Drug Treatment and Testing Orders

Guidance for Schemes

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The Scottish Government, Edinburgh 2011

This document is available from our website at **www.scotland.gov.uk**.

ISBN: 978-1-78045-278-4 (web only)

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Produced for the Scottish Government by APS Group Scotland
DPPAS11814 (07/11)

Published by the Scottish Government, July 2011

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DRUG TREATMENT AND TESTING ORDERS: GUIDANCE

1. BACKGROUND

Drug Treatment and Testing Orders were introduced by the **Crime and Disorder Act 1998**. Scottish pilot sites were established in Glasgow and Fife and were subject to research and evaluation from the Centre for Social Work Research at the University of Stirling. This research, published in October 2002, reported broadly positive outcomes. A study by the University of Stirling on longer term reconviction rates was published in October 2004.

Since the introduction of the pilot sites the availability of DTTOs has been rolled out to a large number of courts around the country. Plans are now being made for the order to be available to the High Court, all sheriff courts and the Stipendiary Magistrates Court by June 2005.

2. AIMS AND OBJECTIVES

The emphasis of a DTTO is on drugs treatment as the primary means of reducing offending behaviour rather than the specific offence focused approach of a probation order. Specifically the objectives of a DTTO are to:

- Reduce or eliminate an offender's dependency or propensity to misuse drugs;
- Achieve positive changes in the scale and frequency of drug related offending

The Order introduces unique aspects e.g. drug testing and regular court reviews as features of a community disposal.

3. PURPOSE

The Drug Testing and Treatment Orders is a community disposal, which is particularly effective in making progress with adult drug misusing offenders in respect of:

- Positive changes in levels of reported drug misuse from before, during, at completion of, and after treatment on order.
- Positive changes in the scale and frequency of drug related offending from before, during, at completion of, and after treatment on order.
- Given the likely nature of drug misuse and related offending, those subject to a DTTO will often have ongoing health and social care needs related to their dependency. This will require reliable arrangements for ongoing medical and other support services post DTTO.
- Health related benefits as a result of receiving treatment, including reduction in harmful behaviour and drug related illnesses, particularly blood borne viruses such as HIV, Hepatitis B, Hepatitis C, etc.

4. CHILD PROTECTION ISSUES

The very nature of the work of the DTTO team means that staff will come into contact with drug users who are parents and families where drug users are present. The safety and well being of children is of paramount importance at all times. The practice of every DTTO scheme should reflect the recommendations contained in the Scottish Executive's good practice guidance on working with children & families affected by drug misuse "Getting Our Priorities Right".

It is the responsibility of local Child Protection Committees to develop local child protection procedures and for senior child protection managers to ensure that such procedures take account of the DTTO scheme as a potential source of referral. In turn it is particularly important that DTTO staff know what kinds of circumstances constitute grounds for concern about the safety of a child, and what to do about information or concerns regarding child welfare. DTTO managers should make sure that practitioners possess both sufficient awareness of child protection issues and access to appropriate training to enable them to correctly interpret what is potentially important information. DTTO managers should set out clear processes for staff to follow to communicate such information speedily and accurately to child protection colleagues.

5. LEGISLATIVE FRAMEWORK

The relevant parts of the Crime and Disorder Act 1998, as they apply to Scotland, are sections 89-95 and Schedule 6. Schedule 6 refers specifically to combinations of a Drug Testing and Treatment Order and a Restriction of Liberty Order.

a) **Legislative Criteria:** the Act makes it clear that a DTTO may only be imposed where the court is satisfied that:

- The offender is *dependant on or has propensity to misuse drugs*, and
- The dependency or propensity requires and *may be susceptible to treatment*
- The offender is a *suitable person* to be subject to an order.

There is no legal definition of a *suitable person*, but it is suggested that suitability is determined by such factors as motivation to address drug dependency and sufficient stability of location and circumstances, to enable both supervision and treatment to take effect. DTTOs, during the first two years operation of a DTTO scheme, should not normally be considered in respect of persons also known to have diagnosis of mental illness; however, they should make plans during this time for the eligibility of *dual diagnosis* cases to be considered from the scheme's third year of operation. Persons who have *no stable living circumstances* can also pose problems for newly established schemes unless these situations can be stabilised and sufficiently resolved prior to implementation of the order. However, it is desirable for schemes to extend their eligibility criteria to include such people by arranging suitably supportive arrangements from the scheme's third year of operation. Existing schemes that have been operating for over two years should now consider taking steps to extend their eligibility for accommodating dual diagnosis cases and persons lacking stable living circumstances by the end of 2005.

The minimum period of the order is 6 months and the maximum is 3 years.

Before a DTTO can be made, certain *key criteria require to be met*

(i) The offender must be at least 16 years of age;

(ii) The offence must not be one for which the sentence is fixed by law;

(iii) The offence must have been committed after 30th September 1998;

(iv) The court must first consider a Social Enquiry Report; and

(v) The offender must consent to an order being made.

In addition to the above, Section 47 of the Criminal Justice (Scotland) Act 2003 provides for remote monitoring as a condition of a drug treatment and testing order. During the period specified in the condition (which cannot exceed twelve months) the offender must comply with such restrictions as to his/her movements as the court thinks fit. If it appears that a person subject to such a condition fails to comply with the requirement the supervising officer is required to report the non-compliance to the court.

6. NATURE OF THE ORDER

Key features of a DTTO include:

- Regular drug testing is integral to the order
- Monthly review by the sentencers throughout the order
- Direct relationship between offender and sentencer
- Further offence is not an automatic breach
- Statutory limitations on the role of the supervising officer
- Greater emphasis on drugs treatment, rather than a specific offence-focused approach, as the primary means of reducing offending and promoting social inclusion.

DTTO introduces a **direct** relationship between the sentencer and the offender. The sentencer has an important role in reinforcing the motivation of the offender, recognising good progress when it is made and warning where lapses in compliance and failures to progress occur.

There is a sharp distinction in role between the supervising social worker and the treatment provider(s). The supervising social worker does not directly provide any treatment, but is the key link with the court and sentencer through provision of monthly progress reports, attendance at Review Hearings and institution of breach action.

The supervising officer also fulfils the **case management function** and needs to have an overview of the whole Order, ensuring all its component parts and inputs are secured, consistent and fully co-ordinated. All Orders will have at least one treatment provider; there is the testing component; there may be group work programmes; and almost certainly, there will be social care & social inclusion issues as well as planning after care & ongoing support arrangements. This latter provision is important if problem dependence by the offender on the DTTO is to be avoided; it is a feature already apparent in some DTTO schemes in Scotland. The social worker has to see that all Court Review and other Reports they present to court fully reflect the views of each provider of service to the Order; case conferencing is one method through which a comprehensive assessment and view may be obtained and reported. Finally, the case management function will include issues of compliance and follow-up to non-compliance.

The treatment provider(s), in addition to direct programme input, is responsible also for testing arrangements and for making recommendations to the supervising officer on variation or continued viability of treatment options.

Treatment policy within DTTOs will reflect the requirement to pursue the “reduction or elimination or the offender’s dependency on or propensity to misuse drugs” and offer:

- Programmes aimed at drug reduction
- Programmes aimed at abstention.

The DTTO is a high tariff, highly invasive community disposal involving social work supervision. The order requires regular assessment and reporting to the court, to enable the sentencer to review progress. As such, the lead role lies with criminal justice social work services, and requires fully qualified social work staff to fulfil the role of supervising officer.

7. TARGETING AND ASSESSMENT

From the Scottish experience of DTTOs to date, three distinctive features of the assessment process have proven to be helpful.

- **Drug** testing of the offender during the assessment period.
- **Multi-disciplinary assessment** of suitability for the order, involving criminal justice social workers, medical and addictions staff, together with other relevant treatment providers.
- **Assessment in the community**, subject in every case to judicial discretion, a period on bail, linked to drug testing, has proven useful in allowing realistic assessment.

These features are thought to contribute significantly to relatively low incidence of breach of orders in the *early stages* of supervision. There has been a significant link between early problems with compliance and assessments of suitability carried out while the offender is in custody.

Child Protection and Assessment

While the DTTO scheme exists specifically to help the offender to reduce and desist from drug use and offending, the nature of this task will inevitably expose practitioners to much information about the lifestyle and circumstances of the offender. Child protection is always a shared responsibility, and as part of the assessment process, DTTO practitioners should become familiar with the offender's family composition, including whether or not he or she has child care responsibilities. Where the offender has such responsibilities, staff must remain vigilant to the effect that changes in the offender's lifestyle, behaviour and circumstances may have on any children in the household or otherwise in contact with the offender. If there are any concerns about the welfare of a child, these must be discussed with child & family social workers, and the future responsibility of the DTTO practitioner clearly defined.

Staff should be familiar with the Assessment Framework contained in Appendix 2 of Getting Our Priorities Right, and the guidance relating to unborn children contained in Appendix 3 of Getting Our Priorities Right. These are included as Annexes D and E to this Guidance.

