of the Order; and the Home Office should routinely monitor and review reconviction rates.
- ix The Home Office should review the costs and outcomes achieved on the new sentencing and treatment options available following the implementation of the Criminal Justice Act 2003 and provide feedback to the courts on their best use.
- x Once outcome monitoring is in place, the Home Office should consider the continuing need for commencement targets.





# Part 1

## Background

- 1.1 Drug misusers commit a high proportion of such crimes as shoplifting and burglary. Once addicted to drugs such as heroin and crack cocaine, problem misuse of drugs can cost some £400 a week<sup>5</sup> - amounts unaffordable to addicts unable to sustain employment. So, whatever the cause of the initial addiction - often associated with low educational attainment and employment prospects, poor access to housing and healthcare but also sometimes arising from involvement in criminal activity - drug misuse in itself can be a cause of crime, with misusers offending to fund their habit. In nine areas where there has been mandatory drug testing of people charged with offences such as shoplifting, burglary and drug offences, between 36 and 66 per cent tested positive for use of opiates or cocaine<sup>6</sup>.
- 1.2 The population of problem drug misusers is difficult to estimate, but Government and academic research provide estimates of between 250,000 and 500,000 problem Class A drug users in England and Wales<sup>7</sup>. Research commissioned by the Department of Health, known as the National Treatment Outcome Research study, has suggested that community treatment and residential rehabilitation can help drug misusers achieve marked reductions in their drug use, reduced harm for example from injecting behaviour, improved psychological health and reduced crime. The Government's ten year strategy for tackling drugs misuse, published in 1998, set out to increase the participation of drug-misusers in treatment<sup>8</sup>. By increasing the capacity to identify and treat drug misusing offenders, from the point of arrest through to community sentences or custody and release, the Government's aim is to break the link between drug misuse and crime.
- 1.3 As part of this strategy the Drug Treatment and Testing Order was introduced by the Crime and Disorder Act 1998 as a new community sentence for offenders who misuse drugs. The Order was intended for drug users who have a significant record of drug related offending, as an alternative to custody. The Order replaced the Criminal Justice Act 1991 Schedule 1A6 probation order, which provided for treatment for drug misuse. The Drug Treatment and Testing Order, which involves more intensive supervision than its predecessor, requires offenders to submit to regular drug testing, to attend intensive treatment and rehabilitation programmes and to have their progress reviewed regularly by the courts. Offenders on the Order are supervised by the Probation Service and attend drug treatment and other programmes delivered by the Probation Service, other statutory providers or the voluntary sector. The Order is for a minimum period of 6 months up to a maximum of 3 years.
- 1.4 The Drug Treatment and Testing Order was piloted in England in three areas - Croydon, Liverpool and Gloucestershire - from October 1998. In May 2000, the Home Secretary decided to make the Order available to all courts in England and Wales from October 2000. The evaluation of the pilot was published in October 2000. The National Standard, governing probation areas' management of the Order was announced in February 2001, and required offenders to attend treatment and programmes initially for 20 hours a week. By December 2003, 18,414 Orders had been made and the Home Office announced a new National Standard governing Orders with lower intensity treatment plans, which were to be made available across the Probation Service from April 2004, having initially been introduced in nine probation areas in

<sup>5</sup> *Drug spend can vary widely, higher and lower than £400, the self-reported average weekly drug spend in the month before arrest of offenders studied in the evaluation of the pilot areas: "Drug Treatment and Testing Orders - the 18-month evaluation"; Home Office Research Findings 128.*

<sup>6</sup> *"Evaluation of drug testing in the criminal justice system in nine pilot areas"; Home Office Research Findings 180.*

<sup>7</sup> *"The Updated Drugs Strategy, 2002"; and "The economic and social costs of Class A drug use in England and Wales", Home Office Research Study, 2002.*

<sup>8</sup> *The 1998 Strategy "Tackling drugs to build a better Britain" was updated by the Government in its Updated Drug Strategy 2002.*

2003-04. Under the provisions of the Criminal Justice Act 2003 the Drug Treatment and Testing Order will be replaced by the similar drug rehabilitation requirement, one of the sentencing options available to judges and magistrates as part of the new Community Order. It will be possible for sentencers to make a Community Order consisting of the drug rehabilitation requirement alone, or for the Community Order to combine drug treatment and testing with one or more of the other community sentencing options such as unpaid work or a curfew.

- 1.5 Her Majesty's Inspectorate of Probation carried out a thematic inspection of the implementation of the Drug Treatment and Testing Order in England and Wales. In his March 2003 report, *A Long Way in a Short Time - Inspection of the Implementation of Drug Treatment and Testing Orders by the National Probation Service*, the Chief Inspector concluded that the probation service had achieved a great deal in the first two years of the Order, but there was a need to address the uneven performance between areas against standards set by the Home Office for the delivery of the Order. The Inspectorate's findings and recommendations are summarised in Appendix 1. The National Audit Office participated in some of the Inspectorate team's visits and undertook further visits to probation areas in England in 2003 with a view to examining how far the Orders are likely to reduce drug use and reoffending.

### The Drug Treatment and Testing Order is one of a number of initiatives seeking to break the link between drug use and crime

- 1.6 Drug users caught within the criminal justice system may now seek referral into treatment upon arrest, enter treatment while on a community penalty or take up treatment in prison, as set out in [Figure 1](#). In 2001, 40-50,000 people arrested sought assistance from arrest referral workers, with some 25,000 requesting referral into drug treatment in the community; in addition some 6,800 offenders started on a community sentence with a requirement to attend drugs or alcohol treatment including as part of a Drug Treatment and Testing Order. In prison, drug treatment workers assessed 52,000 prisoners in 2002-03 for referral for drugs treatment in prison or on release into the community. The National Drug Treatment Monitoring System shows some 70,000 drug misusers had presented for treatment overall in 2001-02 - for treatments ranging from community based services to residential or inpatient services ([Figure 2](#)). Thus criminal justice interventions are likely to account for a high and growing proportion of the total number of problem misusers presenting for drug treatment in the community.

- 1.7 The use of the criminal justice system in England and Wales to bring drug misusers into treatment is not unique. In Scotland and Ireland specialist courts for dealing with offenders with a drugs problem are being trialled, with the aim of diverting more offenders into treatment rather than prison. Other European countries are using their criminal justice systems to get drug misusers into treatment, but the degree of compulsion involved in treatment as an alternative to custody varies, as do the mechanisms adopted for doing so. In Sweden offenders can be sentenced to treatment in accordance with a contract drawn up between the drug-misuser and the municipality. In the Netherlands there are arrest referral schemes, sentencing may be dropped where a drug-misuser takes-up treatment voluntarily and the courts also have the option to coerce offenders into treatment by suspending sentencing on condition of entering treatment. Germany also allows sentencing to be suspended where offenders undergo treatment. In France and Greece prosecutors can issue compulsory detoxification or treatment in addition to or instead of conviction<sup>9</sup>. Evaluations of the effectiveness of interventions in other countries have shown mixed results in changing drug use and offending behaviour<sup>10</sup>.

### The National Probation Directorate is responsible for overseeing the delivery of the Order in England in collaboration with the National Treatment Agency

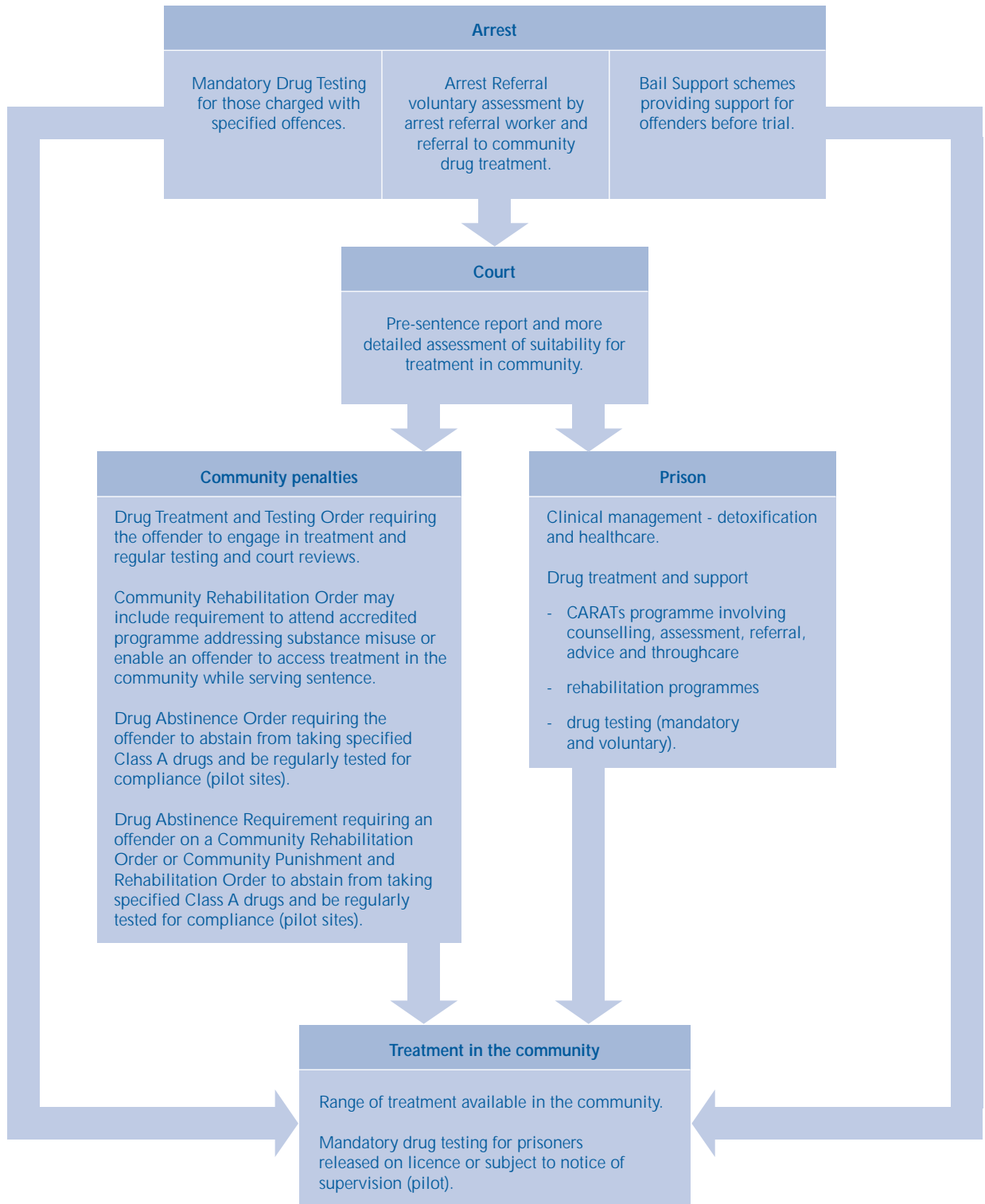
- 1.8 Since the creation of the National Probation Service in April 2001, the National Probation Directorate has been accountable to the Home Office and the Home Secretary for the delivery of the Drug Treatment and Testing Order. More generally, the Directorate has overall responsibility for the probation service's performance in protecting the public; reducing re-offending; providing for the proper punishment of offenders; ensuring that offenders are aware of the effects of their crimes on their victims and on the public; and rehabilitating offenders. The Government has announced that from June 2004, the National Probation Service will join with HM Prison Service to form the National Offender Management Service.
- 1.9 The Home Office has provided funding for the Drug Treatment and Testing Order based on the assumption of a unit cost of £6,000 for each Order commenced in a year. For 2003-04, the Home Office has allocated probation areas in England £20.5 million to meet the cost of supervising the Orders, within total funding for probation areas of £662 million. Since April 2001, the element of the funding intended for drug treatment in

<sup>9</sup> European Monitoring Centre for Drugs and Drug Addiction, *National Reports and Country Profiles*.

<sup>10</sup> "Review of criminal justice interventions for drug users in other countries" December 2002. Prepared for the National Audit Office by Tim McSweeney, Paul Turnbull and Mike Hough, available on NAO website, [www.nao.org.uk](http://www.nao.org.uk).

