



# Operational Process Guidance for Implementation of Testing on Arrest, Required Assessment and Restriction on Bail

March 2010 – re-issue

For use in all areas testing on arrest. This version updates and replaces the guidance which was issued in April 2009. The alterations are: at 1.1 reflecting the fact that the FAQs form part of the guidance; at annex O to make it clearer for which assessment there was a failure to attend and remain; at annex P - the minor changes are highlighted.

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## 1 Introduction

### 1.1 What is the purpose of this guidance?

This document provides operational process guidance on the implementation of Testing on Arrest, required assessment (RA) and Restriction on Bail provisions (RoB). The Operational Process FAQs form part of this guidance and should be read in conjunction. These are available at [http://drugs.homeoffice.gov.uk/drug-interventions-programme/guidance/RA\\_guidance/](http://drugs.homeoffice.gov.uk/drug-interventions-programme/guidance/RA_guidance/). The guidance includes:

Section 1; Purpose of this guidance, who should use the guidance, who has contributed to its production and when the guidance will come into effect

Section 2; Background and policy context

Section 3; Legal framework

Section 4; Monitoring and research

Section 5; Drug Testing detailed process guidance

Section 6; Required assessment detailed process guidance

Section 7 Restriction on Bail detailed process guidance

Annex A; List of police areas, BCUs and custody suites eligible for adult drug testing

Annex B; List of trigger offences applicable to drug testing from 15/01/07 (from 1 August 2007)

Annex C; Drug Testing Process Map

Annex D; Required Assessment Process Map

Annex E; Restriction on Bail process map

Annex F; Site Amendment process map

Annex G; Site amendment Notification Proforma

Annex H; DT 1 Form (from 1 August 2008)

Annex I; DT 2 Form

Annex J; RA1 form

Annex K; RA2 form

Annex L; RA3 form

Annex M; RA4 form

Annex N; RA5 form

Annex O; Basic evidential template for information required by the police / prosecutor / court in cases of failure to attend or remain for the duration of the assessment

Annex P; Extracts from relevant legislation [Drugs Act 2005 (Testing on Arrest and required assessment), Criminal Justice Act 2003 (Restriction on Bail) and PACE Act 1984]

Annex Q; Glossary of Terms

### 1.2 How to use this guidance

The guidance has been designed to bring together all relevant information about the three provisions (Testing on Arrest, required assessment and Restriction on Bail) whilst still enabling the reader to navigate through the document, finding what is needed, as easily as possible. It is not the intention that every reader would need to read the whole document through.

Sections 1- 4 provide context to the new provisions and the Annexes provide related material such as the forms which support the process and extracts of relevant legislation.

The main body of the document, sections 5 -7, contains the detailed process guidance which will enable implementation. Each significant step of the process is split into three parts:

- Definition and significance – explaining what this stage in the process is and its role within the overall policy
- Required actions – who must take what action and when. These actions often relate to legal requirements and are always key to moving effectively through the process.
- Local issues – this highlights where there is flexibility around how outcomes may be achieved.

Overall, the guidance aims to be prescriptive only where necessary and allows for local partnerships to develop working practices which meet both the requirements of the provisions and local circumstances. It is often the case that it would be inappropriate to try to impose a single model of how to achieve a required action / outcome, when what is most efficient and effective may depend on local resources and structures.

This guidance updates the guidance which was issued in April 2009; reflecting the fact that the Operational Process FAQs form part of this guidance.

### 1.3 How does this guidance relate to young people under the age of 18?

This guidance document relates only to those individuals aged 18 and over.

### 1.4 How does the process work when people transfer between areas?

(See sections 5 - 7 for detailed process guidance about drug testing, required assessment and Restriction on Bail.

If the individual is a resident outside of the area in which they have been tested (whether another intensive area or a non-intensive area) and the initial assessment is carried out in the area in which they have been tested, the CJIT worker should make arrangements with the CJIT in their area of residence for an appointment for a follow-up assessment if the CJIT worker meets the criteria at 6.2.1 of this Guidance. The CJIT worker must make the appointment with the CJIT in the area of residence before completing the initial assessment using the CJIT Single Point of Contact (see section 6.2.2 for further details). All CJITs - in both intensive and non-intensive areas - have a CJIT Single Point of Contact (SPOC) in place who should be contacted in order to make the appointment (using the directory of CJIT SPOCs which will be provided in each custody suite). DATs in non-intensive areas will need to ensure that their CJIT SPOC is fully functioning and able to make the necessary appointments and that appropriate treatment is available.

If the individual is a resident outside of the area in which they have been tested and it is not possible for the initial assessment to be carried out immediately in the area in which they have been tested, arrangements must be made for the initial assessment to be carried out by the CJIT in the individual's area of residence (see section 5.4.7.1 for further details). The CJIT worker in the area of residence would then decide if a follow-up assessment is appropriate (see section 6.2.1 for further details) and make an appointment in their area for the follow-up appointment to take place.

Where an individual is charged and RoB becomes an issue, the aim must be for the individual – before they appear in court - to have had a required assessment (initial or follow-up) which satisfies the RoB requirements. If the required assessment has not taken place or it does not satisfy the RoB requirement, then the CJIT in the area where the individual is taken to court should endeavour to conduct an assessment or further assessment for purposes of RoB within the confines of the court. It should be on rare occasions only that the required assessment has not taken place before or whilst the individual is at court. In those instances, the requirement to undergo an assessment for RoB will form the first part of the defendant's conditions of bail. In such cases, the court CJIT worker should arrange with the CJIT SPOC in the area of residence the time, date and place for them to conduct the assessment, which should meet the needs of the court; this will form the first part of the RoB conditions (see section 7.6).

In all RoB cases, the CJIT in the area of residence will be responsible for any follow-up, whether that be treatment or any other form of help and support. They will also be responsible for compliance with the RoB conditions and deal with any breach of those conditions as described in section 7.9. This will include informing the local police and dealing with any breach hearings at their local courts.

Non-intensive areas will need to have made the necessary arrangements with their local police to ensure that breaches of RoB are dealt with in line with section 7.9 of this guidance.

### 1.5 Who should use this guidance?

Primarily all of those involved in implementing these provisions, especially:

Police - custody officers, detention officers, operational officers and other police staff

CJIT workers and managers

CPS prosecutors

Criminal Justice Unit (CJU) staff

It will also be of interest to those involved more widely with the Drug Interventions Programme, such as:

Government Offices - drug and crime teams

DA(A)T / Crime and Drug Reduction Partnerships (CDRP) / Community Safety Partnerships (CSP)

/Substance Misuse Action Teams (SMAT) members

Senior police officers

NOMS – probation and prisons

Court Services

### **1.6 Who has contributed to this guidance?**

Drug Interventions Programme (Home Office)

Legal Advisers Branch (Home Office)

National Treatment Agency

National Offender Management Service

Crown Prosecution Service

National Criminal Justice Drugs Workers Forum

Association of Chief Police Officers

Regional Government Office/NTA champions

Court Services

### **1.7 When will this guidance come into effect?**

This guidance updates and replaces the guidance which was published in April 2009, as well as previous versions published in March 2006 and January 2007. It is effective immediately.

## 2 Background and Policy Context

### The Drug Interventions Programme

The Drug Interventions Programme (DIP) is a critical part of the Government's strategy for tackling drugs. It began in 2003/04 as a three-year programme to develop and integrate measures for directing adult drug-misusing offenders out of crime and into treatment. The Programme is continuing beyond the original 3-year period, with the aim of gradually ensuring that the constituent interventions and processes become the established way of working with drug misusing offenders across England and Wales.

The Programme involves criminal justice and drug treatment providers working together with other services to provide a tailored solution for adults - particularly those who misuse Class A drugs - who commit crime to fund their drug misuse. Its principal focus is to reduce drug-related crime by engaging with problematic drug users and moving them into appropriate treatment and support. It aims to break the cycle of drug misuse and offending behaviour by intervening at every stage of the criminal justice system to engage offenders in drug treatment.

Key partners to the Home Office are the criminal justice agencies such as the police, prisons, probation officers and the courts, along with the Department of Health, the National Treatment Agency, treatment service providers and those who provide linked services such as housing and job-seeker support.

Drug testing on charge was originally introduced on a pilot basis in 2001. Extended extensively as part of the Drug Interventions Programme, testing is used to identify problematic drug misusing offenders in order to try to encourage them to enter drug treatment.

### Drugs Act 2005

This guidance relates to measures introduced in the Drugs Act 2005 ("the Act") in respect of those aged 18 or over.

The additional measures are helping to achieve DIP's aims by identifying more problem drug users (by testing a larger sample of people) and encouraging more people who test positive to attend assessment/s (by adding a sanction for failure to attend and remain).

### Testing on Arrest

The Act includes a provision to move the point at which a drug test may be carried out to post-arrest rather than post-charge. An individual will be tested on arrest where they fulfil all of the following conditions: are aged 18 or over; are in police custody; and were arrested for a trigger offence or for an offence where a police officer of Inspector rank or above suspects specified Class A drug use was a causal or contributory factor. Testing on Arrest enables us to identify adults misusing specified Class A drugs earlier in their contact with the criminal justice system, so that they may be steered into treatment and away from crime as soon as possible. It has also increased the volume of drug misusing arrestees identified – providing an opportunity to screen more people at some stage of their detention - and will ensure that those who misuse drugs but are not charged with an offence are nevertheless helped to engage in treatment and other programmes of help.

Testing on Arrest has been implemented in individual police stations through notification letters to the Chief Constables of the affected forces from the Home Office (see section 1 of Annex A for list of relevant police stations). Only police stations named in these notification letters can test on arrest. If, for operational reasons, the police in an testing on arrest police force area wish to set up an additional police station with drug testing facilities the Home Office MUST be consulted in advance by completing the site amendment notification proforma at Annex G – without Home Office authorisation it is illegal to test any individual on arrest. If the request is authorised, a revised notification letter will be issued. The same procedure will apply if a police station with drug testing facilities is to be closed temporarily and the police wish to transfer drug testing operations to an alternative police station not listed in the notification letter. Again please complete the proforma at Annex G and the impact on the data handling process outlined in guidance within the process maps at Annex F must also be considered. Any temporary change must to be endorsed by the Force Strategic Lead and the Government Office DIP Lead. In order to assess the impact of moving the drug testing operations to another custody suite, the police will need to follow the guidance within the process maps at Annex F.

### Required assessment

Prior to the Tough Choices Project, which introduced the required initial assessment, following a positive drug test, an individual would have been asked whether they wished to see a drug worker based in the custody

suite. Take-up of this offer was voluntary on the part of the individual. Part 3 of the Act introduced a new power for the police to require adults who had tested positive for a specified Class A drug when tested on arrest or charge, to attend an assessment of their drug use (**an initial assessment**). Provision was also made in the Act for a police officer, when imposing the requirement to attend an initial assessment, also to require the individual concerned to attend a **follow-up assessment**. This requirement would cease to apply if the drugs worker conducting the initial assessment considered it to be inappropriate. Both the initial assessment and the follow-up assessment provide opportunities for those testing positive to engage with treatment and other support, even if they do not go on to be charged with any offence.

For the purposes of this guidance the phrase “**required assessment**” will refer specifically to both the initial assessment and follow-up assessment required under the new provisions. This is in order to distinguish it from any other assessment (e.g. a voluntary or RoB related assessment).

#### Restriction on Bail

Section 19 of the Criminal Justice Act 2003 amended the Bail Act 1976 to provide for a Restriction on Bail for adults who have tested positive for specified Class A drugs (heroin, cocaine or crack). Where the relevant conditions are met the defendant will be asked at the initial bail hearing to undergo an assessment of their drug problem (a **relevant assessment**) and agree to participate in any follow-up recommended by the assessor. If the defendant agrees, they will, in most cases, be released on conditional bail. However, if they refuse, the normal presumption for bail is reversed and the court will not grant bail unless satisfied that there is no significant risk of the defendant committing an offence whilst on bail. It acts as an incentive for those charged with offences to address any drug misuse or lose the right to be considered for bail pending trial. Restriction on Bail was extended to all Local Justice areas in England from 31 March 2006 and will be extended to all local justice areas in Wales from April 2009. This means that any adult defendant who is brought before any court in England and Wales with a positive drug test result following Testing on Arrest and Charge could have the provision applied to them irrespective of the area in which they live, within England and Wales.

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### 3 Legal Framework

#### 3.1 Drug testing in the custody suite

##### 3.1.1 Legislative consequences and PACE references

Section 63B of Police and Criminal Evidence Act 1984 (PACE) (as amended by Section 7 of the Drugs Act 2005) provides for a sample of urine, or a non-intimate sample, to be requested by a police officer and taken from persons in police detention for the purpose of ascertaining whether they have a specified Class A drug (heroin or cocaine/crack) in their body if:

(a) the person concerned has been arrested or charged with a “trigger” offence (trigger offences are detailed in Schedule 6 to the Criminal Justice and Court Services Act 2000); or

(b) the person concerned has been arrested or charged with an offence and a police officer of Inspector rank or above, who has reasonable grounds to suspect that the misuse by the person of any specified Class A drug caused or contributed to the offence, has authorised the taking of the sample.

##### **A copy of the provision is at Annex P.**

A list of trigger offences is attached at Annex B. The offences are primarily drawn from the Theft Act 1968, the Misuse of Drugs Act 1971 and the Vagrancy Act 1824. The Theft Act offences are generally concerned with acquisitive property crime, of the kind often committed by drug users to finance their drug habits. The Misuse of Drugs Act offences concern heroin and crack/cocaine. The Criminal Justice and Court Services Act 2000 (CJCSA 2000)(Amendment) Order 2004 (S.I. 2004/1892) added new trigger offences to Schedule 6: handling stolen goods, begging, and persistent begging, as well as attempts at the existing trigger offences, where relevant.

Schedule 6 to the CJCSA 2000 has been further amended by the Fraud Act 2006 with further changes to the list of trigger offences. The CJCSA 2000 (Amendment) Order 2007 (S.I. 2007/2171) inserted three new trigger offences with effect from 1 August 2007. A list of the trigger offences which apply for practical purposes for drug testing persons in police detention from 15 January 2007 can be found at Annex B.

Section 57(3) of the Criminal Justice and Court Services Act 2000 (CJCS) amends section 38 of the Police and Criminal Evidence Act 1984 (PACE) to enable police custody officers to detain a person after charge where necessary for the purposes of taking a sample to test for the presence of a specified Class A drugs (subject to conditions and procedures set out in sections 63B and 63C of PACE, as inserted by section 57 of the CJCS).

Under section 63B(6) of PACE a sample may only be taken by a person prescribed by regulations made by the Secretary of State. The persons so prescribed are set out in the Police and Criminal Evidence Act 1984 (Drug Testing of Persons in Police Detention) (Prescribed Persons) Regulations 2001 (S.I. 2001/2645) which came into force on 19 July 2001. The persons so prescribed are:

- a) a police officer;
- b) a person employed by a police authority or police force whose contractual duties include taking samples for the purpose of testing for the presence of specified Class A drugs;
- c) a person employed by a contractor engaged by a police authority or police force whose duties include taking samples for the purpose of testing for the presence of specified Class A drugs.

Under the Drug Interventions Programme, the sample taken will be oral fluid (referred to as ‘saliva’ in the documentation) and not urine.

Drug testing on arrest and on charge of persons in police detention for the presence of specified Class A drugs is currently taking place in selected police stations/custody suites in police force areas where the relevant provisions in PACE have been brought into force and relevant Chief Officers have received appropriate notification from the Secretary of State (see Annex A).

Section 63B as amended by section 7 of the Drugs Act 2005 gives the police maximum operational flexibility within the constraints of PACE to drug test an individual who is in police detention. It is not proposed that the guidance articulates every circumstance where a police officer may require a sample of saliva to be given under the provisions of 63B. However, the following legal principles should be noted:

that a police officer may require a sample to be given from a person aged 18 or over either after arrest or after charge with a relevant offence, following arrival at a police custody suite where approved drug testing facilities are available and the detention has been authorised by the custody officer;

that for these purposes a relevant offence is either a trigger offence or any offence in respect of which an Inspector or above has authorised the taking of a sample because he has reasonable grounds to suspect that the misuse by the person of any specified Class A drug caused or contributed to the offence;

the police may require a sample to be given if, whilst in police detention for an offence in respect of which testing is not permitted, an individual is arrested for a subsequent offence (provided that the subsequent offence is either a "trigger offence" or an offence where an Inspector or above has reasonable grounds to suspect that the misuse by the person of any specified Class A drug caused or contributed to the offence);

- Section 63B(5B) forbids an individual being drug tested twice during the same period of continuous detention – see section 5.3.

Section 37(8B) enables the police to detain a person who is to be released on bail without charge for a relevant offence [either under section 37(2) or section 37(7)(a) or (b) of PACE] for the purpose of enabling a sample to be taken under section 63B of PACE so long as the overall detention period does not extend beyond 24 hours from the relevant time (as defined in section 41 of PACE).

Section 38 enables the police to detain a person who has been charged with a relevant offence and who would otherwise be released (either with or without bail) under that section for the purpose of enabling a sample to be taken under section 63B of PACE so long as he is not kept in detention beyond 6 hours from when he was charged.

Persons are requested to give a sample for testing and cannot be forced to do so. However, persons commit an offence under sections 63B and 63C of the Police and Criminal Evidence Act 1984 where they refuse without good cause to provide a sample for which they are liable, on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale (£2500) or both

An individual's detention without charge may not be extended beyond 24 hours of the relevant time solely for the purpose of conducting a drug test (see section 5.3).

This section should be read in conjunction with the PACE Codes of Practice.

It should be noted that a person arrested in a non-intensive area should not be taken to an intensive area *solely* to be tested. However if the police, in line with normal police practice, decide to take a person arrested in a non-intensive area to a custody suite with testing equipment then that person may be tested.

**See annex A for a list of police areas, Basic Command Units and custody suites eligible for adult drug testing.**

### 3.2 Required Assessment

Part 3 of the Drugs Act 2005 introduced a new power for the police to require persons who have tested positive for a specified Class A drug when tested on arrest or charge, to attend two assessments of their drug use (**an initial assessment – Section 9** and **a follow-up assessment – Section 10**) with a suitably qualified person. A "suitably qualified person" will be somebody who is competent to carry out the initial assessment and will, in almost all instances, be a CJIT worker, who will also be employed to carry out voluntary assessments in the same area. All such workers will have, or be working towards, the relevant Drug and Alcohol National Occupational Standards (DANOS) competencies (<http://www.skillsforhealth.org.uk/page/competences/completed-competences/list/drugs-alcohol-danos>).

**A copy of the provision is at Annex P.**

The person is required to attend and stay for the duration of either assessment in question. If they fail to do so, without good cause, they commit an offence and may face criminal sanctions. While the expectation is that competent drug workers will be able to gain the co-operation and active engagement of the individuals they assess, the legislation does not actually require input from the individual. This avoids the potential difficulties of workers having to make subjective judgements in each case about the degree of the individual's engagement.

These powers can only be exercised in respect of persons aged 18 and over, (with provision for the Secretary of State to amend this minimum age by an order, which must be approved by both Houses of Parliament). In addition the powers can be exercised only where the relevant Chief Officer of police has been notified that arrangements for conducting initial and follow up assessments have been made for the age group concerned.

The initial assessment is to enable the assessor to establish the person's dependency upon, or propensity to misuse specified Class A drugs and whether they might benefit from further assessment, or from assistance or treatment (or both). In addition the assessor will provide harm minimisation advice and, as appropriate, an explanation of the types of assistance and treatment available. The Drugs Act 2005 (section 10) provides that where a police officer requires a person to attend an initial assessment and remain for its duration [and where the age and notification conditions are met, that officer must at the same time also require the person] to attend a **follow-up assessment** and remain for its duration (although this requirement will cease, if the person is informed at the initial assessment that he no longer needs to attend a follow-up assessment). The purpose of the follow-up assessment is to provide a further opportunity for the individual to discuss their drug misuse with a drugs worker and to obtain advice relating to that misuse and, if the follow-up assessor considers it appropriate, to draw up an initial care plan.

The new Drug Interventions Record (and associated forms), which was introduced in April 2007, will be used to record the outcome of a Required Assessment (both initial and follow-up assessments) in the same way that it is used to record information from voluntary assessments. The DIR is not an assessment tool but rather a record which, for monitoring and research and continuity of care purposes, gathers information which the worker will have obtained while carrying out the assessment. The introduction of Required Assessment (initial and follow-up) has no impact on locally used assessment tools. CJIT workers will, where they feel the individual would benefit from ongoing support, seek to engage the individual further in follow-up appointments and activities, care plans etc. Separate guidance on the DIR processes has been issued.

The requirement to undergo a Required Assessment and remain for the duration ceases if the person is charged with the related offence and the court grants conditional bail under the Bail Act to undergo a relevant assessment and participate in any relevant follow-up (see 3.3). If an individual is remanded in custody before the Required Assessment has been carried out, this will constitute "good cause" for not attending and they will not therefore be liable to prosecution for failure to attend.

### 3.3 Restriction on Bail

#### CRIMINAL JUSTICE ACT 2003 -

##### Section 19: Restriction on Bail for Drug Misusers

Section 19 of the Criminal Justice Act 2003 amends the Bail Act 1976 by placing on the courts a new qualified obligation when considering bail applications, in cases where a defendant has tested positive for a specified Class A drug<sup>1</sup>.

A copy of the provision is attached at annex P.

##### 3.3.1.1 Purpose of the provision

The purpose of the provision is to reduce re-offending whilst on bail. There is compelling research evidence linking the use of heroin and crack/cocaine with acquisitive crime and a real concern that if such offenders are placed on bail they will re-offend in order to fund their drug use. It is also important to take every opportunity to encourage drug-misusing offenders into treatment, where their drug use can be addressed.

##### 3.3.1.2 Circumstances in which the provision applies

Subject to the notification to the courts by the Secretary of State, the provision applies when a defendant:

- a) is aged 18 or over; **and**
- b) has tested positive for a specified Class A drug either –
  - i) under Section 63(B) of the Police and Criminal Evidence Act 1984 (drug testing after charge) in connection with the offence or
  - ii) under section 161 of the Criminal Justice Act 2003 (drug testing after conviction of an offence but before sentence)<sup>2</sup>; **and**
- c) either the defendant has been charged with an offence under section 5(2) or 5(3) of the Misuse of Drugs Act 1971 (possession or possession with intent to supply) relating to a specified Class A drug, or the defendant has been charged with any offence which the court is satisfied was caused, wholly or partly, by the defendant's misuse of a specified Class A drug or was motivated, wholly or partly, by his intended use of a specified Class A drug.

<sup>1</sup> Heroin, Crack/Cocaine. (SI 2001/1816)

<sup>2</sup> Section 161 is not in force

It is the accepted view that the combined evidence of a positive test and trigger offence amounts to 'substantial grounds for believing that the offence in question was caused or motivated by the intended use of a specified Class A drug'. In the words of the Attorney General, during the Committee Stage of the Criminal Justice Bill in the House of Lords:

*'this clause (section 19) amends Bail Act 1976 to create...a presumption against court bail for an adult who is charged with an imprisonable offence, who has tested positive for a specified Class A drug and who refuses to be assessed as to dependency upon or propensity to misuse such drugs, or who having undergone such an assessment, refuses to undergo relevant follow-up action.'*

It does not apply when a defendant:

has refused to provide a sample for drug testing; a positive test is a prerequisite for the provision's application and even if the reason for it not being available is as a result of the defendant refusing to provide a sample the provision does not apply.

Where the person has either:

- been offered and agreed to undergo a relevant assessment; or
- undergone a relevant assessment and been offered and agreed to participate in the relevant follow-up;

the court, if it grants bail, shall impose as a condition of bail that the person undergo the relevant assessment and any proposed follow up or, where the person has already undergone a relevant assessment, participate in the relevant follow-up.

Where the person has been offered but refuses to undergo a relevant assessment or, where the person has already undergone the relevant assessment, has been offered but refuses to participate in any follow-up, the court may not grant bail unless it is satisfied that there is no significant risk of the person committing an offence while on bail.

### 3.4 Consent and Information Sharing issues

The policy intention of Testing on Arrest, required assessment and Restriction on Bail is to identify problem drug using offenders at the earliest stage in the criminal justice system and to use levers within that system to move them into treatment and support and away from crime. Offenders are faced with the choice of complying with what is required of them or facing criminal sanctions.

These new or expanded interventions will only be effective if those involved with the individuals concerned – police, CJITs, CPS and courts in particular – are able to share the information necessary to ensure an appropriate response to an individual's compliance or failure to comply with what has been legally required of them. Creating requirements which may be ignored without sanction will not help to change people's lives, reduce their offending behaviour or help them into appropriate treatment and support.

This section sets out what information needs to/should be shared at the different stages of the process, between whom it must be shared and the legal framework within which this may take place (including where disclosure/information sharing is specifically provided for in legislation), including when consent may be required. This does not, however, take account of the statutory provisions in other law which may apply in specific cases and under certain circumstances and accordingly qualify or over-ride the specific provisions set out in this guidance.