Targeting:

a) Legislative Criteria: the Act makes it clear that a DTTO may only be imposed where the court is satisfied that:

- The offender is *dependant on or has propensity to misuse drugs*, and
- The dependency or propensity requires and *may be susceptible to treatment*.

b) Tariff: the offender should be facing the likelihood of custody due to:

- The seriousness of the offence, and pattern of offending, or
- The frequency

c) Nature of Offence: many drug misusers support their addiction by acquisitive crime. However, the index offence need not directly be drug related.

d) Outstanding Charges: outstanding charges are likely to be a feature of this group of offenders. This need not be a bar to imposition of a DTTO, but supervising Social Work staff should seek to be aware of outstanding criminal matters so that these can be addressed by the Court in the knowledge that the person is subject to a DTTO.

e) In cases where there is a current DTTO imposed by the High Court a parallel DTTO should not be considered in the Sheriff Court.

f) **Pattern of Drugs Misuse:** there is an established relationship between the pattern of serious drugs misuse and the pattern of offending. In addition the nature of that drug misuse must be susceptible to treatment: therefore cannabis misuse, for example, is unlikely to feature as a primary index drug.

g) **Personal Characteristics of Offenders:**

- **Age:** experience suggests that young offenders are generally less likely to sustain the motivation required for a disposal of this kind. Also, there is a need for available treatment options to be age appropriate. However, it is important schemes keep abreast of local developments in this sphere as treatment opportunities continue to develop.
- **Gender:** the disposal is equally appropriate to men and women.
- **Motivation:** this is a highly invasive disposal of court which requires sustained commitment and determination from the offender. Offenders must be able to demonstrate some tangible evidence of motivation to tackle their addiction. They must understand and clearly consent to the demanding requirements of the order. Motivating offenders is an integral part of delivering effective supervision. Therefore, the assessment of a candidate's motivation to complete a DTTO should be based upon the capacity of the scheme to build motivation as well as on the degree of motivation presented by the offender when the assessment is carried out. This will ensure that offender motivation is assessed in its correct context as a changeable attribute rather than an absolute quality that is wholly present or wholly absent.

The fact that an Order is intensive in its use of resources and in the demands that it would make on the offender's time implies a **"high tariff"** order, namely one which provides a direct alternative to probable imprisonment. This probability is likely to arise for 3 main reasons:

a) Seriousness of offence;

b) Pattern of repeat offending; or

c) Known Court sentencing characteristics which suggest that risk of imprisonment may be high.

The nature of the drug misuse is also important. It should be of a nature which significantly contributes to offending behaviour; it should be responsive to available treatment methodologies. It may also be desirable to focus on the forms of drug misuse which are most likely to be seriously problematic to the drug misuser in terms of adverse health and social effects. This would result in a priority focus on the following patterns of drug misuse:

a) Misusing opiates, benzodiazepines, cocaine and/or crack cocaine (but this is subject to changing trends and circumstances);

b) Polyuse (including alcohol) especially in chaotic circumstances;

c) Use with high frequency or in high risk contexts such as injecting;

d) Chronic long-term users whose pattern of misuse shows indications of worsening.

Using the above criteria it may be that there would be exclusion of those in early stage, non-established patterns of drug misuse, but who show signs of escalating to more serious, problematic use. The suitability of an individual for treatment can be affected by whether the individual concerned is contemplating or ready for change in their drug using behaviour. Therefore, the significant benefits of prevention of escalation – if effective – strongly support a case for inclusion provided effective assessment can identify readiness for change and provided the treatment spectrum can contain appropriate response options. For practical guidance on assessment practitioners may wish to consult the Assessment Chapter contained within the EIU Integrated Care document: http://www.scotland.gov.uk/library5/health/dtap00.asp.

Certain factors were formally identified which defined situations potentially unsuitable for DTTO targeting. Firstly, persons known to have, or believed to have, mental health problems. Secondly there are persons who are homeless or living in hostel accommodation where drug availability is problematic. However, it was noted that where a "drug free" environment can be secured within hostel-living circumstances there should be no exclusion of DTTO eligibility.

Policy has evolved in respect to both areas now that experience of DTTOs has been accumulated in both Scotland & England.

(i) Dual Diagnosis Cases

Schemes should now work towards extending their eligibility criteria to include acceptance of dual diagnosis cases, where appropriate in individual circumstances, by the end of 2005 (or, for newly established schemes, by the end of their third year of operation).

This recognises the growing prominence of the use of cocaine and crack in parts of Scotland, the growth of such drugs elsewhere in Scotland though the absolute numbers remain relatively small at this time, and the need to provide courts with an inclusive service of addictive drugs of misuse in relation to DTTOs.

Each scheme should draw up a strategy as to how it intends to deal with crack & cocaine cases. Additional medical, especially psychiatric in-put, may be necessary or certainly needs to be available. Schemes may wish to consider the application of dual diagnosis assessment tools which are available.

(ii) Homeless Persons or those staying in Hostels

Schemes should also work towards extending their eligibility criteria to be inclusive where possible of accepting suitable and appropriate persons falling within this category, on the same time scales as those laid out for dual diagnosis cases outlined above.

Each scheme will therefore wish to have in place a strategy as to how to deal with the varying needs and circumstances of this group of people. Environments would helpfully be drug free but this is no longer a pre-requisite for eligibility.

The objectives here are to establish at an early stage stable living arrangements within a supportive environment, which may include access to independent housing (through the public, voluntary or private sector) with non-residential support or a move to appropriate hostel or other accommodation with built-in residential or other support.

A problem solving approach should be adopted to enable otherwise motivated people to be considered for a DTTO.

In relation to both (i) dual diagnosis cases and (ii) homeless persons, schemes should remember to consider whether a DTTO or a Probation Order with condition of drug treatment or both represents the best road to go down.

A summary of targeting criteria is provided at Annex A.

8. ELECTRONIC MONITORING

Concurrent DTTO and RLO

The Scottish Executive extended provision of Restriction of Liberty Orders to the High Court, all Sheriff Courts and the Stipendiary Magistrate Court on 1 May 2002. The legislation enables:

- Restriction of the movement of an offender aged at least 16 years, to a particular place for up to a maximum of 12 hours per day, and from a particular place for up to 24 hours per day, for a maximum length of 12 months
- An RLO to be made for the same offence(s) concurrently with a Probation Order or a DTTO, or concurrently with *both* a Probation Order *and* a DTTO.

Where an RLO is made concurrently with a Probation Order or DTTO or both, and any one of the orders is breached and revoked, then *all of the concurrent orders must be revoked.*

RLOs are available to the courts as a direct alternative to custody. An RLO assessment, undertaken by Social Work staff is required before an RLO can be made. This may form part of the SER. In practice it is not anticipated that there will be many advantages to concurrent imposition of RLO with DTTOs. Both orders provide, on their own, significant restrictions on the offender. A combination of both orders and the demands they make may bring a high risk of failure to both.

On 27 June 2003, the Scottish Executive commenced section 47 of the Criminal Justice (Scotland) Act 2003 which provides for remote monitoring as a condition of a DTTO. As with RLOs, an offender can be restricted to a particular place for up to 12 hours per day and from a particular place for up to 24 hours per day for a maximum length of 12 months.

It is not anticipated that there will be many advantages to imposing a remote monitoring condition to a DTTOs. The DTTO on its own provides significant restrictions on the offender and the imposition of a further restrictive condition a high risk of failure to both the DTTO and the remote monitoring condition.

A note on the relationship of DTTOs to other Court disposals is provided at Annex B .

9. SOCIAL ENQUIRY REPORTS (SERs)

Not all criminal court appearances result in the Court request an SER. It is important to ensure that, as far as possible the Court seeks an SER in all cases where a DTTO may be an effective sentence option.

The assessment process must find a way of identifying, from all SERs, the appropriate cases to be targeted for the DTTOs. A two stage process is desirable. The first stage SER "screening" would extract, from the total number of SERs, those suitable for specific DTTO assessment. There would then follow a second detailed assessment to confirm (or otherwise) suitability and to devise the specific treatment plan.

The Social Enquiry Report is the main means by which this assessment is conveyed to the Court. SERs may identify suitable individuals, subject to the agreement of the Court, to undergo a fuller and secondary assessment of suitability for DTTO. To address these main assessment/issues; how to trigger SER requests in relevant cases; how to define, from a large annual total of SER requests, the cases to be targeted for DTTO proposals; and how to access the range of necessary assessment skills, the following is proposed.

i) Given the high number of SER requests there is no alternative, for screening purposes, than to look to Criminal Justice staff, who currently prepare SERs, to identify prospective DTTO clients. For this purpose they will require clear statement of criteria to identify target group; access to consultation to assist assessment and decision making; line management supervision which assists assessment arrangements, and monitoring of performance with regard to numbers and appropriateness of recommendations.

ii) A systematic programme of awareness-raising with Courts will be necessary, to develop knowledge of the Orders and when they should appropriately be considered or implemented. Briefing of Social Work staff at Court will be important to ensure that potentially suitable cases are identified and brought to the attention of the Court.

iii) If the SER (with input of specialist consultation) determines that a particular client is potentially suitable for DTTO, a **continuation for further reports** will be sought from the Court. This will allow more detailed assessment. The importance of the first stage SER screening is emphasized by the fact that a continuation is not a step which should be taken lightly and should only be sought in the most suitable targeted cases. The purpose of the second stage is to prepare, following joint criminal justice/addiction assessment, a report for court indicating suitability or otherwise for DTTO, along with, where suitable, a fully worked out treatment programme proposal. It is recommended that a continuation of **two to three weeks** would be desirable for this purpose. It should be noted that, both the first SER (in which continuation is proposed) and the second assessment report should include alternative assessed proposals to court in case the DTTO option is not accepted.

iv) The second stage assessment must be co-ordinated, and a report to Court prepared, by a DTTO team/designated DTTO Social Workers, who would represent the DTTO expertise for consultation at SER stage, second stage assessment and report preparation and supervision of orders. This team/staff would, for assessment purposes draw on staff in medical and addiction services. The designated team/staff will ensure consistency of approach.