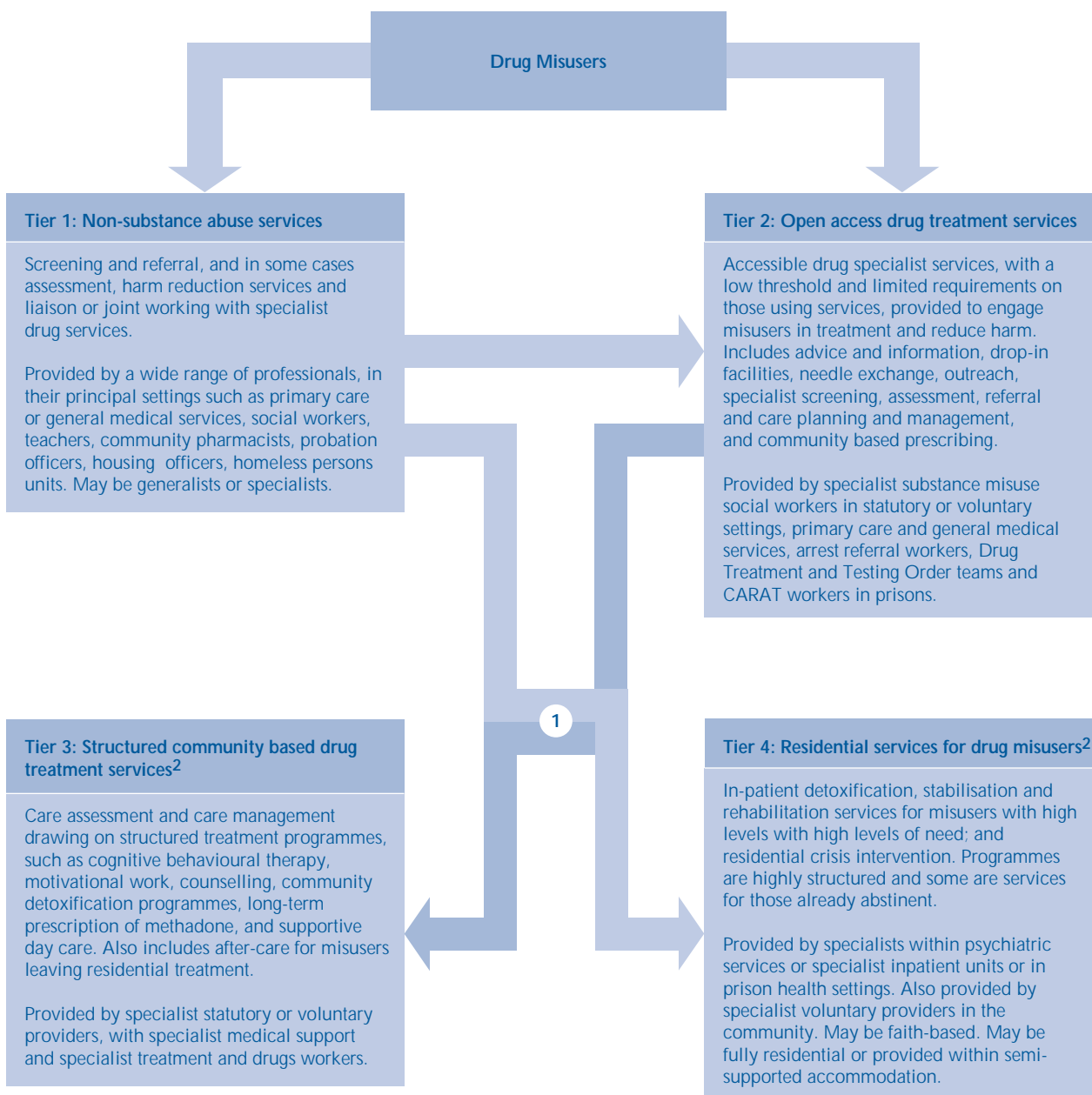


1 Interventions for drug-misusers within the criminal justice system



Source: National Audit Office

**2 Treatment for drug users is delivered at various levels of intensity depending on individual need and in a variety of settings**



**NOTES**

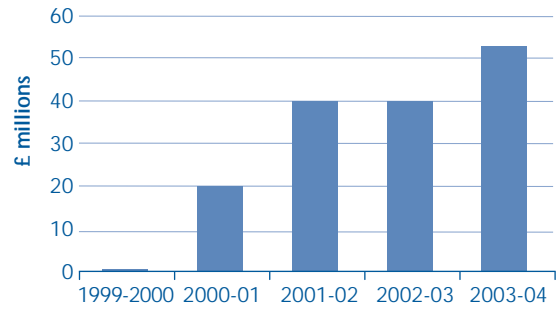
- 1 Some structured community based drug treatment and residential services are funded by Local Authorities rather than from the Drug Action Teams' pooled treatment budgets, and Local Authority Community Care assessors assess drug misusers' suitability for these services.
- 2 Some providers deliver both Tier 2 and Tier 3 services within one project.

Source: National Audit Office

England has been passed to the Department of Health, which in turn has allocated the money via Primary Care Trusts, to Drug Action Teams for commissioning the treatment in their communities. For 2003-04, funding to meet drug treatment costs has totalled £29.7 million. In Wales probation areas receive all the Home Office funding for the Order, which in 2003-04 amounted to £3.5 million, and this covers the cost of supervision and treatment of those on the Order. **Figure 3** shows the increase in total funding provided for probation and health services as use of the Order has expanded.

1.10 In November 2000, the Home Secretary set a target for the National Probation Service to achieve approximately 6,000 commencements a year, with effect from 1 April 2001. In December 2002, the national target was doubled to achieve 12,000 commencements a year by March 2005. In December 2003 the National Probation Directorate advised probation areas of a further target to achieve an additional 1,000 of the new lower intensity version of the Orders by 2004-05, rising to 4,000 in 2005-06. To meet the national targets, the National Probation Directorate has given each probation area its own target for commencements - one of six key indicators it uses to assess local probation area performance.

**3 Funding provided for the Drug Treatment and Testing Order in England and Wales**



**NOTE**

Funding in 1999-2000 was for the pilot of the order in three areas.

Source: Home Office

1.11 Probation areas supervise offenders on the Order and report to the courts on their progress. The National Directorate has required local areas to develop programmes to meet the requirements set out in a National Standard approved by the Home Secretary for the delivery of the Drug Treatment and Testing Order (**Figure 4**). A variety of local programmes has been

**4 Key elements of the National Standard for the management of the Drug Treatment and Testing Order**

<b>Assessment</b>	Assessment of suitability for the Order should usually be within the Pre-Sentence Report. Where assessment needs to be completed after presentation of the Pre-sentence report to the court, this should be done within five working days.
<b>Supervision and treatment</b>	<p>After an Order has been made by the court, the offender's first appointment with the Probation Service shall be arranged to take place within one working day and with the treatment provider within two working days of the Order.</p> <p>Contact, including treatment, for the first 13 weeks of the Order shall usually be on five days a week for a total of twenty hours a week, with a minimum of 15 hours a week and after the first 13 weeks, this may be reduced to a minimum of three days a week, for 12 hours a week, with a minimum of nine hours a week. Contact with the offender should include treatment, offence focused work and lifestyle programmes.</p>
<b>Testing</b>	<p>For the first 13 weeks of the Order, the offender must be tested at least twice a week, thereafter at least once a week. If the offender admits in writing to having used drugs recently, testing shall not always be required.</p> <p>Positive drug tests should be confirmed through laboratory testing unless the offender admits to drug use.</p>
<b>Court reviews</b>	<p>Probation areas are expected to propose to courts that court reviews take place once a month for the first four months and quarterly thereafter.</p> <p>Supervising officers must provide a report to the court on the offender's progress, including the results of drug tests, the views of treatment providers, the offender's attendance record, and the supervisor's assessment of the offender's attitude and response to the Order.</p>
<b>Enforcement</b>	<p>Breach action may be taken after one unacceptable failure and if it is not taken, the offender must be given a formal warning.</p> <p>Breach action must be taken following the second unacceptable failure in any 12 month period.</p>

developed in England - some with in-house provision of treatment and rehabilitation programmes, some in partnership with the health service and some contracted out to other providers, from the statutory or voluntary sectors. With effect from April 2002 Drug Action Teams have taken responsibility for commissioning the drug treatment and testing services. The Drug Action Teams comprise partners from local statutory agencies (including health services, social services, probation, youth offending teams and prisons) and review local treatment needs and commission treatment and rehabilitation services at local level for all substance misusers.

1.12 The National Probation Directorate works in collaboration with the National Treatment Agency for Substance Misuse to help ensure that probation areas in England work together effectively with local Drug Action Teams. The National Treatment Agency for Substance Misuse was established in April 2001 as a Special Health Authority with a remit to increase the capacity, quality and effectiveness of drug treatment in England, including overseeing the work of local Drug Action Teams. The National Treatment Agency has set targets for Drug Action Teams to reduce waiting times for treatment in the community; has issued guidance on the development of drug treatment services within their areas, known as "Models of Care"; and has annually reviewed Drug Action Team plans to check that national priorities are reflected in the development of local services. The "Models of Care" provides guidance on what works best in drug treatment and sets a model for the commissioning and provision of drug treatment.

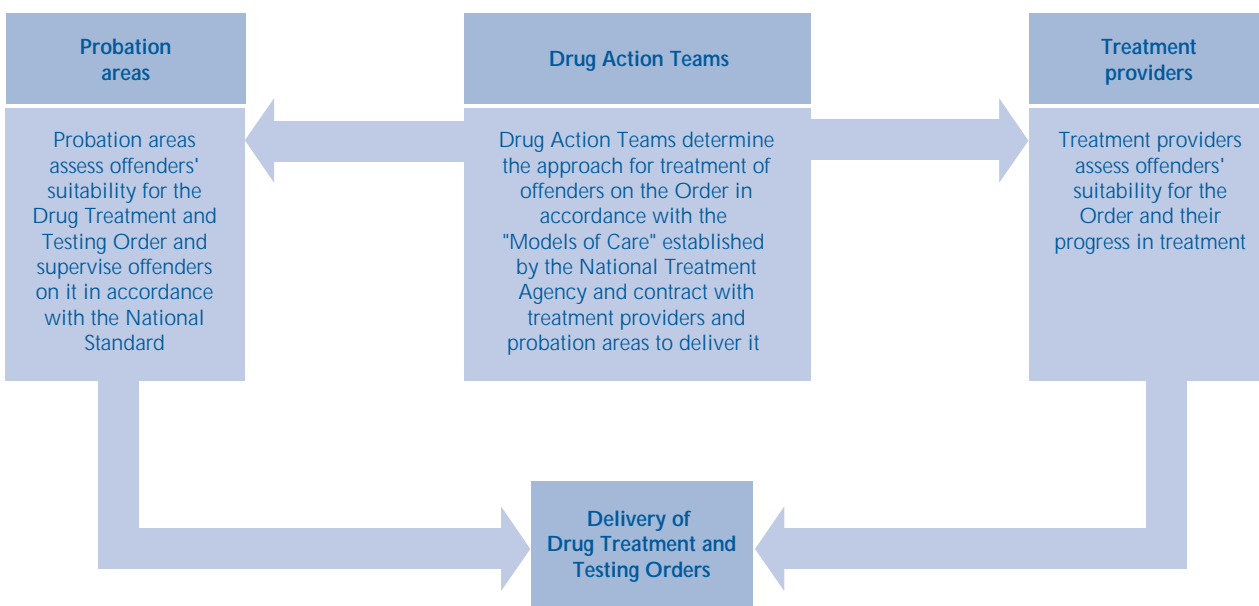
Figure 5 provides further explanation of the link between probation and health services in England. In Wales, the National Assembly for Wales works with the National Probation Directorate to oversee the delivery of the Drug Treatment and Testing Order by probation areas.

### Scope and methods of this study

1.13 We examined the progress made in implementing the Order in England and early evidence of its impact. The first phase of the audit was carried out in collaboration with Her Majesty's Inspectorate of Probation, which carried out a thematic inspection of the implementation of the Drug Treatment and Testing Order in England and Wales. The Inspectorate's report, "A Long Way in a Short Time", was published in March 2003 and is presented in summarised form in Appendix 1 and drawn on in the text of this report.

1.14 This report is based on visits to five probation areas undertaken with the Inspectorate in May-June 2002 and five further visits to probation areas in England in August-September 2003. The visits included reviewing data reported to the National Probation Directorate, interviews with probation and drug treatment staff, interviews with representatives of the local Drug Action Teams, examination of case files and, in some areas, discussions with people on the Order. At a national level we interviewed National Probation Directorate staff, undertook analyses of the Directorate's data and interviewed staff at the National Treatment Agency. Details of the study methods and the organisations consulted are set out in Appendix 2.

## 5 Responsibilities of probation areas and Drug Action Teams for delivery of Drug Treatment and Testing Orders in England





# Part 2

## Are Drug Treatment and Testing Orders available for all who might benefit?

### 2.1 This Part examines:

- i the progress made in increasing the number of drug misusers on the Order; and
- ii the type of drug misusers admitted onto the Order.

