



Better Courts Case-study: West London Drug Court

By Ben Estep

Executive Summary

It is estimated that between a third and half of all acquisitive crime committed in the UK is drug related – costing the country an estimated £14 billion per year.

One response to drug related offending is drug courts. Drug courts seek to use the court process to both support and coerce drug users into successfully engaging with treatment for their addictions, while holding them accountable for their behaviour. The Drug Rehabilitation Requirement, implemented as part of the Criminal Justice Act 2003, grants criminal courts in England and Wales the power to place offenders on compulsory drug treatment, accompanied by court supervision. However, this represents only a partial embrace of the full drug court model.

Since 2003, the evidence base on drug courts has matured. It is now clear that the role of the judge has a particularly strong impact on reducing drug court participants' offending. Research has demonstrated that the most effective drug courts hold offenders accountable and engage them in a consistent, meaningful and procedurally fair process of sentencer supervision.

Mainstream practice in England and Wales has not responded to this emerging evidence. Many magistrates' courts do not have specialised court staff or specialised sentencers to oversee drug-related cases. Courts often struggle to have offenders reviewed consistently by the same sentencer, making it difficult to develop an ongoing relationship and to discern progress.

The West London dedicated drug court has built on standard practice for drug-related offending with a number of features that accord with evidence about effective practice.

- **Dedicated sittings:** West London Drug Court (WLDC) ensures that drug-related court cases are exclusively dealt with at a dedicated drug court hearing, overseen by specialist sentencers and attended by treatment providers;
- **Consistent and specialist sentencer supervision:** All the reviews of the progress of drug using offenders on their community orders take place before the specialist judge or magistrates' panel that sentenced them, helping the court to more accurately discern progress; and
- **Increased collaboration:** The specialism that exists in West London elicits increased co-operation and information sharing between the range of agencies that are helping supervise the offender, including in-court staff and the local drugs team.

Evidence suggests that these elements can be more effective at reducing crime and drug use, and improve offenders' social inclusion and well-being. West London Drug Court demonstrates the feasibility of introducing innovative practice to mainstream courts within current resource and legislative constraints.

About this case study

In our recent report, *Better Courts*, we outlined an evidence-based vision of how courts in England and Wales could help reduce crime. This case study provides further detail on one of the case studies we outlined in *Better Courts*, the West London Drug Court. This paper briefly describes what sets West London Drug Court apart from other courts and identifies lessons that can be drawn from its example.

This may be of interest to court staff and managers, justice policymakers in government, practitioners with an interest in drug-related offending, or others interested in practice improvement and innovation.

Drug offending and court-mandated treatment in England and Wales

Drug related crime in the UK

It is estimated that over a third to half of all acquisitive crime committed in the UK is drug related. The annual cost of this offending has been estimated at nearly £14 billion.¹ At least 1 in 8 arrestees (equivalent to about 125,000 people a year in England and Wales) are estimated to be problem heroin and/or crack users, compared with about 1 in 100 of the general population.² The lives of many problem drug users are a cycle of continual offending. Despite the efforts of police, the courts, probation and health providers, nearly three out of every five drug misusers convicted go on to re-offend within one year.³

Courts and drug treatment in the criminal justice system

Over the last two decades, many countries have attempted to tackle the problem of persistent drug-related offending by incorporating drug treatment into their criminal justice systems. There is strong evidence that drug treatment can reduce drug use and re-offending,⁴ and that compulsory referrals to treatment made by the criminal justice system can be as effective as voluntary referrals.⁵

One of the most effective mechanisms for making compulsory referrals to drug treatment is the 'drug court'. From their beginnings in the United States in 1989, drug courts have spread to 15 countries. Drug courts use the court's authority to both support and coerce drug users into successfully engaging with treatment.

Drug courts usually share the following key attributes:

- court-mandated treatment: intensive treatment and other services are provided by court-based specialist teams to help drug court participants overcome their addictions;
- testing: drug court participants are regularly and randomly tested for drug use;
- sentencer supervision: drug court participants are required to appear in court frequently before the same drug court judge so their progress is reviewed;
- rewards and sanctions: Drug court participants are rewarded for doing well or sanctioned when they do not live up to their obligations.