It is recommended that the second stage assessment cannot be carried out with maximum reliability in a context where the client is remanded in custody. Accordingly, even if the first SER is carried out on a remanded prisoner, second stage assessment should, where possible, be community based. This allows full exploration of community treatment options, while permitting a more realistic examination of factors such as suitability and motivation.

There is an implication for the model which takes the second stage assessment to a specialist team/DTTO designated staff in respect of those offenders who are already clients of criminal justice or addiction services. In these cases the second stage assessment should be a joint one, but with the report and any subsequent supervision under a DTTO being carried out by the specialist team/staff. Any existing statutory orders and any subsequent orders such as Probation concurrent with DTTO should be held and worked by pre-established criminal justice staff in collaboration with the DTTO team/staff. Any pre-existing addiction related interventions would be subsumed into the DTTO treatment plan for the duration of the order.

Summary of SER Procedure

- SER author assesses offender.
- If key criteria are met, consults with DTTO Team/designated social worker.
- With agreement of DTTO Team Leader/SSW (Criminal Justice), two to three week continuation (non-custodial) is sought for further assessment in appropriate cases. Alternative disposals should also be assessed for Court.
- If continuation is agreed, DTTO Team/designated social worker assumes responsibility of second stage assessment and report to Court.
- If DTTO is made DTTO Team/designated social worker continues with case responsibility for duration of order. If a remote monitoring condition forms part of the DTTO, the Court will inform the remote monitoring contractor who will liaise with the designated social worker. If DTTO is not made, and other Social Work disposal results this returns to Criminal Justice Team or Community Service Team, as appropriate, for allocation.
- If a DTTO is made with concurrent Probation Order the case responsibility will be shared between Criminal Justice Team (Probation) and DTTO Team/staff (DTTO).

10. COURT PROCEDURES (SHERIFF COURT)

The Order

If the court determines that a DTTO should be made, the court must explain to the offender the effect and meaning of the Order; the consequences of failure to comply; the powers of the court to vary or revoke the Order or the application of the offender or supervising officer; and the powers of the court to review the Order. In cases where remote monitoring is a condition of the Order, similar explanations should be made referring specifically to the remote monitoring condition.

The offender must consent to an Order being made.

The Order will specify:

- Name and address of offender
- Period of Order
- Details of treatment to be undertaken (including details of institution and whether it is as a resident or not)
- Details of testing arrangements (specifying minimum number of occasions)
- Date of first review
- The local authority and nominated supervising officer.

In cases where a remote monitoring condition is imposed the Order should also specify the hours during which the offender is restricted, the place to or from which the offender is restricted, the length of the remote monitoring condition (up to a maximum of 12 months) and the name and address of the contractor responsible for monitoring compliance with the remote monitoring condition.

A copy of the Order will be sent by the Sheriff Clerk by recorded delivery to the offender. A copy will also go from the Clerk to the named treatment provider(s) and to the Court Social Work Unit (for transmission to the DTTO Team). Where there is a remote monitoring condition, a copy of the Order should be faxed on the day it is made to the contractor responsible for monitoring compliance.

The first review hearing date will be specified in the Order. Thereafter the date for each succeeding review (which must take place at least once a month) will be fixed at the Review itself. In cases where there is a remote monitoring condition, supervising officers should ensure that the contractor is made aware of the review dates to ensure that a compliance report can be prepared for the review hearing. The contractor will provide such reports 3 days prior to the review hearing.

The social worker supervising the DTTO must serve the Order on the offender within seven days of receipt from court. Top copy to be retained on file, and a copy given to the offender.

Review Hearings

The review hearings should, where possible, go back to the sentencer who imposed the Order, to ensure continuity. The offender is required to attend the review, and the supervising social worker although not required by statute, will also attend and address the court as required.

If at any review the offender fails to appear, the court may issue a warrant to apprehend.

The supervising officer will submit to court, by noon the preceding day, a written report of progress under the Order, including all test results, and the views of treatment providers on the treatment and testing of the offender. The contractor will send a report detailing the compliance of the offender of the remote monitoring condition no less than 3 working days before the date of the hearing to allow relevant information to be included in the written report.

If, at any review the court considers the offender's progress is satisfactory the court may amend the Order to provide for each subsequent review to take place without a hearing. The review would then take place in chambers without the parties present, based solely on consideration of reports.

If a review without a hearing, after considering reports, no longer thinks progress is satisfactory, the offender may be cited to appear at a hearing again, or a warrant to arrest may be issued.

When the offender attends at the diet fixed to hear the warrant of citation or warrant to arrest the court can act as if it were conducting a review hearing and may amend the Order to reinstate reviews with a hearing.

Variation/Revocation

An application may be made to court for the variation or revocation of a DTTO in terms of section 234E of the Criminal Procedure (Scotland) Act 1995. The application may be made by the offender or the Supervising Officer. (As inserted by section 92 of the Crime and Disorder Act 1998.) Applications to vary or revoke the remote monitoring condition of a DTTO may also be made by the contractor (section 234E of the Criminal Procedure (Scotland) Act as amended by section 47(6)(a) of the Criminal Justice (Scotland) Act 2003).

Two related criteria should be met before an application is made, namely:

- that circumstances have arisen since the Order was made and, for that reason,
- it would be in the interests of justice for the Court to consider variation or revocation.

There are no specified circumstances contained in the Act which constitute grounds for revocation or variation. (They must not, however, be used instead of breach procedures.) The following may illustrate the most common grounds for an application to revoke the order:

- medically certified illness over a lengthy period of time which prevents the offender from performing the Order in a satisfactory manner;
- the offender's conviction for outstanding or new offences resulting in a period of custody for more than 6 months or where the intervening period of custody impacts significantly on motivation or viability of treatment;
- the offender's move to any place where either there is no DTTO scheme in operation or the scheme in that place is unwilling to accept transfer of the Order;
- any other exceptional circumstances.

When such an application is received the court will issue a warrant of citation requiring the offender to attend a diet, which would normally be at an agreed time for review hearings. A warrant for arrest may be issued if the offender does not attend.

Where there is an application by the supervising officer to vary or revoke an Order the offender must give consent to any changes and if the court agrees to make changes the court must explain the terms of the varied Order.

The court may vary the Order by:

- amending or deleting any requirements of the Order;
- inserting further requirements;
- increasing the treatment/testing period provided the minimum of 6 months and maximum of 3 years are not exceeded; or
- revoking the Order.

In respect of a remote monitoring condition the court may also:

- amend the address to or from which the offender is restricted;
- amend the hours of restriction;
- amend the duration of the remote monitoring period (but not extending it beyond 12 months).

If the Order is revoked the court may dispose of the case in any way which would have been competent at the time the Order was made. In doing this the court should take account of the period over which the Order has been in operation. If there is a concurrent Probation Order this should be discharged when the DTTO is revoked. If there is an electronic monitoring condition of the DTTO, the contractor responsible for monitoring compliance should be advised of any variation which will affect the electronic monitoring condition (such as a change of address), or if the Order is revoked.

11. TREATMENT

A range of treatment methods will be necessary to achieve the statutory objectives of "reduction or elimination of dependency or propensity to misuse". The treatment range may include one or more of the following:

i. Detoxification.
ii. Substitute prescribing, with counselling support.
iii. Individual counselling programmes with drug free and drug reduction objectives.
iv. Groupwork to promote and support behaviour change.
v. Day programmes, including employment training/preparation, education and life skills "catch up", parenting and child care enhancement.
vi. Short term residential programmes to establish and sustain overall treatment objectives.
vii. Modular ancillary interventions (individual or group based) covering matters such as self esteem enhancement and assertiveness, dealing with personal abuse, health promotion, relapse prevention and employability.

Treatment programmes may be complex – including simultaneous or sequential use of different aspects. Continuing re-assessment will also be necessary to identify the needs of the client. These assessments should then form the basis of a care plan. The Effective Interventions Unit Digest of Assessment Tools provides guidance on the range of assessment tools that are available. In their case management role supervising officers will require an overview of the treatment undertaken.

There should be a readiness to incorporate other purposeful interventions (e.g. measures such as acupuncture to address craving, stress reduction and stress management techniques) which can demonstrate effectiveness. The appropriateness of some aspects of treatment being provided on a gender-specific basis is also recognised.