### (i) The progress made in getting more drug misusers into treatment

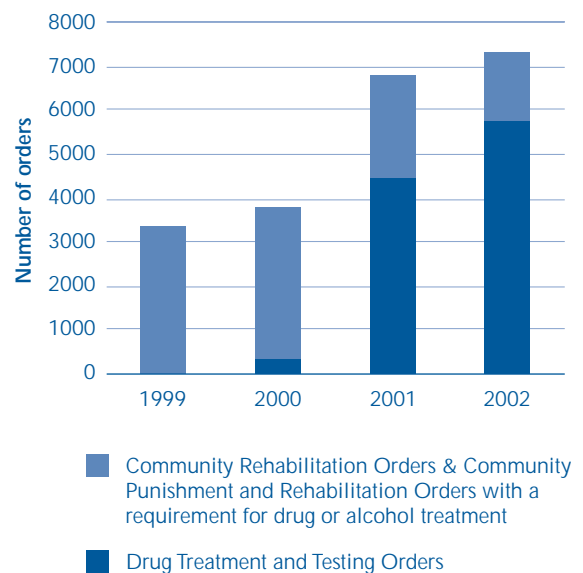
Setting an initial target for commencements on the Drug Treatment and Testing Order and the allocation of ring-fenced funding provided an incentive to get the new Order established quickly at local level

2.2 The introduction of Drug Treatment and Testing Orders has led to an increase in the number of offenders who are required as a condition of their supervision by the probation service to attend drug or alcohol treatment (**Figure 6**). Prior to the introduction of the Drug Treatment and Testing Order, the previous means of linking drug treatment with a sentence, the Schedule 1A6 Order, had not been well used. Although the Probation Service fell short of the Home Office target for commencements in 2001-02, achieving 4,854 commencements against the target of 6,000, it exceeded the target in 2002-03, achieving 6,140 commencements.

Local probation and Drug Action Teams have demonstrated commitment to achieving their target but Drug Action Teams were concerned that they might not be able to match treatment resources to the higher targets

2.3 All the areas we visited had demonstrated a commitment to meeting their local commencement target. To help increase commencements, most of the probation areas had looked at ways of identifying potential candidates for the Order on a more systematic basis than they had managed initially, including further raising awareness of the Order amongst probation colleagues, the police, judges and magistrates (**See Figure 7**).

### 6 Community sentences with a requirement of drug or alcohol treatment



Source: National Audit Office summary of Probation Statistics

2.4 The targets for commencements are set for probation areas but local Drug Action Teams who are responsible for commissioning the necessary treatment facilities have no formal obligation to deliver them. The National Probation Service has worked with the National Treatment Agency to encourage Drug Action Team commitment to the target and since 2003-04 Drug Action Teams have signed up to delivering their allocation of the target in their annual treatment plans. In 2002-03 all except one probation area<sup>11</sup> had succeeded in achieving over 80 per cent of their target. By December 2003 probation areas were achieving a further increase in the numbers of Orders started, together achieving 95 per cent of their nine month target, with 4 of the 42 probation areas<sup>12</sup> achieving less than 80 per cent of their target.

<sup>11</sup> Merseyside.

<sup>12</sup> Avon and Somerset, Cheshire, Essex, Gloucestershire.

## 7 The Criminal Justice Drugs Team in Leicestershire

The Leicestershire Criminal Justice Drugs Team case manages offenders on Community Rehabilitation Orders and Drug Treatment and Testing Orders. It manages a re-integration programme, providing support for offenders with a history of drug misuse, on their release from prison. And it manages treatment programmes which are available as required for offenders on these orders and on licence. The team includes a seconded police officer, who works with offenders who have given their consent, provides improved liaison with the police and is expected to improve the execution of breach warrants, enabling offenders to be quickly returned to the courts and restarted in treatment or resentenced.

The team has liaised with probation colleagues to encourage referrals. It also participates in monthly multi-agency prolific offenders meetings. This enables the sharing of intelligence between police and probation about prolific offenders and for offenders known to have been arrested early referral for assessment for the Drug Treatment and Testing Order. The team has bid for funding for bail support workers, to provide support after arrest and before sentencing to improve the process from arrest to sentence and treatment.

*Source: National Audit Office visit*

- 2.5 Drug Action Teams visited by us had concerns that the new higher commencement target - to achieve 12,000 commencements by March 2005 compared to 6,000 in 2002-03 - would require resources to be diverted from other local treatment priorities. Following our visits probation areas and Drug Action Teams were advised of the further target of 1000 Orders with lower intensity treatment plans for 2004-05 and associated funding.
- 2.6 For probation areas, local commencement targets for both higher and lower intensity Orders were set proportionate to their funding. The Home Office and the National Treatment Agency arranged that funding for the additional drug treatment costs for offenders on the Order was added to the total sum of resources available for Drug Action Teams and distributed in accordance with the National Treatment Agency's national formula. And, with effect over the period 2003-04 to 2006-07, the pooled treatment funding formula has been revised, to reverse perceived inequalities in Drug Action Team funding, based on a revised assessment of need. Although the total amount of funding for Drug Action Teams to spend on treatment has increased by 45 per cent from 2001-02 to £450 million in 2003-04, Drug Action Teams receiving smaller increases under the revised formula reported to us difficulty allocating resources for the Order in line with increases in the commencement targets. For 2004-05, Drug Action Teams reported that requests for additional funding to meet higher commencement targets would have to be considered alongside other bids, particularly where the area was under pressure to cut waiting times for drug treatment more generally. For 2003-04 the National Probation Directorate found an additional £434,400 within its resources, which it allocated to 10 probation areas working with the 24 worst affected Drug Action Teams, to support treatment costs for offenders on the Order.
- 2.7 We also found that some probation areas, which had sought additional sources to help fund elements of the programmes for those on the Order, were finding it difficult to maintain these elements as the number of Orders they provided increased. Amongst the areas we visited, Gloucestershire had supplemented its budget from other sources to fund employment training, education and other activities. Sussex probation area had raised additional funding from local police budgets and the European Social Fund. However, raising and accounting for the use of such funding was absorbing additional management time.
- 2.8 In 2003 the National Probation Directorate and National Treatment Agency reviewed local commencement targets compared to Drug Action Teams' funding levels and a measure of local prevalence of problematic drug users<sup>13</sup>. This analysis showed that London and Teesside probation areas had estimated targets for 2004-05 well below the level implied by their Drug Action Teams' drugs funding, whilst nearly half of the probation areas in England had estimated targets for 2004-05 15 per cent or more higher than implied by their drugs funding. There was little variation in Drug Action Teams' allocated targets against their estimated levels of prevalence of serious drugs misuse, with the targets set at levels ranging from one to six per cent of estimated prevalence. The National Probation Directorate and National Treatment Agency concluded this allocation of the commencement target was appropriate because the targets were in line with the estimates of problematic drug misusers and in London drug treatment is more expensive.

<sup>13</sup> Estimates taken from a pilot study estimating the prevalence of problematic drug misuse using the multiple indicator method, undertaken for the Home Office and National Treatment Agency by Frischer and Heattlie of Keele University and Hickman of Imperial Medical School, London.

Some drug treatment staff have had concerns about the impact of giving priority to offenders when accessing treatment

2.9 Our work with the Probation Inspectorate in 2002 highlighted some concerns amongst drug workers that offenders on the Order would be “queue jumping” into treatment. The National Standard governing delivery of the Order expects offenders to receive an appointment with the treatment provider within two working days of the Order being made. In Suffolk, for example, offenders were not being given priority because treatment providers did not consider it appropriate to assign priority to this group over those seeking treatment voluntarily. These concerns were less evident amongst probation and Drug Action Team staff during our second tranche of visits in late summer 2003. In Sussex, probation and drug treatment staff suggested that sustained investment in Drug Treatment and Testing Orders had played a part in helping to expand the capacity of local treatment services rather than displace access to existing services. In their view, the Order had also made a range of other programmes and support available to drug misusers receiving treatment voluntarily.

2.10 The extent to which “queue jumping” is perceived as a problem depends on the length of local waiting times for treatment. In 2002, the Audit Commission reported that many drug users were struggling to get the help that they needed from existing drug services and joint working between treatment services and other agencies was patchy<sup>14</sup>. Drug users we interviewed and who had tried to access treatment prior to being placed on the Order suggested that whilst they could get to see a general practitioner and receive treatment, waiting lists for programmes of similar intensity to those available through the Order took many months to get on to, if they were available.

2.11 The National Treatment Agency was set up in 2001 to address the weaknesses in existing provision in England and to take forward commitments made in the National Drugs Strategy, first published in 1998 and updated in 2002. As part of the Strategy, Drug Action Teams have been working to reduce waiting times into treatment. Waiting times for drug treatment in the community have steadily decreased, for example from an average 5 weeks for prescribing by a General Practitioner in 1999-2000 to 2.3 weeks in December 2003; and from an average 10.2 weeks for prescribing by a community specialist in 1999-2000 to 4.4 weeks in December 2003 (Figure 8). Nonetheless in December 2003 there remained around one Drug Action Team in six where waiting times were above the National Treatment Agency’s 31 March 2003 4-week target for prescribing by a general practitioner and around one in six above the 6-week target for specialist prescribing.

(ii) The type of drug misuser admitted onto the Order

The commencement targets and the National Standard for the delivery of the Order may not allow sufficient flexibility to tailor programmes at local level to meet local needs

2.12 Despite the general encouragement given to the courts that custody should only be used for the most serious cases<sup>15</sup>, not all offenders with a significant record of drug-related offending have been found suitable for the highly intensive Drug Treatment and Testing Order. Since roll-out of the Order, over half the offenders referred, for example by the courts, for assessment for the Order by probation and drug treatment staff have not been found suitable for the Order. This includes some 30 per cent who have not been assessed, for example

**8** Average waiting times for drug treatment in England

	National Treatment Agency Target 31 March 2003	Performance at December 2003	National Treatment Agency Target 31 March 2004
GP prescribing	4 weeks	2.3 weeks	2 weeks
Specialist prescribing	6 weeks	4.4 weeks	3 weeks
Day care	4 weeks	2.1 weeks	3 weeks
Structured counselling	4 weeks	2.7 weeks	2 weeks
Inpatient detoxification	4 weeks	3.7 weeks	2 weeks
Residential rehabilitation	4 weeks	4.1 weeks	3 weeks

Source: National Treatment Agency

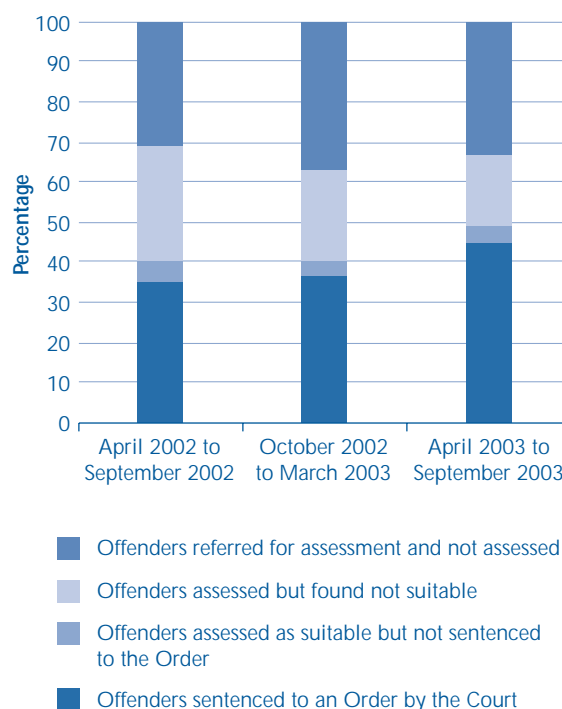
14 “Changing Habits: The Commissioning and Management of Community Drug Treatment Services for Adults”, Audit Commission, 2002.  
 15 For example in Court of Appeal judgement R v Kefford 5 March 2002.

because they have excluded themselves or been considered unsuitable without assessment (Figure 9). Amongst the cases examined by us, the reasons for unsuitability included a history of violence which could pose a risk to staff and other people on the programme; drug misusers who may have a habit but are not necessarily offending to fund their habit; those who are not sufficiently motivated to embark upon the programme; and those who in the view of probation and drug treatment staff, do not have a sufficiently entrenched habit to justify a place on the Order.

2.13 When we visited them in 2003, probation areas were attempting to adapt the Order to meet the needs of less serious offenders, but questioned whether the then current National Standard governing the Drug Treatment and Testing Order offered sufficient flexibility. In Sussex, local treatment programmes previously attached to Community Rehabilitation Orders had been replaced by the Drug Treatment and Testing Order programme. Whereas in Leicestershire a treatment programme available to those on Community Rehabilitation Orders had been retained. In Gloucestershire, which had attempted to stimulate additional referrals, plans were being established to introduce a new six-month Order for less serious offenders who might previously have been sentenced to a Community Rehabilitation Order. In Staffordshire, consideration was being given to rationalising the existing range of local treatment programmes to channel more offenders onto the Drug Treatment and Testing Order. Probation and drug treatment staff in a number of the areas visited suggested that too much focus on delivering the Drug Treatment and Testing Order target was restricting the flexibility needed at local level to provide a variety of sentence and treatment options. Some drug treatment staff suggested that whilst the intensity of the Drug Treatment and Testing Order helped many, the requirements currently set out in the National Standard, including the required number of contact hours, would not always be commensurate with lesser offences or offer the best use of resources for less serious drug misuse.