This section does not cover, in detail, wider issues about information sharing for monitoring and research or continuity of care purposes. Where a drugs worker has carried out a Required Assessment, the outcome of this will be recorded on the Drug Interventions Record and the CJIT worker will - if they feel that the individual would benefit from ongoing support - seek to engage the individual further and gain their consent to sharing information for continuity of care purposes. Information sharing is covered in detail in the document "Drug Interventions Record. Background Information for CJITs and CARATs", includes advice on circumstances in which information can be legally shared without consent.

#### **Communicating to the court that an individual has refused to provide a sample without good cause (see also section 5.4)**

Section 63B of the PACE Act 1984 provide that an individual who fails without good cause to provide a sample when requested in accordance with that section commits an offence.

Where a person has failed or refused to provide a sample without good cause this would come to the notice of the court if the person is charged with that offence under section 63B and a prosecution is pursued. If the person is charged with the main offence which led the sample to be requested under section 63B then a charge under 63B would ideally be considered at the same time. Although there is no specific provision for

disclosure of the reasons for failing to provide a sample, this information would have to be made known to the court to enable it to decide whether there was good cause or not. Section 5.4.1.2 allows for inclusion in the DT1 form of any comments/explanation given for failure to provide a sample and the DT2 form shows whether an individual refused a test.

Where a person has good cause for refusal to supply a sample but in proceedings for the main offence the court asks whether a sample has been requested and taken, the court could be informed in general terms that a sample had been requested but that the defendant had good cause not to provide that sample and therefore had not committed an offence under section 63B of PACE.

### **Communicating the drug test result**

#### **Use of the test result for monitoring and research**

A copy of the drug test result (positive test result, negative test result, refused test or disputed test) is attached to the DT1 form (Annex H) and forms part of the custody record. The information recorded on the DT1 is held electronically and monthly information (using attributors) – initials, date of birth and gender – is extracted and sent to the DIP Management Information System.

#### **Use of the test result for the provision of required assessment**

Section 63B(7)(ca) of the PACE Act 1984 as amended by the Drugs Act 2005, makes specific provision for information obtained from a sample to be disclosed for the purpose of the required assessment under sections 9(2) and 10(2) of the Drugs Act 2005. More generally, section 63B(7)(d) provides for disclosure of the test result for the purpose of ensuring that appropriate advice and treatment is made available to the person concerned.

In instances where a positive test result is obtained and the police require an initial and follow-up assessments to be undertaken (see section 3.2 for more information), that decision is communicated to the individual and to the Criminal Justice Integrated Team (which will be conducting the initial assessment) on form RA1 (Annex J). The RA1 form must be served on the individual before they are released from custody. A copy of the RA1 form is also held on the custody record.

The sharing of information between the police and CJIT for this purpose does not require the consent of the individual.

#### **Use of the test result to inform RoB considerations**

Section 63B(7)(a) of the PACE Act 1984 enables information obtained from a sample to be disclosed for the purpose of informing any decision about granting bail in criminal proceedings (within the meaning of the Bail Act 1976).

RoB targets defendants whose offending is related to their drug misuse by restricting their access to court bail if they do not agree to undergo an assessment of their drug misuse and participate in any proposed follow up. In order for the court to consider whether the RoB provisions are applicable, there must be evidence before the court that the defendant has tested positive in connection with the offence. Where a sample is taken from a person on arrest, and, during the same period of detention, the person is charged with that offence or charged with a different trigger offence (or an offence where an Inspector's authorisation is applicable), the sample taken after arrest must be treated as having been taken in respect of the offence for which the person is charged. In such cases, a positive test after arrest is relevant to the court for RoB purposes, in the same way as a positive test after charge. The police have responsibility for ensuring that the result of the drug test is on file while the CPS have responsibility for ensuring that it is communicated to the court.

The result of the drug test is recorded on the DT2 form (Annex I) by the police and shared with the Crown Prosecution Service and the courts. The way in which the drug test result is flagged up by the police/CPS and communicated to the court will depend on local arrangements but it is essential that information of the positive drug test result includes the name of the defendant, the test result and the date of the initial court hearing.

The sharing of information by the police with the CPS and the courts for this purpose does not require the consent of the individual.

NB The drug test will not be used as evidence to support the commission of any offences with which the detainee has been charged, or for other investigative purposes. However, the test result may be used for limited intelligence purposes, provided that the information used is of a de-personalised and aggregate nature.

**Communicating whether or not the individual attended and remained for the duration of the Required Assessment**

Section 12(2)/Section 14(2) of the Drugs Act 2005 requires the initial/follow-up assessor (a person with personal knowledge of the failure to attend and remain) to inform a police officer or police support officer if an individual fails to attend or remain for the duration of the required assessment.

The CJIT will inform the police, of a failure to attend or remain for the duration, using form RA3 (Annex L) and the police and CJITs locally will need to develop arrangements for ensuring that the form reaches the right police contact at the right time, that it is properly actioned and that all actions are properly recorded.

The RA3 form will also be completed by the worker when an individual does attend and remain. The RA3 contains a check-box for the worker to indicate whether, in their opinion, the initial assessment meets the needs of a RoB relevant assessment. (This requires the worker to have been able to reach a decision on whether / what follow-up activity is required).

The sharing of information by the CJIT with the police for this purpose does not require the consent of the individual.

**Communicating information relating to the Required Assessment**

The Drugs Act 2005 specifically provides for a RoB relevant assessment to be treated as having been carried out for the purposes of the Restriction on Bail provisions where a person attends for the duration of the initial assessment and the assessor is satisfied that the initial assessment fulfilled the purposes of the RoB relevant assessment. Furthermore, section 17(4) of the Drugs Act provides for the assessor who conducted the initial assessment to disclose information relating to the assessment to enable the court to determine whether the assessment meets the requirement of RoB.

In all cases where the individual has attended and remained for the duration of the Required Assessment, the worker should complete a form RA 3 (see Annex L) and file it with local papers. This is because the simple fact of attendance may need to be verified by CPS or police at a later date (and will be important, in particular, where RoB becomes an issue).

Where an individual attends an initial assessment and RoB then becomes a consideration, the CJIT may then also provide the court with information relating to that assessment (including any agreement to draw up a care plan and participate in any follow up proposed for a drug problem) to enable the court to consider whether that person has already undergone an assessment within the meaning of the Bail Act when considering an application for bail.

The person will have been informed that this further information is to be shared for the purpose of RoB. If the individual objects to this information being shared (likely only to be in exceptional circumstances), the worker may decide in those exceptional circumstances that it would breach the duty of care/confidentiality to reveal this information to the court. It should be noted, however, that the Drugs Act 2005 gives express permission for the worker to share this information with the court in those circumstances, without consent.

If a subsequent follow-up assessment fulfils the purposes of the RoB relevant assessment, the assessor may disclose this and provide any relevant information to the court **only with the written consent of the individual**. Although, this does not, however, take account of the statutory provisions in other law which may apply in specific cases and under certain circumstances and accordingly qualify or over-ride this specific provision.

Where RoB is not a consideration, information relating to the completion of the initial and/or follow-up assessment may only be shared by the CJIT with the court with the individual's written informed consent (see 6.2.2 for further details) or in line with the usual legal framework.

The outcome of the initial and/or follow-up assessment can, with the consent of the individual, also be shared with the pre-sentence report author and/or supervising Probation Officer, and CJIT workers can play a key role in explaining the real benefits of this to the individual.

## 4 Monitoring and Research

The Drug Interventions Programme attracts significant public funding. It is therefore essential that the Home Office monitors the effectiveness of the programme and ensures value for money.

Measuring and monitoring the input, outputs and outcomes of the individual interventions will help identify ways in which the programme might change or improve to ensure that it continues to meet the needs of drug misusing offenders whilst continuing to have a positive impact on crime reduction and on the communities affected by crime caused by those same drug misusing offenders.

Monitoring will also help to identify whether specific interventions or service provisions are excluding or disproportionately engaging certain groups (such as those from black and minority ethnic groups or women) to enable any necessary action to be taken.

To enable the Home Office to effectively monitor the interventions, a Management Information System (MIS) has been developed. The MIS holds information that is collected on the Drug Interventions Record (DIR), which was designed to give the Home Office, NTA, the Prison Service and local partnerships a greater understanding of why drug misusing offenders, at critical points, chose to engage with or disengage from the programme. The DIR and associated forms have been reviewed, and amended forms will be in use from 1<sup>st</sup> April 2009. The MIS also holds information on drug-tested individuals, PPOs and in the future will hold information on those individuals that have served a community order (DTTO/DRR) or have been subject to the RoB provision. Matching this wealth of information allows a picture and journey of the drug misusing offenders to develop, giving the programme and its partner's greater clarity on the effectiveness of the interventions that are being implemented and delivered.

With the introduction of Testing on Arrest and the initial assessment, and now that the follow-up assessment has been introduced, it is important that we are able to capture core data in order to begin to assess the impact of those provisions on the numbers of people entering and being retained in treatment and supported through the Programme. The revision of the DIR and associated forms has been undertaken to enable this information to be captured.

Rates and trends (both over time and between areas) of failure to attend and remain for either the initial or follow-up assessment may be analysed and queried through local and national performance management systems.

## 5 Drug Testing Process Guidance

See Annex C for drug testing process map.

### 5.1 Overarching points

#### 5.1.1 Purpose of drug testing in police custody suites

The purpose of drug testing at police stations is to identify individuals who misuse specified Class A drugs: heroin and/or cocaine/crack - the drugs most commonly associated with acquisitive crime, in order to move them into treatment. There is compelling evidence linking drug taking and particular crimes. The Drugs Act 2005 built upon the "on charge" drug testing by allowing the police additionally to test persons in police detention for specified Class A drugs at the point where they first encounter the criminal justice system – after arrest. Testing on Arrest will identify people misusing specified Class A drugs earlier in their contact with the criminal justice system, so that individuals may be steered out of crime and into treatment at the earliest opportunity. Testing on Arrest helps to ensure that Class A drug misusers who are arrested but not charged are identified and helped into treatment programmes. Testing individuals either arrested or charged with "trigger offences" for specified Class A drugs is a proportionate response based on the evidence linking those crimes with problematic adult drug use. The criteria for Testing on Arrest are no different from those for testing on charge; the difference is that the police have the opportunity to test earlier in the process.

Individuals who voluntarily admit drug use can continue to be encouraged to address their drug misuse by receiving appropriate treatment and / or support. Police staff will continue therefore to have a role in encouraging them to engage with the front line drug workers, who will be able to assess what further interventions may be necessary.

A positive drug test cannot be used as evidence of another crime such as driving under the influence as defined by the Road Traffic Act 1988. A positive test and previous test results can be used as a factor in determining police bail for the offence arrested and any future police bail decisions and will have implications for the local police and drug workers' duty of care.

#### 5.1.2 Nature of the sample

The legislation provides for a sample of urine or a non-intimate sample to be taken from an individual. Under the Drug Interventions Programme, the sample taken will be oral fluid (referred to as 'saliva' in the documentation) and not urine. The saliva sample is put through a simple screening test at the police station using a Home Office screening device which shows whether there are opiates or cocaine (including crack) present in the individual's body, above an agreed level.

If the individual does not accept the test result, and claims to have taken medication which may have affected a positive result, the sample must be sent to the approved confirmatory test service laboratory for more detailed analysis and further testing. In addition, 2% of all samples must be routinely sent to the approved confirmatory test service provider to ensure quality control (see paragraph 5.1.6 below).

#### 5.1.3 Review of persons detained for the purposes of drug testing

Where an individual is detained for the purpose of drug testing after arrest, reviews of detention at intervals required by PACE will be conducted as normal.

Where a drug test occurs after charge by virtue of section 38 of PACE, which gives a custody officer the power to detain a person at a police station for up to six hours from the time of charging for the purpose of drug testing, the need for reviews at the intervals required by PACE remains. As the individual has been charged, conducting the review is the responsibility of the custody officer. Since further detention for the purpose of drug testing could lead to the individual being charged with a further offence (failing to provide a sample), it seems sensible that a review is carried out by the custody officer at the start of the procedure. This would apply even if an Inspector's review had been carried out shortly before charge.

If, during the review after charge, the individual requests legal advice before continuing with the procedure, that request should be met. There is no justification for proceeding with the test unless the point is reached where the solicitor or duty solicitor has not been in contact and there would remain insufficient time to complete the testing process before the end of the six-hour detention limit.

Individuals can only be tested once during any single continuous period in police custody and can only be tested if they fulfil all the required criteria (adults, in custody, arrested in DIP intensive areas for a trigger offence or for an offence where a police officer of Inspector rank or above suspects use of a specified Class A drug caused or contributed to the offence).

In practice, this means that a person must only be tested once during any 24 hour period of detention as described in PACE. If a person is tested after arrest but subsequently receives Police Bail, when they return to the police station for that offence they may not be tested again. Nor can a person who has been tested on arrest and subsequently charged, during the same period of detention, be tested on charge.

#### **5.1.4 Appropriate adults (for adults with a mental health problem, learning disability or who are otherwise vulnerable)**

In circumstances (under PACE) where an appropriate adult is required at the police station during the interviewing and charging process of someone who is 18 or over (and who has a mental health problem, learning disability or is otherwise vulnerable), the appropriate adult should be asked to remain with the individual throughout the drug testing procedure. The appropriate adult should be asked to countersign any form that the individual signs during the drug testing process (for example, printout of the test result from the Home Office screening device, the DT1 form and the RA1 form).

As detailed in section 3.18 of PACE Code of Practice C, the role of the appropriate adult is to assist and advise the individual and to facilitate communication between the individual and the police. In the event that the appropriate adult advises the individual not to consent to the provision of a sample for analysis, the individual may still be charged with the offence of failing to provide a sample.

It is not the role of the appropriate adult to provide legal advice, although he or she can decide whether legal advice should be sought on the consequences of refusal or any other issue. In the event that the appropriate adult and individual's views on whether to proceed with the test differ, then the individual's decision will ordinarily prevail.

As with other procedures in the custody suite, the appropriate adult should ensure that the individual understands what is happening to them and why. Throughout the testing process, the appropriate adult must countersign wherever the individual signs.

CJIT workers should not be asked to perform the function of appropriate adult as this could impede their later work with the individual.

#### **5.1.5 Medication**

It is important that individuals to be tested are asked about any medication they have taken within the last 24 hours, and details of any medication must be recorded on the DT1. Certain types of medicines, including some available from a chemist without a prescription such as codeine, and other over-the-counter medicines, contain opiates and may cause the oral-fluid screening test to register a positive reading.

If the individual has taken any medication during the relevant period (including medication administered by a police doctor whilst in detention) and the screening test is positive and the detainee disputes the test result the sample must be forwarded to the approved confirmatory laboratory for further testing (see section 5.5 "disputes procedure", which outlines the procedure for arranging the required assessment in such cases).

Where an offender has accepted the positive drug test result as a reflection of their heroin use, and also declared taking medication, samples do not need to be sent for confirmatory analysis.

#### **5.1.6 Quality assurance samples**

In addition, 2% of all test samples in a given drug testing custody suite must be sent off to the approved confirmatory test laboratory. (Samples that must be sent off for quality assurance purposes are distinguishable by the red forms contained in the test kit package.

(See section 5.5 "disputes procedure", which outlines the procedure for arranging the required assessment in such cases).

#### **5.1.7 Data collection**

In order to measure the effectiveness of the Drug Interventions Programme, forces are provided with a data recorder under which they are required to record details of drug tests. Data, in an aggregate form, should be submitted on a monthly basis to the Home Office approved DIP drug testing data collating agent. The results of all tests, including confirmatory tests results from the approved confirmatory test service provider, must be recorded on the recorder. (See also Section 4). The police are reminded to follow guidance in the site amendment process map (Annex F) where custody suites are temporarily closed and drug testing operations moved to ensure the drug testing data is an accurate indication of a region's performance.

## 5.2 Arrest and detention

### 5.2.1 Individual arrested

#### 5.2.1.1 Definition and significance

For the purposes of the Drug Interventions Programme, this is the point where a police officer arrests a person on suspicion of committing a “trigger offence” (see Annex B) and/or an offence where, later on, a police officer of Inspector rank or above believes that specified Class A drug misuse caused or contributed to the commission of the offence and duly authorises a drug test to be conducted (see section 5.3.3).

The Drug Interventions Programme’s interventions to engage drug misusing offenders in treatment are largely triggered by positive drug tests. **It is essential, therefore, that arresting officers are aware of the Drug Interventions Programme and that they understand the part that testing plays in the wider Programme.** They will need to understand that a number of those persons arrested but not charged with an offence will be involved in crime and that the aim of the Programme is to reduce their need to engage in crime to fund a drug habit, leading to an overall reduction in crime.

Following the amendment of section 24 of PACE by section 110 of the Serious and Organised Crime and Police Act (SOCAP), the police can arrest a person without a warrant whom they have reasonable grounds to suspect of committing, being about to commit or having committed any offence if they have reasonable grounds for believing that it is necessary to do so for any of the reasons listed in section 24(5). Paragraph 2.9 of Code G replicates the reasons set out in section 24(5) and also provides some non-exhaustive examples in relation to the last two reasons.

Police officers should be aware of the current “trigger offences” and the implications this will have upon an individual’s detention process, including the benefits of drug testing.

It is envisaged that an individual who is arrested on suspicion of committing a “trigger offence” and/or an offence where the officer believes that specified Class A drug misuse caused or contributed to the commission of the offence will, under normal circumstances, be taken to a custody suite where drug testing facilities are available and that they would not be disposed of by another means (such as Fixed Penalty Notice). Similarly, individuals should also be arrested and brought into the custody suite in respect of non-trigger offences where Class A drug misuse is suspected, so that they can be tested and assessed by a drugs worker as appropriate.

However, under section 63B of PACE a person may not be arrested nor detained solely for the purpose of requiring a sample.

If an individual is repeatedly arrested and brought into detention for the commission of a trigger offence, or an offence where an Inspector believes that a specified Class A drug caused or contributed to the commission of the offence, they should be drug tested on each new arrest occasion, irrespective of the result of any previous tests.

#### 5.2.1.2 Required actions

Who	Action
Arresting officer	Officers should follow PACE procedures when arresting and detaining an individual. In instances where the officer believes that a specified Class A drug misuse caused or contributed to the commission of that offence, the individual will, under normal circumstances, be taken to a police station where drug testing facilities are available.
Arresting Officers	Where an individual is arrested on suspicion of a trigger offence, the fact that a person has been arrested for a ‘Trigger Offence’, and that a drugs test will be required, should be brought to the attention of the custody officer.
Arresting or investigating officers	Inform custody staff of any intelligence or information which indicates that an individual may be a drug user. This is particularly important in relation to non trigger offences when evidence suggests that the use of specified Class A drugs caused or contributed to the offence under investigation. This information must be given to the custody officer by either the arresting officer or investigating officers for an authorisation to obtain a sample to be sought from an Inspector or above.
Custody staff / CJIT worker	When a CJIT worker is present and available in custody suite, police should encourage the earliest possible contact with any individual believed to be a problem drug user. The worker will have to prioritise activity but in almost all cases should at least be able to make contact and give contact details for the relevant CJIT / drug treatment services.

Investigating officers	Investigating Officers becoming aware of information during the investigation of a non 'trigger offence' which indicates that an individual is a specified Class A drug misuser must bring this information to the attention of the custody officer. Again in this instance the facts should be brought to the attention of an Inspector or above for an authorisation to obtain a sample.
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5.2.1.3 *Local issues*

It will continue to be a local responsibility to ensure all appropriate training, protocols, operating standards, performance management systems and communications arrangements are in place to ensure the most efficient and effective use of the testing process.

**5.2.2 Decision made on "street bail"**

5.2.2.1 *Definition and significance*

Section 4 of the Criminal Justice Act 2003 amends PACE to provide for "Street Bail" where an arresting officer may bail an individual to return to any police station. If the offence is a trigger offence or the arresting officer has reason to suspect that specified Class A drug misuse caused or contributed to the offence, then "Street Bail" should not be granted and the individual should be taken to a police station to be tested and assessed by a drugs worker as appropriate.

5.2.2.2 *Required actions*

Who	Action
Arresting officer	If the arresting officer has reason to suspect that specified Class A drug misuse caused or contributed to the offence, then "Street Bail" should not be granted and the individual should be taken to a police station.

5.2.2.3 *Local issues*

None.

**5.2.3 Decision to detain**

5.2.3.1 *Definition and significance*

Any decision to detain a person in police detention will be made by the custody officer in accordance with normal procedures under PACE.

5.2.3.2 *Local issues*

**5.3 Decision to test**

Following the arrest of an individual for a 'trigger offence' or other offences underpinned by drug misuse, a Custody officer will make the decision to detain and charge the offender in accordance with PACE. It is essential that the custody officers and other custody suite staff are aware of the Drug Interventions Programme, that they understand the part that testing plays in the wider Programme and the positive impact that drug treatment can have in reducing crime. Individuals should be tested as soon as possible after the detention has been authorised. Testing early during an individual's detention will give the best indication whether or not Class A drugs have been used. Early testing will also provide a better opportunity to facilitate a required assessment with a drugs worker where a positive test result is obtained.

When a decision has been taken to commence the drug testing procedure, the timings for the process to be conducted are as follows:

**If drug tested after arrest**, then the drug test can take place at any point within the 24 hour detention period permitted under sections 37(8B) and 41 of PACE. Where a detention is extended from 24 hours up to 36 hours by a superintendent or above in accordance with section 42(1) of PACE, testing can take place between hour 24 and hour 36 provided that the extended detention is in respect of the relevant offence and the conditions under Section 63B are met. Within any 24 or 36 hour period of continuous detention (whether broken by police bail or not) only one drug test can be conducted per arrest occasion for trigger offence(s). An individual's detention without charge may not be extended beyond 24/36 hours of the relevant time solely for the purpose of conducting a drug test.

If **drug tested after charge**, then the individual may be held, if necessary, for a period of up to six hours from the time of charge, for the purposes of obtaining a sample for testing. (Section 38 of PACE as amended by the Criminal Justice and Courts Services Act 2000, the Criminal Justice Act 2003 and the Drugs Act 2005). At this point, the detained person must be reminded of their ongoing rights and entitlements in accordance with PACE. A written entry must be made in the custody record to the effect that a further period of detention has been authorised to enable the individual to be tested for drugs in accordance with PACE (see section 5.4)

The legislation requires that the request for a sample be made by a police officer and that, before requesting a sample, an officer must warn the individual that if they fail without good cause to provide a sample when requested to do so, they could be liable to prosecution (see section 5.4.1). Where an Inspector or above has authorised the taking of a sample, the officer (but not necessarily the Inspector or above who authorised the taking of a sample) must inform the individual of that and the grounds for the authorisation (see section 5.3.3). Force may not be used to take any sample for the purpose of drug testing.

### 5.3.1 Individual in trigger group

#### 5.3.1.1 Definition and significance

If a person has been arrested for/or charged with a “trigger offence” (see annex B for list of trigger offences), then the custody officer must decide whether there is good cause not to require the taking of a sample under section 63B. If there is no such good cause, a sample must be requested by a police officer. Normally, this request will be made by the custody officer. It is expected that the majority of people arrested or charged with a “trigger offence” will be requested to give a sample.

#### 5.3.1.2 Required actions

Who	Action
Custody officer	If a sample is required under section 63B, then the DT1 form (as amended) should be opened and completed (see section 5.4 and Annex H).

#### 5.3.1.3 Local issues

The earliest point at which a drug test can be taken is following arrival in a police custody suite where approved drug testing facilities are available and the detention has been authorised by the custody officer. As local circumstances and procedures permit, the police may wish to consider conducting the drug test along with the taking of fingerprints, photographs and DNA immediately following the “booking in” procedure.

### 5.3.2 Individual not in trigger group and specified Class A drug misuse not suspected

#### 5.3.2.1 Definition and significance

If a person has been arrested or charged with a “non-trigger offence” and there is no suspicion or grounds to suspect that specified Class A drug misuse by the individual caused or contributed to the offence, then a sample can not be required under section 63B.

Individuals who are not required to give a sample under section 63B but who voluntarily admit drug use should be encouraged to engage with a drugs worker present within custody suites or be provided with relevant contact information of local drug treatment services to address their drug misuse. The drugs worker will be able to assess what further interventions may be necessary and offer appropriate treatment or follow-up.

#### 5.3.2.2 Required actions

Who	Action
Custody Officer / CJIT worker	When a worker is present and available in custody suite, police should encourage the earliest possible contact with any individual believed to be a problem drug user. The worker will have to prioritise activity but in almost all cases should at least be able to make contact and give basic information and contact details for the relevant CJIT / drug treatment services.

#### 5.3.2.3 Local issues

None.

### 5.3.3 Individual not in trigger group but specified Class A drug misuse suspected

#### 5.3.3.1 Definition and significance

Section 63B(1A)(b) and (2)(b) of PACE allows for a person who has been arrested or charged with any offence to be tested for specified Class A drugs provided that a police officer of at least the rank of Inspector authorises a sample to be taken.