All elements of treatment services will require to work to clearly specified service standards, which will be regularly monitored. Adherence to standards is particularly important in view of the accountability to the Courts and the potential adverse consequences for the offender in the event of the order being ineffective. It is essential that the best possible treatment options are offered. Standards which treatment services will be expected to meet will cover the following aspects:

1. Rapid access to programmes;
2. Specified frequency and duration of treatment episodes;
3. Designated content of treatment episodes;
4. Review arrangements;
5. Liaison with supervising officers;
6. Recording of casework.

Some of the treatment services best lend themselves to provision on a single or limited site basis. Others will be better obtained from a more dispersed range of service providers (although selection of limited number of sites may be desirable to ensure consistency and meeting of standards).

12. TESTING

The Drug Treatment and Testing Order requires that testing be carried out at specific intervals, to ascertain whether the offender "has any drug in his body" during the treatment and testing period. The order will specify, for each month, the *minimum* number of occasions on which samples are to be provided.

In addition, prior to an order being made, the Court may require a test to be carried out as part of the process of ascertaining whether the offender "is dependent on, or has a propensity to misuse, drugs".

The offender's consent is required before an order can be made – but if consent is given this will include agreement to undergo periodic testing.

Purpose

The role of the test will, in the main, be to fulfil the following purposes:

a) to inform the initial and continuing pattern of drug misuse;
b) to augment information provided by the offender as to his/her drugs misuse;
c) to inform clinical decisions with regard to treatment;
d) to increase confidence in treatment on the part of the sentencer, provider, offender and wider community; and
e) on occasion, to verify abstinence from specific substance misuse.

Interpretation

Test results need to be interpreted in the wider context of the offender's response to treatment, and should not be the over-riding factor on which the treatment process would be determined. However, the value of testing may be seen to lie in the support for, or contradiction of, information derived from the assessment of behaviour and other observed responses to treatment.

The test conducted during the period of assessment will cover a range of drugs most frequently misused. Thereafter, once the order is made, testing will focus on the index drugs of misuse being addressed by treatment as set out in the DTTO. At random intervals, or if the offender's conduct and presentation suggest that it would be desirable, or at the direction of court, tests for a further range of drugs will be carried out in order to monitor the overall pattern of use.

Method

For each drug test, offenders will require to pass a sample of their urine. Testing will normally be carried out by dipstick analysis. This will be augmented by laboratory testing. Dipstick analysis is a helpful technique when a quick result is desirable, but the result must always be interpreted against a background of information provided by the offender. It is acknowledged that this form of testing carries a lower reliability for accuracy. If the results of the "dipstick" test are contested by the offender a laboratory test should be carried out to ensure greater accuracy.

Note: As the technology of testing advances and the reliability of different forms of testing improves, other forms of testing may be employed – for example, oral fluid tests. No new form of testing will be introduced, however, without prior consultation with the Justice Department and the matter first being approved by the local health board in consultation with the treatment provider and the court.

The frequency of testing will be as follows, unless otherwise required by the sentencer:

i) One test during the assessment period, using "dipstick" methodology, covering the broad range of misused drugs. This would ensure rapid results which can be utilised in dialogue with the offender for assessment purposes. If the result is contested, a lab. Test should be substituted.

ii) Once an order is made, testing should be carried out twice weekly for the first month of the order. At least one of these tests in the first month should be a laboratory test.

iii) For months 2 to 5 of the order, testing should be carried out once per week with at least one of these tests per month being a laboratory test.

iv) From 6 months onwards testing should be carried out once per fortnight, reducing to once a month. Of these tests, at least one per 8 weeks must be by laboratory methods.

v) At least 1 test per month must be carried out on a random basis.

The drug testing procedure must, as far as possible, be certain and verified. Validity of testing depends not only on the test methodology but also on the reliability of samples. To promote accuracy, the following elements are to be incorporated into procedures:

i) Direct observation of urine sample collection;

ii) Verification of temperature, if required – to reduce risk of substitution.

iii) Documented chain of possession for each sample collected, linked to secure transmission of samples to laboratory.

iv) Regular quality control checks and quality assurance procedures.

v) Procedures for verifying accuracy when test results are contested.

All test results must be notified to Court. Any failure to submit to testing, any known or suspected attempts to subvert the test process, and any contested test (including outcome of re-test) should be reported at review hearings or breach proceedings.

Note: Offenders have to co-operate with the test procedures, not least by passing a sample to be tested. If they are unable to do so, they should be given no more than one hour to so provide the necessary sample. Failure to produce will be reported to court and represents noncompliance. The one exception to this is where an offender is unable to provide a urine sample for testing during the 4 week assessment period. In these circumstances, the one hour period may be extended. If no sample can still be passed, the offender should receive a second (if feasible and necessary, a third) appointment to pass a sample. If this still fails to produce a sample, the matter should be reported back to court. **In such circumstances, it is highly unlikely an offender will be able to receive a Drug Treatment and Testing Order.**

Procedure

All offenders are required to have signed Form 1 Drug Tests Consent and Agreement Forms.

The supervising social worker must ensure that the offender has a clear understanding of the requirements of the Order in respect of testing.

This will cover test frequency, the requirement for supervision of sampling, the drugs to be tested (including occasional random wider testing) and the right of the offender to arrange independent check testing if required.

For the assessment test, the offender will be briefed with regard to the requirement of supervised sampling, the drugs to be tested, and the right to arrange independent check testing. The offender will indicate consent to the assessment test by countersigning a pro-forma.

The briefing must be clear and specific as to the requirements of supervised testing, in particular with regard to witnessing the provision of the sample. Test supervision must, where possible, be carried out by a worker of the same gender as the offender. If this is not possible there should be a same gender observer present.

All laboratory test results must be communicated to the supervising officer, normally within 3 working days of the test date, and must be received no more than 4 working days from the test date.

The offender should be asked at each test if they are taking any prescribed, over the counter or illicit drugs. The response should be documented and signed by the offender.

The test should be carried out in appropriate circumstances of privacy. The client will be given the urine collection container and will be observed providing the sample (i.e. urine leaving the urethra).

Temperature checks may be carried out if appropriate.

The sample for transmission to the laboratory will be extracted into the tamper proof container and labelled ready for transmission in the presence of the client. Labelling should contain client ID number and date. The date of sampling and transmission to laboratory will be recorded in a log. A chain of custody form will be completed and accompany the specimen until it arrives at its destination (laboratory), where receipt will be signed for.

At the laboratory, the sample will be divided. Two parts will be retained in appropriate sealed storage conditions in case of need for re-test and a third part will be tested immediately with the result being supplied to the supervising officer. The remaining two parts will be retained for one month (or until the next Court review). One of these retained parts will be provided to the offender to arrange re-test, should this be requested, the costs of which will be covered.

13. SUPERVISION

As indicated previously in this guidance, the role of the supervising officer in DTTO is, uniquely, limited by statute. Section 90, sub-section (8) of the '98 Act states "supervision by the supervising officer shall be carried out to such extent only as may be necessary for the purpose of enabling him to

a) report on the offender's progress to the appropriate court;
b) report to that court any failure by the offender to comply with the requirements of the order and;
c) determine whether the circumstances are such that he should apply to the court for the variation or revocation of the order."

For these purposes the offender must maintain contact as required by the supervising officer and test results must be provided to the supervising officer. Unlike a probation order with drug treatment requirements, there is no significant role for the supervising officer in tackling offending behaviour, other underlying attitudes or criminogenic needs.

Where an electronic monitoring condition is made part of a DTTO, the monitoring company will provide a monthly compliance report to the supervising officer to feed into the progress reports sent to the court.

14. ENFORCEMENT

General Principles

The main objective of this order is to reduce or eliminate offending by impacting on the individual's dependence on and use of drugs. It follows therefore that the essence of the order is to retain the offender in appropriate treatment. Accordingly, compliance with treatment, testing and court reviews should be given greatest weight.

All failures to comply can be indicative of fundamental difficulties e.g. loss of motivation, onset of relapse, relationship difficulties or other pressures. Accordingly, response to absences should be prioritised and followed up within 2 working days, preferably by a home visit, by or on behalf of the supervising officer. Individual responses to specific instances of non-compliance are detailed below, but supervising officers should have regard to the wider pattern of compliance across the various requirements.

The supervising officer should include details on compliance levels and enforcement issues in reports for court reviews. This, uniquely, enables the sentencer to take a more active role in confirming, re-enforcing or initiating disciplinary measures including interim sanctions or breach action.

Where breach action is initiated, the order and associated treatment should *not* normally be suspended, and every effort made to retain the individual in treatment.

Breach Procedure

It is the responsibility of the supervising social worker to submit to the clerk of court a written breach application within 5 days of the decision to initiate breach action. Proforma BR 1 should be used for such purposes. This should be accompanied by a separate Breach Report providing the context of the specific failures to comply complained of, outlining the history of the order and updating the SER submitted at the outset of the order in relation to changes in family, domestic and living circumstances. A separate Witness Schedule must be provided at the same time indicating what witness may testify to what evidence should the breach action be contested. Please refer for full details of revised national breach procedures to "Streamlining of Breach Procedures in Criminal Proceedings (Community Based Disposals)" SE JD Circular No 2/2004.