2.14 In December 2003 the National Probation Directorate issued supplementary provisions to the National Standard suitable for the Order with a lower intensity treatment plan. This requires minimum contact of 12 hours a week (on at least two days) for the first 13 weeks of the Order (which may be reduced thereafter to a minimum of five hours a week if the offender is making good progress); and proposals for reviews by the courts no more frequently than quarterly after the first

**9** Proportion of offenders referred for assessment for a Drug Treatment and Testing Order and the result of the referral, April 2002 to September 2003



**NOTE**

Offenders referred for assessment and not assessed will include those who decided they did not want to be considered for the Order and those who missed their assessment appointment, for example because they were ill or in police custody for a further offence, and where the interview was not re-arranged.

Source: National Audit Office summary of National Probation Directorate data

month on the Order. This lower intensity variant of the Order was available in 2003-04 in 30 high crime Police Basic Command Units targeted in the Criminal Justice Interventions Programme. It is to be available in all probation areas from April 2004, with an associated target of 1,000 in 2004-05, increasing to 4,000 in 2005-06, in addition to the 12,000 higher intensity target. Whilst the lower intensity Standard enables areas to recommend the Order to a wider range of drug misusing offenders, there remains a risk that some offenders may be recommended for the higher intensity version of the Order who might have been better recommended for the lower intensity variant.



There is scope to increase referral from some groups currently under-represented on the Order, but the constraint is often the availability of suitable treatment programmes at local level

2.15 We found some evidence that young adult offenders, women and offenders with addictions to stimulants rather than opiates were under-represented on the Order. In London, for example, the local proportions of offenders on the Order recorded as having a primary addiction to crack cocaine did not reflect drug workers' perception of its prevalence in the wider population of drug misusing offenders. A number of probation areas visited reported that offenders without satisfactory accommodation or with serious mental health problems may be considered unsuitable for the Order, although efforts were being made to address these issues where possible (see Figures 10 and 11).

2.16 Information collected by the National Probation Directorate, which is not complete, shows that a high proportion of offenders placed on the Order are over 21 years old. 90 per cent in 2002 were over 21 - a higher proportion than, for example, for Community Rehabilitation Orders (83 per cent). Some drug treatment and probation staff suggested that the motivation to stay in treatment was more often found amongst older drug misusers and therefore they were more likely to be placed on the Order. Where motivation was demonstrated, some probation staff reported that the type of programmes available on the Order, often geared to meet the needs of problematic drug users, were not suited to the typical needs of younger drug misusers who may have a less entrenched habit. There is some limited research evidence which suggests that there may be some correlation between age and the probability of completing an Order<sup>16</sup>, although the South Bank University evaluation of the initial pilots for the Order found no link between age, and any other offender characteristic, and outcome<sup>17</sup>. If treatment is successful, the impact on crime levels of reducing a younger offender's habit at an early stage of a criminal career could be proportionately greater. Young offenders, under the age of 18, can be given sentences overseen by the Youth Offending Teams<sup>18</sup>. Sussex probation area had sought to increase the number of younger adults on its programmes by examining the profile of admissions at different treatment sites and working with teams to improve access to the Order for this age group. In 2002-03 28 per cent of offenders on the Order in Sussex were in the 18-25 age group. However, more generally, our visits suggested that probation areas had given less attention to increasing the number of younger people on the Order.

## 10 Helping offenders to find accommodation so they can start an Order

Many serious drug misusers do not have stable accommodation - having been unable to hold down a tenancy or been thrown out of the family home. Many live in known crack houses or move regularly between friends' homes. A stable address is needed for an offender to start on an Order, because probation and treatment providers need to be able to contact the offender. Also, to make good progress on the Order, it is helpful for the offender to make a break from other drug misusers who are not in treatment.

Probation areas are now employing housing officers to help offenders on community sentences to find accommodation and in Staffordshire local statutory agencies have established a partnership for identifying and allocating hostel beds provided by social landlords.

Source: National Audit Office visit

## 11 Providing mental health support for those on the Order

Drug misusers may be using drugs as a way of coping with mental health problems, such as early abuse or traumas in their life or emerging schizophrenia, and drug misuse can itself bring on paranoia.

In Lambeth, Southwark and Lewisham the Drug Treatment and Testing Order programme is provided jointly by the probation service, the Community Drug Programme, Equinox, a voluntary organisation, and the South London and Maudsley NHS Trust. The team includes a consultant psychiatrist, a psychologist and nurses, some of whom have experience in psychiatric nursing. As a result, offenders with mental health problems can be referred for assessment and treatment within the team and linked into wider psychiatric services locally. For example at the time of our visit, a pregnant female offender on the Order, who had anorexia, was being supported by the psychologist as part of her treatment plan.

Source: National Audit Office visit

16 "Evaluating the effectiveness of Drug Treatment and Testing Orders in London", David Best, Lan-Ho Man, Sian Rees, John Witton and John Strang, 2002.

17 "The impact of Drug Treatment and Testing Orders on offending: two-year reconviction results", Home Office Research Findings 184, 2003.

18 "Youth Offending: the delivery of community and custodial sentences", National Audit Office, 2004.

2.17 Female drug misusers are also less likely to be placed on the Order. Nationally, women comprised 18 per cent of those on the Order in 2002, compared with women making up 21 per cent of those on Community Rehabilitation Orders and 12 per cent of those on Community Punishment Orders. In Sussex, for example, women comprised 18 per cent of those on the Order in 2002-03 compared to 30 per cent amongst the general drug misusing population in the county. Probation and drug treatment staff reported that female drug misusers were often not reliant on the type of crimes, such as burglary, that would lead to a Drug Treatment and Testing Order. Another constraint was the availability of specialist treatment for women - for example specialist treatment was available in Brighton in Sussex, but it has been found to be difficult to attract sufficient referrals because neighbouring Drug Action Teams may not fund this out-of-area treatment. Probation areas have been experimenting with different approaches, as in Leicestershire (Figure 12).

2.18 Following early feedback from the initial pilots, the Home Office advised probation areas to ensure the Order was accessible to women, ethnic minority offenders and stimulant users and to monitor accessibility once they had established their programmes. However, we found some of the probation areas we visited lacked sufficient information to enable them to monitor the type of offenders being placed on the Order. Similarly, Drug Action Teams often lacked information on the type of drug misusers being treated in the community. Since 2001-02 the National Drug Treatment Monitoring System has collected information from treatment providers on people in treatment, including age, gender, ethnic origin, and type of drug misuse. The National Treatment Agency now makes the information available to Drug Action Teams. However, the data has not been complete or reliable and the National Treatment Agency is working to improve its quality.

## 12 Designing a Drug Treatment and Testing Order programme suitable for women

About one in four drug misusers in treatment is a woman, but the rate of women's harmful use of drugs is thought to exceed this<sup>19</sup>. Prison Service research in 2001 found that nearly half of the women sampled were dependent on at least one drug, mainly heroin, crack or more than one drug. About a third of the women were also drinking alcohol at harmful levels. The study also found that women's drug taking was linked to mental health problems<sup>20</sup>.

Women may be under-represented in criminal justice treatment interventions because their drug misuse may be less frequently funded from the types of offences targeted by the criminal justice system - burglary, theft. They may also not welcome the prospect of treatment in programmes geared to group work, in predominantly male groups.

In Leicestershire a women-only treatment group had been run, but was suspended when numbers fell below the required level. As an alternative elements of the locally developed group work programme were available as workbooks for staff to run in one-to-one sessions with offenders who could not be incorporated successfully into groups.

Source: National Audit Office visit

<sup>19</sup> "Models of Care", National Treatment Agency.

<sup>20</sup> "The Substance Misuse Treatment needs of minority prisoner groups: women, young offenders and ethnic minorities", Home Office Development and Practice Report 2003.

# Part 3

## Whether Drug Treatment and Testing Orders have been delivered successfully?

### 3.1 This Part examines:

- i the early success rate of Drug Treatment and Testing Orders;
- ii the factors contributing to successful delivery; and
- iii the cost of delivering an Order.

#### (i) The early success rate of Drug Treatment and Testing Orders

Around a quarter of Drug Treatment and Testing Orders are completed in full, or are terminated early for good progress. The majority, however, are revoked because of failure to comply with the terms of the Order or a further conviction

3.2 Whilst the Home Office has set targets for the number of commencements on the Drug Treatment and Testing Order, it did not initially set any expectation for the proportion of Orders to be successfully completed, or otherwise define how success might be measured. There are a number of potential ways of assessing whether a Drug Treatment and Testing Order is successful. The completion of an Order is a useful intermediate measure of success - to reach the end of an Order an offender is likely to have reduced the risk of drug misuse and achieved a more stable lifestyle (Figure 13). However, a positive outcome can also be measured more directly in terms of reduced drug misuse and offending. In January 2004 the National Probation Directorate advised probation areas of a new target, with effect from April 2004, that satisfactorily completed Orders account for at least 35 per cent of terminations.

3.3 In 2003, of some 5,700 terminated Orders, 28 per cent had reached full term or had been revoked early for good progress. However, the majority of Orders terminated were because of the offender's failure to comply with the Order (44 per cent) (Figure 14), conviction for another offence, either committed before the start of the Order or

more likely whilst on the Order (22 per cent) (Figure 15), or for other reasons, including ill health or death (6 per cent). To date the figures for completed Orders include cases where the Order expires, whilst the offender is in breach and the Order is not formally revoked by the courts, for example where a warrant to attend court is outstanding. In two of the areas we visited which had kept the data these accounted for a significant proportion of cases reaching their full term (17 per cent to June 2003 in Leicestershire and 25 per cent of expired cases in the first quarter of 2003-04 in London). From April 2004 the National Probation Directorate requires probation areas to exclude these cases when collecting data against the new completions target.

Some offenders staying on the Order are achieving significant reductions in their use of drugs but many continue to test positive for illegal drugs

3.4 All the probation areas we visited considered offenders were achieving reductions in their drug use while on the Order, although not necessarily achieving abstinence from drugs. Not all areas had collected data to support these views. In Sussex, 66 per cent of offenders on the Order replying to a survey reported reduced drug misuse. Data collected by Leicestershire probation area suggests that in the first few months of an Order around 20 per cent of offenders have achieved clear drugs tests for opiates the majority of the time, and that this has increased to over 30 per cent by month 12 on the Order (Figure 16). Offenders have also tested positive for crack and cocaine less frequently during their time on the Order. By comparison, the South Bank University review of the three pilot areas found there were substantial reductions in drug use at the start of the Order, and that 27 of the 31 offenders who completed their Order said that they were drug free. But these represented only one in eight of the offenders who started the Order in the pilot (12.5%)<sup>21</sup>. Evaluations of the Order in other probation areas also suggest that reductions in drug use can be achieved<sup>22</sup>.

<sup>21</sup> "Drug Treatment and Testing Orders: Final evaluation report" Home Office Research Study 212, 2000.

<sup>22</sup> "The impact of Drug Treatment and Testing Orders in West Yorkshire: six month outcomes", Russell Turner, 2003; "Evaluating the effectiveness of Drug Treatment and Testing Orders in London", Best, Man, Rees, Witton and Strang 2002; and "Report on the Evaluation of Essex Drug Treatment and Testing Order", Department of Health and Human Sciences, University of Essex, 2002.

### 13 Successful completion of a Drug Treatment and Testing Order

A 30-year-old man was sentenced to a 12-month Drug Treatment and Testing Order at the Crown Court in March 2001 for a variety of offences, including theft and motor offences. Most of the offences had been committed to fund a long running heroin addiction and abuse of other drugs, such as crack cocaine and benzodiazepines.

Content of the Order	Weekly individual contact with a probation case manager; weekly group work on an offending behaviour programme; accommodation support; attendance at adult literacy classes; and an individual drug treatment programme involving methadone prescription and alternative therapies such as acupuncture, aromatherapy and hypnotherapy.
Drug testing	Testing was conducted twice a week on-site throughout the Order. Random testing was also conducted when anti-social behaviour was reported to the probation team by the landlady of the offender's hostel. Initially, the offender tested positive for the use of heroin and other drugs, but as the Order progressed, most of the tests were negative or showed reduced narcotic levels. The offender relapsed during Christmas 2001, but drug tests were mainly negative afterwards.
Impact on drug use and offending	The offender gradually reduced his intake of illicit drugs and methadone during the course of the Order and by the end of the Order he was not using any illicit drugs or methadone. The offender reported that he had reduced the number and gravity of offences while on the Order, although he had committed offences to fund drug use during his relapse.
Court review	Court reviews occurred each month. The probation reports and the judge's comments were usually positive and encouraging except during the period of relapse.
Use of breach	The probation service took no breach action.
Outcome	The offender completed the Order in March 2002. He secured employment and renewed contact with his mother and his children, leading him to believe that he could remain drug free.

Source: National Audit Office

### 14 Early revocation of a Drug Treatment and Testing Order for failure to comply with the Order

A 31-year-old man was sentenced to a 12-month Drug Treatment and Testing Order at the Crown Court in February 2003 for burglary and theft offences. The offences had been committed to fund a heroin addiction. His previous offending history included 26 previous convictions for 115 offences. The offender had no settled accommodation but gave his friend's address as his contact point. He was assessed for suitability for the Order while on remand and expressed his commitment to engage in treatment.