While the crimes most frequently committed by drug misusers have been categorised as trigger offences, these are not the only crimes that drug misusers commit. If a person has been arrested or charged with a “non-trigger offence” and a police officer decides that there are grounds to suspect that specified Class A drug misuse by the individual caused or contributed to the offence, then the decision to authorise a sample must be referred to a police officer of at least the rank of Inspector. **Each case must be considered on its individual merits.**

In authorising the requirement to give a sample, the Inspector must have reasonable grounds for suspecting that the misuse of any specified Class A drug by the individual caused or contributed to the offence. It will be for the Inspector to determine what constitutes ‘reasonable grounds’.

#### 5.3.3.2 Required actions

Who	Action
Arresting officer	In appropriate cases, recommend that an individual be tested under Inspector's authority and provide any supporting evidence (e.g. known user, circumstances of the arrest, association with known drug misusers, information from police intelligence systems)
Custody officer	Question whether testing under Inspector's authority may be appropriate (even if not suggested by the arresting officer). Check an individual's drug test history to see if the individual has recently tested positive.
Detention officer	Suggest drug testing to the custody officer if they suspect the individual has recently taken specified Class A drugs and that it caused or contributed to the offence for which they have been arrested / charged. Run background checks (e.g. test history) to develop evidence as to whether testing would be appropriate.
Custody officer	Decision to authorise a sample must be referred to a police officer of at least the rank of Inspector.
Inspector or above	If drug test to be carried out then the Inspector or above provides authorisation. This can be given orally, but must be confirmed in writing as soon as practicable (e.g. at a PACE review).
Custody officer	The authorisation and grounds for suspicion must be recorded on the DT1 and custody record as soon as practicable after the sample is taken
CJIT worker	Can suggest drug testing to the custody officer if they suspect that an individual has recently taken specified Class A drugs.
Custody officer / CJIT worker	When a worker is present and available in custody suite, police should encourage the earliest possible contact with any individual believed to be a problem drug user. The worker will have to prioritise activity but in almost all cases should at least be able to make contact and give basic information and contact details for the relevant CJIT / drug treatment services.

#### 5.3.3.3 Local issues

As local circumstances and procedures permit, the police may wish to consider conducting the drug test along with the taking of fingerprints, photographs and DNA immediately following the “booking in” procedure.

Police management should monitor locally the quantity of tests taken under Inspector's authority and the proportion of positive tests under Inspector's authority. They will need to ensure the appropriateness of the offences for which individuals are being tested and ensure that cases are being properly considered on their own individual merits.

*Data on the use of Inspector's Authority to test for specified Class A drugs have found a high rate of positive tests (85%) when drug tests are authorised for the offence of loitering or soliciting for the purposes of prostitution. Given the strong links between prostitution and Class A drugs use, it is recommend that*

consideration is given, on a case by case basis, to authorising a drug test for persons arrested for this offence. The appropriate use of Inspector's discretion will help to identify drug misusing sex workers and direct them into treatment and out of crime.

### 5.3.4 Inspector or above decides not to drug test

#### 5.3.4.1 Definition and significance

If an Inspector or above decides not to require a sample in cases where a non-trigger offence is involved, then a sample cannot be required under section 63B.

Individuals who are not required to give a sample under section 63B but who voluntarily admit drug use should be encouraged to engage with a drugs worker present within custody suites or be provided with relevant contact information of local drug treatment services to address their drug misuse. The drugs worker will be able to assess what further interventions may be necessary and offer appropriate treatment or follow-up.

#### 5.3.4.2 Required actions

Who	Action
Custody officer / CJIT	When a worker is present and available in custody suite, police should encourage the earliest possible contact with any individual believed or known to be a problem drug user. The worker will have to prioritise activity but in almost all cases should at least be able to make contact and give basic information and contact details for the relevant CJIT / drug treatment services.

#### 5.3.4.3 Local issues

None.

## 5.4 Testing

Once a decision is made that an individual who has been arrested or charged should be tested for specified Class A drugs, a record of the procedure will be kept using the amended pro-forma (Form DT1 – see Annex H). This pro-forma has been designed to lead police staff sequentially through the procedure of obtaining and testing a sample, communicating the result to the person concerned and, if a positive test result is obtained, requiring an assessment. The legislation requires that certain information be recorded on the custody record, of which the DT1 forms a part.

If the proforma DT1 is required for evidential purposes for either the offence of failing to provide a sample or failing to attend and/or remain for the duration of an assessment (see 6.4.1) then the document should be produced as an exhibit in the normal manner. A photocopy of the DT1 should be retained with the remainder of the custody record. The CPS may also require further witness statements from police staff involved in the testing process, and local procedures should cater for this requirement.

A separate court information pro-forma (Form DT2 – see Annex I), which informs the court of the test result (positive, negative and refused tests) and whether an assessment has been required, must also be completed (one of the signed printouts from the screening test should be attached). The DT2 information is passed to CPS for the information of the Court and the form should be placed in the court file via the Criminal Justice Unit/file preparation unit (as local procedures dictate).

### 5.4.1 Individual refuses to provide sample

#### 5.4.1.1 Definition and significance

An individual who fails without good cause to provide any sample when requested to do so in accordance with these drug testing provisions commits an offence, for which they shall be liable on summary conviction to imprisonment for a term not exceeding 3 months, or a fine not exceeding level 4 on the standard scale, or to both (section 63B and 63C of PACE).

A decision will need to be made by a prosecutor or the police as to whether to take proceedings against the individual for the offence of failure to provide a sample. The police may take the charging decision if it is anticipated that the person will plead guilty. A prosecutor will take the decision to charge in all other situations where the offence arises out of an arrest for substantive matters that themselves are then required to be submitted to the CPS for a charging decision. In addition, CPS remain available to offer advice on request.

Failure to provide a sample may be used alongside other relevant factors to inform police bail. However, failure to provide a sample alone should not automatically lead to a denial of police bail when it would otherwise have been granted. All the relevant circumstances of the case must be taken into account when determining whether to grant police bail.

Failure to provide a sample is, following the implementation of the Serious and Organised Crime and Police Act 2005 (SOCAP), an offence for which an individual can be arrested (PACE Code G provides further information).

5.4.1.2 *Required actions*

Who	Action
Custody Officer/prosecutor	<p>Before charging with this offence, officers/prosecutor should consider carefully any medical reasons advanced by the individual for failure to provide a sample. Any comments or explanations for the failure to provide a sample should be noted on the DT1 (Annex H) and should be filed with the remainder of the custody record.</p> <p>Similarly, a copy of any notification from the confirmatory test service provider of the result of confirmatory analysis of a sample must be filed with the custody record.</p> <p>While it is not intended that anyone genuinely unable to provide a specimen of saliva be prosecuted, ultimately it will be for the court to decide what is a 'good cause'.</p>

5.4.1.3 *Local issues*

None.

**5.4.2 Carry out drug test**

5.4.2.1 *Definition and significance*

Once a decision is made that an individual who has been arrested or charged should be tested for the specified drugs, then the approved drug testing procedure should be followed. Cozart, the Home Office drug testing equipment supplier, provides training for all staff or force trainers involved in the drug testing of individuals. This training covers the use of the testing equipment and the handling of samples.

Staff who have undertaken the training are issued with a certificate of competency and registered as authorised users with Cozart. Only persons who hold a certificate of competency are authorised to take samples and carry out the drug testing procedure. In addition to the on-site training, manuals on the operation of the equipment are provided to each custody suite.

5.4.2.2 *Required actions*

Who	Action
Custody officer/CJIT worker	<p>When a CJIT worker is present and available in the custody suite, police should encourage the earliest possible contact with any individual believed or known to be a problem drug user. This might include the worker being present during the drug test to explain the purpose of the test and benefits to the individual of the drug test, in terms of assessment and treatment.</p> <p>The CJIT worker will have to prioritise activity but in almost all cases should at least be able to make contact and give basic information and contact details for the relevant CJIT / drug treatment services.</p>
Staff authorised to conduct drug tests	<p>It is not proposed to cover the detailed operation of the testing equipment in this guidance, apart from re-iterating the following key points:</p> <p>the individual should be observed for ten minutes before the test is conducted. No food or drink should be consumed during this period to ensure that the sample is not adulterated. This time can be used to explain the procedure to the individual or undertake other custody procedures such as fingerprinting, photographing etc;</p> <p>before inserting the sample collection device (swab) into the mouth, a visual inspection of</p>

	<p>the oral cavity should be made to ensure that it is empty;</p> <p>the individual should be carefully observed whilst the swab is in the mouth to ensure that they do not interfere with the testing process by chewing/swallowing the swab or gripping it in between their teeth to avoid contact with saliva;</p> <p>the individual may genuinely be unable to provide an adequate sample of saliva within 10-15 minutes because of a dry mouth. In these circumstances they should be offered a drink of water and, after a period of at least ten minutes, be tested again;</p> <p>having obtained an adequate sample (indicated by the swab handle turning blue) the rest of the procedure should be performed on the foam tray, provided with each testing kit, to avoid any contamination or spillage;</p> <p>ensure that <u>4 even sized drops</u> of sample are applied to the small sample well of the drug cartridge <u>only</u>. Insert the cartridge into the <u>DDS</u> as soon as the sample appears on the large test membrane.</p> <p>The screening test should be performed in front of the individual using the electronic reader, and the results printed out in their presence. The printouts should be signed by both the tester and the individual to verify that the test has been carried out in their presence and that the individual has seen the result (the DT1 is to be used to record the individual's acceptance or rejection of the test result). One of the signed printouts should be attached to the DT1 and one to the court information pro-forma, DT2.</p> <p>Cozart provide full training on the handling, retention, and disposal of samples and health and safety issues involved. The training includes procedures for obtaining further tests from the approved confirmatory test service provider. The following key points should be noted:</p> <p>handling of any body fluids constitutes a health hazard, and normal precautions, such as the wearing of gloves by persons handling and testing samples, must be followed;</p> <p>if the positive test result is disputed, the sample must be sent for confirmatory testing. This is done by sealing and labelling the tamper proof containers in the chain of custody bag and posting them to the confirmatory test service provider laboratories using the pre-addressed transit boxes provided (see section 5.5). Appropriate adults should be asked to countersign the individual's signature on the DDS printout;</p> <p>if the individual has taken any medication (administered by a police doctor) whilst in detention <u>and the test is positive and the individual disputes the positive test result</u>, the sample must be forwarded to the approved confirmatory test service provider for confirmatory testing.</p> <p>Where an offender has accepted the <u>positive drug test result as a reflection of their heroin use</u>, and also declared taking medication, samples <u>do not</u> need to be sent for confirmatory analysis.</p> <p>the approved confirmatory test service provider will forward written confirmation of the disputed test results to the relevant police station by fax within five working days of the site sending the disputed result off for analysis. <b>It is therefore imperative that disputed samples are sent off by the next available post.</b> Sites must ensure that details of their preferred secure method for transmission of the confirmatory test result (this might be a secure fax number or secure BCU e-mail address) has been passed to approved confirmatory test service provider and is clearly indicated on the submission form (even if it must be written in the margin).</p> <p>if the sample is to be forwarded to the approved confirmatory test service laboratory for confirmatory testing, it should be kept in a refrigerator prior to despatch. Samples should not be frozen. Testers should take care to fill in the laboratory submission form in full and give full details of any medication taken by the individual in the previous five days;</p> <p>saliva samples do not need to be classed and disclosed as unused material. Unless the test result is disputed at the point when the result is known, or unless it is sent off as a quality assurance sample, the sample can be disposed of as clinical waste. The DT1 form has been amended to reflect this.</p>
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5.4.2.3 *Local issues*

None.

**5.4.3 Test is negative**

5.4.3.1 *Definition and significance*

If the test result is negative, then the drug testing process ceases, though other criminal justice processes within the custody suite (for example, investigation of the offence) may still be in effect. If a person is charged, a negative drug test result should be communicated to the court for the purpose of informing any decision about granting bail in criminal proceedings. The DT2 information is passed to CPS for the information of the Court and the form DT2 (Annex I) should be placed in the court file via the Criminal Justice Unit/file preparation unit (as local procedures dictate).

Individuals who are not required to give a sample under section 63B but who voluntarily admit drug use should be encouraged to engage with a drugs worker present within custody suites or be provided with relevant contact information of local drug treatment services to address their drug misuse. The drugs worker will be able to assess what further interventions may be necessary and offer appropriate treatment or follow-up.

5.4.3.2 *Required actions*

Who	Action
Custody officer	A copy of the negative drug test result should be attached to both the DT1 and DT2 forms.
Custody officer /CJIT worker	When a worker is present and available in custody suite, police should encourage the earliest possible contact with any individual believed to be a problem drug user. The worker will have to prioritise activity but in almost all cases should at least be able to make contact and give basic information and contact details for the relevant CJIT / drug treatment services. If a worker is not available, the police should provide contact details for the CJIT.

5.4.3.3 *Local issues*

**5.4.4 Test is positive**

5.4.4.1 *Definition and significance*

In instances where a positive test result is obtained, section 9 of the Drugs Act 2005 directs the police to consider requiring an individual to attend a required assessment and remain for its duration. The implications of this are considered under section 5.4.5.

Section 19 of the Criminal Justice Act 2003 amends the Bail Act 1976 to require courts in certain cases to refuse court bail for those individuals (aged 18 or over) who have tested positive for specified Class A drugs under section 63B of PACE and who refuse to undergo assessment for their dependency upon or propensity to misuse drugs, or to participate in relevant follow-up which is proposed to them by the assessor at that point in the procedure unless the court is satisfied that there is no significant risk of the person committing an offence while on bail. Where a sample has been taken following arrest for an offence and a detainee has later been charged during the same period of continuous detention with that offence (or another offence for which he could be tested), Section 63B (5B) directs that the sample be treated as though it related to the charge offence. This should be recorded on the defendant's custody record and this fact brought to the attention of the court when the case is being considered as the RoB provisions will be applicable. See section 7 for further information on "Restriction on Bail".

**Use of drug test result for determining police bail**

If a sample is required after arrest, then the subsequent test result may be used alongside other relevant factors to inform police bail. However, the drug test result **alone** should not automatically lead to a denial of police bail when it would otherwise have been granted. All the relevant circumstances of the case must be taken into account when determining whether to grant police bail. If a drug test is conducted after charge, then previous test results may inform subsequent police bail decisions.

**Use of drug test results (general)**

The purposes for which the information obtained from a drug test sample taken under these provisions may be disclosed are set out in section 63B(7) (as amended by the Drugs Act 2005).

Information obtained from a sample may only be disclosed for the following purposes:

- a) for the purpose of informing any decision about granting bail in criminal proceedings (within the meaning of the Bail Act 1976) to the person concerned;
- b) for the purpose of informing any decision about the giving of a conditional caution under Part 3 of the Criminal Justice Act 2003 to the person concerned;
- c) where the person concerned is in police detention or is remanded in or committed to custody by an order of a court or has been granted such bail, for the purpose of informing any decision about their supervision;
- d) where the person concerned is convicted of an offence, for the purpose of informing any decision about the appropriate sentence to be passed by a court and any decision about their supervision or release;
- e) for the purpose of an assessment which the person concerned is required to attend by virtue of section 9(2) of the Drugs Act 2005;
- f) for the purpose of proceedings against the person concerned for an offence under section 12(3) or 14(3) of that Act; or
- g) for the purpose of ensuring that appropriate advice and treatment is made available to the person concerned.

The drug test will not be used as evidence to support the commission of any offences of which the detainee has been charged, or for other investigative purposes. However, the test result may be used for limited intelligence purposes, provided that the information used is of a de-personalised and aggregate nature.

#### 5.4.4.2 Required actions

Who	Action
Custody officer	Given that the court may take into account the test result in making future bail decisions and in sentencing, it is essential that the record of the drug test forms part of the detainee's custody record.
Custody officer	Custody officers may take into account the test result in determining risk assessments on the individual whilst in police detention (as required by PACE Code of Practice C).
Custody officer	If a police doctor is called to determine the fitness of an individual whilst in detention, the doctor should be made aware of any drug test result <sup>3</sup> .
Custody officer	The fact that an individual has tested positive for specified Class A drugs should be included on the Prisoner Escort form, which is handed to the court escort contractors when the detainee is taken to court.
Custody officer	A copy of the drug test result should be attached to both the DT1 (Annex H) and DT2 (Annex I) forms. The DT1 form should form part of the custody record. The DT2 information is passed to CPS for the information of the Court and the form should be placed in the court

<sup>3</sup> Department of Health advice on when an Force Medical Examiner (FME) should be called when there is a positive drug test was that "In practice such a positive test gives no more useful information, in terms of delivering on duty of care, than suspicion or knowledge of use of such drugs (as occurs now). The duty requires the custody officer to assess the person and to carry out a risk assessment on the basis of the individual and any advice of a health professional if involved. As long as the custody officer applies to any person with a positive result the same principles and appropriate actions described in PACE Code C, no special action is required due to a positive result alone. Such persons should be treated the same as anyone suspected or known to have consumed such drugs".

	file via the Criminal Justice Unit/file preparation unit (as local procedures dictate).
Custody officer	In cases where a sample has been taken following arrest for an offence and a detainee has later been charged during the same period of continuous detention with that offence (or another offence for which he could be tested), the sample must be treated as though it related to the charge offence and this fact must be recorded on the defendant's custody record and brought to the attention of the court when the case for the charge offence is considered.
Custody officer	May consider disclosing information obtained from the sample to the relevant person concerned, such as the CJIT worker, where this may be useful for the purpose of ensuring that appropriate advice and treatment is made available.
CPS	Prosecution lawyer signs the DT2 form when the court has been informed of the drug test result.

#### 5.4.4.3 Local issues

Local arrangements should be put in place to ensure an efficient process is in place for the DT2 (Annex I) to be placed on the case file and flagged for the prosecutor.

If a sample taken after arrest is to be treated as though it related to the charge offence, the file preparation unit or CPS (as local procedures dictate) should tick the relevant box on the DT2 form to alert the court to the fact that that the drug test result may be treated as such.

#### 5.4.5 Police require individual to be assessed

##### 5.4.5.1 Definition and significance

In instances where a positive test result is obtained under section 63B of PACE, section 9 of the Drugs Act 2005 allows the police to require the individual to attend an initial assessment, and section 10 provides that if such an assessment is required, the officer must also require the individual to attend a follow-up assessment and remain for its duration if the age and notification conditions are met. The decision whether an individual actually needs to attend the follow-up assessment will be made by the drug worker conducting the initial assessment, who will confirm or otherwise the individual's requirement in this regard.

It is expected that almost all positive tests will result in RA in order that every opportunity is taken to engage the individual. Where an individual tests positive on a number of occasions, even within a short time-scale, it is expected that RA will be required on each occasion, save for in exceptional circumstances. The reasons for this, as well as consistency of application of the provision, are that the police would not necessarily know whether the individual had engaged with DIP at a recent assessment and, in any case, a fresh RA would provide the drug worker with an opportunity to review any care plan or advice given and to establish why the individual had been arrested and tested positive again.

The decision to require RA should be taken and communicated to the individual and the CJIT as soon as possible after the result of the test is known. This not only facilitates efficient progress through the process and avoids the risk of this key step being overlooked; it also allows maximum time for the initial assessment to take place during the individual's period of police detention, when that is appropriate.

The Drugs Act requires the police, when requiring the RA, to give the individual an oral warning of the consequences of failing to attend or remain for the duration of the assessment. The police should use the statement in section 6 of the DT1 form (Annex H).

The officer should then record on the custody record that this oral warning has been given, by whom and with time and date.

Section 11(5) of the Drugs Act 2005 states that the requirement to have an initial assessment is also given in writing specifying the time and the place at which the assessment is to take place. The written notification from a police officer should also reiterate the warning to the offender to attend the follow-up assessment if one has been required. This should be given to the individual before the assessment and before release from police detention. This requirement will be fulfilled by the proper completion and disposal of Form RA1 (Annex J). The requirement for a written warning was included in the legislation to provide CPS with the necessary evidence that the individual was warned of the risk of prosecution if he were to fail to attend or remain for the duration of the assessment.

5.4.5.2 Required actions

Who	Action
Police	Decision to require an assessment is taken by a police officer. This will usually – but not exclusively – be taken by the custody officer. (The decision <u>not</u> to require a RA must be authorised by a police officer of at least Inspector rank. See 5.4.6)
Police	When giving the requirement orally, an officer must warn the individual that if they fail without good cause to attend an assessment and remain for its duration when requested to do so, they could be liable to prosecution. (standard wording at 5.4.5.1)
Police	Section 11(5) of the Drugs Act 2005 states that the requirement to have an assessment is also given in <b>writing</b> specifying the time and the place at which the initial assessment is to take place. The written notification should also reiterate that warning and also the warning to attend the follow-up assessment if so required. This should be given to the individual before the initial assessment and prior to release from police detention. This requirement will be fulfilled by the proper completion and disposal of Form RA1. (See 5.4.7 for detail and Annex J)
Police	The original of the properly completed RA1 must be given to the individual before the initial assessment and prior to their release from police detention. A copy must be given to / sent to the CJIT. A copy must be added to the custody record. The DT1 (Annex H) will prompt the police officer / staff to check that the RA1 has been issued. The DT2 (Annex J) will record both that test was positive and that an assessment was required.

5.4.5.3 Local issues

The police should arrange suitable systems with the local CJIT so that they are informed that a RA has been required. If a CJIT worker is not present in the custody suite then the police should make urgent arrangements to inform the CJIT once they become aware that a drug test will be conducted. This will allow the CJIT to make arrangements for the attendance of a suitably qualified drug worker at the police station so that the individual can undertake the initial assessment whilst still in police detention (in instances of a positive test result). However, crucially, an individual may not be detained for the purposes of conducting the assessment.

5.4.6 **Police do not require individual to be assessed**

5.4.6.1 Definition and significance

If the police decide that an individual is not to be assessed (the decision having been taken by an officer of Inspector rank or above), then this will be an exit point from the **required assessment** process. This is not necessarily an exit from DIP processes as individuals should still be encouraged to engage voluntarily with CJIT workers.

As stated above, it is expected that almost all positive tests will result in RA but where the requirement is not made, the fact that that decision has been taken (not the reasons for the decision) must be recorded and a copy of that record must form part of the custody record. The DT1 form (Annex H) has been amended to record this information. The reason for the decision will be recorded on the DT2 (Annex I), which will form part of both the custody record and case file at court.

It should be the exception for an assessment not to be required, and every such decision must be taken by a police officer of Inspector rank (or above). The authorising officer should fully consider the reasons for not requiring the initial assessment and make a written entry in the custody record. The referral to the Inspector will normally be made by the custody sergeant who will give full reasons for the proposal.

Whilst it will be for a police officer to make the decision, police support staff may undertake the resulting administrative tasks.

5.4.6.2 Required actions

Who	Action
Police	Record decision on the DT1 form (Annex H) and place on custody record. Any decision not to require an assessment to be taken by a police officer of Inspector rank or above.

Police	Encourage individual to engage with CJIT, provide relevant information, contact details etc. When a worker is present and available in custody suite, police should encourage the earliest possible contact with any individual believed to be a problem drug user. The worker will have to prioritise activity but in almost all cases should at least be able to make contact and deliver basic information and contact details for the local CJIT.
Police	Record on DT2 form (and on custody record) that RA not required, reasons for decision and confirmation of Inspector's authority. DT2 form will be placed on court file via the Criminal Justice Unit.
Police	Advise individual that an assessment is not required.

#### 5.4.6.3 Local issues

Arrangements for proper completion of the DT1 and DT2 forms and for ensuring they form part of the custody record / case file respectively may vary locally but must enable all BCUs to meet the requirements.

Police / CJIT should establish local arrangements for all those testing positive to be referred to CJIT for voluntary assessment in the absence of RA.

Local managers and the Home Office may wish to address the frequency of and reasons for decisions not to require an assessment with individual areas, as part of their overall performance management processes.

### 5.4.7 Individual and CJIT informed of requirement

#### 5.4.7.1 Definition and significance

When the police decide that RA is required, legislation dictates that the individual must be told of this requirement both orally and in writing before they are released from detention at the police station. (see 5.4.7.2 for detail). This is the key first step in the process of engaging the individual through RA and the first stage at which the CJIT worker must be involved.

The legislation refers to the requirement to attend an "initial assessment" and "follow-up assessment" with a "suitably qualified person". (See 6.2.1 for relevant definitions of these terms).

Once the police have imposed the requirement in writing, the arrangements for the assessment may be varied in writing by the police or the CJIT worker. (RA2 – Annex K – to be used)

**In all instances, the first and favoured option should be to arrange for the initial assessment to take place within the custody suite immediately the requirement is made or during that period of detention.**

Although legislation requires that the individual is told of the requirement orally and in writing, this is not intended to prevent an immediate assessment taking place where this is deemed appropriate. If a drugs worker is available, the individual may be informed verbally of the requirement and that the assessment will take place immediately, if that is possible without prejudice to the investigation. However, a police officer must still serve the individual with the written notice (RA1) giving details of the requirement and assessment before the assessment takes place.