Failure to attend for court review

Such failure is a **clear and serious breach of the order**. In such circumstances the court has a direct power to issue an immediate warrant for arrest and for the offender to be brought to court. Failure to comply with this condition should only lead to breach action at the direct behest of the sentencer.

Attempts to Interfere with Integrity of Test

Any attempt to interfere with or distort the integrity of the test or result is a grave breach of the order and should lead to **immediate institution of breach action**.

Breach of an electronic monitoring condition.

Where an offender breaches the electronic monitoring condition of a DTTO, for example by leaving the place of restriction during the restriction period, the monitoring company will notify the supervising officer by report within 48 hours of the breach occurring. The levels of breach described in paragraph 8 of the Restriction of Liberty Order and Electronic Monitoring Handbook will apply in relation to electronic monitoring as a condition of a DTTO. Once a report is received, the supervising officer must notify the Court of the breach of the electronic monitoring condition within five days and submit other supporting reports within a further five working days. There is **no discretion** in notifying the breach of an electronic monitoring condition to the Court.

To help the review process, the Contractor will provide a monthly compliance report to the supervising officer in respect of all offenders subject to an electronic monitoring condition of a DTTO. This report will be sent to the supervising officer 72 hours before the date of the next review.

The Contractor should be notified of the outcome of breach of an electronic monitoring condition action. The Clerk of the Court should send a copy of any order varying or revoking the electronic monitoring condition to the Contractor. The Clerk should also inform the Contractor and the supervising social worker about the imposition of a fine and the continuation of an electronic monitoring condition

Reporting to Supervising Officer

Uniquely, the DTTO places limitations on the role of the supervising officer. The offender is required to:

a) report to the supervising officer as required; and
b) notify the supervising officer of any change of address.

These are ancillary requirements, to support the package of treatment, testing and court oversight. Infractions of such requirements should not normally lead to initiation of breach proceedings, where no other grounds for breach are being actioned. Exceptional circumstances, however, for example at the outset of an order, before testing and treatment instructions have been issued, may dictate otherwise.

Failure to attend for testing

Mandatory drugs testing is a unique legislative feature of a DTTO. As such any failure to comply with drugs testing should be **regarded as serious**. Subject to any contrary advice from the sentencer at review, the established enforcement schedules for other community disposals should apply i.e. following investigation of the reasons for non-attendance and a finding of unacceptable absence:

- **1st Unacceptable absence to attend for testing** – verbal warning and recorded delivery letter from the supervising officer
- **2nd Unacceptable absence to attend for testing** – final warning and recorded delivery letter from the supervising officer
- **3rd Unacceptable absence to attend for testing** – institute breach action within 5 working days (except where a period of more than 3 months has elapsed between the 2nd and 3rd absence, in which case a formal warning and recorded delivery letter may be issued in place of immediate initiation of breach action).

Note 1: In general terms, an acceptable absence is one concerning which the offender had no control over – eg: offender was in custody at the time or offender was ill at the time (though to be acceptable, a medical certificate would be required – self-certification is not acceptable – and the offender would have been expected to have notified the treatment provider or supervising officer in advance of the absence). Other absences that would be deemed acceptable are those for which an advance request for absence had been made and granted by the treatment provider or supervising officer. Such authorisation should not be granted unless there is an over-riding reason why priority should not be given to fulfilling the terms of the court order.

Note 2: In addition to any failure to attend for testing, there is also **a requirement to cooperate with testing**. This includes passing a urine sample when asked to do so for the test. Where an offender is ***unable*** (rather than *unwilling)* to pass a sample when required, they should be given up to one hour to pass a witnessed sample. They may have a soft drink or tea/coffee in the interim but be careful large quantities are not consumed which can distort the test result. Where after one hour they are still unable to pass a sample, they should be formally warned that this fact will be reported back to court. **Where an offender is unwilling to provide a sample, that should as a matter of procedure be regarded and treated as an unacceptable failure to attend for testing and the particular circumstances highlighted to court.**

Failure to Attend for Treatment

Any failure to attend for treatment is a direct breach of a condition of the order and, as such, must be regarded with concern. Nevertheless, such failure(s) should be seen within the overall pattern of compliance with, and progress on, the order. The important consideration is sustained commitment to treatment. Periods of lapse and relapse can be readily anticipated in the course of treatment and supervision, and should be distinguished from general patterns of non-compliance. Where **unacceptable** absences from treatment appointments approach the following thresholds, within *two 4 weekly court reviews* (i.e. an 8 week period)*,* action should be instituted as follows:

- **1 in 5 unacceptable absences from treatment appointments:** verbal warning and recorded delivery letter from the supervising officer
- **1 in 4 unacceptable absences from treatment appointments:** 2nd verbal warning, recorded delivery letter from the supervising officer and report to review court for advice
- **1 in 3 unacceptable absences from treatment appointments:** initiate breach action within 5 working days (subject to court advice to the contrary.)

Note: See Note 1 in paragraph 3 above for guidance on acceptability of reasons for absence.

Failure to Co-operate with Treatment

The offender is required, as a standard condition of a DTTO, to "submit … to treatment by or under the direction" of the treatment provider (section 234C of the Criminal Procedure (Scotland) Act 1995.)* Accordingly, the offender must comply with reasonable instructions of the provider, conduct him or herself in a reasonable manner and co-operate with treatment. Unfitness to co-operate with treatment as a result of alcohol or drug misuse constitutes a failure to co-operate. It is **a matter of discretion** for the supervising officer as to what action should be taken for such failures to co-operate. The seriousness and frequency of such conduct will define the appropriate response.

Lack of Punctuality in Attendance for Treatment and/or Testing

The offender is specifically required to attend for treatment "at such intervals, as may be so specified" by the treatment provider and for testing "at such times and in such circumstances as may … be determined by the treatment provider" (section 234C.)* It is again **a matter of discretion** for the supervising officer as to what action should be taken for such failures to co-operate. The seriousness and frequency of such conduct will define the appropriate response.

Powers on Breach

Provisions in respect of breach of a DTTO are contained within section 93 of the '98 Act. Where the court is satisfied that the offender has, without reasonable excuse, failed to comply with the order it may:

- fine the offender up to level 3 (£1,000) on the standard scale without prejudice to continuation of the order
- vary the order or
- revoke the order.

Where the court revokes the DTTO it may dispose of the matter in any way which would have been competent at the time the order was imposed. The court must have regard to the length of time the order has been in operation. Where the order has been in imposed concurrently with either a Probation Order, Restriction of Liberty Order or both, the court must also discharge the Probation Order, and/or revoke the RLO.

15. TRANSFERS WITHIN SCOTLAND

Procedures relating to transfer of orders should broadly follow those outlined in National Objectives and Standards for Probation. Two additional considerations apply in respect of DTTO prior to application to court for transfer:

- The supervising social worker must check the availability of both treatment and testing arrangements at the new location
- The supervising social worker must, from the receiving location, secure written confirmation of availability and provision of the above, prior to application to court.

In cases where there is an electronic monitoring condition of a DTTO, the supervising social worker should notify the contractor responsible for monitoring compliance with the electronic monitoring condition of the date of the transfer and the offender's new address. The contractor will then arrange to uplift the equipment from the original address and install equipment in the new address. Note that the contractor should be told of any transfer prior to it happening to ensure appropriate arrangements can be made.

It should be noted that there are no legislative provisions for transfer of an order to England and Wales or Northern Ireland.

16. EXIT STRATEGIES

Given issues around treatment provision and ongoing support, DTTO scheme operators need to be aware of the need for appropriate exit strategies for every offender. An example of exit strategy planning can be found at Annex C (note the example has been taken from the Fife Drug Court and is intended only as an example – it is not prescriptive). However, the following more general points should be noted.

Early Planning

Experience of DTTO schemes in Scotland has already demonstrated the importance of planning early the exit strategies for offenders completing their Orders. During the time they are subjected to court order, offenders are subject not only to close supervision but also to close support. It is not unusual for offenders to grow dependent on the service over time and become fearful of their resolve to avoid relapse if these constraints and supports are suddenly removed. Indeed, offenders have been known to seek from courts an extension in time of the DTTO to ensure continued support and availability of service.

There is a strong need therefore to ensure, as an integral part of every DTTO, proper planning for the transition from order to post-order. Experience indicates this planning and transition may require earlier attention than might at first be thought necessary.

It is therefore suggested this transition planning should be programmed into the essential components which make up every DTTO: supervision, treatment, testing, review, relapse preventions & exit planning.

Ongoing Treatment and Support

When an order finishes, there may be an ongoing need to provide treatment and support. The main issue to be resolved is who will provide the treatment post-order. If the same provider as during the order, the agency providing that service needs to know and agree that provision from the outset of the scheme. If a different agency is to take over service provision, then the transition of treatment and care needs to be negotiated at an early stage. If the offender's progress is stable, with the court's permission, it may be that the treatment should be transferred during the course of the order to avoid abrupt changes on its termination (that would coincide with the withdrawal of other supports at the same time).

Similar considerations apply for other supports, not least rapid access to such supports should relapse threaten or occur.