Content of the Order	Weekly individual contact with a probation case manager; group work on an offending behaviour programme; aim to find settled accommodation; and an individual drug treatment programme.
Use of breach	The offender attended the Drug Treatment and Testing Order programme on the day he was sentenced and released from remand and the following day. He subsequently failed to attend and failed to provide explanations. Breach proceedings were instigated for the day of his first planned review, in March 2003. The offender did not attend court and a warrant was issued.
Outcome	The offender's Order was revoked when the offender was returned to court under warrant, a month after the breach hearing was scheduled and two months after the Order commenced. The offender was sentenced to 15 months in custody for the original offence.

Source: National Audit Office



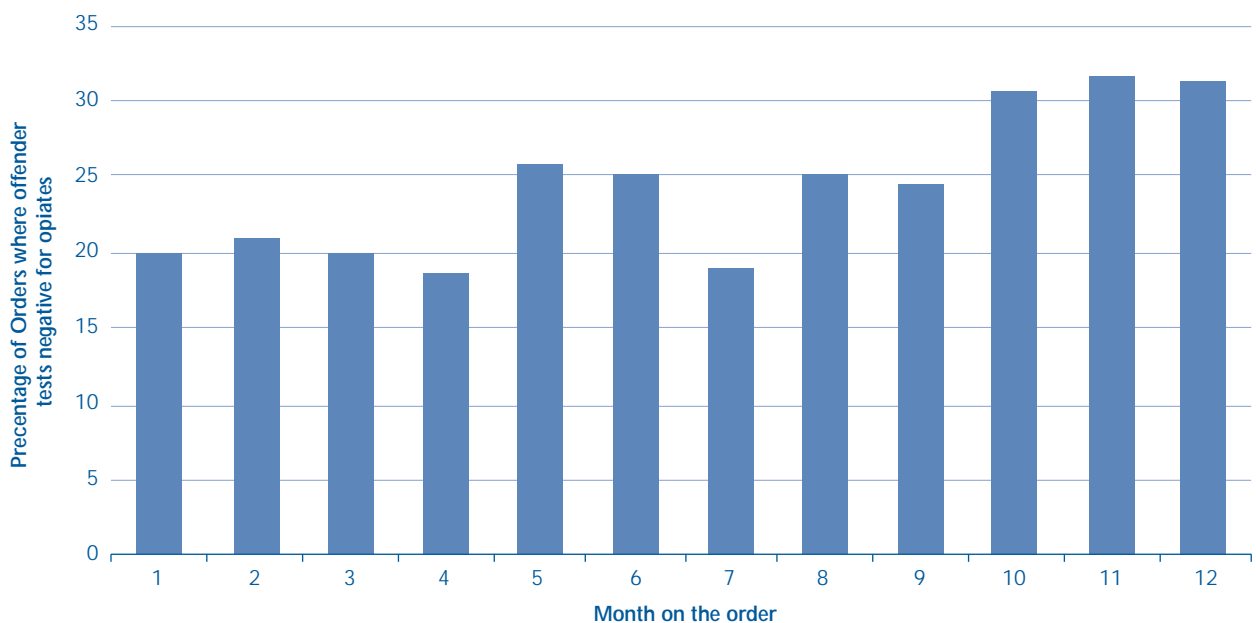
**15 Revocation of a Drug Treatment and Testing Order for further offences by offender who initially engaged with treatment**

A 22-year-old woman was sentenced to a 12-month Drug Treatment and Testing Order at the magistrates' court in October 2001 for theft offences. The offences had been committed to fund a heroin addiction.

Content of the Order	Weekly individual contact with a probation case manager; twice weekly group work on an offending behaviour programme; accommodation support; attendance at a college course; voluntary work; and an individual drug treatment programme involving methadone prescription, detoxification and alternative therapies such as acupuncture.
Drug testing	Testing was conducted twice a week on-site throughout the Order. The tests had a mixture of positive and negative results, but were largely positive from the fourth month.
Impact on drug use and offending	The offender had periods when she was using drugs and periods of abstinence while on the Order. From the fourth month she was using drugs regularly and admitted to heroin use and shoplifting to fund it in the fifth and seventh months.
Court review	Court reviews occurred each month. Initially, the probation reports and the judge's comments were encouraging and the offender's contact hours were reduced after three months, but full contact hours were re-introduced after a number of positive drug tests.
Use of breach	The probation service did not take breach action.
Outcome	The offender's Order was revoked in the eighth month when she was given a four month custodial sentence for shoplifting. The offender had made an effort to stay off drugs and, for the first few months of the Order, had engaged well with treatment, actively participating in group work and securing employment with a charity. But, influenced by her peer group, she returned to using drugs. Because of the shortness of her sentence she did not participate in a drugs programme in custody, although she had contact with the prison CARAT team. She was not supervised on release from prison. She immediately returned to drug misuse and following further shoplifting offences was sentenced to a Community Rehabilitation Order with a condition of attending an offending behaviour course. She also attended treatment voluntarily rather than as a condition of her sentence.

Source: National Audit Office

**16 Comparison of proportion of Orders testing negative for opiates in Leicestershire against time on the Order**



**NOTE**

Excludes results for those on the Order longer than 12 months, because of the low numbers involved.

Source: National Audit Office visit

3.5 The fact that some offenders continue to misuse drugs, or relapse during or subsequent to treatment, mirrors experience of treating drug misusers more generally. The National Treatment Outcome Research study, which was commissioned by the Department of Health to study the outcome for drug misusers entering treatment in residential or community methadone programmes in 1995 and was followed up subsequently, found for example that about 40 per cent of people treated in the initial study were still using heroin at least once a week four to five years later.

The pilot areas have shown that the Drug Treatment and Testing Order can achieve a reduction in re-offending for the minority who complete their Order

3.6 It is still early to assess the impact of the Order on re-offending rates - a large enough number of completions is required and sufficient time beyond the end of the Order to enable reliable conclusions to be drawn. Most of the probation areas we visited did not collect data on the seriousness of any offences committed whilst on the Order nor assess the offending status of offenders at termination of the Order, as measures of their success.

3.7 The study of reconviction of offenders in the three pilots of the Drug Treatment and Testing Order - in Croydon, Liverpool and Gloucestershire - is the only evidence collected to date on the impact the Order is having on re-offending rates. The South Bank University team found that overall 80 per cent of the 174 offenders,

whose cases could be followed from the original sample of 210, had been reconvicted in the two years after commencement of their Order. For those who completed their Order (30 per cent) the two year reconviction rate was significantly lower at 53 per cent, and for this group the average number of convictions each year reduced from a high point of around 6 in the year before the Order to under 2 for the two years after commencement of the Order<sup>23</sup>.

3.8 The South Bank University team found that the Drug Treatment and Testing Order in the pilot areas had achieved lower reconviction rates than was achieved on the Schedule 1A6 Probation Order in the other two areas studied, despite being targeted at a group with a history of more serious and persistent offending behaviour. The RAPt treatment programme, which has been delivered to male prisoners in the UK, has achieved a lower reconviction rate amongst those completing the programme. This may be attributable to working with offenders with different histories of offending behaviour and drug misuse and differences in the nature of the interventions, including the fact that the RAPt treatment model seeks to arrange for offenders to receive on-going support upon leaving custody. The National Treatment Outcome Research Study, which assessed residential and community programmes, found that clients reported significantly reduced levels of acquisitive crime after treatment: two years after entering treatment criminal involvement was reduced by half, though between 20 and 30 per cent reported continued involvement in crime (Figure 17).

**17** Re-offending rates achieved in drug treatment programmes

	Nature of the programme	Impact on crime
Drug Treatment and Testing Order <sup>1</sup>	Community sentence involving intensive treatment for drug-misusing offenders.	Reconviction rate two years after commencement on the Order of 80 per cent overall, and 53 per cent amongst those completing the Order.
Schedule 1A6 <sup>1</sup>	Treatment for drug-misusing offenders on a community sentence.	Reconviction rate of 91 per cent overall two years after commencement on the sentence.
The RAPt programme <sup>2</sup>	A programme operated in male prisons, based on the 12-Steps approach to drug treatment. It aims to achieve total abstinence from drugs and alcohol.	Reconviction rate for those completing the programme of 40 per cent, two years after release from prison. This is significantly lower than the 50 per cent reconviction rate for a similar group of prisoners not attending treatment.
National Treatment Outcome Research study <sup>3</sup>	Reviewed 54 residential rehabilitation and community treatment programmes representing the main range of approaches in place.	Criminal involvement reported by between 20 and 30 per cent of clients two years after entry to treatment.

Sources:

- 1 "The impact of Drug Treatment and Testing Orders on offending: two year reconviction results". Home Office Findings 184. Offenders in the pilot group on the Drug Treatment and Testing Order had an average of 42 previous convictions
- 2 "Prisoners' drug use and treatment: seven studies". Home Office Research Study 267. Offenders completing the RAPt programme who were followed up had an average of 22 previous convictions
- 3 "National Treatment Outcome Research after five years", M Gossop, J Marsden and D Stewart, 2001

23 "The impact of Drug Treatment and Testing Orders on offending: two-year reconviction results", Home Office Research Findings 184.

## (ii) Factors contributing to the successful delivery of Drug Treatment and Testing Orders

There are wide differences across the country in the proportion of Orders successfully completed

3.9 Provided the basic requirements set out in the National Standard and related guidance issued by the Home Office are met, probation areas and Drug Action Teams have had discretion to develop local programmes to meet local needs. As a result, a wide variety of approaches to delivering the Order has been developed including different approaches to assessment, treatment, other programmes and enforcement.

3.10 Data collected by the National Probation Directorate on completed orders and terminations due to good progress suggest great variation between areas in the proportion of successful completions, although as the number of orders starting has been increasing year on year the figures for terminations may not yet represent a "steady state" and the small number of orders in some areas can significantly distort local results. In 2003, the proportion of successful completions ranged from 71 per cent in Dorset to eight per cent in Kent (Figure 18). Interpreting the significance of different completion rates on the Order, however, needs to be approached with caution. A successful completion rate does not in all instances signify the added value provided by an Order and different courts may adopt different approaches to dealing with breach and revocation. Nevertheless, the arrangements for selecting offenders for the Order, the quality of treatment and other programmes provided with the Order, and local policies towards enforcement all play a part in explaining the differing completion rates. In addition, different areas have adopted different policies towards the length of the Order recommended to the court. In Dorset, for example, the Order was normally made for six months with offenders in community-based abstinence programmes and usually required to live in probation hostel accommodation, whereas the more common practice elsewhere was for a 12-month programme of day care.

Probation areas and treatment providers have been selective in recommending offenders suitable for the Order, but face a significant challenge in assessing and building offenders' commitment to tackling their drug misuse

3.11 Failure to complete the Order, particularly at an early stage means that resources are expended with limited benefit and the courts have to use further court time to re-sentence the offender. Offenders who fail to comply may also not make themselves available to the courts for revocation and re-sentencing (see paragraph 3.3).

There is no information available nationally on how long drug misusers stay on the Order. However, in Leicestershire, which had built up a comprehensive data set, some two thirds of the Orders made had lasted for six months or less before being revoked - most Orders in the area were intended to last a year (Figure 19). Probation and drug treatment staff in several other areas suggested that a high proportion of offenders did not engage well with the Order from the outset and that there was often a further fall-out at around the six-month point when offenders could not maintain their early progress in treatment.

3.12 Assessing the suitability of often chaotic and seriously addicted drug misusing offenders and motivating them to engage with the Drug Treatment and Testing Order is not straightforward, but high drop-out rates at an early stage on the Order could suggest scope for improvement in these aspects of the work of probation and treatment staff. From the outset national guidance to probation areas has stressed that accurate assessment is vital to screen out those likely to fail and those who need little help, and that probation involvement alongside assessment for treatment may mean that more than one assessment interview is required. We found that the level of assessment varies significantly between areas, from a single interview to a series of interviews and assessments. In Sussex, for example, in addition to the interview conducted by a probation officer responsible for preparing a pre-sentence report, the Drug Treatment and Testing Order team assesses offenders, usually jointly with the provider of structured day care, and there is an assessment of suitability for treatment by a nurse or doctor. An additional initial screening appointment has been introduced in one part of the area to address a high rate of failure to attend for assessment. In Lambeth, Southwark and Lewisham the normal assessment process to supplement the pre-sentence report writer's work had been reduced to a single interview by a drugs worker and consideration of the drugs worker's recommendation by the team.