*Note that the police may not extend the period of police detention in order for the assessment to be carried out.*

Whether the assessment takes place within the custody suite or is arranged for another place and time, it must take place as soon as possible (subject to paragraph 5.1.6 above re QA'd test results and advice at 5.5.2 re disputed tests). In line with the published DIP priorities relating to those individuals with whom the drug worker comes into contact in the custody suite (and recognising the need for limited resources to be targeted most effectively), the initial assessment with a person who has tested positive, should take precedence over other assessments for which people may have volunteered.

If an immediate initial assessment is not possible and the individual is resident in the area where arrested, the police should arrange for the initial assessment to be carried out by the local CJIT as soon as possible, and wherever possible, within the next 24 hours / 1 working day. They may do so by speaking with a worker in the custody suite, contacting the CJIT via the CJIT Single Point of Contact for professionals (CJIT SPOC) or through other jointly agreed local arrangements. (Contact details of all CJIT SPOCs and Police SPOCs are collated by the Home Office and circulated monthly to be made available to all custody suites).

The urgency around the initial assessment being carried out is for a number of reasons. Experience indicates that an individual is more motivated to engage in the period immediately following arrest. With the introduction of required assessment, the added reason is that the initial assessment appointment time may have passed

by the time the individual appears in court and evidence of failure to attend and remain may then be taken into account by the court at the earliest possible opportunity.

If the individual is resident outside of the area in which they have been tested, every effort should be made for the initial assessment to be carried out immediately in the area in which they have been tested. If that is not possible, arrangements must be made for the initial assessment to be carried out by the CJIT in the individual's area of residence. (As above, contact details of all CJIT and Police SPOCs will be made available to all custody suites). Where it is not possible to make contact, the police may exceptionally require an initial assessment to take place with the CJIT in the area of residence at a specified time and date – within usual office hours – at least five working days hence. They must then ensure that the relevant CJIT receives notice of that appointment in time for it to be re-arranged if necessary. In this, as in all, instances, written notification of the time, date and place of the assessment must be given to the individual before they are released from police custody. It is not within the law for the police to give a "time and date to be notified" notice.

For those cases where the result of the test has been disputed, see section 5.5.2.

[All of the information given to the individual and the CJIT regarding the arrangements for the initial assessments, and the requirement and the warning to attend the follow-up assessment, should form part of the custody record.] **The DT1 and a standard form (RA1) has been issued to all custody suites for this purpose and must be used to ensure consistency of information given to the individual and the CJIT and kept on the custody record.**

Legislation also requires that the date and time of initial assessment forms part of the custody record. The DT1 form records this information and forms part of the custody record.

Any variation in the arrangements for the initial assessment must be notified to the individual in writing, giving a new time, date and place and that written notice must include a warning of the consequences of a failure to attend or remain. A standard form (RA2 – Annex K) has been issued to, and must be used by, all custody suites for this purpose. This form may be completed either by the police or by a suitably qualified person (CJIT worker), as the initial requirement will already have been imposed by the police and form RA1 completed.

5.4.7.2 Required actions

Who	Action
Police officer – usually custody sergeant or officer in case	i) Require the individual to attend an initial assessment and a follow-up assessment, (unless the drug worker informs him he is no longer required to attend during the initial assessment), and remain for their duration. If the requirement is not made the authority of an officer of Inspector rank or above must be sought. The authorising officer should fully consider the reasons for not requiring the assessment and should make a written entry within the individual's custody record.
CJIT worker (or police officer)	ii) Make the necessary arrangements for an appointment for the initial assessment with the relevant CJIT. If the appointment is made by the police they must ensure that this information is passed to the CJIT (see below).
Police officer – usually custody sergeant or officer in case	iii) Inform individual of time, date and place at which initial assessment will take place
	iv) Explain that this information will be confirmed in writing
	v) Warn individual that they are liable to prosecution if they fail, without good cause, to attend the initial assessment and remain for its duration and the follow-up assessment, if so required by the drug worker. <u>Before the individual is released</u> from police custody – and before the initial assessment takes place - give individual all of the above information in writing, using the standard form provided – RA1 (Annex J)
	vi) Make a record, as part of the custody record, of all of the above information and a copy of the written notice (RA1) given to the individual. Record the date and time of the assessment on the DT1 form.

	vii) Inform <u>in writing</u> (RA1) the CJIT who will be carrying out the initial assessment of the details of the initial assessment including the individual's personal and contact details and the time, date and place at which initial assessment is to take place. (In practice this will usually be agreed with the CJIT in advance but see above for when this is not possible. This is especially important when it relates to a CJIT which is not local).
CJIT	Ensure arrangements are appropriate and that a suitably competent worker will be available to conduct the initial assessment
Police	Ensure that any variation to arrangements is notified to the individual in writing (RA2), includes the warning re failure to attend or remain, <b>is copied to the relevant CJIT (and is copied to the custody record when it is the police who make the new arrangements).</b>
CJIT	Ensure that any variation to arrangements is notified to the individual in writing (RA2) and includes the warning re failure to attend or remain. (Variation of arrangements will not usually need to be copied to the police.

#### 5.4.7.3 Local issues

Local arrangements will need to be put in place to establish:

that a list of the CJIT Single Points of Contact (CJIT SPOC) of the local and all CJITs is readily available in the custody suites and is kept up-to-date. This list is issued monthly by the Home Office for dissemination, as appropriate. Police DIP strategic leads receive it and should ensure appropriate circulation within their force areas.

who within the police is to make arrangements with / send the information about the initial assessment to CJIT – may be part of the role for the police staff within the CJITs and/or those dedicated to RoB administration / enforcement. This could also be the Police Single Points of Contact (Police SPOC)

who within each CJIT receives information – including how the CJITs' Single Point of Contact (CJIT SPOC) for professionals may be used to best effect

arrangements for space and time for initial assessment within custody suite if appropriate during period of police detention

arrangements for police to be able to give an appointment for the initial assessment when worker not available and/or it is not appropriate for the initial assessment to take place during period of detention, including when individual is resident in another area.

## 5.5 Dispute procedure

### 5.5.1 Submit sample for analysis

#### 5.5.1.1 Definition and significance

If the individual tests positive and disputes the test result, the sample must be sent to the approved confirmatory test service provider for confirmatory laboratory analysis. Confirmatory test results will be faxed back to the police station within five working days.

Contact details of the approved confirmatory test service provider will be notified separately in a Home Office communication or bulletin to each drug testing location.

Any policy queries from either police staff or CJIT workers relating to the provision of confirmatory testing should be addressed to the Home Office DIP Drug Testing Team - tel: 020 7035 0533, fax: 0870 336 9125

#### 5.5.1.2 Required actions

Who	Action
Staff	If disputed, send sample to the approved confirmatory test service provider by next available

authorised to conduct drug tests	post. Record that the test has been disputed in the relevant section of the DT1 form (Annex H), and ensure a copy of the form is then sent to CJIT (using local procedures). Record that the test has been disputed in the relevant section of the DT2 form (Annex I), and ensure a copy of the form is then sent to CPS (using local procedures).
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5.5.1.3 *Local issues*

5.5.2 **Arrange time and date of initial assessment** (in disputed result cases)

5.5.2.1 *Definition and significance*

An individual disputing a test result does not prevent a police officer from requiring the individual to undergo an initial assessment or even the follow-up assessment (section 16 Drugs Act 2005). In this circumstance, at the point when an individual disputes the test result, the police officer should require the time and place of the assessment to be after the outcome of the confirmatory analysis. This time should be set at least **five working days** from the point when the sample is sent off for further analysis, and recorded accordingly in the RA1 form (Annex J). When determining the time, weekends and public holidays do not count as working days. There is nothing legally to prevent an RA being arranged earlier than the five days if the individual is content to undergo the assessment sooner, for example where medication is declared but the individual accepts the positive test result.

In all cases, the individual should be asked whether they wish the initial assessment to take place immediately or to wait until after the outcome of the confirmatory analysis. When the individual chooses to go ahead straight away, this should be recorded on the RA1 along with a clear statement that he was aware of his right to defer the initial assessment until the results of the further analysis were known. It is good practice, in order to avoid unnecessary paperwork, for the custody staff (with the drug worker where present) to establish the individual's wishes before completing the RA1. If the individual, having given their consent to undergo the initial assessment sooner, fails to attend or remain the CJIT should inform the police (see section 6.5)

Once the requirement for the assessment has been made, then the individual and CJIT should be informed (see section 5.4.7 for further details).

**It is imperative that disputed samples are sent off by the next available post.**

5.5.2.2 *Required actions*

Who	Action
Police	Record that result has been disputed on RA1 form (Annex J) and give to individual, send to CJIT, place on custody record. Record if individual has agreed to initial assessment going ahead before further analysis results known or if medication has been declared but the individual accepts the positive test result as a reflection of heroin/cocaine in their body.
Police	Record that result has been disputed on DT1 (Annex H) and DT2 (Annex I) forms. Place DT1 on custody record and send DT2 to CPS, in accordance with local procedures.

5.5.2.3 *Local issues*

The same considerations articulated under section 5.4.5.3 should be applied. The police should arrange suitable systems with the local CJIT and CPS so that both partners are informed that RA has been required. A copy of the RA1 form (recording the time and place of the initial assessment) plus the fact that the test result has been disputed should be sent to the CJIT Team, and a copy of the DT2 form sent to the CPS. Areas may wish to allow longer than the 5 day minimum to allow for return of results and for individual to be advised of result. If they do so, they should be mindful of – and monitor – the detrimental impact on attendance rates of a delayed appointment.

### 5.5.3 Analysis confirms positive test

#### 5.5.3.1 Definition and significance

If the further analysis from the approved confirmatory test laboratory confirms the positive test obtained in the custody suite, then the requirement for the individual concerned to attend the initial assessment remains in force. There is no need for the police to inform the individual that the requirement to attend the initial assessment remains, as the legislation places the onus on the individual to attend unless notified otherwise.

#### 5.5.3.2 Required actions

Who	Action
Police	Copy of the certificate from the approved confirmatory test service provider is sent to CJIT (using local procedures). Copy of the certificate from the approved confirmatory test service provider is sent to CPS (using local procedures) See 5.5.3.3 re notification to individual

#### 5.5.3.3 Local issues

There is no legal obligation upon the police to notify the individual concerned that a RA remains in force following confirmation of a positive test as, once imposed, it does so unless cancelled, but the police (or CJIT) may wish to consider it best practice to do so. Accordingly, appropriate systems between the police and local CJIT should be arranged to facilitate this. The police may wish to use civilian detention officers to help administer any such systems.

### 5.5.4 Analysis of test returns negative result

#### 5.5.4.1 Definition and significance

If the further analysis from the approved confirmatory test service provider (including in the case of QA samples) overturns the positive test obtained in the custody suite, then the requirement for the individual concerned to attend the initial assessment (where they have not already done so) and the follow-up assessment ceases. In these circumstances, a person who failed to attend and remain for the duration of either assessment while the requirement was still in place shall not be prosecuted. Section 16(2) of the Drugs Act requires that a police officer notifies the individual concerned that the requirement to attend has ceased.

#### 5.5.4.2 Required actions

Who	Action
Police	Inform individual that the requirement to attend the assessment has ceased. Copy of the certificate from the approved confirmatory test service provider is sent to CJIT (using local procedures). Copy of the certificate from the approved confirmatory test service provider is sent to CPS (using local procedures) Inform relevant CJIT that the requirement to attend the assessment has ceased Update relevant record on the Drug Test Recorder using the field created for this purpose.

#### 5.5.4.3 Local issues

There is a legal obligation placed on the police to notify the individual concerned that the requirement to attend the assessment has ceased by virtue of the approved confirmatory test service provider informing that the sample is negative. Accordingly, the police should arrange suitable systems locally to meet this legal requirement. They should also inform the local CJIT in writing (including, for example, the date for which the appointment was originally scheduled, the date and reason the requirement ceased) in order to avoid any administrative errors and/or unnecessary work by the CJIT. The police may wish to use civilian detention officers to help administer this requirement.

## 6 Required Assessment (RA) Process Guidance

See Annex D for required assessment process map

### 6.1 Overarching points

For the purposes of this guidance the phrase “required assessment” will refer specifically to the initial assessment and the follow-up assessment required under the new provisions. This is used in order to distinguish it from any other (e.g. voluntary or RoB-related) assessment.

None of the process set out here prevents an individual from requesting an assessment voluntarily at any stage as now.

If RA process ends for whatever reason, the usual engagement possibilities with DIP will still remain open to the individual, subject to resources.

If all other CJS processes end, but the individual has already been required by the police to attend an initial assessment and follow-up assessment, this requirement will continue.

Once a RA has been required, that requirement will only cease to have effect if either a negative further analysis is received or the requirement to attend either assessment is superseded by RoB being effected (see Section 7).

### 6.2 Individual attends and remains for required “initial” assessment

#### 6.2.1 Definition and significance

This stage in the process refers to the actual conduct of the initial assessment.

Section 9 of the legislation refers to the requirement to attend an “initial assessment” with a “suitably qualified person” and section 19 of the Act provides for the Secretary of State (S of S) to specify from time to time the qualifications or experience which a suitably qualified person must have. This guidance is the vehicle whereby the S of S makes that specification (see below for definition of a suitably qualified person).

The “initial assessment” will be based on a triage (level 2) assessment as described in the NTA Models of Care guidance. Its purpose is to enable the worker to establish the person’s dependency on or propensity to use specified Class A drugs and whether they might benefit from further assessment, treatment or other support. At a minimum this involves assessing any immediate risk, an assessment of urgency for referral to other specialist agencies and a brief assessment of drug misuse problems. It will include the worker providing harm minimisation advice and, as appropriate, an explanation of the types of assistance and treatment available. The worker should take the opportunity to explain the holistic support available including relevant wraparound services. It also looks at the individual’s readiness to engage and whether there is a need for a more comprehensive assessment.

A “suitably qualified person” will be somebody who is competent to carry out the initial assessment as described above. That person will, in almost all instances, be a CJIT worker, who will also be employed to carry out voluntary assessments in the same area. All such workers will have, or be working towards, the relevant DANOS competencies (see <http://www.skillsforhealth.org.uk/page/competences/completed-competences/list/drugs-alcohol-danos>).

Although there is no legislated timescale within which an initial assessment must be carried out, its purpose is to try and engage the person in treatment/support as soon as practicable. The intention, therefore, is that most initial assessments will be carried out within the custody suite during the period of police detention within which the requirement has been made. CJITs should endeavour to put in place systems relating to custody suite coverage and staff shift patterns which will facilitate the highest proportion of initial assessments being carried out without delay. It is acknowledged, however, that this will not always be possible for a range of reasons including worker availability, timing of CJS processes and fitness of the individual to be assessed.

In most instances it will be straightforward to establish whether the individual has attended and remained for the duration. Attendance is self-explanatory. When considering whether the individual has “remained for the duration”, the worker will need to take into account that the assessment should allow the worker to:

establish the person’s dependency on or propensity to use specified Class A drugs

decide whether they might benefit from further assessment, treatment or other support

provide harm minimisation advice

explain, as appropriate, the types of assistance and treatment available

look at the individual's readiness to engage and whether there is a need for a more comprehensive assessment.

If, therefore, the individual attends and remains for such time that the worker is able to cover these elements (as appropriate to the individual being assessed), then the requirement has been met but the worker will need to decide whether the individual needs to attend the follow-up assessment (see 6.3 for further information on the follow-up assessment). If the worker decides a follow-up assessment is appropriate then they must make the necessary arrangements for an appointment with the individual's CJIT of residence by contacting the CJIT via the CJIT Single Point of Contact for professionals (CJIT SPOC). They must then inform the individual in writing (using the form RA4 – see Annex M) which will record the time, date and place at which the follow-up assessment is to take place.

The drug worker will make the necessary arrangements for the individual to attend and remain at a follow-up assessment except in the following circumstances:

- the drug worker decides that no further intervention is needed following the initial assessment. If the individual fails to engage at the initial assessment, the drug worker will not be able to make this decision and arrangements will need to be made for the follow-up assessment. **NB – the decision whether further intervention is needed is for the drug worker to decide.** If an individual states that they do not wish for further intervention to take place but the drug worker decides that it is needed then a follow-up assessment should be arranged.
- the individual is subject to a Drug Rehabilitation Requirement (DRR) or Drug Treatment and Testing Order (DTTO), then it would be inappropriate to arrange a follow-up assessment but the drug worker should report to Probation the outcome of the initial assessment with the written consent of the individual.
- where the individual is known to be already on a CJIT caseload (and a DIR form has previously been completed), the RA requirement will be satisfied where the care plan is reviewed and the above elements are covered appropriately. However, if the individual attends and remains but fails to engage at the initial assessment, and therefore the care plan cannot be reviewed, a follow-up assessment would need to be arranged for this to take place.

If the worker decides that a follow-up assessment is not appropriate, then they must inform the individual that they are no longer required to attend the follow-up assessment and put this in writing using form RA5 (Annex N). The decision not to require a follow-up assessment should be recorded on form RA3 (Annex L) and the DIR/Activity form would be completed as appropriate – areas may wish to add a further sheet to the RA3 which records briefly the outcome of the assessment which can be used if the person appears in court.

In all cases where the individual has attended and remained, the worker should complete a form RA 3 (see Annex L), and the form RA4 as appropriate, and file them with local papers. This is because the simple fact of attendance may need to be verified by CPS or police at a later date and the RA3 will also record whether the worker considered that the assessment was suitable for RoB purposes.

The Drugs Act 2005 specifically provides for a RoB relevant assessment to be treated as having been carried out for the purposes of the Restriction on Bail provisions where a person attends for the duration of the initial assessment and the assessor is satisfied that the initial assessment and fulfilled the purposes of the RoB relevant assessment. Furthermore, section 17(4) of the Drugs Act provides for the assessor who conducted the required assessment to disclose information relating to the initial assessment to enable the court to determine whether the assessment meets the requirement of RoB.

It would be good practice for all CJIT workers to explain to the person concerned that in the event that they are later charged and are being considered for court bail under the Restriction on Bail provisions, their engagement in the initial assessment, and any agreement to draw up an initial care plan and participate in any follow up proposed for a drug problem, would be relevant for the decision by the court concerning bail.

It should be made clear that making such relevant information relating to the initial assessment, available to the court would be in the individual's interest as it is likely to remove the need for an additional assessment that might otherwise have to take place. Where the person concerned understands and is content with the sharing of this information, it would be good practice for the CJIT worker to record this in line with normal information sharing protocols and practice. If the individual was not so content (likely only to be in exceptional circumstances), the worker may decide in those exceptional circumstances that it would breach the duty of care/confidentiality to reveal this information to the court. It should be noted, however, that the Drugs Act 2005 gives express permission for the worker to share this information with the court in these circumstances, without consent.

6.2.2 Required actions

Who	Action
Police/CJIT worker	The police / worker must have given the individual a notice in writing detailing the time and place of the initial assessment. (RA1 (Annex J) and RA2 (Annex K))
CJIT worker	<p>The worker must carry out the initial assessment as appropriate whilst, at a minimum, ensuring it includes the elements set out above.</p> <p>They must decide before concluding the initial assessment whether the follow-up is required.</p> <ul style="list-style-type: none"> <li>• If it is, they must arrange with the CJIT of residence via the CJIT SPOC an appointment which includes the time, date and place of the follow-up assessment and inform the individual (see section 6.3 for more details about the follow-up assessment). They must also warn the individual that, if they fail to attend and remain at the follow-up assessment without good cause, they may be liable to prosecution. This must be confirmed in writing using the form RA4 before the completion of the initial assessment and given to the individual.</li> <li>• If they decide a follow-up assessment is not required, then they must inform the individual (in writing using form RA5 in Annex N) and record the fact on the RA3.</li> </ul>
Individual	The individual must attend and remain for the duration.
CJIT	<p>In all cases where the individual attends and remains at the initial assessment, the CJIT should record that fact. A standard form (RA3) has been issued to all CJITs in order to facilitate this. Although this form does not need to be sent routinely to the police, it should be filed locally and made available to CPS or police if required to inform bail decisions. The RA3 will record if assessment relevant for RoB purposes.</p> <p>In those cases where RoB becomes an issue (see 3.3 and section 7 of this guidance), the CJIT may provide the court with information relating to the initial assessment, to enable the court to consider an application for bail. It would be good practice to explain to the person concerned that in the event that they are later charged and they are being considered for court bail under the Restriction on Bail provisions, their engagement in the initial assessment, and any agreement to draw up a care plan and participate in any follow up proposed for a drug problem, would be relevant for the decision by the court concerning bail.</p> <p>It should be made clear that making the relevant information relating to the initial assessment available to the court, is in the individual's interest as it is likely to remove the need for an additional assessment that would otherwise have to take place. Where the person concerned understands and is content with the sharing of this information, it would be good practice for the CJIT worker to record this in line with normal information sharing protocols and practice. If the individual was not so content (likely to be only in exceptional circumstances), the worker may decide in those exceptional circumstances that it would breach the duty of care/confidentiality to reveal this information to the court. It should be noted, however, that the Drugs Act 2005 gives express permission for the worker to share this information with the court in these circumstances, without consent.</p> <p>Where RoB is not a consideration (e.g. where a case is disposed of at a first hearing) but the individual's engagement with the drug worker may be relevant to the court's decision re sentencing, information regarding the completion of the initial assessment may only be shared with the court with the individual's informed written consent or within the usual legal framework.</p> <p>If the DT2 form has been properly completed and has been received by CPS, then the prosecution might in any case raise in court the question of whether or not the initial assessment has yet taken place. In most instances, consent is likely to have been given and / or the defence solicitor may raise the issue, as it will be in the client's interest.</p>
CPS	<p>CPS must ensure, for all RoB cases, that the information (RA3) regarding the simple fact of completion of the initial assessment (and whether the RA fulfils the purposes of a relevant assessment under RoB) reaches the case file and is made available to the court if appropriate.</p> <p>As the DT2 form (Annex I) will also be sent to CPS, they will also need to ensure that this</p>

	reaches the case file and is used by the prosecutor.
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### 6.2.3 Local issues

In particular in those cases where RoB (see 3.3 and section 7 of this guidance) may become an issue, ie where the police/courts are continuing activity in relation to the offence for which the individual was arrested, CJITs will need to work with partners to establish robust local arrangements for ensuring consistent and efficient passing of information about the requirement having been met. The outcome of the initial assessment may also be shared with the pre-sentence report author/supervising Probation Officer with the written consent of the individual.

It may be sensible to employ the services of the court-based CJIT staff or the RoB trackers / case progression officers to ensure that the relevant information reaches CPS and the courts. It is likely to be good practice that each CJIT maintains full and accessible records of assessments that are required and completed.

## 6.3 Individual attends and remains for required “follow-up” assessment

### 6.3.1 Definition and significance

This stage in the process refers to the actual conduct of the follow-up assessment.

Section 10 of the legislation refers to the requirement to attend a “follow-up assessment” with a “suitably qualified person” and section 19 of the Act provides for the Secretary of State (S of S) to specify from time to time the qualifications or experience which a suitably qualified person must have. This guidance is the vehicle whereby the S of S makes that specification (the definition of a suitably qualified person is the same as that for the initial assessment see 6.2.1).

Section 10 describes the purpose of the “follow-up assessment” as:

- For any of the purposes of the initial assessment which were not fulfilled at the initial assessment (see 6.2.1 for a description for the initial assessment); and
- If the drug worker, who conducts the initial assessment, thinks it appropriate that the follow-up assessment could be used to draw up a care plan.

Care planning is a process for setting goals based on the needs identified by an assessment and planning interventions to meet those goals with the client. The purpose of the Required Assessment is to draw up and develop an initial care plan. The description of what should be contained within an initial care plan is outlined in the NTA Care Planning Practice Guide (August 2006).

Care planning is a core requirement of structured treatment. A care plan is an agreement on a plan of action between the individual and the drug worker. It should be a paper document which is available to the client and kept on the client’s file. Care plans should document and enable routine review of the client needs, subsequent goals and progress across four key domains:

- Drug and alcohol misuse
- Health (physical and psychological)
- Offending
- Social functioning (including housing, employment and relationships).

For more details on care planning and care plans see the Models of Care for Treatment of Adult Drug Misusers (<http://www.nta.nhs.uk/>) and Care Planning Practice Guide ([http://www.nta.nhs.uk/publications/documents/nta\\_care\\_planning\\_practice\\_guide\\_2006\\_cpg1.pdf](http://www.nta.nhs.uk/publications/documents/nta_care_planning_practice_guide_2006_cpg1.pdf))

Although there is no legislated timescale within which a follow-up assessment must be carried out, its purpose, like that of the initial assessment, is to try and engage the person in treatment/support as soon as practicable. For those who have failed to engage at the initial assessment, it provides the drug worker a further opportunity to engage with the individual and for those who have engaged, it provides for the individual and the drug worker to take the next step to draw up an initial care plan. It is therefore anticipated that a follow-up assessment should be arranged for between 4 to 8 days after the initial assessment to allow a period of reflection following the initial assessment. However, this is ultimately the decision for the drug worker. It is anticipated that the follow-up assessment will be carried out within 8 days of the initial assessment, although this will not always be possible for a range of reasons (including worker availability, timing of CJS processes and fitness of the individual to be assessed).