Social Inclusion

Normalisation and moves towards the rehabilitation of the offender back into a work routine should be commenced during the course of an order when assessed appropriate. This includes any education, training and employment preparation courses and/or work itself. Measures need to be planned to ensure support for such a transition continues post course. Practitioners may wish to refer to the EIU "Moving On" publication:
http://www.scotland.gov.uk/library5/health/eiumous-00.asp.

17. MONITORING

Authorities should monitor the following performance indicators in DTTO.

Assessment

- Age, gender, criminal and custodial histories
- Previous and current patterns of drug misuse
- Previous and current experience of treatment services
- Scale and source of referrals (court/SER author)
- % referrals made under Summary and Solemn procedure
- % assessments in the community (Bail) and custody (remand)
- Conversion rates of DTTO assessments resulting in DTTO, custody, Probation + Drug Treatment Condition, other.

On Order

- Number of individuals on DTTOs and number of Orders made
- Average length of time retained on order/in treatment
- % of successful completions of DTTO
- Self-reported/known levels of drug misuse and re-offending
- Drug misuse status at start and finish of orders
- % breach and other revocation of orders

Response to Treatment

In setting contracts with treatment providers, authorities will wish to ensure they receive the following information on offenders at the start and finish of an Order:

- Percentage and numbers of offenders ceasing drug injection
- Percentage and numbers of offenders achieving methadone maintenance
- Percentage and numbers of offenders achieving methadone reduction
- Percentage and numbers of offenders achieving abstinence

ANNEX A

TARGETING SUMMARY

The following features should determine appropriate targeting of offenders for DTTOs.

i) High risk of imprisonment (reflecting seriousness of offending behaviour);
ii) Seriously problematic drug misuse, or early stage use which shows evidence of escalating to become seriously problematic (reflecting seriousness of drugs misuse);
iii) Motivation for treatment (reflecting readiness to change and likelihood of benefiting from treatment-based approach).

Certain factors may be seen to contra-indicate a DTTO:

i) Concurrent mental ill-health

ii) Non-availability of stable living environment which can be made drug free.

Assessment is fundamental to the effectiveness of DTTO, to establish that targeted criteria are met and the offender is suitable for drug treatment, and to match treatment response to need. Assessment therefore fulfils a number of functions:

i) To establish that the individual offender fell within the target group in terms of drug using behaviour, offending and risk;
ii) To establish suitability in terms of readiness for change;
iii) To gather information relevant to the decision as to suitability for treatment options. This may include drug using history, current patterns of use, positive and negative personal factors and current and past service involvements; and
iv) To conclude on the appropriateness or otherwise of a DTTO response and to plan programmes accordingly.

ANNEX B

DTTOs AND OTHER DISPOSALS

Distinction between DTTO and Probation with Drug Treatment Conditions:

DTTO

- This is a high tariff, demanding and invasive order best considered when the offender is facing the likelihood of custody due to the nature of the offence or the frequency & pattern of offending
- This is a disposal, which focuses on drug treatment as the primary means of reducing offending
- Age, maturity & motivation are important factors when considering the effectiveness of a DTTO. The older offender is likely to be able to more able to sustain the commitment required
- Other things being equal, especially for younger offenders, some previous experience of statutory supervision might be helpful (though not essential).

Probation

- May be more effective for offenders not yet heavily convicted or at a relatively early stage in drug misuse
- Where an offender is younger or considered only at a beginning level of readiness for change in relation to drug misuse
- Where there are complex social circumstances likely to impede an offender's concentration on drug treatment – eg: homelessness/housing issues; relationship difficulties; domestic violence; etc
- Where drug needs are identified but there are other factors associated with offending which would not be addressed primarily through a treatment-based approach. In these circumstances, a probation action plan incorporating cognitive-behavioural methods of intervention as well as a clear focus on drugs misuse may better meet needs and reduce the risk of re-offending more effectively.
- Where an offender is already successfully engaged in drug treatment and there is no evidence to suggest that the treatment plan needs to be augmented. Here, a probation order enhanced by a condition of drug counselling might suffice.
- Where medium to long-term residential treatment is required, probation would be more suitable.

Convictions for new offences are always breaches of Probation but not of DTTO.

Concurrent Probation: Objectives of a DTTO are fundamentally different from those of Probation so report writers will not normally seek Probation Order concurrent with DTTO.

ANNEX C

EXAMPLE EXIT STRATEGIES (DRAFT)[1]

1. **PLANNED** – END OF ORDER		1.1.1 ACTION	1.1.2 RESPONSIBLE
1.1 Three months prior to scheduled end of Order offenders case group discuss forward planning.	1.1 Exit strategy outlined in Care Plan.	1.1	Social Worker
1.2 Consideration should be given to ongoing prescribing needs.	1.2 If an offender is stable and has co-operated with clinical treatment GP should be contacted and transfer of prescribing responsibility negotiated.	1.2 GP should be given copy of Case Plan and clinical report outlining treatment undertaken, and any other health related information.	*1.2 Case Nurse*
1.3	1.3 Where an offender cannot be transferred for prescribing a referral should be made to Fife NHS Addiction Service for Assessment.	1.3 Complete Referral Form	*1.3 Social Worker*
1.4 Post-Order prescribing – a maximum of 6 offenders at any one time, for a period not exceeding a 3 month period. Exceptions to this to have full agreement of co-ordinator. Transport and prescribing costs for the period will be met by CJS. The prescribing policy of the Community Drug Team, Addiction Service will be fully explained to the offender and contractual agreement signed.	1.4 This is only an option where the Addiction Service does not deem the offender an appropriate referral. Offender to remain opiate and where relevant Benzodiazepine free. Failure to adhere to this regime will result in suspension of prescriptions.	1.4 A planned reduction of medication should be identified. Nurse Team Leader will arrange weekly drug testing.	*1.4 NurseTeam Leader*
1.5 Post-Order support.	1.5 Specialist counselling will be made available through Vol. Org. Project Worker for up to 6 months post order.	1.5 Further counseling services beyond this period will be the responsibility of DAPL.	*1.5 Project Worker*

[1] Note this was prepared by a Drug Court team rather than a straightforward DTTO team.

	Addiction Worker will identify other appropriate services, eg Progress 2 work, alternative therapies, or further education.	Offenders will fully participate in this process and referral will be based on offender's consent.	Addiction Worker
	Social Worker will identify any pending legal matters, eg SERs, trials, etc.	These pending legal matters will be fully outlined in final review report.	Social Worker
	Social Worker will convene exit conference. Participants will include offender, case workers and supervisors of any other statutory orders in place eg Probation, Parole.	Following Final Review Social Worker will initiate completion certificate for offender, copy final review to supervisor of start order where appropriate and complete case record.	Social Worker
2. **UNPLANNED** – BREACH		**ACTION**	**RESPONSIBILITY**
2.1 Where a breach report has been submitted to Court in respect of any alleged failure to comply.	2.1 The caseworker will work on identifying case management strategies from the time the breach is submitted.	2.1 The Drug Court Sheriff will require full range of information as to sentencing options in the event of breach being proved.	*1.6 Social Worker*
2.2 Through care issues to be addressed.	• Current and ongoing status/availability of substitute prescribing. • Assessed need and availability of counselling support. • Outstanding Court matters eg trial, deferred sentences, statutory orders. • Report in respect of Breach should address alternative sentencing options if appropriate eg PO/CS, after consultation with CJS TL.	• Complete Breach application, Review Report including alternative sentencing options.	*1.7 Case Nurse* 2. Addiction Worker 3. Social Worker Social Worker

3. **UNPLANNED** – CUSTODY			
3.1 Where an offender received a custodial sentence or is remanded on indictments.	3.1 Social Worker to assess the feasibility/appropriateness of continuing the Drug Court Order.	3.1 Where an offender is likely to be in custody for more than 3 months, revocation should be considered.	Social Worker
	Social Worker should liaise with Prison Social Work unit in relation to appropriate transfer of information. For those offenders in receipt of substitute medication by GP or DCSTT, case nurse will immediately advise receiving prison as to prescribing status.	Where an offender is sentenced to less than 3 months contact should be maintained with DCSTT.	4. Social Worker Addiction Worker 5.6. Case Nurse
3.2 Post-release	3.2 Review period post-release should focus on re-assessment of treatment needs, re-engagement and motivational work.	3.2 Assess for on-going Treatment Plan.	Social Worker Addiction Worker Case Nurse Project Worker
4. **REVOCATION**			
4.1 Revocation applications submitted at Review.	4.1 Exit Strategy outlined in Revocation Report.	4.1 • If further supervision period expected, copy of Report to Court District Team. • Referral to clinical/counseling aftercare as appropriate.	Social Worker Case Nurse

ANNEX D

Checklist of Information to be Collated Concerning Substance Misuse and its Impact on Parenting

(Getting Our Priorities Right – Appendix II)

This checklist has been adapted and expanded from guidelines produced by the Standing Conference on Drug Abuse (SCODA 1997).