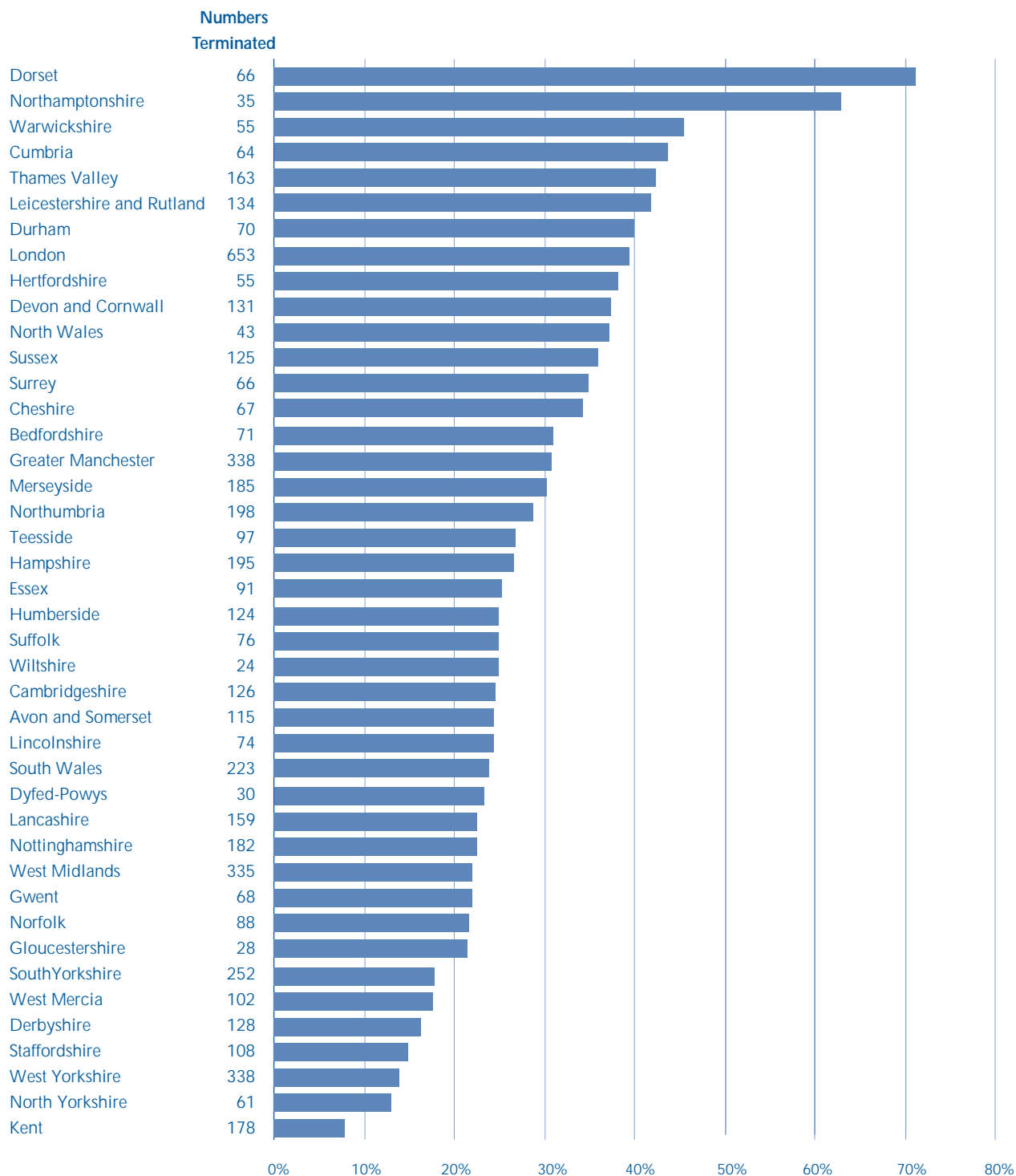
3.13 Probation areas we visited reported difficulty in assessing genuine commitment prior to the Order amongst highly problematic drug users. Drug users we spoke to suggested that their commitment to the Order often fluctuated widely from day to day but that offenders who had come on to the Order simply to delay imprisonment were usually evident pretty quickly.

"I know I have got to do it for myself. One minute I am up for it, the next I don't care."

*Offender on Order*

**18 Completed Orders and early terminations due to good progress as a percentage of all terminated Drug Treatment and Testing Orders in 2003**

*Completed Orders and early terminations due to good progress as a percentage of all terminated Drug Treatment and Testing Orders in 2003.*



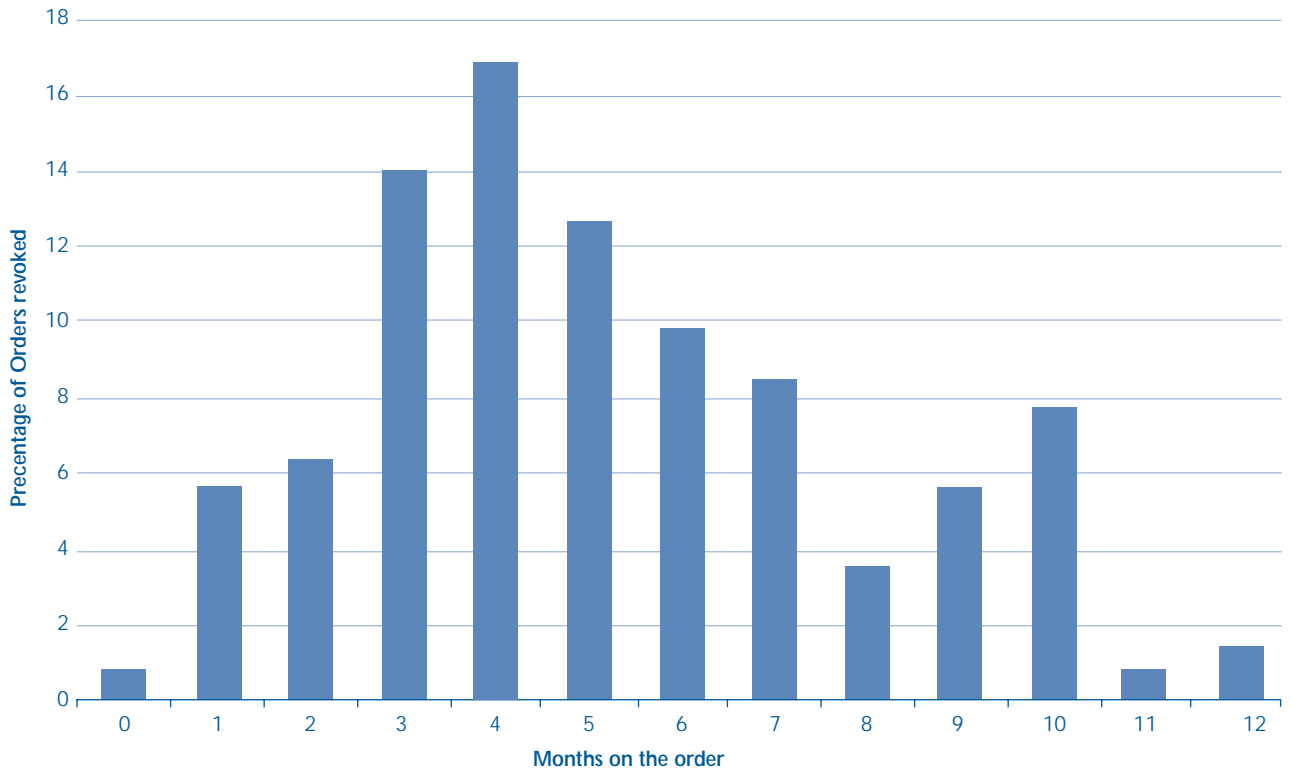
**NOTE**

The figures for completed Orders and early terminations due to good progress include cases where the Order expires whilst the offender is in breach and the Order is not formally revoked by the courts, for example where a warrant to attend court is outstanding. In two areas visited which had kept this data they accounted for 17 per cent of completed cases to June 2003 (Leicestershire) and 25 per cent in the first quarter of 2003-04 (London).

*Source: National Audit Office analysis of National Probation Directorate data*



**19** Length of time served on an Order for all orders revoked for failure to comply or conviction for another offence in Leicestershire up to 30 June 2003



**NOTE**

Excludes revocations after 12 months, because of the low number of offenders on Orders longer than 12 months.

Source: National Audit Office visit

3.14 A few probation areas have used trial periods to test offenders' motivation for the Order. For example, in Dorset offenders were required to participate in the full programme for a three-week trial period and to complete detoxification to demonstrate their suitability for abstinence-based treatment on the Order - a difficult feat for many serious drug users. And in Devon and Cornwall, offenders attended treatment to stabilise their drug taking and were involved in detailed assessment of their treatment needs during a 28-day bail assessment period. However both probation areas have largely discontinued these arrangements because of the high drop-out rates during the trial period and, in Devon, because the trial periods did not appear to achieve a better rate of success for those on the Order compared with Cornwall where the trial period was used less extensively. Dorset has continued its abstinence programme but also makes other treatment available for those who need it.

3.15 To help engage offenders on the Order, and to emphasise the seriousness with which the sentence is regarded by the courts, the Home Office National Standard requires that probation areas arrange offenders' first probation appointment within one working day of the Order and the first appointment with the treatment provider within two working days. In case files examined by probation areas to check compliance with the National Standard, 82 per cent of cases monitored between July and October 2003 had had their first probation contact arranged within one day and 77 per cent their first treatment appointment within two days as required by the Standard<sup>24</sup>. In most areas, these waiting times are significantly better than those experienced by drug misusers seeking treatment in the community (see paragraph 2.11).

<sup>24</sup> The review of cases for compliance with National Standards is conducted monthly in all probation areas and was first undertaken for Drug Treatment and Testing Order cases in July 2003.

3.16 Senior probation staff stressed the importance of using the assessment process and all early contacts to build up rapport with drug misusing offenders and help them develop their motivation to tackle their drug misuse. Three of the areas visited - London, Staffordshire and Sussex - believed that some of the resources they currently committed to formal assessment of offenders' suitability might be better spent in devoting greater staff time to supervision and support. The Lambeth, Southwark and Lewisham team had introduced a group work programme specifically geared to the needs of offenders in the first four to six weeks on the Order and at the time of our visit was training its probation service officers to hold additional one-to-one sessions for this group to work with them on their motivation and engagement. As arrangements for arrest referral and subsequent treatment develop and get more drug misusers into treatment before trial, there should be further opportunity for early work to engage them in rehabilitation and improve their chances of successful treatment after sentencing.

There is considerable variation between areas in the level of contact with offenders and the level of drugs testing achieved

3.17 The National Standard for the Drug Treatment and Testing Order made it the first higher intensity community sentence for adults, requiring contact amounting "usually" to 20 hours a week, but a minimum of 15 hours, over five days, in the first 13 weeks, with discretion to reduce this to 12 hours, but a minimum of 9 hours, over three days, thereafter if the offender is responding well. By comparison Community Punishment Orders are for between 40 and 240 hours in total, normally completed within 12 months; and Community Rehabilitation Orders typically involve a minimum of one hour of supervision per week. In 2003-04 the National Probation Service has also started piloting, in 11 probation areas, a new Intensive Control and Change Programme as an alternative to short custodial sentences for 18 to 20 year olds. This involves 25 hours a week supervision for the first three months of the sentence followed by 12 hours a week for three months and then re-assessment of progress.

3.18 The majority of probation areas have had difficulty fulfilling the required number of contact hours of the Drug Treatment and Testing Order, particularly in the early stages of the Order. Forty-four per cent of the cases monitored by probation areas between July and October 2003 showed evidence that the minimum contact hours had been arranged as required by the National Standard in the first 13 weeks, with a higher proportion (69 per cent) with the contact hours arranged in accordance with the National Standard after the first 13 weeks. As observed by the Probation Inspectorate in their earlier report in 2003, these low levels of recorded contacts may show programmes are not as intensive as

envisaged by the Standard, or be due to poor recording of the number of hours arranged for offenders. We identified some inconsistency between areas about what should be counted as a "contact" hour - for example with some areas counting the time offenders spend travelling to an appointment, and others recording only the time spent in supervised activities.

3.19 Not all areas have had the arrangements in place to meet the National Standard requirement of offenders taking a minimum of two drug tests a week in the first 13 weeks. In cases monitored by probation areas between July and October 2003 there was evidence of two or more drug tests each week in the first 13 weeks of the Order in only 13 per cent of the cases. Twenty-nine per cent of the cases had had one test or more in subsequent weeks as required by the National Standard.

3.20 We could find no conclusive evidence of whether the number of contact hours is linked to the probability of successful completion, partly due to the shortcomings with the data on contact hours. Whilst most probation and drug treatment staff we interviewed believed that the intensity of the programme was an important part of the sentence, some doubted that achieving the contact hours required was essential to achieving good outcomes. In practice, probation and drug treatment staff reported particular difficulty in attaining the contact levels during the initial weeks of the Order when offenders are trying to make the switch from often chaotic lifestyles onto an intensive and highly structured programme. However, whilst the number of contact hours may or may not contribute to improved treatment outcomes, this element forms an important part of the sentence and judges we spoke to expected the contact hours to be delivered. The National Probation Directorate announced in January 2004 that it is reviewing the contact requirements within the National Standard and expects to issue new guidance before April 2004.