In all cases where the individual has attended and remained, the worker should complete a form RA 3 (see Annex L) and file it with local papers. This is because the simple fact of attendance may need to be verified

by CPS or police at a later date and the RA3 will also record whether the worker considered that the assessment was suitable for RoB purposes.

Although the Drugs Act 2005 specifically provides for a RoB relevant assessment to be treated as having been carried out for the purposes of the Restriction on Bail provisions where a person attends for the duration of the initial assessment and the assessor is satisfied that the initial assessment fulfilled the purposes of the RoB relevant assessment, this does not apply with the follow-up assessment. However, the drug worker, who conducts the follow-up assessment, can still state whether the follow-up assessment satisfies a RoB relevant assessment although it will be for the court to decide whether to impose a RoB relevant assessment as part of any RoB conditions imposed on an individual.

However, section 17(4) of the Drugs Act does **not** provide for the assessor who conducted the follow-up assessment to disclose information relating to the follow-up assessment to enable the court to determine whether the assessment meets the requirement of Restriction on Bail. It is therefore good practice for all CJIT workers to explain to the person concerned that in the event that they are later charged and are being considered for court bail under the Restriction on Bail provisions, their engagement in the follow-up assessment, and any agreement to draw up a care plan and participate in any follow up proposed for a drug problem, would be relevant for the decision by the court concerning bail. It should be made clear that making such relevant information relating to the follow-up assessment, available to the court would be in the individual's interest as it is likely to remove the need for an additional assessment that might otherwise have to take place. Where the person concerned understands and is content with the sharing of this information, the CJIT worker should record this in line with normal information sharing protocols and practice.

### 6.3.2 Required actions

Who	Action
CJIT Worker	The CJIT worker must have given the individual a notice in writing detailing the time and place of the follow-up assessment (RA4 (Annex M) and (RA2 Annex K)) and confirming the warning in relation to failure to attend and remain.
CJIT worker	The worker must carry out the assessment as appropriate whilst, at the minimum, ensuring it includes the elements set out above.
Individual	The individual must attend and remain for the duration.
CJIT	<p>In all cases where the individual attends and remains at the follow-up assessment, the CJIT should record the fact. The standard form (RA3) has been issued to CJITs in order to facilitate this. Although this form does not need to be sent routinely to the police, it should be filed locally and made available to the CPS or police if required to inform bail decisions if the individual has given their informed written consent or within the usual legal framework. The RA3 will record if the follow-up assessment is relevant for RoB purposes.</p> <p>In those cases where RoB becomes an issue (see 3.3 and section 7 of this guidance), the CJIT may provide the court with information relating to the follow-up assessment with the individual's informed written consent, to enable the court to consider an application for bail. The CJIT worker should explain to the person concerned that in the event that they are later charged and they are being considered for court bail under the Restriction on Bail provisions, their engagement in the follow-up assessment, and any agreement to draw up a care plan and participate in any follow up proposed for a drug problem, would be relevant for the decision by the court concerning bail. The CJIT worker should record this in line with normal information sharing protocols and practice</p> <p>Where RoB is not a consideration (e.g. where a case is disposed of at a first hearing) but the individual's engagement with the drug worker may be relevant to the court's decision re sentencing, <b>information regarding the completion of the follow-up assessment may only be shared with the court with the individual's informed written consent.</b></p> <p>If the DT2 form has been properly completed and has been received by CPS, then the prosecution might in any case raise in court the question of whether or not the follow-up assessment has yet taken place. In most instances, consent is likely to have been given and / or the defence solicitor may raise the issue, as it will be in the client's interest.</p>
CPS	CPS must ensure, for all RoB cases where consent has been given, that the information (RA3) regarding the simple fact of completion of the follow-up assessment (and whether the follow-up assessment fulfils the purposes of a relevant assessment under RoB) reaches the

	case file and is made available to the court if appropriate. As the DT2 (Annex I) will also be sent to the CPS, they will need to ensure that this reaches the case file and is used by the prosecutor.
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### 6.3.3 Local issues

Unlike the initial assessment which in the majority of cases will take place whilst the individual is in police custody, the follow-up assessment will always take place in the individual's DAT of residence. CJITs will want to decide locally what reasonable steps may therefore need to be taken to facilitate the individual's attendance at the follow-up assessment. This may include texting reminders, telephoning etc and proactive outreach such as knocking on doors or taking the individual to the appointment.

In those cases where RoB (see 3.3 and section 7 of this guidance) may become an issue, ie where the police/courts are continuing activity in relation to the offence for which the individual was arrested, CJITs will need to work with partners to establish robust local arrangements for ensuring consistent and efficient passing of information about the requirement having been met. The outcome of the follow-up assessment may also be shared with the pre-sentence report author/supervising Probation Officer with the written consent of the individual.

It may be sensible to employ the services of the court-based CJIT staff or the RoB trackers / case progression officers to ensure that the relevant information reaches CPS and the courts (subject to the relevant consent being given). It is likely to be good practice that each CJIT maintains full and accessible records of assessments that are required and completed.

## 6.4 Individual fails to attend and remain for the duration of the assessment (either initial or follow-up)

### 6.4.1 Definition and significance

It should be borne in mind that the policy intent of this provision is to move more problem drug using offenders into appropriate treatment and support – it is not to send more offenders to court. Reasonable steps may therefore be taken to facilitate the individual's attendance at the initial and follow-up assessments. This may include texting reminders, calling the individual etc.

In order for the requirement to have any real impact, however, cases of deliberate non-engagement must be referred to the police for enforcement action. This in itself may lead the individual to engage.

The individual will have been warned by the police - orally and in writing - that they may be liable to prosecution if they fail *without good cause* to attend the initial assessment and remain for its duration and the follow-up assessment and remain for its duration if required by a drug worker.

If the arrangements for the assessment have been varied by the police or the CJIT, the individual will have been advised in writing and will have been warned again of the consequences of failure to attend and remain (RA2).

In most cases, it will be a straightforward matter for the drug worker to identify when the requirement has not been met. For example:

a failure to attend the assessment, without prior notification of any difficulty

leaving the assessment without good cause before the worker has been able to deliver its constituent parts

displaying behaviour which places individuals, including workers, colleagues and other clients, at risk of harm or distress will render individuals liable to prosecution and/or being identified as having failure to attend and remain. Examples of such behaviour include violence and threats of violence to staff and others, racist or discriminatory language or behaviour, and deliberate damage to property.

In all cases, the CJIT worker should make every effort to engage the individual. In particular, it would be good practice to explain the relevance of engagement at this stage to future decisions about court bail.

In some cases of non-attendance, the CJIT worker will need to exercise judgement about whether it is reasonable to re-arrange the assessment and allow the individual another opportunity to meet the requirement. This may be the case, for example, when the individual has made prior contact to explain particular difficulties in attending either the initial or follow-up appointment. In those cases, the CJIT worker might vary the requirement (using form RA2). Any new arrangement must be confirmed in writing and must

include a warning about liability to prosecution for failure to attend using a similar format and form of words as appear on the RA forms. It is not expected that either the initial or follow-up assessment will be rearranged on more than one occasion other than in exceptional circumstances.

If an individual is remanded in custody before the required assessment has been carried out, this will constitute “good cause” for not attending and they will not therefore be liable to prosecution for failure to attend.

The legislation requires an individual to attend and remain for the duration of the assessment (whether it be the initial or follow-up assessment) but does not, however, require an individual to engage. While the expectation is that drugs workers will be able to engage those who they assess, in drafting the legislation we did not want to put the worker in the difficult position of having to make a judgement at every assessment as to whether the individual had engaged. It is possible, therefore, that an individual might arrive at the assessment, remain silent for the duration and still comply with the requirement. In this situation, the CJIT worker would still be able to explain what treatment and support was available and give harm minimisation advice. It is, however, expected that the majority of individuals will engage and that this situation would rarely, if ever, occur.

If the police decide to charge an individual while they are having an initial assessment, the initial assessment does not, under normal circumstances, have to stop. The duty imposed on a custody officer under section 37 of PACE is that once there is sufficient evidence to charge that this is done as soon as practicable. If the decision to charge is made when the person is having the assessment, the person should be informed of the decision on completion of the assessment.

If a person gives a false identity during either assessment, there is no need (or power) to require them to attend a second assessment. However, the CJIT worker will want to go back to the person and ask if they wish to change anything said during that assessment. The worker may also want to explain that, given the doubt over the validity of their responses in the assessment, it will no longer be counted as a relevant assessment for RoB purposes and the court may require another assessment, unless they agree to have a further voluntary assessment there and then.

#### 6.4.2 Required actions

Who	Action
CJIT worker	The worker must ensure that the individual was given the correct details of time and place and make any reasonable checks around whether the individual has been remanded in custody.
CJIT worker	The worker must consider if it is appropriate to make a new arrangement for assessment when there is reason to believe the individual would comply with a re-arranged appointment
Court worker	Court workers should endeavour to inform CJIT colleagues when a prospective client is remanded in custody.

#### 6.4.3 Local issues

Teams should establish local arrangements for the consideration of cases where an individual has failed to attend or remain but it is believed that it would be appropriate to make a new arrangement. This would only be in cases where the individual has communicated with the CJIT regarding the appointment. Rearranging appointments where an individual has simply failed to attend without contact must be avoided and the matter referred to the police for enforcement action as appropriate (see 6.5).

CJIT managers should arrange to monitor failures to attend and remain and reasons given in order to assess consistency of approach across the team and to ensure that no local processes or working practices are causing a problem (for example appointment processes or drug worker availability).

Rates and trends (both over time and between areas) of failure to attend and remain may be analysed and queried through local and national performance management systems.

CJITs and police jointly should agree as good practice that the police are informed of any changes to arrangements for assessment, depending on how the processes are to be managed locally. If, for example, a CJIT-based police officer is overseeing all such cases, such information may be needed for completeness and efficient administration purposes.

## 6.5 Police are informed of failure to attend and remain

### 6.5.1 Definition and significance

The Act requires “the initial or follow-up assessor” to inform a police officer or police support officer if the individual fails to attend or remain for the initial or follow-up assessment.

The “assessor” in this instance must be a person with personal knowledge of the failure to attend and remain. If the individual attended but did not remain, the assessor would clearly be the worker who had begun the assessment. When the individual has not attended at all, it may be the person who was due to assess them or an administrator at the location who would have booked them in had they attended. Legal advice is that either the assessor may personally complete the RA3 or another CJIT staff member may do so on his/her behalf. However, the assessor must have personal knowledge of the failure to attend and remain as it is recorded on the RA3 and be prepared to make an evidential statement and attend court in respect of such a statement if necessary. The key point here is that personal knowledge is required for the court and not necessarily for completion of RA3.

The individual may be liable to prosecution if they fail without good cause to attend the assessment (initial or follow-up) and remain for its duration. **Where an individual fails to attend or remain at an initial assessment, a follow-up assessment must not be arranged.**

The onus is not upon the CJIT worker to assess “good cause”. If an individual fails to attend or remain in circumstances such as, or similar to, those outlined in 6.3.1., the worker must report to the police the facts of the case as known to them at the time (RA3). If the CJIT worker had varied the requirement for the initial assessment or the follow-up assessment (see 6.3.1), they would report to the police that the individual had failed to attend (in accordance with the requirement at section 12(2) or 14(2) of the Drug Act 2005 as appropriate), that there appeared to be good reason for the failure and that the initial or follow up assessment had been rescheduled. In such circumstances, it is suggested that the police/ CPS would not charge the individual. If the individual subsequently failed to attend the re-arranged initial or follow-up assessment or failed to remain for the duration of the re-arranged assessment, the CJIT worker should report the facts of the case to the police.

A basic evidential template has been prepared (Annex O) to facilitate the provision of the necessary information which will be required by the police / prosecutor in deciding whether to proceed to charge and in presenting the facts or conducting a trial. As every case will be different to some degree, the template includes a free text section wherein the worker will need to record specific relevant information about what exactly happened such as: did the person make contact? Why was the excuse not acceptable? When did the person leave the assessment? What had been their behaviour up to then? What was the violence or obstruction? This evidential statement is only for the use of the drug worker who is reporting non-attendance / failure to remain for the duration the police will use standard evidential templates in relation to the original conduct of the test, its result, the notification of either the initial or follow-up assessment being required and the oral and written warnings re the consequences of failure to attend or remain for the duration. If the DT1 form is required for evidential purposes, then the document should be produced as an exhibit in the normal way with a photocopy retained with the remainder of the custody record. CPS may also require further witness statements from police staff involved in the drug testing process and local procedures should cater for this requirement.

It will be for the court ultimately to decide on “good cause”.

The Act does not specify whom precisely within the police / police support officer must be informed of a failure to attend and remain. Each BCU will have identified its own single point of contact to ensure the CJIT has a simple and efficient route in to the police for this vital piece of enforcement information. This is the Police SPOC list.

### 6.5.2 Required actions

Who	Action
CJIT worker	<p>The worker must give a written notice to police in the area where the RA was originated stating that the individual failed to attend and remain and any reason given by the individual or known to the worker. (Form RA3 must be used to facilitate the consistent and legally sound sharing of this information, including with the court if appropriate for bail decisions.)</p> <p>The worker, with personal knowledge of failure to attend and remain, must also be ready to complete an evidential statement as at Annex O setting out the circumstances of a failure to attend and remain.</p>
Police	Police has ensured that each BCU has its own single point of contact which is clearly

	communicated to the CJIT so that all workers know to whom to report the failure to attend and remain. The single point of contact must have suitable arrangements in place to act upon receipt / task a colleague appropriately. The list of police single points of contact is circulated to CJITs on a monthly basis by the Home Office.
Police / CJIT	Police and CJIT must ensure that local arrangements are properly communicated to all parties to ensure efficient sharing of information and appropriate record keeping.

### 6.5.3 Local issues

Police / CJITs will need to develop locally suitable arrangements for ensuring that the form (RA3) reaches the right police contact at the right time, is properly actioned and that all actions are properly recorded.

The person who is tasked by the police single point of contact with acting upon the information may depend upon whether there are other outstanding CJS activities underway. For example, if there are charges being pursued, there will be a case file within the CJU and an "officer in case" will have been assigned to whom any relevant information would reasonably be sent. In some instances, however, the only police activity will be the consideration of the failure to attend and remain. In these instances it may be that there is a key role for those police officers who are members of a CJIT or those currently dedicated to RoB administration / enforcement. Such officers, with administrative support, may be best placed, for example, to compile the file for submission to CJU / CPS in order to progress enforcement processes. The key point is that the tasking decision is to be taken within the police, whilst what the CJIT needs to know is simply who is the single point of contact.

## 6.6 Prosecutor/Police decide to pursue offence of failure to attend and remain

### 6.6.1 Definition and significance

The Act states that a person is guilty of an offence if they have failed to attend and remain for the duration of a required assessment *without good cause*. The individual will have been warned about this possible consequence orally and in writing. The warning will have been re-iterated in writing if the arrangements for the assessment have been varied at any time, by the serving of an RA2.

A decision will therefore need to be made by a prosecutor or the police as to whether to take proceedings against the individual for the offence of failure to attend and remain. The police may take the charging decision if it is anticipated that the person will plead guilty. A prosecutor will take the decision to charge in all other situations, including where the offence arises out of an arrest for substantive matters that are required to be submitted to CPS for a charging decision. In addition, the CPS remain available to offer advice on request.

Ultimately it is for the court to rule on "good cause" but in some cases e.g. where an individual has been remanded in custody, it will be appropriate for the police to make a "no further action" decision at this stage and thereby divert such cases from the court processes. (See 6.6)

A person guilty of this offence is liable on summary conviction to imprisonment for a term not exceeding 3 months (this will rise to 51 weeks when s283(5) CJS 2003 is brought into force) or a fine not exceeding level 4 on the standard scale (£2500) or to both.

Failure to attend and remain for the duration of a required assessment is an offence for which an individual can be arrested following implementation of section 110 of SOCAP on 1<sup>st</sup> January 2006. Individuals arrested for the offence of failing to attend and remain should be processed in the normal manner prior to the decision being made regarding charge and bail. In such cases, a police decision to pursue the offence of failure to attend and remain would result in the case being allocated to a police officer to arrest the individual and take him to a custody suite for decisions to be made about charge and bail.

The PNC code for fail to attend for and remain for duration of initial assessment following test for specified Class A drug is CJS Code DA05001 ACPO Code 9.2.29.1. The PNC code for fail to attend and remain for duration of follow-up assessment is CJS Code DA05002 ACPO Code 9.2.28.1.

### 6.6.2 Required actions

Who	Action
Police	Make decision on whether to arrest individual for failure to attend and remain.
Police/CPS	To make decision on prosecution for failure to attend and remain.

CJIT worker	On request, provide evidential statement of failure to attend and remain which may be submitted to court
Police	Officer who originally required assessment to provide evidential statement, based on details from amended DT1 (Annex H) which will be part of custody record.

### 6.6.3 Local issues

Local decisions will need to be taken and communicated unambiguously with key partners, especially CJITs, about how this process will be handled in each area, especially who will be the single point of contact within police for the CJITs.

It is expected that administration of enforcement activities will be carried out in line with usual local police priorities; this may involve tasking and co-ordinating at BCU level. It should be noted, however, that best use should be made of DIP-specific resources in the local area who may be able to facilitate or undertake such activity, releasing other local resources.

Under Section 2 of the Magistrates Courts Act 2003 a local magistrates' court has the jurisdiction to try any summary offence. Therefore an individual charged with the offence of failing to attend and remain at an assessment may be placed before any magistrates' court. The police who charge the individual with failure to attend and remain will decide which magistrates' court the individual to appear before. The guiding principle being, as in other offences, that the case should be heard at the magistrates' court for the local justice area in which the offence is alleged to have been committed, where the subject of the complaint originated or where the person charged with the offence resides.

## 6.7 Prosecutor/Police decide not to pursue offence of failure to attend and remain

### 6.7.1 Definition and significance

If the prosecutor or police decide not to pursue, this will be an exit point from RA process.

The Act states that a person is guilty of an offence if they have failed to attend and remain *without good cause*. The individual will have been warned about this possible consequence orally and in writing. The warning will have been re-iterated in writing if the arrangements for the assessment have been varied at any time.

A decision will therefore need to be made as to whether to take proceedings against the individual for the offence of failure to attend and remain. The police may make the charging decision when there is an anticipated guilty plea, and the prosecutor will make the decision in all other circumstances, including where the offence arises out of an arrest for substantive matters. In all instances, CPS remain available to offer advice on request.

Ultimately it is for the court to rule on "good cause" but in some cases e.g. where an individual has been remanded in custody, it will be for the police to make a "no further action" decision at this stage and thereby divert such cases from the court processes.

The issue of who within the police proposes the "no further action" approach will depend largely upon the arrangements put in place in relation to para 6.4 above (e.g. officer in case, custody officer, CJIT / RoB police officer).

In order to quality assure decision and to ensure consistency, the authority of a supervising officer must be sought; this may be in conjunction with the CPS. Local and national performance management processes may seek to analyse data and trends in decisions to take no further action.

### 6.7.2 Required actions

Who	Action
CPS / Police	Supervisory police officer to consider decision not to pursue; this may be in conjunction with the CPS. Take and record decision not to pursue. In cases where there is ongoing police activity, this decision should be recorded on the case file. Where this is the only decision papers may be filed locally for local management information once the decision is taken.

### 6.7.3 Local issues

Local decisions will need to be taken and communicated unambiguously with key partners, especially CJITs, about how this process will be handled in each area, especially who will be the single point of contact within police for the CJITs and what management information will be collected on no further action (NFA) cases.

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## 7 Restriction on Bail Process Guidance

See Annex E for Restriction on Bail process map

### 7.1 Overarching points

Restriction on Bail (RoB) targets defendants whose offending is related to their drug misuse by restricting their access to court bail if they do not agree to undergo an assessment of their drug misuse and participate in any proposed follow-up (generally treatment).

The provision can prove beneficial to defendants who are willing to address their drug misuse and enables them to access services to help them off their dependency.

The provisions relating to drug users: Restriction on Bail (as introduced by section 19 of the Criminal Justice Act 2003) apply specifically to defendants aged 18 and over who have tested positive for a specified Class A drug – heroin/ cocaine/crack – which have been shown to be the most closely linked with acquisitive crime.

### 7.2 Drug test results and other required information to be presented at court

#### 7.2.1 Definition and significance

This stage in the process will normally be when the defendant first appears in court having been charged with a relevant offence - a trigger offence or any offence where a drug test under section 63B of PACE has been authorised by an officer of Inspector rank or above (see section 5 of the guidance). However, it would also apply where the court is considering whether or not to grant bail on a second or subsequent occasion.

For the court to consider whether the RoB provisions are applicable, there must be evidence before the court that the defendant has tested positive for a specified Class A drug (heroin/cocaine/crack) in connection with the offence. This will have been recorded on the defendant's custody record and on the DT2 form. **The police must include this information within the prosecution file.** A comprehensive record of an individual's current and previous tests and test results should be maintained by the police (process to be decided locally), including all DT2 forms relating to tests the individual has taken, regardless of whether the arrest, for which the drug test was taken, leads to a charge. The DT2 includes information on the test, results and any confirmatory analysis required. This may be useful where the defendant claims that this is the first time they have taken drugs but where previous positive test results indicate the opposite. Accordingly the police should wherever possible provide the CPS with an individual's previous drug testing history as part of the prosecution file.

The onus is on the CPS to bring the test result to the attention of the court with any other relevant information, to enable the court when deciding bail to consider whether the RoB provisions should apply. Although the police are responsible for ensuring that the form DT2 containing the evidence of the drug test result is on file, the CPS must ensure that the drug result is communicated to the court.

Even where the positive test result relates to a sample taken some weeks before a defendant's appearance in court for the related offence, the Restriction on Bail provision should be considered at the defendant's first hearing.

The CPS must also inform the court whether the defendant has been offered and/or undertaken a relevant assessment – the RoB assessment - (within the meaning of the Bail Act 1976), and provide any other relevant information about the outcome. This will include whether the assessment was offered/undertaken under voluntary arrangements or, imposed by the police under the required initial and follow-up assessment provisions in the Drugs Act 2005 and, if so, whether this met the purposes of a RoB relevant assessment. (See sections 6.2.1, 6.2.2, 7.6 and 7.7).

#### 7.2.2 Required actions

Who	Action
Police	To ensure that the form DT2 (Annex I) containing the drug test result information is included in the prosecution case file. In instances of a positive test result to ensure that the test is highlighted for the CPS e.g. stamping the front of the file, using colour coded file sleeves (see 7.2.3 below).
Police	To communicate the drug test results to court based CJIT workers to enable them to identify potential RoB cases, monitor their progress through the court and to carry out assessments, as required

CPS	To ensure that the positive drug test result, previous drug test results where necessary and relevant information about assessments (with the consent of the individual in relation to information from a follow-up assessment) is communicated to the court as part of their recommendation concerning remand/bail (see 6.2.2 and 6.3.2).
CPS	To ensure that where a positive sample is taken from a person on arrest, and, during the same period of detention, the person is charged with that offence or charged with a different trigger offence (or an offence where an Inspector's authorisation is applicable), the test result is brought to the attention of the court.
CPS	To ensure that the prosecution lawyer signs the DT2 form when the court has been informed of the drug test result.
Court based CJIT worker	To ensure that information in respect of any assessment offered to/ or undertaken by the defendant is before the court (see 6.2.2). To identify potential RoB clients and track progress.- See Section 7.6

### 7.2.3 Local issues

The way in which the drug test result is highlighted by the police /CPS and communicated to the court will depend on local arrangements. Local partnerships will need to establish reliable routes of communication between the police, CPS, court based CJIT workers, court probation staff and the courts to ensure that there are no blockages in this process. Various mechanisms have been used to assist identifying cases where a positive drug test result has been recorded such as the use of colour coded file sleeves; stamping case file and court charge sheets; case files being checked by administrative staff in the police station and CPS; DT2 form being added to a standard CPS check list of items to be contained in the case file; CPS access to police drug test recording system.

Processes also need to be in place so that information of positive drug tests includes the name of the defendant, the test result and date of initial court hearing.

It is essential that all those involved in this part of the process, including defence lawyers, judges and magistrates understand the RoB provisions.

## 7.3 Case dealt with (disposed of) at first hearing

### 7.3.1 Definition and significance

Although a defendant may potentially be eligible for RoB, the court may deal with and dispose of the case at the first hearing, for example following a guilty plea to the offence(s) with which the defendant has been charged. In these cases, the drug test result (with any previous drug test results) should be made known to the court so that it can be taken into account in sentencing outcome (see also section 7.10). In such cases RoB will not be applicable at this stage but the DIP process may nevertheless continue as part of throughcare and / or CARAT arrangements, and it is important that information about the outcome at court is passed to the CJIT. As RoB is not an issue, information from the required initial assessment and any required follow-up assessment may be made known to the court only with the individual's written consent, or within the usual legal framework.