Evidence suggests that drug courts in the US have been effective in reducing re-offending. As a major review of the evidence put it "Nationally, drug courts appear to reduce recidivism... We identified 30 evaluations... and found that adult drug courts, on average, have been shown to reduce recidivism rates by 13.3 percent."⁶

Courts and drug treatment in the UK

The success of drug courts in the US inspired the development of court-mandated drug treatment in the UK. The Home Office piloted this in the form of the Drug Testing and Treatment Order (DTTO) in 1998. A 2003 evaluation reported high reconviction and revocation rates, but noted that those who completed their order demonstrated substantial reductions in reconvictions.⁷

The principles tested out in the DTTO were enshrined into British legislation in the Criminal Justice Act 2003. This established the Drug Rehabilitation Requirement (DRR) as a component which could be incorporated into community orders. The DRR requires consenting offenders to engage with drug treatment and testing (varying in intensity based on treatment need and offending history). Where a DRR is set to last for between 12 months and 3 years, offenders are subject to sentencer supervision and in-court review hearings where treatment progress is monitored.

From their implementation, DRRs have consistently been a requirement in about 5% of community orders and suspended sentences – 13,294 commenced in 2012.⁸ In 2012/13, 55% of DRRs were successfully completed.⁹ However, they have not been subject to a national evaluation.

When the DRR was set up in 2003, little was known about how the drug court model produced the observed reductions in re-offending. Over the intervening period, we have learnt a great deal about what makes drug courts effective.

A major 2011 study in the US found that “judicial interactions with drug court participants are key factors in promoting desistance” and that “drug court clients who received higher levels of judicial praise, judicial supervision, and case management reported fewer crimes and fewer days of drug use”.¹⁰ A separate study found that drug courts were more effective where judges spend more time with participants in reviews, where treatment representatives attend reviews, and where court staff and treatment providers communicate closely.¹¹

In short, it is now clear that the role of the judge in holding offenders accountable as well as engaging them in a consistent, meaningful and procedurally fair process of sentencer supervision, has a particularly strong impact on reducing drug court participants’ offending.

Almost perversely, these are precisely the aspects of the drug court model which are generally either absent or more weakly implemented in DRRs. The majority of magistrates’ courts do not have specialised court staff and specialised sentencers to oversee DRR cases. The courts often struggle to have offenders reviewed consistently by the same sentencer, making it difficult to develop an ongoing relationship and track progress.

In the next section, we look at how one court in West London has sought to enhance the existing service provided under the DRR in line with some of the emerging best practice on drug courts.

The West London Drug Court

As we have seen, the DRR offers courts the option of mandated drug treatment, but it does not include important elements of the drug court model. Recognising this, the Home Office piloted five dedicated drug courts in 2005. These were intended “to improve the processes and effectiveness of the magistrates’ courts in dealing with drug-misusing offenders, aiming to reduce drug use and reoffending and improve sentence compliance.”¹² One of these is the West London Drug Court.

The West London Drug Court sits for one day per week within Hammersmith Magistrates’ Court, a busy court covering a very large, densely populated and diverse area. The court covers three inner London local authorities. Its jurisdiction includes a wide range of different areas, including major shopping districts that attract non-residents and a share of drug-related retail crime such as shoplifting.

While the project did receive a limited amount of funding to support initial development, it is currently funded from the courts normal operating budget.^{13,14}

Figure 1: DRR and West London Drug Court Features Compared

	Mandated Drug Treatment	Regular Drug Testing	Post-sentence Reviews	Dedicated, exclusive court sittings	Specialist sentencers	Continuity of reviews	Increased co-operation
Standard DRR	✓	✓	✓				
West London Drug Court	✓	✓	✓	✓	✓	✓	✓

What’s different about West London?

West London Drug Court builds on the standard DRR model. It has a number of additional features which mean that its use of DRRs more closely resemble the evidence-based US model of drug courts:

1. Dedicated Sittings

What happens?

Drug-related cases are sentenced and reviewed in a dedicated weekly sitting, overseen by specialist judges and magistrates. This setting is intended to exclusively deal with drug-misusing offenders. The court’s weekly sitting comprises a morning session for sentencing followed by review hearings in afternoons.

How do they do it?