Children in the family - provision of good basic care

- How many children are in this family?
- What are their names and ages (wherever possible, include dates of birth)?
- Are there any children living outside the family home and, if so, where?
  For each child:
- Is there adequate food, clothing and warmth for the child? Are height and weight normal for the child's age and stage of development? Is the child receiving appropriate nutrition and exercise?
- Is the child's health and development consistent with their age and stage of development? Has the child received necessary immunisations? Is the child registered with a GP and a dentist? Do the parents seek health care for the child appropriately?
- Does the child attend nursery or school regularly? If not, why not? Is s/he achieving appropriate academic attainment?
- Does the child present any behavioural, or emotional problems? Does the parent manage the child's distress or challenging behaviour appropriately?
- Who normally looks after the child?
- Is the child engaged in age-appropriate activities?
- Are there any indications that any of the children are taking on a parenting role within the family (e.g. caring for other children, excessive household responsibilities, etc.)?
- Is the care for the child consistent and reliable? Are the child's emotional needs being adequately met?
- Is there a risk of repeated separation for example because of periods of imprisonment (e.g. short custodial sentences for fine default)?
- How does the child relate to unfamiliar adults?
- Are there non-drug using adults in the family readily accessible to the child who can provide appropriate care and support when necessary?
- Does the child know about his/her parents substance use?
- Is there evidence of drug/alcohol use by the child?

Describing parental substance use

(identify sources of information, including conflicting reports)

Is the drug use by the parent:

- experimental?
- recreational?
- chaotic?
- dependent?
- Does the user move between these types of drug use at different times?
- Does the parent misuse alcohol?
- What patterns of drinking does the parent have?
- Is the parent a binge drinker with periods of sobriety? Are there patterns to their bingeing?
- Is the parent a daily heavy drinker?
- Does the parent use alcohol concurrently with other drugs?
- How reliable is current information about the parent's drug use?
- Is there a drug-free parent/non-problematic drinker, supportive partner or relative?
- Is the quality of parenting or childcare different when a parent is using drugs and when not using?
- Does the parent have any mental health problems alongside substance use? If so, how are mental health problems affected by the parent's substance use? Are mental health problems directly related to substance use?

Accommodation and the home environment

- Is the family's living accommodation suitable for children? Is it adequately equipped and furnished? Are there appropriate sleeping arrangements for each child, for example does each child have a bed or cot, with sufficient bedding?
- Are rent and bills paid? Does the family have any arrears or significant debts?
- How long have the family lived in their current home/current area? Does the family move frequently? If so, why? Are there problems with neighbours, landlords or dealers?
- Do other drug users/problem drinkers share or use the accommodation? If so, are relationships with them harmonious, or is there conflict?
- Is the family living in a drug-using/heavy drinking community?
- If parents are using drugs, do children witness the taking of the drugs, or other substances?
- Are children exposed to intoxicated behaviour/group drinking?
- Could other aspects of drug use constitute a risk to children (e.g. conflict with or between dealers, exposure to criminal activities related to drug use)?

Procurement of drugs

- Where are the children when their parents are procuring drugs or getting supervised methadone? Are they left alone? Are they taken to unsuitable places where they might be at risk, such as street meeting places, flats, needle exchanges, adult clinics?
- How much do the parents spend on drugs (per day? per week?) How is the money obtained?
- Is this causing financial problems?
- Do the parents sell drugs in the family home?
- Are the parents allowing their premises to be used by other drug users?

Health risks

- Where in the household do parents store drugs/alcohol?
- Do the children know where the drugs/alcohol are kept?
- What precautions do parents take to prevent their children getting hold of their drugs/alcohol? Are these adequate?
- What do parents know about the risks of children ingesting methadone and other harmful drugs?
- Do parents know what to do if a child has consumed a large amount of alcohol?
- Are they in touch with local agencies that can advise on issues such as needle exchanges, substitute prescribing programmes, detoxification and rehabilitation facilities? If they are in touch with agencies, how regular is the contact?
- Is there a risk of HIV, Hepatitis B or Hepatitis C infection?

If the parent(s) inject:

- Where is injecting equipment kept? In the family home? Are works kept securely?
- Is injecting equipment shared?
- Is a needle exchange scheme used?
- How are syringes disposed of?
- What do parents know about the health risks of injecting or using drugs?

Family and social supports

- Do the parents primarily associate with other substance misusers, non-drug users or both?
- Are relatives aware of parent(s)' problem alcohol/drug use? Are they supportive of the parent(s)/child(ren)?
- Will parents accept help from relatives, friends or professional agencies?
- Is social isolation a problem for the family?
- How does the community perceive the family? Do neighbours know about the parents drug use? Are neighbours supportive or hostile?

Parents' perception of the situation

- What do parents think of the impact of the substance misuse on their children?
- Is there evidence that the parents place their own needs and procurement of alcohol or drugs before the care and welfare of their children?
- Do the parents know what responsibilities and powers agencies have to support and protect children at risk?

ANNEX E

EFFECTS OF DRUG USE ON PREGNANCY

(Getting Our Priorities Right - Appendix III)

Opiates/Opioids

Heroin is short acting and many of the problems associated with its use result from the effects of withdrawal. Withdrawal causes contraction of smooth muscle; this can lead to spasm of the placental blood vessels, reduced placental blood flow and consequently reduced birth weight in babies.

Methadone, the opioid substitute, has a longer lasting effect, thus eliminating fluctuations in blood levels and creating more minor withdrawals. It does not increase the risk of pre-term labour, but can cause reduced birth weight and withdrawal symptoms in the newborn baby. While substitute prescribing has been reported to improve stability, there is no evidence that it benefits pregnancy.

Benzodiazapines

There is no good evidence of benefit from substitution therapy during pregnancy, although, in exceptional circumstances, substitution prescribing begun before pregnancy may be continued. There is no reliable evidence that use of benzodiazapines in itself affects pregnancy outcomes, but since it is frequently associated with medical and social problems, their use is often associated with poorer outcomes (especially low birth weight and premature birth) which in fact are caused by other factors. Use by the mother of benzodiazapines also causes withdrawal symptoms in the newly born baby, which can be particularly severe if there is 'poly' drug use.

Amphetamines and Ecstasy

There is no evidence that use of either amphetamines or ecstasy directly affects pregnancy outcomes, although there may be indirect effects due to associated problems. They do not cause withdrawal symptoms in the newly born baby.

Cocaine

Cocaine is a powerful constrictor of blood vessels, and this effect is reported to increase the risk of adverse outcomes to pregnancy e.g. placental separation, reduced brain growth, under-development of organs and/or limbs, and foetal death in utero. It would seem that adverse outcomes are largely associated with heavy problematic use, rather than with recreational use. Despite frequent reports to the contrary, cocaine use during pregnancy does not cause withdrawal symptoms in the newborn baby.

Cannabis

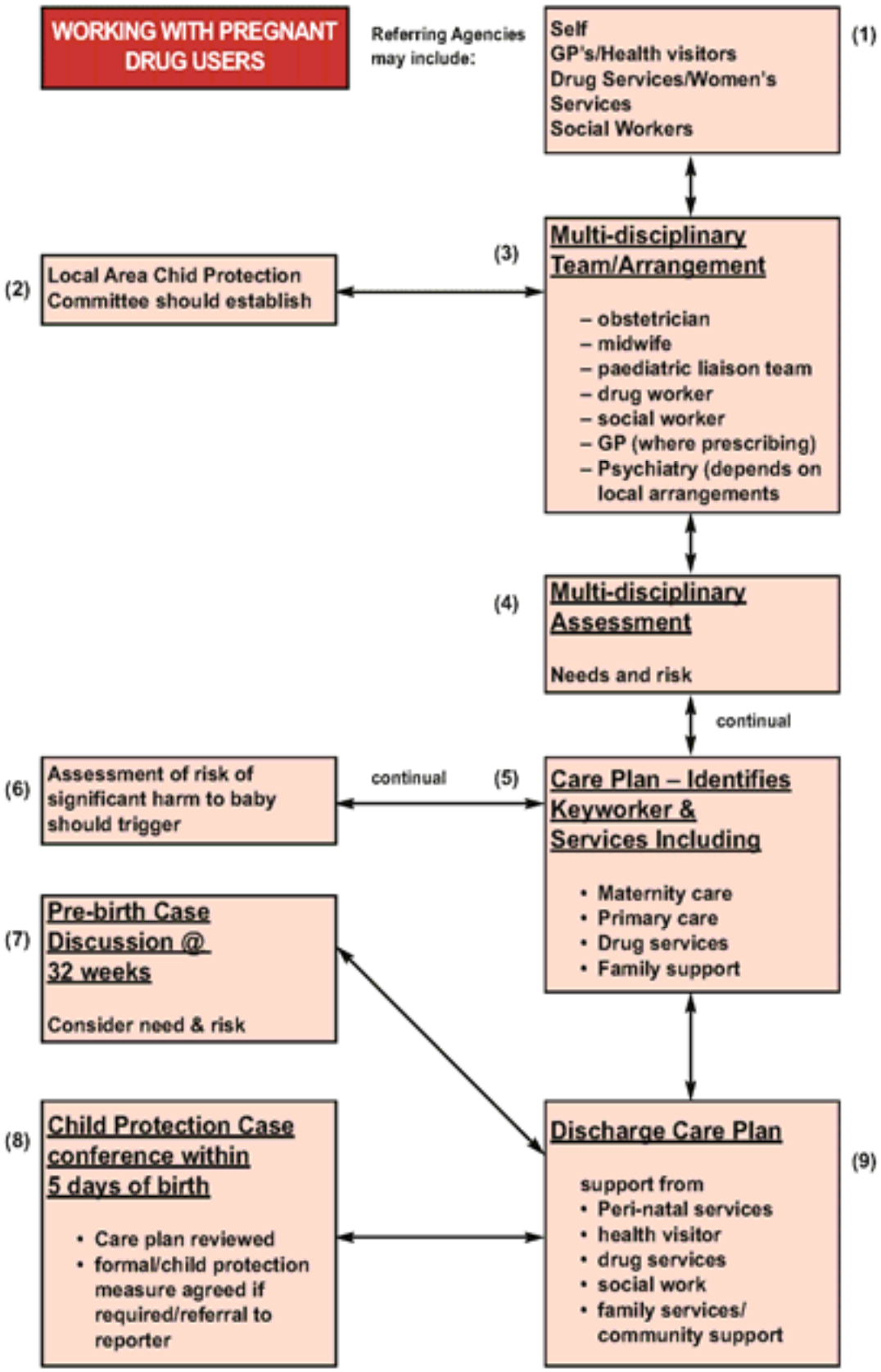
Cannabis is frequently used together with tobacco which may cause a reduction in birth weight and increases the risk of Sudden Infant Death. There is no evidence of a direct effect on pregnancy outcome from cannabis itself.