The outcome of the required initial assessment, required follow-up assessment or any other assessment can, with the written consent of the individual, also be shared with the pre-sentence report author and/or supervising Probation Officer, and CJIT workers can play a key role in explaining the real benefits of this to the individual. In some cases where this information is available to the probation officer in court, the court may be able to request a fast track rather than full adjournment report.

### 7.3.2 Required actions

Who	Action
CPS	To ensure that the positive drug test result, previous drug test results where necessary and relevant information about assessments (with the individual's written consent) is communicated to the court to assist their considerations regarding sentencing.
Court based CJIT Worker	To ensure that information in respect of any assessment offered to/ or undertaken by the defendant is before the court
Court based CJIT worker	To ensure that the outcome of the hearing and information about the case disposal is passed on to the CJIT.

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### 7.3.3 Local issues

Local partnerships will need to ensure that procedures for notifying the outcome of the hearing to the CJIT where the case is disposed of are in place. As RoB will not apply in such cases, this information will be needed as part of the monitoring process. In the case of disposal this should include whether the court has imposed a community sentence with a drug rehabilitation requirement. Partnerships will also wish to consider whether any information is required by the police at this point of the process.

## 7.4 Case not dealt with (disposed of) at first hearing – Is individual eligible for RoB?

### 7.4.1 Definition and significance

Where the case is not dealt with/disposed of at the first hearing, the court will determine in the light of the information before it whether the defendant should be remanded on bail or in custody pending a further court hearing.

The court has a duty when deciding bail to consider whether RoB conditions should be applied to the defendant. (see section 3.3 for details of the RoB provision).

Where a defendant has previously refused to undergo an assessment on a voluntary basis or has failed to attend and/or remain for the duration of either their required initial assessment or where applicable a required follow-up assessment, it is open to the court to ask the defendant at the time of the bail hearing whether they wish to reconsider their refusal to undertake an assessment, and agree to undergo a relevant assessment and participate in any proposed follow-up and to inform them of the possible consequences of such a refusal.

If a person fails to attend a required initial assessment or required follow-up assessment, they are liable to prosecution. The application of the RoB provisions does not remove this liability if a person fails to attend and remain prior to being given bail in these circumstances.

### 7.4.2 Required actions

Who	Action
CJIT worker	To explain RoB to individuals they assess so that they are aware of the provision if charged and taken to court. This should include the benefits of fully engaging in the process if they are subsequently considered under the RoB conditions. Leaflets about the RoB provision have previously been made available and will assist CJIT workers with this role.
Defence lawyers	To discuss the RoB provisions with their clients and the possible implications. To ensure that defendants potentially eligible for conditional bail under RoB who agree to the conditions are considered by the court. Ensure that information about any assessment offered or undertaken and the outcome is before the court.
Magistrates/ Judges	To make a decision in the light of the information presented whether conditional bail with RoB conditions is appropriate (see 7.5-7.8 below)

### 7.4.3 Local issues

Local partnerships will need to ensure that defence solicitors are involved in the process and understand RoB and its implications for their clients. This can be achieved by organising events with the local Law Society. Additionally, part of the court based CJIT workers role is to talk to and build up good working relationships with local defence lawyers within the courts by explaining the ROB provision where it is appropriate.

Processes need to be in place to track progress and to enforce any RoB conditional bail.

Partnerships will wish to consider establishing local arrangements for ensuring that appointments for a RoB assessment do not clash with other appointments such as those with the pre-sentence report author.

## 7.5 Individual does not agree to RoB conditions

### 7.5.1 Definition and significance

Where the defendant does not agree to undergo the assessment and participate in the proposed follow-up, the court is obliged to refuse bail unless satisfied that there is no significant risk of offending on bail.

### 7.5.2 Required actions

Who	Action
Defence solicitors	To discuss with their clients the implications of refusal and specifically that the court is obliged to refuse bail unless satisfied that there is no significant risk of offending on bail.
Judges/ Magistrates	To provide an opportunity at the hearing for the defendant to reconsider Unless satisfied that there is no significant risk of re-offending, to refuse bail and remand in custody
CJIT	To inform the CARAT team in prison that the defendant has been remanded through normal arrangements.

### 7.5.3 Local issues

None.

## 7.6 No required assessment has been completed

### 7.6.1 Definition and significance

Due to the short time between the person being required by the police to attend a required initial assessment and appearing in court, it may not have been possible for the required initial assessment to take place. Under the Drugs Act any outstanding requirement for a person to attend a required initial assessment and required follow-up assessment ceases to have effect if a person is granted bail with RoB conditions by a court in respect of the offence which triggered the drugs test or an offence which is to be treated as such (see 5.4.4.1).

### 7.6.2 Required actions

Who	Action
Court/court based CJIT worker	Where RoB conditional bail is imposed by the court, to notify the defendant that the outstanding requirement to attend a required initial assessment and required follow-up assessment has ceased (see section 5.5.4).

### 7.6.3 Local issues

Good practice shows that it is better for the assessment to take place before the bail hearing. Where a requirement has been made for the person to attend a required initial assessment and where necessary a required follow-up assessment there is a legal requirement for the person to attend and remain for their duration. However, there will be circumstances where it has not been possible for the required initial or follow-up assessment to take place or no requirement has been made of the defendant. In these circumstances, the court may ask the defendant to agree to undergo the assessment whilst at court and stand the court down to enable an assessment to take place. Where such an assessment fulfils the purpose of the RoB relevant assessment then the court will be able to consider granting conditional bail in respect of any follow-up proposed. Where such an assessment has not taken place the requirement to undergo an assessment for RoB will form the first part of the defendant's conditions of bail. However, local procedures should be put in place to ensure that assessments are carried out before court appearance wherever possible.. It should only be on rare occasions that an assessment for the purposes of RoB forms the first condition of bail.

Local procedures should also include a means of ensuring that CJIT workers are informed when required assessment slots have been freed up.

Court results are communicated to the police. This includes information relating to bail and details of any ROB conditions attached. This information will inform the police / CJIT that the need for an individual to attend required assessment has ceased.

## 7.7 Required Initial Assessment or Required Follow-Up Assessment fulfils purposes of the RoB relevant assessment

### 7.7.1 Definition and significance

Although the level of the required initial and follow-up assessments under the Drugs Act 2005 and the relevant assessment under RoB is a minimum triage level 2, the provisions apply in different circumstances and provide for slightly different outcomes.

Although the intention is that, where a required initial assessment (and where applicable, a required follow-up assessment) has been imposed, the individual should fully engage in these required assessments (and then go on to access relevant treatment or support on a voluntary basis), there is no statutory requirement for them to do more than attend and remain for the duration. However, in order for a required initial or follow-up assessment to meet the purposes of RoB the assessor must be able to assess whether the person needs any follow-up treatment or help, and to make any appropriate proposal in this respect. This will require a degree of engagement on the part of the individual.

In addition, the Drugs Act 2005 specifically provides for a RoB relevant assessment to be treated as having been carried out for the purposes of the Restriction on Bail provisions where a person attends for the duration of the required initial assessment and the assessor is satisfied that the required initial assessment fulfilled the purposes of the RoB relevant assessment. Section 17(4) of the Drugs Act provides for the assessor who conducted the initial assessment to disclose information relating to the initial assessment to enable the court to determine whether the assessment meets the requirement of RoB. This does not, however, apply to the follow-up assessment and section 17(4) does not provide for the assessor who carried out the follow-up assessment to disclose information relating to the follow-up assessment to enable the court to decide whether the assessment meets the requirement of RoB. Such information in relation to the follow-up assessment may only be shared with the written consent of the individual (see section 6.3.1 for further details).

Although there is no specific provision with regards to assessments conducted on a voluntary basis following a positive test, the information presented to the court, with the written consent of the defendant, should enable the court to decide whether it would be appropriate to grant conditional bail for the defendant to participate in any follow-up proposed or whether the conditions should include undergoing a relevant assessment.

Where a RoB relevant assessment has been undertaken (or deemed to have been undertaken) either through the voluntary or required initial or follow-up assessment route, the court should consider whether conditional bail is to be granted in respect of any relevant follow-up proposed.

### 7.7.2 Required actions

Who	Action
Court based CJIT worker	To inform the CPS where a required initial assessment (or follow-up assessment with the written consent of the individual) has taken place which fulfils the purpose of the RoB relevant assessment so that any proposed follow-up can form the defendant's conditions of bail (see section 6.2.2 and 6.3.2 and the use of form RA3)
CPS	To inform the court that an initial assessment has taken place and that the proposed follow-up can form the defendant's conditions of bail

### 7.7.3 Local issues

To develop local procedures so that the information from any initial assessment is disclosed to the CPS who can then communicate that information to the court/probation service.

## 7.8 Required Initial Assessment or Required Follow-Up Assessment does not fulfil purposes of the RoB relevant assessment

### 7.8.1 Definition and significance

Section 7.7.1 explains when the required initial assessment or required follow-up assessment fulfils the purposes of the RoB relevant assessment. Where defendants do not attend their required assessment or fail to engage with the CJIT worker during either the required initial or follow-up assessment sufficiently for the CJIT worker to be able to assess whether the defendant needs any follow up treatment or help and to make any appropriate proposal in this respect, or where the individual declines to consent to sharing information from a follow-up assessment, then the CJIT will not be able to inform the court that the assessment fulfils that needed for RoB. To help avoid such situations, the CJIT worker should make every effort to engage the

individual if they feel that the individual would benefit from further follow-up. In particular it would be good practice to explain the relevance of engagement at this stage to future decisions about court bail (see sections 6.2.2 and 6.3.2).

However, where the required initial or follow-up assessments do not fulfil the purposes of the RoB relevant assessment it will nevertheless be open for the CJIT worker to ask the defendant before they appear in court to undergo a further voluntary assessment which would meet the requirement of the RoB assessment. Given that the required initial assessment should take place immediately following arrest and the required follow-up assessment should be arranged within 8 days from the initial assessment, it is possible for some time to have elapsed between the assessments and the defendant being charged and appearing in court. This is particularly the case where extensive police investigation necessitates the use of lengthy periods of police bail. Once a defendant has been charged and is appearing before the court, they may be more ready to undergo and participate in an assessment albeit on a voluntary basis, which meets the purposes of the RoB relevant assessment and, should they wish to do so, it may be appropriate for the drugs worker to offer another assessment before the defendant's court appearance. The RoB assessment could also be used to flag up the possibility of a Drug Rehabilitation Requirement, where appropriate.

It is essential that, when the defendant appears in court all the relevant information should be put before the court concerning the initial assessment. Even if the defendant has refused a voluntary assessment, the court should still offer the defendant the opportunity to undergo a relevant assessment for RoB.

### 7.8.2 Required actions

Who	Action
Court based CJIT worker	To inform the CPS whether the required initial assessment and where applicable (and with the written consent of the individual) a required follow-up assessment fails to fulfil the purpose of the RoB relevant assessment or whether any further voluntary assessments have taken place which meet the requirement of RoB.
CPS	To communicate the above information to the courts.

### 7.8.3 Local issues

To ensure that local arrangements are in place to ensure that the appropriate information is passed to the CPS for communication to the court.

## 7.9 Failure to attend and undergo the Relevant Assessment and participate in any follow-up appointments

### 7.9.1 Definition and significance

A defendant will breach their Restriction on Bail conditions if they:

- a. fail to undergo a relevant RoB assessment; and/or
- b. fail to participate in any follow-up proposed.

Any voluntary assessments or required initial or follow-up assessments are not a condition of RoB and therefore the defendant cannot be breached for failing to attend these. Of course those defendants who have failed to attend and remain for the duration of their required initial assessment and where applicable, a required follow-up assessment will face prosecution (see section 6.5). There are no sanctions for non-attendance or engagement with a voluntary assessment but failure to attend or engage will call into question the defendant's willingness to comply with the RoB conditions.

The success and credibility of the RoB provision is dependent on appropriate and timely enforcement following a failure to comply with the bail conditions. Therefore persons conducting assessments or persons/agency providing any type of proposed follow-up, treatment or otherwise, must view any missed appointment (without prior agreement in exceptional cases by the person undertaking the assessment or the person / agency providing the follow-up) as a breach of the RoB bail conditions. The breach must be reported to the police so that the defendant can be arrested and brought back before the court.

Breach proceedings in relation to RoB should be brought after one 'failure to attend'. It is then for the courts to decide in the normal way if it is 'of the opinion' that the defendant has broken the bail conditions (Bail Act 1976, section 7 (5)). As in normal situations concerning breach of conditions, if the court finds that there has been a breach, the individual may be remanded in custody. Alternatively, the defendant may be granted bail subject to the same or different conditions.

In respect of compliance with a condition to participate in follow-up, in addition to failure to attend an appointment, a defendant should be in breach if they fail to comply with treatment. It is possible for the defendant to attend appointments, and still be in breach by failing to comply with the treatment. This failure may manifest itself in various ways. The legislation requires the defendants to 'participate' in follow-up, and any lack of engagement with counselling or other form of non-compliance that results in the defendant not participating will amount to a 'failure to comply'.

Equally, behaviour which places other individuals at risk of harm or distress will render offenders liable to breach and subsequent prosecution. Examples of such behaviour include violence and threats of violence to staff and others, racist or discriminatory language or behaviour, and deliberate damage to property.

### 7.9.2 Required actions

Who	Action
CJITs	Ensuring that mechanisms are in place to confirm that a defendant has attended pre-arranged appointments and to inform the police of any breach of bail conditions in respect of undergoing the relevant assessment and participating in follow-up.
Police	To act upon breach information from the CJIT where satisfied there is sufficient evidence for breach of a bail condition. Arrest the individual and subsequently place the defendant back before the court as expeditiously as possible.

### 7.9.3 Local issues

The aim of Restriction on Bail is to reduce reoffending whilst on bail and encourage drug-misusing offenders into treatment, where their drug use can be addressed. Therefore the local mechanisms put in place should make it as difficult as possible for a defendant to miss appointments without very good reason. Therefore wherever possible the assessment, whether a required initial assessment, required follow-up assessment or a voluntary assessment should take place before the person appears in court or (in the case of a RoB relevant assessment imposed as conditional bail) straight after the court appearance CJITs should take a proactive approach in helping the defendant attend any follow-up appointments.

However, it is important that the defendant is clear that one missed appointment under their follow-up amounts to a breach of conditional bail and that the police can take immediate action to bring the defendant back before the court (good practice suggests that this should be within 48 hours). Clear enforcement policies have shown to help keep breach rates down.

## 7.10 Linking treatment intervention with eventual sentencing outcomes

### 7.10.1 Definition and significance

The court should take into account any assessment and treatment that has been undertaken as a result of a defendant having Restriction on Bail conditions attached to their bail, if the court considers at a later stage the passing of a community or other sentence. This will ensure continuity of care. It is open for the court in each case where there has been a Restriction on Bail condition, to ask the probation service to provide a pre-sentence report. This would reduce the possibility of duplicating assessments and treatment. A pre-sentence report would be able to provide the court with information about any treatment already provided as a result of the earlier assessment so that if appropriate any sentence can follow on from this treatment. It will also ensure that the defendant is not forced under law to undergo two of the same assessments / follow-up, which may indeed discourage him from complying with any treatment requirement.

### 7.10.2 Required actions

Who	Action
Court based CJIT worker or case progression officer	To provide the court probation staff with information whether the defendant has complied with the Restriction on Bail conditions and any relevant information that the probation officer may need in preparing their pre-sentence report.

### 7.10.3 Local issues

Many CJITs have probation staff as part of the team but it is important that the court case workers/case progression officers and court based probation officers decide locally how best this is achieved.

**Annex A List of police force areas, BCUs and custody suites eligible for adult drug testing**

Please see [http://drugs.homeoffice.gov.uk/drug-interventions-programme/guidance/RA\\_guidance/](http://drugs.homeoffice.gov.uk/drug-interventions-programme/guidance/RA_guidance/). On this page you can find the list of sites currently eligible for adult drug testing.

archived

**Annex B List of Trigger Offences** (with effect from 1 August 2007).

**1. Offences under the following provisions of the Theft Act 1968:**

- section 1 (theft)
- section 8 (robbery)
- section 9 (burglary)
- section 10 (aggravated burglary)
- section 12 (taking motor vehicle or other conveyance without authority)
- section 12A (aggravated vehicle-taking)
- section 22 (handling stolen goods) \*
- section 25 (going equipped for stealing, etc.)

**2. Offences under the following provisions of the Misuse of Drugs Act 1971, are trigger offences if committed in respect of a specified Class A drug:**

- section 4 (restriction on production and supply of controlled drugs)
- section 5(2) (possession of controlled drug)
- section 5(3) (possession of controlled drug with intent to supply)

**3. Offences under the following provisions of the Fraud Act 2006\*\*:**

- section 1 (fraud)
- section 6 (possession etc. of articles for use in frauds)
- section 7 (making or supplying articles for use in frauds)

**3A. An offence under section 1(1) of the Criminal Attempts Act 1981 is a trigger offence, if committed in respect of an offence under –**

**(a) any of the following provisions of the Theft Act 1968\*:**

- section 1 (theft)
- section 8 (robbery)
- section 9 (burglary)
- section 22 (handling stolen goods)

**(b) section 1 of the Fraud Act 2006 (fraud) \*\*\*:**

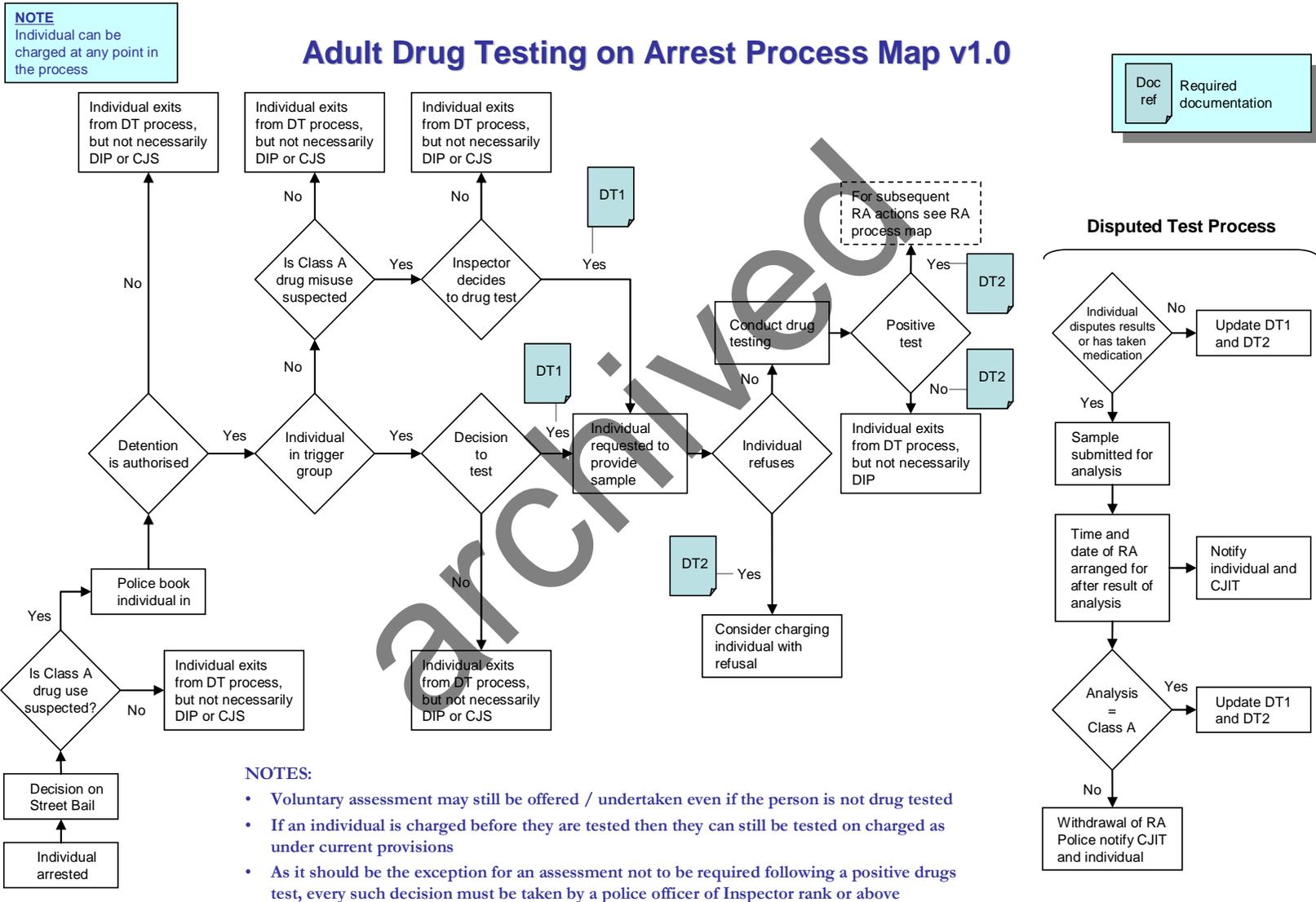
**4. Offences under the following provisions of the Vagrancy Act 1824 are trigger offences: \***

- section 3 (begging)
- section 4 (persistent begging)

- \* Offences added to the trigger offences in Schedule 6 to the Criminal Justice and Court services Act 2000 by The Criminal Justice and Court Services Act 2000 (Amendment) Order 2004, (S.I. 2004/1892), which came into force on 27<sup>th</sup> July 2004.
- \*\* Offences added by the Fraud Act 2006, which came into force on 15 January 2007-08-20
- \*\*\* Offences added by the Criminal Justice and Court Services Act 2000 (Amendment) Order 2007 which came into force on 1 August 2007.