Probation areas provide a variety of activities and programmes as part of the Order but need to monitor the impact of these programmes on achieving positive outcomes

3.21 Appointments with medical staff, supervised consumption of medication and drug testing account for a small proportion of the time spent by offenders on the Order. In addition to this, areas are providing support to address drug misuse in one-to-one sessions and group work. They are also providing a wide range of programmes to address offending behaviour, and develop life and other skills. These programmes are not normally available to drug misusers entering treatment voluntarily in the community. These programmes, accounting for much of the time spent on the Order, are therefore likely to play an important part in enhancing the impact of the Order.

3.22 Research suggests that low educational attainment, childhood experience, poor access to housing and health care, and limited employment prospects all underlie drug misuse and offending behaviour<sup>25</sup>. In setting up programmes for offenders on a Drug Treatment and Testing Order, the National Probation Directorate advised probation areas to help offenders find suitable accommodation and employment to facilitate their breaking of the link between drug misuse and offending. Many of the drug misusers we spoke to were complimentary about the programmes they had attended and the support received from staff but offenders were most frequently concerned about their inability to obtain accommodation away from their drug-using peers. Whilst offenders will usually be expected to have accommodation prior to being recommended for the Order, our interviews suggested that some were still homeless but had furnished a mailing address to the probation service. Probation areas we visited considered helping offenders find suitable accommodation was part of their role (see paragraph 2.15).

"Support and encouragement is 100 per cent. Most of the things I have to sort are in my head. They know that and they help me."

"It is so hard to say no when you go home and the drugs are there in your face. You need to get away. For me, housing is where it falls down."

*Two offenders on the Order*

3.23 Our visits suggested that the nature of programmes on offer differed significantly between areas. The National Standard requires that accredited programmes, such as Addressing Substance Related Offending, shall be used to tackle offending behaviour, where available. The National Probation Directorate expects other treatment elements to be determined according to the needs of the individual in accordance with the National Treatment Agency's Models of Care. We found some areas used accredited probation programmes; but others used programmes specifically designed for offenders on the Order provided by probation, health or voluntary sector drugs teams. There are no national policies on the preferred balance of programmes provided with the Order, for example between education and training, developing independent living skills and leisure activities. Probation staff we met were keen that the mix of programmes and support provided should reflect the needs of the individual offender. All the areas visited provided basic skills training and some employment related programmes. Some also provided art, craft, music, sport and outdoor activities to build new interest

in leisure pursuits to help offenders turn away from drugs as an occupation; independent living skills, such as cooking and budgeting; and life skills, such as citizenship programmes (Figure 20).

3.24 In the absence of information on outcomes achieved, there is a risk that the quality of programmes on offer and their effectiveness is not properly monitored. Accredited programmes must be delivered to the required standards. Quality assessment of treatment programmes is the responsibility of the Drug Action Teams. We found that the nature and quality of the programmes on offer inevitably reflected the availability of resources and staff at local level. Typically at local level we found no formal measures of the quality of the support and programmes provided, although Leicestershire monitored attendance on the activities available and in its routine surveys of offenders sought feedback on them. Potential measures for assessing the impact of programmes and support could include changes in risk factors whilst on the Order, for example educational attainment, mental health and accommodation status.

The introduction of court reviews has been widely supported and may help increase the chance of achieving a successful completion

3.25 An innovative feature of the Drug Treatment and Testing Order has been the introduction of court reviews, in which a judge or magistrates, informed by reports from the probation service, review offenders' progress on the Order. The reviews aim to impress upon offenders the importance of completing the Order and allow courts to have input into the implementation of the Order. They are usually handled in monthly hearings with the offender required to attend, but can be changed to reviews without hearings where an offender is making good progress. Our interviews with magistrates, judges and probation officers suggested that the court reviews were regarded as helpful in providing evidence to magistrates and judges on how well the Orders were working and in providing feedback to offenders. Offenders interviewed by us seemed to welcome the court's interest in their progress - a finding supported by research commissioned by South Yorkshire probation area<sup>26</sup>.

"I was praised by the judge and got a very good report. This encouraged me. Someone in authority was giving me praise."

*Offender who had completed the Order*

25 "Explaining the drug-crime link: theoretical, policy and research issues" T Seddon, *Journal of Social Policy*, 2000.

26 "The life-course of the DTTO: Engagement with Drug Treatment and Testing Orders", *School of health and related research, University of Sheffield*, September 2002.

**20** Comparison of activities available as part of the Drug Treatment and Testing Order

	Gloucestershire	Lambeth, Southwark and Lewisham	Leicestershire	Staffordshire	Sussex
<b>Education and training</b>	Basic skills assessment and improvement group  Employment preparation group, referral and support in work placements or courses at local colleges	Basic skills assessment and education  Employment advice and referral and support to attend local courses and employment projects	Basic skills assessment  Employment advice and referral to outside group for education, training, job club; or to job centre	Basic skills assessment and education  Employment advice  Referral and support to attend courses at local colleges	Basic skills assessment and education provided in the projects  Employment and training support available through probation offices and referral to local courses
<b>Leisure</b>	Outdoor activities, including walks, mountain biking	Visits to gym  Art group run by occupational therapist	Outdoor activities, including walks, rounders, swimming, golf  Visits to gym  Practical arts, theatre and music	Walks  Visits to gym  Football	Art groups provided in some of the projects  Financial support for gym and swimming available to all on the Order
<b>Independent living skills</b>	Independent living skills - including food hygiene, first aid		Independent living skills - including Citizenship	Independent living skills - including budgeting, cooking	Independent living skills training provided in some of the projects

Sources: National Audit Office visits

3.26 A factor frequently cited by probation officers as important for the effectiveness of the court reviews was the continuity of magistrates and the judge throughout. In practice, this is not always easy to achieve for review hearings, particularly in magistrates' courts where it is often not possible to bring together the same bench of magistrates at each hearing, or in the Crown Court where the judge may be hearing a case in another court or the case was originally heard by a part-time judge. In some Crown Courts the Resident Judge or another judge handled most of the reviews to ensure continuity at the review hearings. In July 2003 the Justices' Clerks' Society published a Drug Treatment and Testing Order Good Practice Guide which recommended the setting up of specialist review panels in Magistrates' Courts to ensure continuity, and in 2004 it is preparing a training pack Magistrates who conduct court reviews. In July 2003 the Department for Constitutional Affairs initiated a one-year pilot and evaluation of best practice in the handling of court reviews in three court areas, Nottingham, Bristol and Merseyside.

Breach rates are high and there may be some scope to reduce the administrative cost of dealing with failure to comply with the Order

3.27 The Home Office's National Standard for the delivery of the Order expects probation areas to instigate breach proceedings against an offender for one or two "unacceptable" failures to comply with the terms of the Order within a 12-month period - the same standard that applies to other community sentences. This standard has been incorporated into law in the Criminal Justice Act 2003. An "unacceptable" failure could include, for example, not attending an appointment without reasonable excuse or refusal to provide a sample for drug testing (Figure 21). Overall, in 2003, there were 86 breaches instigated for every 100 starts on the Order, a figure which will include some offenders being breached more than once. In the same period, the courts decided to revoke 37 per cent of cases where the probation service instigated breach proceedings, the remaining 63 per cent being allowed to continue on the Order. Under the new provisions of the Criminal Justice Act 2003, upon breach of a Community Order, including those with a drug rehabilitation requirement, the courts will be able to make the Order more onerous, for example by also imposing unpaid work or a curfew, as an alternative to revoking the Order and re-sentencing for the original offence.



## 21 How the Drug Treatment and Testing Order National Standard is expected to be applied

An offender's non-attendance, without reasonable excuse, on one day should be reckoned as one unacceptable failure to comply, although more than one appointment may have been missed.

Refusal to provide a sample shall always be interpreted as an unacceptable failure to comply.

A positive drug test result needs to be seen in the context of an offender's overall response to the Order. Persistent test failure, when indicating an offender's inability to engage or make satisfactory progress with the Order, shall be counted as failure to comply.

*Source: National Audit Office summary of the National Standard*

3.28 Research evidence suggests that the length of time in drug treatment is linked to its ultimate success<sup>27</sup>. In probation officers' determination of whether to judge non-compliance as unacceptable, leading to breach action, and in courts' consideration of the outcome once breach has been determined, a balance is sought between enforcement and allowing the Order to continue. Senior probation staff we spoke to stressed the importance of treating offenders firmly, but also fairly and consistently, if the Order was to have credibility as a sentence. Areas had typically developed "contracts" to be signed by offenders, so that they were clear what was expected of them on the Order. Areas would also take account of their knowledge of the expectations of the local courts when considering whether non-compliance was acceptable. Some probation staff suggested that, contrary to the National Standard, during the early stages of the Order absences might be considered acceptable so long as an offender's motivation remained reasonable. In their view, it was unrealistic to expect complete compliance before an offender's chaotic drug misuse had been brought under control. Decisions on when to take breach action have to rely on the professional judgement of staff, but within the scope of the current National Standard and guidelines there is a risk of inconsistency within and between areas. Leicestershire had sought to reduce this risk by drawing up a local policy within which all officers were expected to work (Figure 22).

## 22 Leicestershire probation area's guidance on the National Standard

The guidance advises staff on the acceptability of offenders rearranging appointments and on when to refer to a senior manager absences that might be "unacceptable" and amount to a breach of the Order. It advises on when absence can be considered acceptable - for example in relation to child care or other family responsibilities, activities for which the offender is not equipped to attend, incapacity and the need for medical certificates, sleep problems and the need for this to be subject to treatment, conflicting appointments and the need for evidence, and problems with public transport. The guidance suggests that the National Standard requirements may be suspended if an offender becomes homeless and is engaged in efforts to resolve the problem, if an offender is undergoing home detoxification or if family responsibilities require it.

*Source: National Audit Office visit*

3.29 Senior Probation Officers we spoke to were concerned that initiating formal breach proceedings - a frequent occurrence with this Order and client group - was expensive and took up too much time. When an offender fails to attend the good practice we found involved probation staff trying to contact them in person on the day to identify why and to warn that a further non-attendance may result in breach action. If the offender cannot be contacted, a warning letter is sent. The breach process then involves the preparation of a report for the court and the probation service may be represented at contested breach hearings by counsel. The introduction of review hearings as part of the Order, a feature not present with other community sentences, may provide scope to admonish minor failures to comply with an Order without instituting breach proceedings, thereby saving time and resources. However, the National Probation Directorate told us that the formality of a breach hearing is required as proceedings may result in revocation and re-sentencing. The offender needs to know the charge, have the option of pleading "not guilty" to unacceptable non-compliance and have legal representation. Nonetheless the Directorate is committed to issuing guidance on the discretion that exists in enforcing intensive interventions including the Drug Treatment and Testing Order.

Continuing treatment is usually arranged where necessary for offenders reaching the end of their Order, but not necessarily at the intensity available on the programme

3.30 Whilst offenders completing a Drug Treatment and Testing Order do not face the same resettlement issues as those being released from prison, they may still need treatment and support beyond the end of their sentence to maintain their progress. Drug treatment workers we interviewed reported concerns amongst some offenders nearing the end of their Order about their ability to sustain their progress without sufficient support. The drug treatment services we visited had made arrangements to continue health treatment in some form at the end of the Order, although not necessarily at the same intensity as before. In Leicestershire they had formalised this in a protocol with the health service which ensured acceptance into treatment outside of the normal waiting list procedures. Our work suggested that links with prison drugs services were less well developed for those offenders who were re-sentenced into custody, relying on prison treatment workers' initiative in using personal contact with probation staff to share information on offenders' engagement with drug treatment while on the Order.

"With DTTOs, you learn to come off drugs while you are in the community and, if you do that, you are more likely to stay off them"

"I used to celebrate my release from prison by using again"

*Offenders on the Order*

3.31 The Government's Updated Drugs Strategy, published in 2002, set a commitment to address the perceived gap in throughcare and aftercare for people in treatment, including those leaving prison. The Criminal Justice Interventions Programme, initially targeted at the 30 police Basic Command Units with the highest level of acquisitive crime, is expected to involve community drugs teams planning and coordinating the care for offenders. One of the aims of the programme is to improve communication between treatment providers in the community and those in prison (Figure 23). Through the programme the Home Office has made additional funding available to enhance provision of throughcare and aftercare for drug misusing offenders, initially in 30 police Basic Command Units in 2003-04, and from 2004-05 in all areas in England and Wales at a cost of £55 million a year.

## 23 Criminal Justice Interventions Programme

The Criminal Justice Interventions Programme was launched by the Home Office and National Treatment Agency in 2003. It aims to encourage closer working between criminal justice interventions and the drug treatment system for drug misusing offenders, to ensure an "end-to-end" approach from arrest to sentence and beyond. This will involve local adoption of "virtual" or "dedicated" community-based criminal justice drug teams and the building of shared information on offenders, their contacts with the Criminal Justice System, sentences and treatment. The community teams will accept referrals from the police, courts, probation and prisons, make referrals for specialist treatment and plan and coordinate the care of offenders, including aftercare for prisoners upon release.