Tobacco and Alcohol

Maternal use of tobacco and alcohol can have significant harmful effects on pregnancy. Tobacco causes a reduction in birth-weight greater than that due to heroin, and is a major risk for cot deaths. Babies of women who smoke heavily during pregnancy may also exhibit signs of withdrawal, with 'jitteriness' in the neo-natal period. Low levels of alcohol consumption during pregnancy may seem harmless, but safe levels cannot be precisely identified. At higher levels alcohol causes reduction in birth weight, while amongst women who drink heavily in pregnancy (especially binge drinkers) a small number deliver babies with the combination of effects known as 'foetal alcohol syndrome'. These features include low birth weight with reduction in all parameters of growth (including head circumference and consequently brain size), and central nervous dysfunction including learning difficulties and characteristic facial abnormalities. The correlation with dosage is not exact, which suggests that other factors may contribute to the aetiology.

Breast-feeding

Mothers who are problem drug users and who are prescribed methadone should be encouraged to breast feed in the same way as other mothers, provided their drug use is stable and the baby is weaned gradually. Successful establishment of breast-feeding is in itself a marker of adequate stability of drug use. Women who use 'crack'/cocaine or large quantities of benzodiazapines may be advised not to breast feed.



FORM 1

DRUG TESTS

Drug Tests are an essential part of any Drug Treatment and Testing Order.

To begin with you are likely to be tested not less than twice per week and at no time will you be tested less than once per month.

The Court can order the **minimum number** of tests you are to receive in any month but your treatment provider **may increase** this number.

Many of your Drug Tests will be by appointment and you will know about them in advance.

Some of your tests, however, will be **at random** and **you will not be given any advance warning.**

For each drug test **you will be required to pass a sample of your urine**. **When you pass your urine for the test, this will have to be witnessed** by a member of staff of the same sex as yourself. No one else will be present.

The Court will take a serious view if you fail to turn up for a Drug Test or fail to co-operate with a Drug Test, including any failure to provide a sample. Where this occurs, you will be given no longer than 60 minutes to provide the necessary sample. You must never try to falsify a Drug Test or the consequences will be severe and be likely to include formal breach of your order. You would then risk custody.

The results **of all tests** will be given to the sheriff or judge at least every month.

The court knows that relapse may occur in recovery from drugs dependence and that recovery from drugs dependence may take some time. Its attitude to a positive test will depend on:

(a) your honesty in accepting your use of drugs or re-newed use of drugs;

(b) your honesty in facing up to any difficulties you are facing in your life which may be contributing to your drug taking or re-newed drug taking;

(c) your treatment plan and the progress you are making; and

(d) your future motivation and resolve.

It is where the Court is **not** satisfied with your honesty in these matters that it is more likely to take a dim view of positive tests and impose sanctions. You have the right to **contest** the result of any Drug Test. Samples will be sent to a laboratory for testing but two parts of the sample will be kept and stored. If you contest the result, the lab will re-test one of these two parts kept in store and you will be given the other part so you can have it independently tested if you wish. The costs for this will be covered. You should note, however, that the Court will be told every time you contest the result of a test and what the outcome is of the re-tests.

You have **one month** or to the **date your next Review Court hearing** - **whichever is sooner - to contest the result of your test**. Samples will not be kept after this time.

Tests will be by dipstick or by laboratory analysis or by any other approved method (eg saliva). Any contest of a dipstick test result will result in a lab test.

The Court expects that you will declare all legal medicines, pills or tablets that you have taken in the month before each test. You may have received these from your doctor or over the counter at a chemist or at a pharmacy. Before each test, you will have to sign a form giving such details or saying you've had none. This is because legal medicines can affect the test results.

The Court also expects that before each test you will declare if you've taken any methadone or any illegal drug in the month before the test, and if so what drugs/in what amounts/and how often?

Before each test, you will have to sign a form giving such details or declaring that you have taken no other drugs.

I understand and agree to all the above requirements and information on drug tests.

Signed (offender) …… Date ……..……

Signed (officer) …….. Date …….

(designation) ……

FORM 2

SHARING OF INFORMATION

Under the Data Protection Act 1998 you are given broad protections to ensure, in general, that information held about you and given to an agency for one purpose cannot used for any other purpose and cannot be shared with any other agency. There are some exceptions to this general rule.

The operation of the order depends on all the different agencies involved with or supporting the court working together in order to ensure its best chance of success. This is in your best interests as well as in the best interests of the wider community.

It is therefore important that the agencies involved in or supporting the Drug Treatment and Testing Order are able to share with each other relevant information they may have or gather about you.

These agencies would include

(i) the Court itself (sheriff, clerk of the court);

(ii) the Crown Office/ Procurator Fiscal Service;

(iii) your defence agent;

(iv) the Social Work Service;

(v) your treatment providers, including Health Service medical officers (doctors & nurses); and

(vi) the Scottish Prison Service (but only where you are held in custody during the currency of any part of your treatment order or assessment for your treatment order.)

(vii) the Scottish Police Service;

(viii) Reliance Monitoring Services

YOU ARE INVITED TO AGREE TO INFORMATION ABOUT YOU BEING SHARED BETWEEN THE ABOVE NAMED AGENCIES <u>BUT ONLY ON THE</u> CONDITION THAT THE INFORMATION WILL BE SOLELY USED IN <u>CONNECTION WITH THE DRUG TREATMENT AND TESTING ORDER AND RELATED MATTERS.</u>

I understand the above notes and give my consent to information about me being shared between the above agencies in relation to the Drug Treatment and Testing Order or treatment arising from it.

Signed (offender) …… Date ……

Signed (officer) …… Date ……

(designation) ……

FORM 3

RESEARCH INTO DRUG TREATMENT AND TESTING ORDERS

DTTOs are still a relatively new way for the criminal justice system to work with treatment, medical and social work resources to deal with offenders with significant drug problems and offending histories.

It is important to know if the DTTO approach can be more effective than traditional methods of dealing with drug related offenders:

(a) in reducing offenders' dependence on drugs; and

(b) reducing drug related offending.

The Scottish Executive has therefore decided that the work and results of DTTOs should be independently evaluated and researched.

You are important in this evaluation and research.

We need to know the characteristics of people referred to and accepted by the Court; what the best parts are of the DTTO operation – and what the weakest parts are; is it helpful in getting you good treatment – and fast – and does it support you to control your drug use; etc.

Your experience and views on all of this and related matters is therefore critical.

We would invite you to agree to co-operate with the researchers by seeing them from time to time and by answering their questions.

Any information you give them will be **private & confidential**.

You will not **in any circumstances** be identified

- to the Court
- to the sheriff or judge
- to any of the agencies involved at court or with your treatment, **or**
- to the general public.

You do **NOT** need to agree to this if you don't want to and it will not in any way prejudice you if you would be happier not to take part in the research. However, we hope you will agree to help out. The results of the research will help decide whether DTTOs should continue or even expand. We hope you will benefit from the opportunity the DTTO provides you with in reducing or controlling your dependence on drugs and in reducing the need to offend because of your drugs misuse. By agreeing to take part in the research, you would be helping not only yourself but also others in the future who find themselves in the same position as you are in now.

I agree to take part in the research and evaluation of DTTOs by the independent researchers on the basis that information given by me and about me is kept confidential so that my identity is guaranteed to be kept private and will not be disclosed.

I agree on the same guarantee of privacy and confidentiality that the researchers may have access to information held on me by the different Drug Court agencies.

Signed (offender) …….

Date……..

ISBN: 978-1-78045-278-4 (web only)

APS Group Scotland
DPPAS11814 (07/11)

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