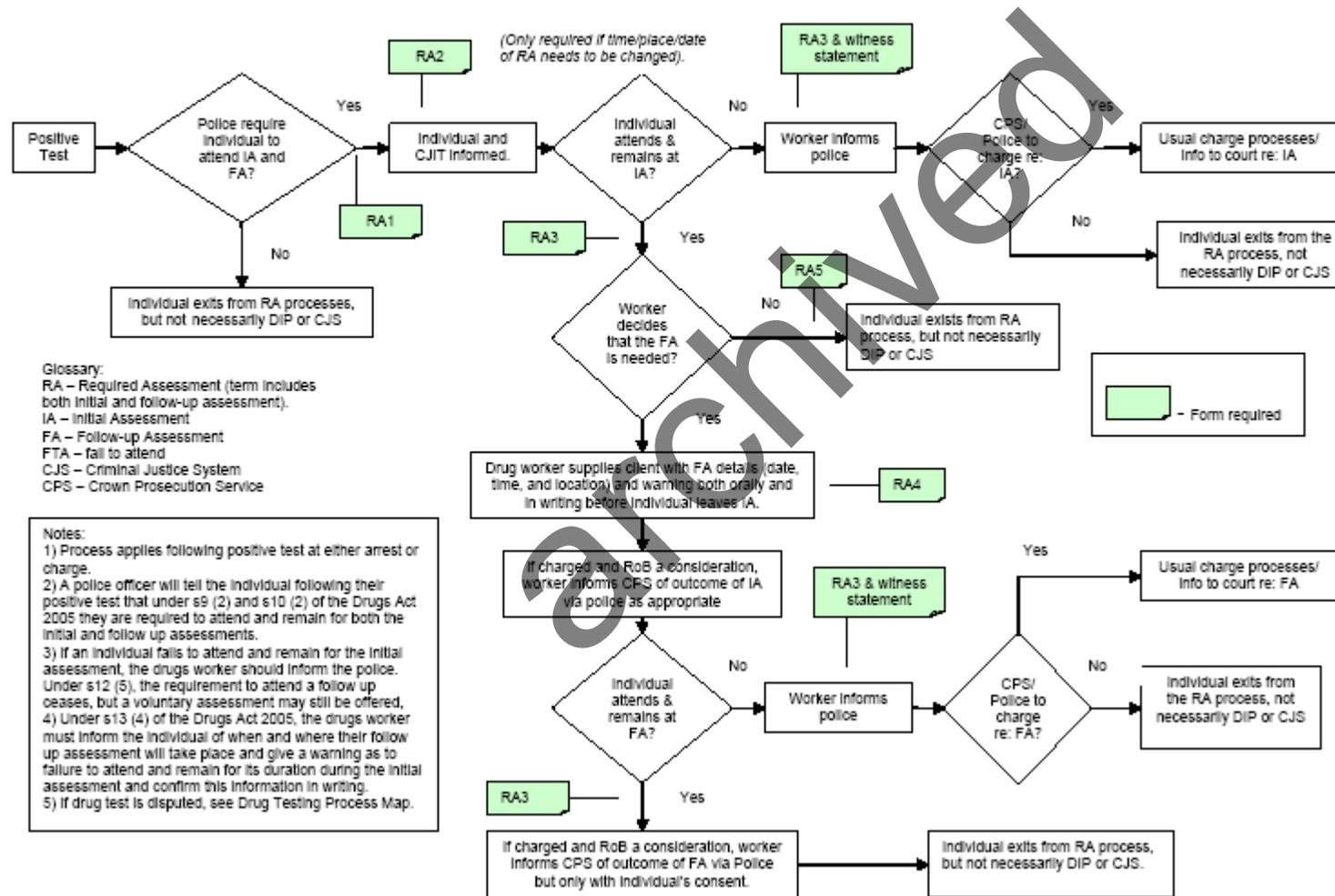
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## Annex C Testing on Arrest Process Map



Annex D Required Assessment Process Map

Adult Required Assessment (initial and follow-up assessments) Process Map



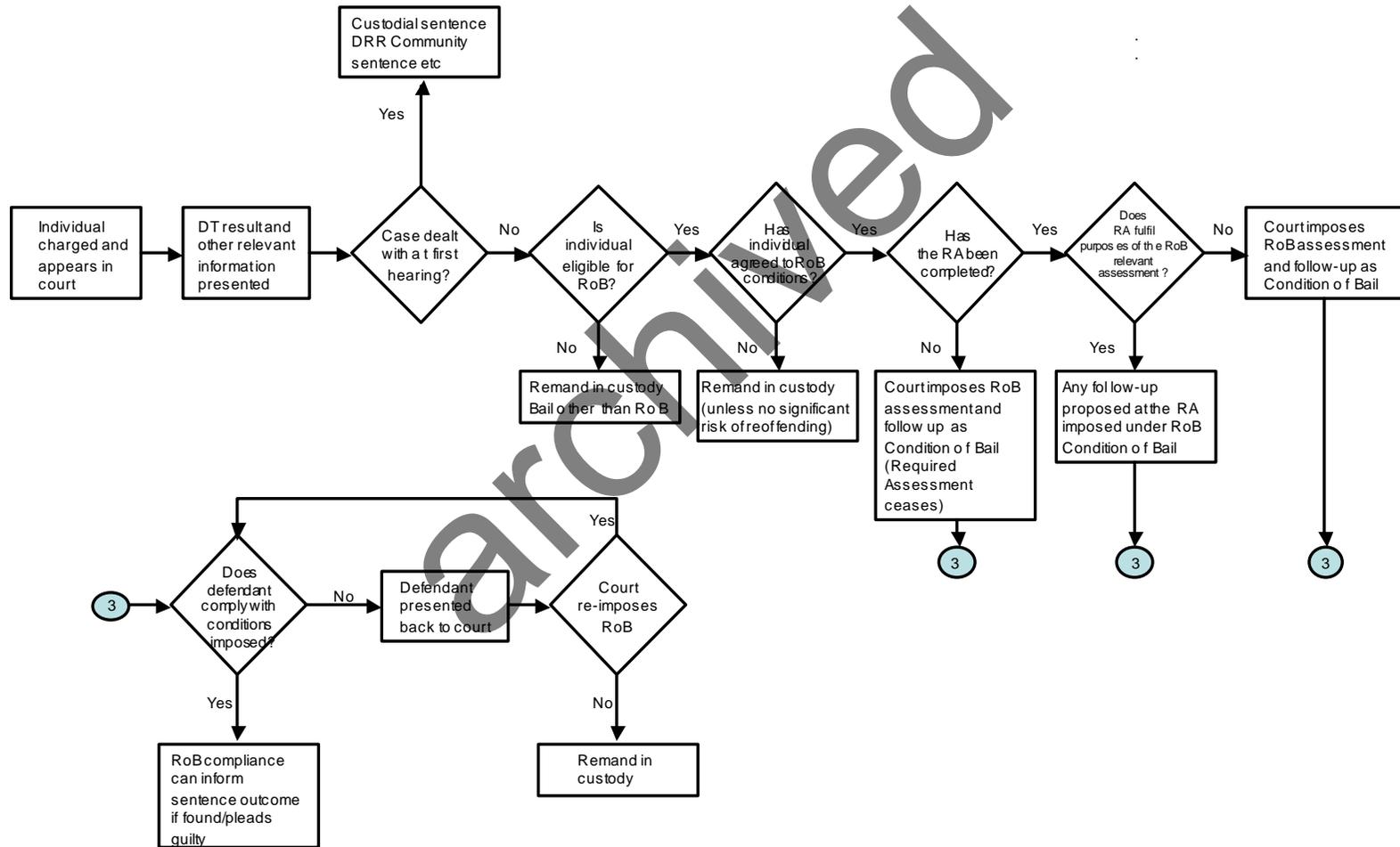
**Glossary:**  
 RA – Required Assessment (term includes both initial and follow-up assessment).  
 IA – Initial Assessment  
 FA – Follow-up Assessment  
 FTA – fail to attend  
 CJS – Criminal Justice System  
 CPS – Crown Prosecution Service

**Notes:**  
 1) Process applies following positive test at either arrest or charge.  
 2) A police officer will tell the individual following their positive test that under s9 (2) and s10 (2) of the Drugs Act 2005 they are required to attend and remain for both the initial and follow up assessments.  
 3) If an individual fails to attend and remain for the initial assessment, the drugs worker should inform the police. Under s12 (5), the requirement to attend a follow up ceases, but a voluntary assessment may still be offered.  
 4) Under s13 (4) of the Drugs Act 2005, the drugs worker must inform the individual of when and where their follow up assessment will take place and give a warning as to failure to attend and remain for its duration during the initial assessment and confirm this information in writing.  
 5) If drug test is disputed, see Drug Testing Process Map.

Form required

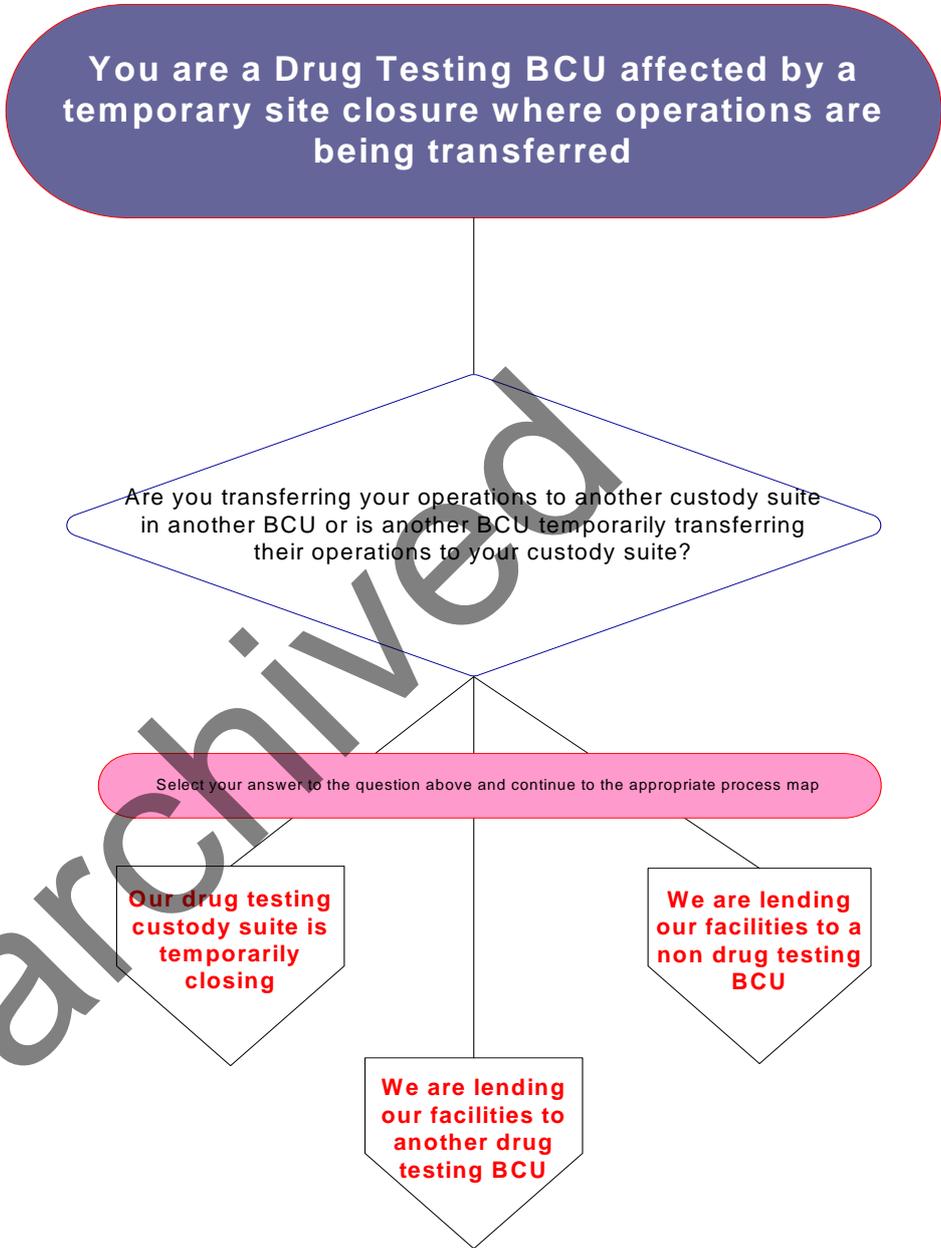
Annex E Restriction on Bail Process Map

Restriction on Bail Process Map



Annex F Site Amendment Process Map

MAP 1

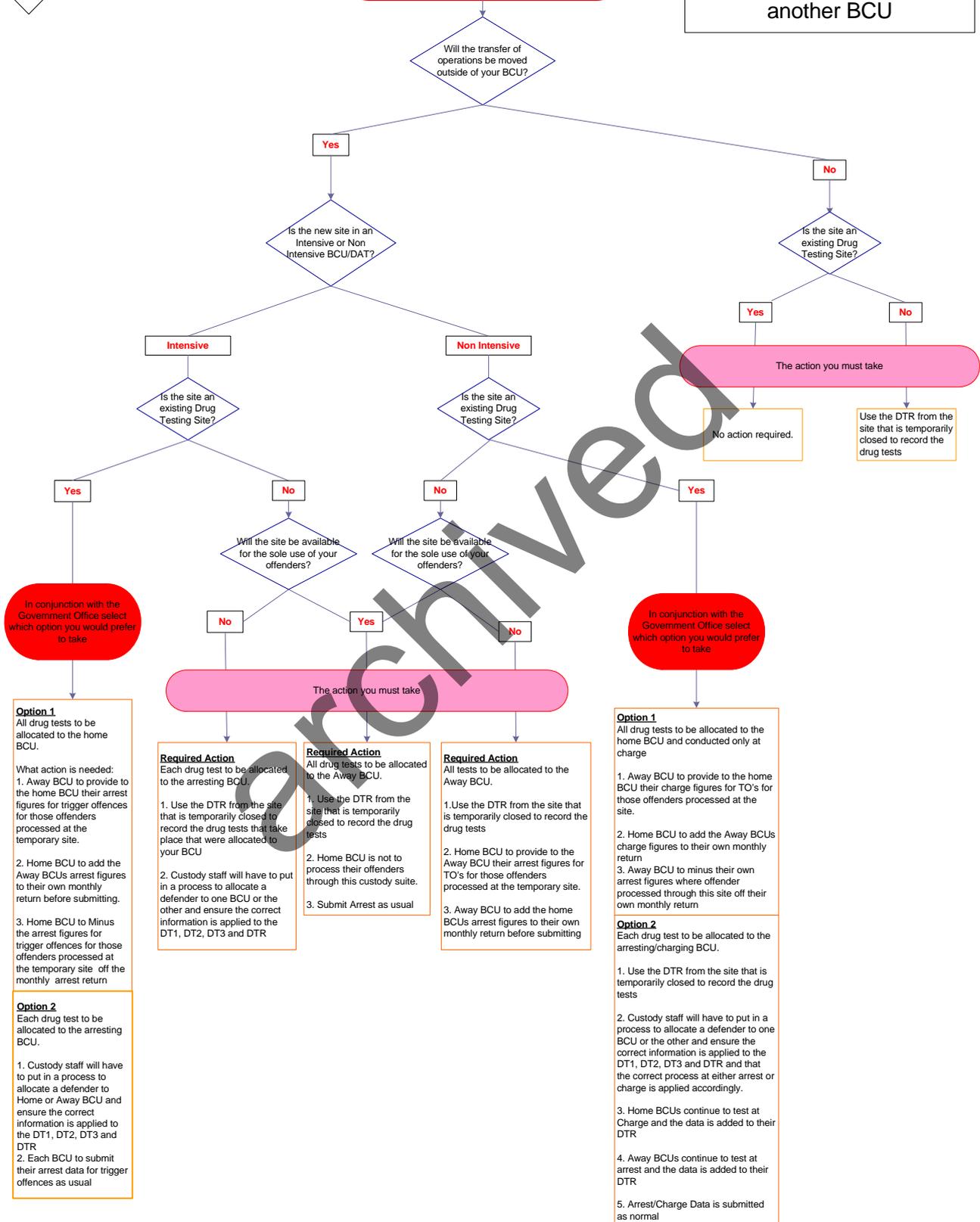


MAP 2

Back to Map 1

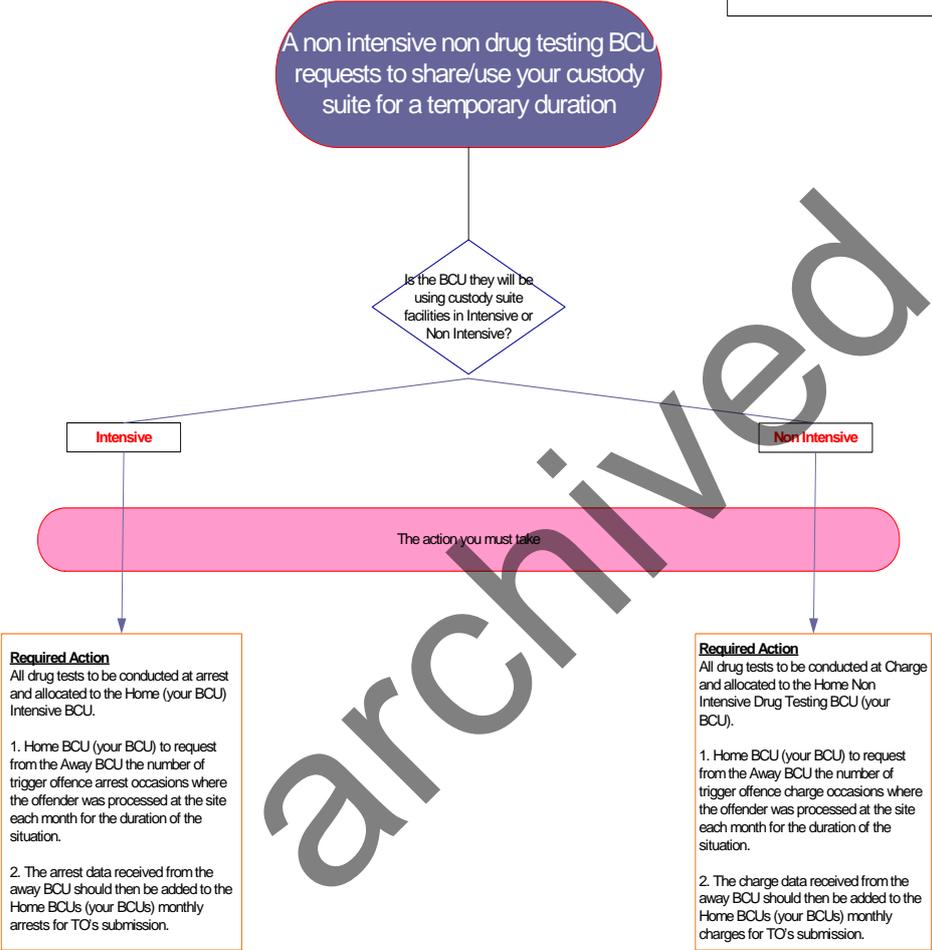
A Drug Testing Custody Suite Temporary Closure initiates a Temporary Transfer of Operations

INTENSIVE BCU  
With a temporary closure seeking to use the facilities of another BCU



MAP 3

INTENSIVE or NON INTENSIVE DRUG TESTING BCU lending facilities to a Non intensive BCU



MAP 4

Back to Map 1

INTENSIVE BCU lending their facilities to another intensive BCU

A different Intensive Drug Testing Custody Suite in a different BCU has a Temporary Transfer of Operations to a Custody Suite in your Intensive BCU

Is the site an existing Drug Testing Site?

Yes

No

Will the site be available for the sole use of your offenders?

No

Yes

In conjunction with the Government Office and the other BCU select which option you would prefer to take

The action you must take

**Option 1**  
All drug tests to be allocated to the home BCU (your BCU).  
  
What action is needed:  
1. Away BCU to provide to the home BCU (you) their arrest figures for trigger offences for those offenders processed at your site.  
2. Home BCU (your BCU) to add the Away BCU's arrest figures to their own monthly return before submitting.  
3. Home BCU (your BCU) to Minus the arrest figures for trigger offences for those offenders processed at the temporary site off the monthly arrest return

**Option 2**  
Each drug test to be allocated to the arresting BCU.  
  
1. Custody staff at your BCU will have to put in a process to allocate a defender to the Home (your BCU) or Away BCU and ensure the correct information is applied to the DT1, DT2, DT3 and DTR  
2. Each BCU to submit their arrest data for trigger offences as usual

**Required Action**  
Each drug test to be allocated to the arresting BCU.  
  
2. Custody staff will have to put in a process to allocate a defender to one BCU or the other and ensure the correct information is applied to the DT1, DT2, DT3 and DTR

**Required Action**  
All drug tests to be allocated to the Away BCU (not your BCU).  
  
Home BCU (your BCU) is not to process their offenders through this custody suite for the duration of the temporary closure.





**Section 3: Other Considerations**

**CJIT workers:**

- Have you discussed with the DAT/DIP Manager any workforce issues between the site closing and that which will be taking on the extra work? e.g. capacity issues Yes  No
- Will the custody drug workers transfer temporarily to the new site? Yes  No
- Have you considered impact on the hours of coverage by the drug workers? Yes  No
- Have you considered the impact on Court arrangements? Yes  No
- Are all partners content? Yes  No

**Data recording:**

**Note: You must refer to the guidance in the site opening/closure process flow maps to identify the scenario that applies to your proposed changes and note the data implications.**

**Scenario 1. You are an intensive drug testing custody suite temporarily closing and will be utilising another drug testing suite in another intensive BCU**

Have you arranged for all drug tests to be allocated to the BCU where you are temporarily transferring the Drug testing operations? Yes  No .

**Scenario 2. You are an intensive drug testing custody suite temporarily closing and you will be utilising non intensive custody suite in another BCU for your drug testing. All offenders brought into the custody suite you are relocating must be tested.**

Have you arranged for arrest/charge data to be submitted by the non intensive BCU? Yes  No

**Scenario 3. You are an intensive drug testing BCU temporarily lending a drug testing custody suite to a non intensive BCU. All offenders brought into the custody suite must be tested.**

Have you arranged for the lending BCU to submit all arrest/charge data relating to offenders arrested and taken to the intensive custody suite? Yes  No

**For all the above scenarios**

- Has the Government Office (GO) been informed of these changes? Yes  No
- Have they agreed the arrangements and content of the data? Yes  No

**For Internal use only**

- Intensive Area  Non-intensive Area
- Site directory update:
- Notification letter sent:
- Data team informed:

**Annex H DT1 Form (September 2008)**

**Testing for specified Class A drugs –  
persons aged 18 and over**

**DETAINEE** Surname..... Forename(s).....  
 Date of birth..... Custody ref. no. ....  
 Date and time \*arrested / charged.....  
 Resident in local DAT area? \*Yes / No

*Tick the appropriate box to show the offence that indicates why Drug Test Procedure initiated:*

1. Theft		9. Fraud Act 2006 (section:1)		16. Begging	
2. Attempted theft		9A. Attempted Fraud		17. Persistent begging	
3. Robbery		10. Fraud Act 2006 (section 6 )		18. Production of specified Class A drug	
4. Attempted robbery		11. Fraud Act 2006 (section 7)		19. Supply of specified Class A drug	
5. Burglary		12. Handling stolen goods		20. Possession of specified Class A drug	
6. Attempted burglary		13. Attempted handling stolen goods		21. Possession w/i to supply specified Class A drug	
7. Aggravated burglary		14. TWOC		22. Non-trigger: Inspector's Authority	
8. Aggravated vehicle taking		15. Going equipped			

**GUIDANCE**

*This pro forma is part of the Custody Record. This form is not intended to cater for all eventualities. Any variations should be completed on the Custody Record. This form should be read in conjunction with the Home Office "Operation Process Guidance for Implementation Testing on Arrest, Required Assessment and Restriction on Bail":*

***If you have any queries, please liaise with your Drug Testing Police Lead***

Any deviation from this Procedure Guide MUST be recorded on the Custody Record

**1. NON-TRIGGER OFFENCE – INSPECTOR'S AUTHORISATION TO DRUG TEST**

*(Must be completed by an Inspector or above)*

I have considered the circumstances of the detainee who has been arrested / charged\* with an offence of..... and have reasonable grounds, namely.....

..... which lead me to suspect that misuse of crack/cocaine or heroin caused or contributed to the commission of this offence. I have therefore authorised the taking of a sample of saliva for analysis.

Time ..... Date .....

Signature of authorising officer, name, rank, No

\*delete as appropriate

**REQUESTING A SAMPLE FOR TESTING**

***Either section 2A (before charge) or 2B (after charge) should be read to the detainee by a custody officer (whichever is appropriate):***

**2A Before charge:**

**“You are 18 years old or older and have been arrested for:**

- a) a trigger offence\***

**OR**

- b) an offence for which the inspector has authorised a drug test on the grounds that\* [explain grounds from section 1 above]**

**I (name, rank, number) am now going to ask you to provide a sample of saliva for testing in accordance with the Police and Criminal Evidence Act 1984.**

- a) The purpose of the test is to find out whether you have evidence of the presence of crack/cocaine or heroin in your body.**
- b) If the result of the test is positive, you may be required to attend an initial and follow up assessment with a drugs worker and to remain for its duration. Failure, without good cause, to attend and remain for the duration of either of these assessments, when required to do so, may result in prosecution.**
- c) If you are later charged the result will be passed to the Court for use in making decisions on bail.**
- d) If you are found guilty of the offence charged the Court may use the result to help inform your sentence.**

**I remind you that whilst you are in custody you are entitled to:**

- I) the right to have someone informed of your arrest;**
- II) free and independent legal advice and have the right to consult privately with a solicitor;**
- III) the right to consult a copy of the Codes of Practice**

**You may also speak to a drugs worker.**

**These rights and entitlements may be exercised at anytime whilst you are in custody.**

**Do you wish to exercise any of these entitlements?”**

*Note any reply.....*

Signed by detainee..... Signed by App. Adult (if applicable).....

Time ..... Date.....

Signature of officer, name, rank, No.....

**“Do you agree to provide a sample of saliva?”**

**“You do not have to, but I must warn you that, if you fail to provide a sample of saliva without good cause, you will commit an offence for which you may be imprisoned, fined or both.”**

*YES\* (note any reply, go to 4).....*

*NO\* (note any reply and go to 3).....*

Signed by detainee..... Signed by App. Adult (if applicable).....

Time ..... Date.....

Signature of officer, name, rank, No.....

**REQUESTING A SAMPLE FOR TESTING**

**2B After charge:**

“You are 18 years of age or older and have been charged with:

a) a trigger offence\*

OR

b) an offence for which the inspector has authorised a drug test on the grounds that\* [explain grounds from section 1 above]

I (Name, rank, number) am now authorising your detention for up to six hours to enable you to give a sample of saliva.

- a. The purpose of the test is to find out whether you have evidence of the presence of crack/cocaine or heroin in your body.
- b. If the result of the test is positive, you may be required to attend an initial and follow up assessment with a drugs worker and to remain for its duration. Failure, without good cause, to attend and remain for the duration of either of these assessments, when required to do so, may result in prosecution.
- c. If you are later charged the result will be passed to the Court for use in making decisions on bail.
- d. If you are found guilty of the offence charged the Court may use the result to help inform your sentence.

I remind you that whilst you are in custody you are entitled to:

- I) the right to have someone informed of your arrest and further detention;
- II) free and independent legal advice and have the right to consult privately with a solicitor;
- III) the right to consult a copy of the Codes of Practice

You may also speak to a drugs worker.

These entitlements may be exercised at any time whilst you are in custody.

Do you wish to exercise any of these entitlements?”

Note any reply: .....

Signed by detainee..... Signed by App. Adult (if applicable).....

Time ..... Date.....

Signature of officer, name, rank, No.....

“I am now going to ask you to provide a sample of saliva for testing in accordance with section 63B of the Police and Criminal Evidence Act 1984. You do not have to provide a sample, but I must warn you that if you fail or refuse without good cause to provide a sample, you will commit an offence for which you may be imprisoned, fined, or both. Do you agree to provide a sample of saliva?”

YES\* (note any reply, go to 4).....