- **Exclusivity:** drug-related cases are identified¹⁵, flagged, and allocated to the dedicated weekly sitting for sentencing, with all future review and breach hearings dealt with exclusively in the drug court up to the completion of the order.¹⁶
- **Specialist sentencers:** the court is overseen on alternate weeks by one of three rotating district judges or one of three benches of magistrates, each made up of three justices of the peace and supported by a legal adviser. Sentencers choose to work in the drug court, which means they are self-selected. They have an interest in engaging directly with offenders

so that they can understand and resolve the issues that underlie the offending. Working in the drug court enables sentencers to build up expertise in drug issues. They also receive periodic training.

What does it add?

The dedicated sitting underlines the court's purpose of exclusively dealing with drug-misusing offenders and allows treatment providers and the local drugs team to be present and regularly involved. Sentencers, whose commitment to the model is underscored by their volunteering for involvement, build an understanding of addiction and its link to offending. This experience further informs appropriate sentencing and breach decisions.

Stakeholders report that the dedicated sitting and involvement of specialist sentencers enables better information sharing between courts and other agencies. Increased knowledge of drug issues held by all parties contributes to more appropriate sentences, including the ability to discern treatment needs that underly offending behaviour, and better informed reviews.

2. Continuous and Specialist Post-Sentence Reviews

What happens?

Post-sentence reviews are scheduled to ensure that clients are seen by the district judge or magistrates' bench that originally sentenced them. Review hearings are held in a less formal court setting intended to encourage engagement.

How do they do it?

- **Sentencer continuity:** continuity between sentencers and offenders is achieved through synchronising their respective calendars. The court's legal adviser administrates a rota to ensure that this schedule is maintained throughout the review process. Involved magistrates are arranged into three-person benches that oversee sentence and review hearings once every six weeks. Thus, sentenced offenders will be back before the same bench that sentenced them at each subsequent six-weekly review. This requires an extra degree of commitment from magistrates, who bind themselves to a consistent schedule, but is more straightforward for district judges who sit more frequently.
- **Supportive environment:** review hearings take place in a small adapted court room, where sentencers and offenders sit at the same level. They are attended by representatives of probation, the treatment provider and Narcotics Anonymous and by an addiction psychiatrist. Sentencers review a progress report which includes drug test results, and discuss progress directly with clients, offer encouragement or admonition, and frequently set targets to aim for by the next review.

What does it add?

Continuity is crucial to fostering a relationship between sentencers and offenders, and allows for a fuller and more accurate discernment of progress.¹⁷ The setting of review hearings contributes to a more informal approach which emphasises client engagement. While solicitors do not typically attend, voluntary sector representatives are on hand to offer support.

Stakeholders report that maintaining a continuous relationship between client and sentencer is central to the model, and enables a relationship which improves long-term outcomes. It permits more accurate judgement of progress, while also enhancing client perceptions of the legitimacy of the process.

3. Increased Collaboration

What happens?

The setup of the drug court supports better communication among court staff and external partners, such as drug treatment providers.¹⁸ It includes regular cross-agency meetings, is seen to improve overall case management, and brings together partners in the same courtroom at the same time.¹⁹

How do they do it?

- **A multi-agency steering group:** the drug court has a steering group, including district judges, magistrates, police, probation, the court service, and others. The group meets quarterly which gives participants an opportunity to discuss the day-to-day operations of the court and trends.
- **Specialised sitting as a venue for engagements:** having specialised sittings is seen to improve case management and information sharing by simply bringing “all the agencies together in the same courtroom at one time.”²⁰

What does it add?

Multi-disciplinary co-operation at the court, via the quarterly steering group meeting, offers a valuable opportunity for court stakeholders to invite and involve allied agencies (including police and housing), provides a forum for considering practice improvements, and helps to develop stakeholders' shared understanding of the court's role and functioning. Stakeholders also regularly exchange information informally. The court's active embrace of outside support is exemplified by the longstanding involvement of an addiction psychiatrist who provides support and advice on a voluntary basis.

Stakeholders reported that having the drug court framework in place encourages greater co-operation between the range of agencies, within and outside the court, who engage with drug-misusing offenders.