The Criminal Justice Interventions Programme was initially introduced in the 30 police Basic Command Units with the highest levels of acquisitive crime. From April 2004 it is to be expanded to a further 36 Basic Command Units. The total funding for the programme over the three years, 2003-04 to 2005-06, including funding for existing programmes for drug testing and arrest referral, is £447 million.

*Source: National Audit Office*

### (iii) The cost of delivering an Order

Probation areas currently lack reliable information on the full unit cost of delivering the Order

3.32 The unit cost of an Order in 2002-03 in the areas we visited in 2003 varied from £5,258 in Leicestershire to £7,592 in Gloucestershire. These cost figures include probation supervision, treatment and testing specific to those on the Order, but typically exclude the cost of residential rehabilitation which is usually funded by social services (Figure 24). These figures compare with the £6,000 an Order assumed by the National Probation Directorate in the national funding arrangements prior to the roll out of the Order. The funding allocation to probation and Drug Action Teams for 2003-04 is based on treatment accounting for 59 per cent of the costs of the Order. In Gloucestershire and Staffordshire treatment costs have been budgeted at a little below this level, but in Sussex they were higher, at 67 per cent. Sussex tendered for its treatment services, which are provided by the voluntary sector in several locations in the county, whereas in Lambeth, Southwark and Lewisham, Leicestershire and Gloucestershire day programmes are run from a single central location by multi-agency teams. The National Treatment Agency has advised Drug Action Teams to work to identify the total costs and unit costs of their services for offenders on the Order with a view to identifying whether there is scope for reducing costs and achieving economies of scale, for example through integration of the services into mainstream treatment services.

## 24 Unit costs for the Drug Treatment and Testing Order

	Gloucestershire	Lambeth, Southwark and Lewisham	Leicestershire	Staffordshire	Sussex
	£	£	£	£	£
Total cost per actual commencement 2002-03	7,592	6,302	5,258	6,514	5,356
Total budgeted cost per commencement target 2003-04	6,308	5,696	5,112	5,500	7,302
Commencement target 2003-04	75	203	157	171	186

Source: National Audit Office visits

3.33 Using assumptions about the likely length of time an offender will stay on an Order - drawing upon information collected by Leicestershire - we estimate the daily cost of delivering an Order would range from £25 in Leicestershire to £37 in Gloucestershire, assuming 2002-03 funding levels. These figures compare with the daily cost of £100 of keeping a person in custody. However, the costs of the Order exclude associated costs such as housing support and benefits for the offender, criminal justice system costs of the regular review of the Order and any breach proceedings necessary, and the costs to society of any reoffending that might be happening whilst on the Order. If magistrates and judges start to take up the additional sentencing options available to the new Community Order under the Criminal Justice Act 2003, such as a curfew, this would add to the cost of sentencing to drug treatment in the community compared to custody.

# Appendix 1

## Summary of a thematic inspection by Her Majesty's Inspectorate of Probation

- 1 In 2002, Her Majesty's Inspectorate of Probation decided to assess the extent to which the Drug Treatment and Testing Order had been successfully implemented.
- 2 The Inspectorate visited eight probation areas, drawn from seven of the nine English regions, and one from Wales. The areas were selected to provide a mixture of size and geographical spread. The eight areas selected were: Dorset, County Durham, Lancashire, Leicestershire and Rutland, London, North Wales, Suffolk and the West Midlands. The fieldwork took place between mid-May and the end of June 2002. The Inspectorate interviewed sentencers from both the magistrates' courts and the Crown Courts in each of the areas visited. In addition, all 42 probation areas were asked to provide in writing some limited information about their local arrangements. The Inspectorate's report was published in March 2003. Its main findings and recommendations are set out below.

**Table 1: Summary of Her Majesty's Inspectorate of Probation's thematic review**

Standard	Conclusion	Recommendations
1 The national policy for the provision of the Drug Treatment and Testing Order is being implemented and monitored.	There was neither a national project plan in place to implement the decision to roll-out the Drug Treatment and Testing Order, nor a minimum infrastructure for either devising or implementing such a plan in the prescribed timescale.. Planning for implementation was subsequently undertaken as effectively as was feasible in the circumstances, despite the major changes taking place nationally over the subsequent two years..The targets set were for commencements only ..and the National Probation Service has recognised the need to develop and monitor other outcome measures.	The National Director should improve performance by developing a management framework for the Drug Treatment and Testing Order, addressing the recommendations set out below.
2 A strategic plan has been established at area level to implement national policy.	Areas planned to make the new sentence available in all courts within four months of the announcement, as was required of them, and most succeeded. But few planned both to achieve either the required target for commencements..or the new National Standard for the Drug Treatment and Testing Order... Similarly, insufficient attention was given to monitoring the number of commencements from women offenders and those from ethnic minority groups.	As a minimum, Drug Treatment and Testing Order referrals, assessments and commencements should be monitored by race and gender so that disproportionate representation at any point in the Drug Treatment and Testing Order process can be readily identified.

Standard	Conclusion	Recommendations
3 The Board has identified its information needs and established arrangements for holding managers to account for performance in the delivery of the Drug Treatment and Testing Order.	Probation Boards generally focused their attention properly, and often effectively, on their area's performance against the commencement target, but had not taken steps to ensure that other key aspects of performance were being monitored by their managers.	Probation Boards should ensure that the Drug Treatment and Testing Order is being implemented as required and that progress against all targets can be demonstrated.
4 Management arrangements support a high standard of service delivery and clear lines of accountability are in place.	The establishment and management of partnership arrangements varied considerably due to reasons of structure, culture, leadership and direction. With the absence of any visible lead at the centre in the health service during the original planning stage, probation areas experienced a wide range of responses from local health service partners. During the subsequent rapidly changing circumstances, progress was made in establishing more effective strategic local partnerships, although it was widely acknowledged that there was still a long way to go.	There should be guidance on contractual arrangements with local partners.  Chief Officers, working with local partners, should ensure that each contract has an agreed system for reviewing operational arrangements, including a protocol for dispute resolution.
5 Shared funding and accounting arrangements with the Drug Action Teams are working efficiently and effectively and enable costs to be measured against value for money criteria.	These were always going to be complicated, with criminal justice money being used to fund health service treatment for work with offenders. The inevitable complexities were exacerbated by further substantial changes made in the funding mechanisms. Although each area visited could account for its expenditure, few were able to calculate their unit cost. As with the partnership arrangements therefore, much progress had been made. But there was also a long way to go.	There should be a clear system within which each area can identify the unit costs of the Drug Treatment and Testing Order.
6 The Drug Treatment and Testing Order is supervised to the National Standard.	Case files from the eight probation areas visited showed an unacceptably low level of achievement of the National Standard, although one area, County Durham, did particularly well with Dorset and Leicestershire and Rutland not far behind. Some areas had not given sufficient priority to compliance with the Standard. Even those that had needed to overcome substantial difficulties with case management and record keeping so that performance could be both demonstrated and measured.	As for 3.



Standard	Conclusion	Recommendations
<p>7 Sentencers are clear about the purpose of the Order and systems are in place to obtain feedback on their satisfaction with arrangements for assessments and reviews.</p>	<p>Pre-sentence reports often took too long and some court review reports on Drug Treatment and Testing Order cases were insufficiently detailed to provide sentencers with an adequate picture. However, sentencers expressed a good level of satisfaction with both the principle and the practice of the Drug Treatment and Testing Order, despite a small number of local operational difficulties and issues. But, although they felt well-briefed about the progress of individual cases, they would have liked more aggregated information about the success of the sentence as a whole.</p>	<p>There should be a review of the use of second adjournments for Drug Treatment and Testing Order assessments.</p> <p>Boards should develop a systematic approach for liaison with local courts, including sentencer satisfaction with the provision of the Drug Treatment and Testing Order and the court review process.</p>
<p>8 Expected results have been defined and are being monitored, and progress is demonstrated.</p>	<p>At the end of 2001-02, the National Probation Service as a whole had achieved 81 per cent of the required target for commencements with 14 of the 42 areas achieving their area contribution.. Insufficient attention had been given to compliance with the National Standard in most areas visited and there was little information to measure performance other than from this inspection's file reading exercises. No results in terms of outcomes had as yet been set nationally, although there were plans to do so, and with only a few exceptions, little evidence was being collected in the eight areas to measure what outcomes the Drug Treatment and Testing Order was achieving.</p>	<p>There should be a range of targets focused both on compliance with the National Standard and performance outcomes.</p> <p>Performance information, particularly in aggregated form, should be used to inform sentencers, key partners and other stakeholders.</p>

Source: Her Majesty's Inspectorate of Probation

# Appendix 2

## Study methods

### Visits to probation areas in 2002

- 1 Accompanying Her Majesty's Inspectorate of Probation, we visited five probation areas to determine how the Drug Treatment and Testing Order is being delivered. The Inspectorate visited three additional areas. The five areas we jointly visited were Lancashire, Leicestershire and Rutland, Southwark (London), County Durham and Suffolk.
- 2 The visit programme involved:

<b>Reviews of offender files and documentation</b>	<p>For a sample of offenders who were on, or had been on, a Drug Treatment and Testing Order</p> <p>For a sample of offenders who had been assessed as suitable for a Drug Treatment and Testing Order, but who had not been sentenced to one, and of offenders who had been assessed as unsuitable</p> <p>For contracts with service providers and other local documentation in relation to the Drug Treatment and Testing Order</p>
<b>Interviews</b>	<p>With senior probation staff and the board chair</p> <p>With probation and drug treatment staff working on the Drug Treatment and Testing Order</p> <p>With the chairs, co-ordinators and joint commissioning managers of the local Drug Action Teams</p> <p>With the regional managers of the National Treatment Agency and the Drug Prevention Advisory Service</p> <p>With a small number of judges and magistrates</p> <p>With a small number of offenders who are on or who have been on a Drug Treatment and Testing Order to learn from their experiences.</p>

### Visits to probation areas in 2003

- 3 We visited five probation areas to assess what progress had been made in delivering the Drug Treatment and Testing Order and to identify key issues affecting local performance. The five areas we visited included two with relatively high levels of completions of the Order and early terminations for good progress in 2002-03 (Sussex and Leicestershire); London; and two areas with relatively low levels of completions of the Order and early terminations for good progress in 2002-03 (Staffordshire and Gloucestershire).
- 4 The visit programme involved:

<b>Reviews of offender files and documentation</b>	<p>For a small sample of offenders who were on, or had been on, a Drug Treatment and Testing Order</p> <p>For contracts with service providers and other local documentation in relation to the Drug Treatment and Testing Order</p>
<b>Interviews</b>	<p>With senior probation staff and/or the Drug Treatment and Testing Order team manager</p> <p>With the co-ordinator and/or joint commissioning managers of the local Drug Action Teams</p>

## Data analysis

- 5 We undertook analysis of the data we collected ourselves from file reviews of offenders who had been on a Drug Treatment and Testing Order; of those who had completed their Order; of those assessed as suitable for the Order but not sentenced to an Order; and of those who had been assessed as unsuitable.
- 6 We acquired data from the National Probation Service on the performance of those on the Drug Treatment and Testing Order, at a national and a local level. We undertook analysis of this data to identify national and local trends. In particular we reviewed the results from the first five months of national sample testing of case files by probation areas to check compliance with the National Standard. These reviews seek positive evidence of compliance. The Inspectorate recorded in its 2003 report that low rates of compliance may in part reflect poor recording of actions. We undertook correlation analysis and found no significant correlations between higher levels of successful completions of the Order and probation areas' achievement of the National Standard requirements on contact levels and breach.

## A series of interviews and a review of files at the National Probation Service

- 7 We interviewed staff in the National Probation Service about the development and roll-out of the Drug Treatment and Testing Order and their monitoring and evaluation of it, and reviewed their files on the Drug Treatment and Testing Order.

## Literature review

- 8 We commissioned a review of literature on criminal justice interventions for drug misusers in other countries from Tim McSweeney, Paul Turnbull and Mike Hough of the South Bank University. Their paper is available on the NAO website, [www.nao.org.uk](http://www.nao.org.uk).

## Structured interviews with interested parties

- 9 In 2002 we met representatives of government organisations at a national level to identify their involvement with the Drug Treatment and Testing Order and their partnership arrangements with the National Probation Service.
- 10 We consulted a range of other organisations with an interest in the Drug Treatment and Testing Order in the first phase of fieldwork in 2002:

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| ■ Association of Chief Police Officers    | ■ Magistrates Association                |
| ■ Addaction                               | ■ Methadone Alliance                     |
| ■ Council of Her Majesty's Circuit Judges | ■ NACRO                                  |
| ■ District Judges Association             | ■ Royal College of General Practitioners |
| ■ DrugScope                               | ■ Royal College of Psychiatrists         |
| ■ Local Government Association            | ■ Turning Point                          |