Conclusions

The West London Drug Court demonstrates that it is feasible for magistrates' courts to ensure dedicated sittings, and continuous and specialist sentencer supervision with little or no additional funding or powers. This is important because evidence suggests that these practices may be key to reducing offending and drug use: a collaborative, team-based approach, and the continuous involvement of engaged judges who are positively perceived by clients, have been identified as key components of successful drug courts.^{21,22}

While we have been unable to directly test whether the incorporation of these elements at West London has led to a reduction in re-offending and drug use, we note that the stakeholders we interviewed perceive that it has had this effect.

However, the enhanced West London model, while welcome, still does not include all the features which evidence suggests will characterise an effective drug court. In particular, the existing DRR provisions do not offer a comprehensive set of sanctions, delivered with consistency and predictability, that are a key and evidence-based feature of effective drug courts in the US.

Nonetheless, the additional service provision delivered at West London, through delivering specialism and consistency, and combining that with multi-agency collaboration and leadership, seems an improvement over the 'standard' DRR implementation.

Recommendations

With these conclusions in mind, we suggest that other courts should consider whether the following elements of the West London model could enhance their own effectiveness, both specific to DRR delivery, and more broadly to improve the way they work with vulnerable offenders.

- Improving the consistency of offender-sentencer relationships, by placing offenders and specialised sentencers on synchronised schedules for DRR reviews.
- Developing communication and information sharing among both statutory agencies and external partners. This could be encouraged through regular cross-agency meetings, and is further facilitated by bringing partners together in the same courtroom at the same time.

We recommend that the government pilots other elements associated with successful drug courts, including the power to impose swift and certain intermediate sanctions for non-compliance.

Further research is also needed to determine whether the additional aspects of the dedicated drug court model as enacted at WLDC produce more social value than the standard DRR.

Endnotes

1. Singleton, N., Murray, R., & Tinsley, L. (2006). *Measuring different aspects of problem drug use: Methodological developments*. Home Office Online Report 16/06. Cited in: National Audit Office (2010): Tackling Problem Drug Use.
2. UK Drug Policy Commission. (2008) *Reducing drug use, reducing re-offending: Are programmes for problem drug-using offenders in the UK supported by the evidence?*
3. Ministry of Justice. (2013). *Proven re-offending statistics quarterly bulletin: July 2010 to June 2011, England and Wales*. Ministry of Justice Statistics Bureau.
4. "There is good evidence that a wide range of drug interventions have a positive impact on reducing re-offending. This includes methadone treatment, heroin treatment, therapeutic communities, psychosocial approaches... Various approaches are used in community settings, including those that divert or route drug offenders into treatment, typically with testing and supervision requirements." Ministry of Justice. (2013). *Transforming rehabilitation: A summary of evidence on reducing reoffending*.
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11. Carey, S.M., Mackin, J.R., & Finigan, M.W. (2012). 'What works? The ten key components of drug courts: Research-based best practices.' *Drug Court Review*, 8, 6-42.
12. Kerr, J., Tompkins, C., Tomaszewski, W., Dickens, S., Grimshaw, R., Wright, N. & Barnard, B. (2011). *The Dedicated Drug Courts Pilot Evaluation Process Study*. Ministry of Justice Research Series 1/11. Prior to the pilot, the court had already set up a specialised process for administering DRRs.
13. Matrix Knowledge Group. (2008). *Dedicated drug court pilots: A process report*. Ministry of Justice Research Series 7/08.
14. The original pilot was intended to operate without additional running costs, other than those related to additional administrative duties borne by the co-ordinating legal adviser. Kerr, op. cit.
15. The court works with offenders who have been drug tested by police after being arrested for one of a set of 'trigger' offences such as shoplifting, and who have tested positive for Class A drugs.
16. Exclusivity is not universally achieved, particularly with breach hearings which must be listed within a limited time, or when eligible defendants are not identified prior to sentencing.
17. A limited statistical analysis of continuity data at dedicated drug court pilot sites (not including WLDC) by Kerr (2011) found "[a suggestion] that greater bench continuity was linked to having a lower chance of a breach hearing."
18. Unlike some drug court models with shared premises and co-located drug treatment, WLDC relies on off-site commissioned services.
19. Kerr, op.cit.
20. Kerr, op. cit.
21. Carey, S.M., Mackin, J.R., & Finigan M.W. (2012). 'What works? The ten key components of drug court: Research-based best practices.' *Drug Court Review*, 8, 6-42.
22. Rossman, op. cit.

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