NO\* (note any reply and go to 3).....

Signed by detainee..... Signed by App. Adult (if applicable).....

Time ..... Date.....

Signature of officer, name, rank, No.....

3. **DETAINEE UNWILLING TO PROVIDE A SAMPLE**

“I must warn you again that, if you fail or refuse to provide a sample of saliva without a good cause, you will commit an offence for which you may be imprisoned, fined or both. Do you now agree to provide a sample?”

YES\* (note any reply and go to 4).....

NO\* (note any reply, continue below).....

**IF STILL NO REPLY OR AGREEMENT**

“Is there any medical reason or any other reason why you are unwilling or unable to provide a sample of saliva?”

Note any reply:.....

Signed by detainee .....

Signature of App. Adult (if applicable) .....

Time .....Date ..... Signature of officer, name, rank, No.....

**If detainee refuses to provide a sample, Custody Officer to consider charging**

THE FOLLOWING SECTIONS CAN BE READ OUT AND COMPLETED BY A CUSTODY OFFICER OR THE DRUG TESTER

4. **MEDICATION**

“Have you taken any medicine, whether prescribed or not, in the last 24 hours?”

Note any reply.....

(go to 5, or if detainee agreed to give a sample and now refuses/declines, or sample not provided, go back to 3)

1. If the drug test result is POSITIVE, medication HAS been taken but the detainee agrees the screening test reflects their use of crack, cocaine or heroin the sample may be destroyed.

2. If the drug test result is POSITIVE, medication HAS been taken and the detainee DISPUTES or CHALLENGES the screening test result, the sample MUST be sent to the confirmatory test supplier for analysis.

**ORAL FLUID (SALIVA) TEST PROCEDURE AND RESULT**

“The test result indicates that:

**COCAINE IS**  
**\*POSITIVE / \*NEGATIVE**

**HEROIN IS**  
**\*POSITIVE / \*NEGATIVE**

Do you accept that the results of this screening test are an accurate reflection of crack, cocaine or heroin that may be in your body?”

**IF ANSWER IS:**

YES\* (note any reply, read out the text below, get signatures from the detainee and Appropriate Adult (if applicable) and go to 6) .....

“The drug test procedure is now complete and you have accepted the result. The sample will now be destroyed” The result of this analysis will only be used in accordance with the Police and Criminal Evidence Act 1984.

Signed by detainee ..... Signature of App. Adult (if applicable) .....

Time.....Date.....Signature of testing officer.....

**IF ANSWER IS:**

NO\* (note any reply, read out the text below, complete bottom of section and go to 6)

“The saliva sample you have provided has tested positive. Part of the saliva sample bearing bar code serial number \_\_\_\_\_ will be sent to the authorised Confirmatory testing laboratory for analysis. The result of this analysis will only be used in accordance with the Police and Criminal Evidence Act 1984.”

Signed by detainee ..... Signature of App. Adult (if applicable) .....

Time .....Date..... Signature of testing officer.....

Where sample of saliva provided and analysed, please attach copy of printout below showing signature of Detainee and an Appropriate Adult (if applicable).

\*delete where appropriate

**ATTACH COPY OF PRINTOUT HERE**

**6. REQUIREMENT FOR DETAINEE TO ATTEND INITIAL ASSESSMENT IF POSITIVE TEST**

*(Must be completed by a police officer)*

At any time before being released from police detention a **police officer** may require an individual who has tested positive for a Class A drug to attend an initial assessment and remain for its duration.

**AN ASSESSMENT SHOULD ALWAYS BE REQUIRED UNLESS THERE IS GOOD CAUSE NOT TO DO SO.**

“You have tested positive for a specified Class A drug. I am therefore requiring you under the Drugs Act 2005 to undergo an initial and a follow-up assessment by a drugs worker and to remain for the duration of those assessments. I must warn you that if you fail without good cause to attend and remain for the duration of these assessments you will be imprisoned, fined or both. If the drugs worker at the initial assessment decides that you do not need to undergo a follow-up assessment, the requirement to attend the follow-up assessment will cease.

Where practical the initial assessment will take place during this period of detention”

Every effort should be made to conduct the assessment before the detainee leaves custody (Note that there is no power to detain for the purposes of assessment only)

“You are required to attend an initial assessment at \_ \_ \_ \_ (time) on \_ / \_ / \_ \_ \_ \_ (date) at \_\_\_\_\_ (location).”

The sample must be sent to the authorised Confirmatory laboratory if either:

- the test is positive and disputed, or
- the test is positive and has been disputed on the basis of medication, or
- it is a quality assurance sample

In such cases the appointment should be scheduled for at least 5 days from the date the sample is posted to the authorised confirmatory laboratory or the individual agrees to have the Initial Assessment sooner

Signed by detainee ..... Signature of App. Adult (if applicable).....

Signature of officer, name, rank, No. .... Date.....  
Time.....

**If assessment has not been required**

*(Must be completed by Inspector or above)*

State reason why assessment has not been required.....

Signature of authorising officer, name, rank, No..... Date.....  
Time.....

**FORM RA1 MUST NOW BE COMPLETED AND THE ORIGINAL GIVEN TO THE DETAINEE**

Annex I DT2 form

Court Information Pro-forma  
To be submitted with Prosecution File for First Hearing

DT2

**TESTING FOR SPECIFIED 'CLASS A' DRUGS AT POLICE STATIONS**  
**Result of Drug Test**

Name of person tested \_\_\_\_\_

Custody Record No. \_\_\_\_\_

Case Unique Ref. No. \_\_\_\_\_

Tested:  On arrest / On charge

Tested after 'trigger' offence:  Yes / No

Authority granted by Inspector or above:  Yes / No

Test refused?  Yes / No

Drug Test Result: Cocaine:  Yes / No

Opiates:  Yes / No

Sample sent to Confirmatory service?  Yes / No

If yes, reason:  Disputed / Medication / Quality Assurance

Charged in same period of detention with arrest offence or other relevant offence (sample to be treated as relating to charge offence)  Yes / No

Date of 1<sup>st</sup> Court Hearing: \_\_\_\_\_

Drug Test Result from Cocaine:  Yes / No

Confirmatory Laboratory: Opiates:  Yes / No

Court informed of result on 1<sup>st</sup> Hearing \_\_\_\_\_ Signed CPS Prosecutor

Detainee required to attend initial assessment:  Yes / No

If yes, date and location of appointment: \_\_\_\_/\_\_\_\_/\_\_\_\_

If no, state reason: \_\_\_\_\_

**Paste 3<sup>rd</sup> copy of  
Cozart RapiScan test result  
here for Court**

This Document to be submitted with the file for the First Court Hearing  
\* Please tick/circle where relevant.

## Annex J Required Assessment Form (RA1)

### SECTION 9 (2) AND 10 (2) DRUGS ACT 2005 - WRITTEN NOTICE OF REQUIRED ASSESSMENT

Date of issue:..... Arrest/Custody ref. no:.....

Date and time \*arrested/charged:.....

Test disputed and sent to authorised confirmatory laboratory:.....\*yes/no

Name ..... Address .....

DOB .....

Tel: ..... Post Code.....

Having given a sample under section 63B of the Police and Criminal Evidence Act 1984 and an analysis of that sample having revealed that a specified Class A drug may be present in your body, you are required, in accordance with Section 9 (2) of the Drugs Act 2005, to attend an initial assessment with a suitably qualified person (drugs worker) and remain for the duration of it. . You are also required, in accordance with Section 10 (2) of the Drugs Act 2005, to attend and remain for the duration of a follow-up assessment with a suitably qualified person (drugs worker), unless you are informed at the initial assessment that you are no longer required to do so..

The initial assessment will take place at the following place and at the stated date and time:

Place (e.g. name of custody suite/ office of named agency /other):

.....

Address:..... Date : .....

..... Time: .....

..... Tel: .....

If your sample has been sent to the authorised laboratory for further analysis and this analysis does not reveal that a specified class A drug was present in your body, the police will notify you of this in writing and will confirm that you are no longer required to attend your initial [and follow-up] assessment[s]. You should attend your initial assessment unless you are given such written notification by the police.

If the time or place of your initial assessment needs to be changed you will be notified by a police officer or suitably qualified person (drugs worker) in writing.

You should retain this notice and take it with you to your initial assessment appointment.

The person conducting your initial assessment will, unless he informs you that you are no longer required to attend the follow-up assessment, give you written notice confirming the date, time and place of your follow-up assessment.

The initial assessment will be conducted by (name of organisation / CJIT / agency):

.....

#### **WARNING**

You have already received an oral warning that you will be guilty of an offence under Section 12 (3) of the Drugs Act 2005 and will be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine of up to £2500 (level 4 on the standard scale) or both if you fail without good cause to attend the initial assessment and remain for its duration. You will also be guilty of an offence under Section 14 (3) of the Drugs Act 2005 and will be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine of up to £2500 (level 4 on the standard scale) or both if you fail without good cause to attend the follow-up assessment and remain for its duration.

The oral warning was given to you on [date] at [time] at [location] by [named police officer]

This notice repeats that warning in writing in accordance with the Drugs Act 2005.

PTO

	Details of Police Officer requiring the assessment[s]	Details of Recipient (and appropriate adult if relevant)
Signed:		
Name Printed:		
Date		
Time:		
Job Title:		
Location:		

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Required Assessment Form (RA1)  
Ffurflen Asesiad Gofynnol (RA1)

SECTION 9 (2) AND 10 (2) DRUGS ACT 2005 – WRITTEN NOTICE OF REQUIRED ASSESSMENT  
ADRAN 9 (2) A 10 (2) O DDEDDF CYFFURIAU 2005 - HYSBYSIAD YSGRIFENEDIG O ASESIAD  
GOFYNNOL

Date of issue/Dyddiad anfon: .....

Arrest/Custody ref. no/Rhif cyfeirnod yr Arestiad/ly Ddalffa: .....

Date and time \*arrested/charged/  
Dyddiad ac amser \*arestio/cyhuddo:

Test disputed and sent to authorised confirmatory laboratory: ..... \*yes/no

Cafwyd amheuaeth ynghylch y prawf ac fe'i hanfonwyd i labordy  
cadarnhau a awdurdodir: ..... \*do/naddo

Name/Enw: ..... Address/Cyfeiriad: .....

DOB/Dyddiad Geni:

Tel/Ffôn: ..... Post Code/Cod Post: .....

Having given a sample under section 63B of the Police and Criminal Evidence Act 1984 and an analysis of that sample having revealed that a specified Class A drug may be present in your body, you are required, in accordance with Section 9 (2) of the Drugs Act 2005, to attend an initial assessment with a suitably qualified person (drugs worker) and remain for the duration of it. You are also required, in accordance with Section 10 (2) of the Drugs Act 2005, to attend and remain for the duration of a follow-up assessment with a suitably qualified person (drugs worker), unless you are informed at the initial assessment that you are no longer required to do so.

Ar ôl rhoi sampl o dan adran 63B o Ddeddf yr Heddlu a Thystiolaeth Droseddol 1984 ac wedi i ddadansoddiad o'r sampl hwnnw ddangos y gallai cyffur Dosbarth A penodol fod yn eich corff, mae'n ofynnol i chi, yn unol ag Adran 9 (2) o Ddeddf Cyffuriau 2005, fynd i asesiad cychwynnol gyda pherson sy'n meddu ar y cymwysterau addas (gweithiwr cyffuriau) ac aros drwy gydol yr asesiad. Mae'n ofynnol i chi hefyd, yn unol ag Adran 10 (2) o Ddeddf Cyffuriau 2005, fynd i asesiad dilynol gyda pherson sy'n meddu ar y cymwysterau addas (gweithiwr cyffuriau) ac aros yno drwy gydol yr asesiad, oni chewch eich hysbysu yn ystod yr asesiad cychwynnol nad oes angen i chi wneud hyn mwyach.

The initial assessment will take place at the following place and at the stated date and time:  
Cynhelir yr asesiad cychwynnol yn y lleoliad canlynol ar y dyddiad a'r amser a nodir:

Place (e.g. name of custody suite/office of named agency/other):  
Lleoliad (e.e. enw ystafell y ddalffa/swyddfa'r asiantaeth a enwyd/arall):

Address/Cyfeiriad: ..... Date/Dyddiad : .....

Time/Amser: .....

Tel/Ffôn: .....

\*delete where appropriate

A copy of this form will be given to you before you are released from police custody, a copy will be held on your custody record and a copy sent to the organisation named above which will be conducting the assessment.

\*diwch lle y bo'n briodol

Cewch gopi o'r ffurflen hon cyn i chi gael eich rhyddhau o ddalffa'r heddlu, cedwir copi ar eich cofnod yn y ddalffa ac anfonir copi i'r sefydliad a enwir uchod a fydd yn cynnal yr asesiad

Required Assessment Form (RA1)  
Ffurflen Asesiad Gofynnol (RA1)

If your sample has been sent to the authorised laboratory for further analysis and this analysis does not reveal that a specified class A drug was present in your body, the police will notify you of this in writing and will confirm that you are no longer required to attend your initial [and follow-up] assessment[s]. You should attend your initial assessment unless you are given such written notification by the police.

Os anfonwyd eich sampl i'r labordy a awdurdodir am ddadansoddiad pellach ac nad yw'r dadansoddiad hwn yn dangos bod cyffur dosbarth A penodol wedi bod yn eich corff, bydd yr heddlu yn eich hysbysu'n ysgrifenedig o hyn ac yn cadarnhau nad oes angen i chi fynd i'ch asesiad[au] cychwynnol [a dilynol] mwyach. Dylech fynd i'ch asesiad cychwynnol oni chewch hysbysiad ysgrifenedig o'r fath gan yr heddlu.

If the time or place of your initial assessment needs to be changed you will be notified by a police officer or suitably qualified person (drugs worker) in writing.

Os bydd angen newid amser neu leoliad eich asesiad cychwynnol bydd un o swyddogion yr heddlu neu berson sy'n meddu ar y cymwysterau addas (gweithiwr cyffuriau) yn eich hysbysu o hyn yn ysgrifenedig.

You should retain this notice and take it with you to your initial assessment appointment.

Dylech gadw'r hysbysiad hwn a mynd ag ef gyda chi i'ch asesiad cychwynnol.

The person conducting your initial assessment will, unless he informs you that you are no longer required to attend the follow-up assessment, give you written notice confirming the date, time and place of your follow-up assessment.

Oni fydd y person sy'n cynnal eich asesiad cychwynnol yn dweud wrthy'ch nad oes angen i chi fynd i'r asesiad cychwynnol, bydd yn rhoi hysbysiad ysgrifenedig i chi yn cadarnhau dyddiad, amser a lleoliad eich asesiad dilynol.

The initial assessment will be conducted by (name of organisation/CJIT/agency):

Cynhelir yr asesiad dilynol gan (enw'r sefydliad/CJIT/asiantaeth):

**WARNING**

You have already received an oral warning that you will be guilty of an offence under Section 12 (3) of the Drugs Act 2005 and will be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine of up to £2500 (level 4 on the standard scale) or both if you fail without good cause to attend the initial assessment and remain for its duration. You will also be guilty of an offence under Section 14 (3) of the Drugs Act 2005 and will be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine of up to £2500 (level 4 on the standard scale) or both if you fail without good cause to attend the follow-up assessment and remain for its duration.

The oral warning was given to you on [date] at [time] at [location] by [named police officer]

This notice repeats that warning in writing in accordance with the Drugs Act 2005.

**RHYBUDD**

Rydych eisoes wedi cael rhybudd llafar y byddwch yn euog o gyflawni trosedd o dan Adran 12 (3) o Ddeddf Cyffuriau 2005 ac y byddwch yn atebol ar gollfarn ddiannod i gyfnod o garchar nad yw'n fwy na thri mis neu ddirwy o hyd at £2500 (lefel 4 ar y raddfa safonol) neu'r ddau os na fyddwch yn mynd i'r asesiad cychwynnol ac yn aros yno drwy gydol yr asesiad heb achos da. Byddwch hefyd yn euog o gyflawni trosedd o dan Adran 14 (3) o Ddeddf Cyffuriau 2005 a byddwch yn atebol ar gollfarn ddiannod i gyfnod o garchar nad yw'n fwy na thri mis neu ddirwy o hyd at £2500 (lefel 4 ar y raddfa safonol) neu'r ddau os na fyddwch yn mynd i'r asesiad dilynol ac yn aros yno drwy gydol yr asesiad heb achos da.

Cawsoch y rhybudd llafar hwn ar [date] am [time] yn [location] gan [names police officer]

Mae'r hysbysiad hwn yn ailadrodd y rhybudd hwnnw yn ysgrifenedig yn unol â Deddf Gyffuriau 2005.

A copy of this form will be given to you before you are released from police custody, a copy will be held on your custody record and a copy sent to the organisation named above which will be conducting the assessment.  
delete where appropriate\*/'dilewch lle y bo'n briodol

Cewch gopi o'r furflen hon cyn i chi gael eich rhyddhau o ddalfa'r heddlu, cedwir copi ar eich cofnod yn y ddalfa ac anfonir copi i'r sefydliad a enwir uchod a fydd yn cynnal yr asesiad.

Required Assessment Form (RA1)  
Ffurflen Asesiad Gofynnol (RA1)

	Details of Police Officer requiring the assessment[s]/Manylion Swyddog yr Heddlu a ofynnodd am yr asesiad[au]	Details of Recipient (and appropriate adult if relevant)/Manylion y Derbynnnydd (a'r oedolyn priodol os yw'n berthnasol)
Signed/Llofnodwyd:		
Name Printed/Enw mewn Prif Lythrennau:		
Date/Dyddiad:		
Time/Amser:		
Job Title/Teitl Swydd:		
Location/Lleoliad:		

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A copy of this form will be given to you before you are released from police custody, a copy will be held on your custody record and a copy sent to the organisation named above which will be conducting the assessment.  
delete where appropriate\*/"diliwch lle y bo'n briodol  
Cewch gopi o'r ffurflen hon cyn i chi gael eich rhyddhau o ddalfa'r heddlu, cedwir copi ar eich cofnod yn y ddalfa ac anfonir copi i'r sefydliad a enwir uchod a fydd yn cynnal yr asesiad.

## Annex K Required Assessment Form (RA2)

### SECTIONS 9 (2) /10 (2) DRUGS ACT 2005 - WRITTEN NOTICE OF REQUIRED ASSESSMENT - VARIED APPOINTMENT TIME

Date of issue:..... Arrest/Custody ref. no:-----

[Name ..... Address: .....

DOB .....-----

Tel----- Post Code-----

You have been and continue to be required to attend an initial/follow-up assessment\* and to remain for the duration of it in accordance with section 9(2)/10(2)\* of the Drugs Act 2005. This form gives notice in writing that the arrangements made for that assessment which were notified to you in an earlier notice dated .....(insert date) have been changed.

The assessment will now take place at the following place and at the stated date and time:

Place (e.g. name of custody suite / office of named agency /other):

.....

Address:..... Date : .....

..... Time: .....

..... Tel: .....

The assessment will be conducted by (name of organisation / CJIT / agency):

#### **WARNING**

You will be guilty of an offence under section 12 (3) of the Drugs Act 2005 and will be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine of up to £2500 (level 4 on the standard scale) or both if you fail without good cause to attend the initial assessment and remain for its duration. [You will also be guilty of an offence under section 14(3) of the Drugs Act 2005 and will be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine of up to £2500 (level 4 on the standard scale) or both if you fail without good cause to attend the follow-up assessment and remain for its duration.]\*

	Details of Police Officer / Assessor requiring / changing assessment arrangements	Details of Recipient (and appropriate adult if relevant) if given in person
Signed:		
Name Printed:		
Date		
Time:		
Job Title:		
Location:		

You are no longer required to attend at the time notified to you in the previous notice dated

.....

A copy of this form will be given to you and a copy held by the organisation named above which will be conducting the assessment. A copy may be held on your police custody record.

Required Assessment Form (RA2)  
Ffurflen Asesiad Gofynnol (RA2)

SECTIONS 9 (2) /10 (2) DRUGS ACT 2005 - WRITTEN NOTICE OF REQUIRED ASSESSMENT - VARIED  
APPOINTMENT TIME/ADRANNAU 9 (2) A 10 (2) O DDEDDF CYFFURIAU 2005 - HYSBYSIAD  
YSGRIFENEDIG O ASESIAD GOFYNNOL - NEWID AMSER APWYNTIAD

Date of issue/Dyddiad anfon: .....

Arrest/Custody ref. no/Rhif cyfeirnod yr Arestiad/y Ddalffa: .....

Name/Enw: ..... Address/Cyfeiriad: .....

DOB/Dyddiad Geni: .....

Tel/Ffôn: ..... Post Code/Cod Post: .....

You have been and continue to be required to attend an initial/follow-up assessment\* and to remain for the duration of it in accordance with section 9(2)/10(2)\* of the Drugs Act 2005. This form gives notice in writing that the arrangements made for that assessment which were notified to you in an earlier notice dated ..... (insert date) have been changed.

Bu'n ofynnol i chi fynd i asesiad cychwynnol/dilynol\* ac aros yno drwy gydol yr asesiad yn unol ag adrannau 9 (2)/10 (2)\* o Ddeddf Cyffuriau 2005, ac mae'n ofynnol i chi wneud hynny o hyd. Mae'r ffurflen hon yn eich hysbysu'n ysgrifenedig bod y trefniadau a wnaed ar gyfer yr asesiad hwnnw y cawsoch eich hysbysu ohonynt mewn hysbysiad blaenorol dyddiedig ..... (insert date) wedi newid.

The assessment will now take place at the following place and at the stated date and time:  
Place (e.g. name of custody suite/office of named agency/other):

Cynhelir yr asesiad bellach yn y lleoliad canlynol ac ar y dyddiad a'r amser a nodir:  
Lleoliad (e.e. enw ystafell y ddalffa/swyddfa'r asiantaeth a enwyd/arall):

Address/Cyfeiriad: ..... Date/Dyddiad : .....

..... Time/Amser: .....

..... Tel/Ffôn: .....

A copy of this form will be given to you before you are released from police custody, a copy will be held on your custody record and a copy sent to the organisation named above which will be conducting the assessment.  
(delete as appropriate) ("dilewch lle y bo'n briodol")  
Cewch gopi o'r ffurflen hon cyn i chi gael eich rhyddhau o ddalffa'r heddlu, cediwr copi ar eich cofnod yn y ddalffa ac anfonir copi i'r sefydliad a enwir uchod a fydd yn cynnal yr asesiad.

Required Assessment Form (RA2)  
Ffurflen Asesiad Gofynnol (RA2)

The assessment will be conducted by (name of organisation/CJIT/agency):  
Cynhelir yr asesiad gan (enw'r sefydliad/CJIT/asiantaeth):

**WARNING**

You will be guilty of an offence under section 12 (3) of the Drugs Act 2005 and will be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine of up to £2500 (level 4 on the standard scale) or both if you fail without good cause to attend the initial assessment and remain for its duration. [You will also be guilty of an offence under section 14(3) of the Drugs Act 2005 and will be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine of up to £2500 (level 4 on the standard scale) or both if you fail without good cause to attend the follow-up assessment and remain for its duration.]\*

**RHYBUDD**

Byddwch yn euog o gyflawni trosedd o dan Adran 12 (3) o Ddeddf Cyffuriau 2005 a byddwch yn atebol ar gollfarn ddiannod i gyfnod o garchar nad yw'n fwy na thri mis neu ddirwy o hyd at £2500 (lefel 4 ar y raddfa safonol) neu'r ddau os na fyddwch yn mynd i'r asesiad cychwynnol ac yn aros yno drwy gydol yr asesiad heb achos da. [Byddwch hefyd yn euog o gyflawni trosedd o dan Adran 14 (3) o Ddeddf Cyffuriau 2005 a byddwch yn atebol ar gollfarn ddiannod i gyfnod o garchar nad yw'n fwy na thri mis neu ddirwy o hyd at £2500 (lefel 4 ar y raddfa safonol) neu'r ddau os na fyddwch yn mynd i'r asesiad dilynol ac yn aros yno drwy gydol yr asesiad heb achos da.]\*

	Details of Police Officer/Assessor requiring/changing assessment arrangements/Manylion Swyddog yr Heddlu/Aseswr a ofynnodd am yr asesiad/trefniadau newydd yr asesiad	Details of Recipient (and appropriate adult if relevant) if given in person/ Manylion y Derbynnnydd (a'r oedolyn priodol os yw'n berthnasol) os rhoddyd yn bersonol
Signed/Llofnodwyd:		
Name Printed/Enw mewn Prif Lythrennau:		
Date/Dyddiad:		
Time/Amser:		
Job Title/Teitl Swydd:		
Location/Lleoliad:		

You are no longer required to attend at the time notified to you in the previous notice dated  
Nid oes angen i chi fynd i'r asesiad ar yr amser a nodwyd yn yr hysbysiad blaenorol dyddiedig

A copy of this form will be given to you before you are released from police custody, a copy will be held on your custody record and a copy sent to the organisation named above which will be conducting the assessment.  
(delete as appropriate)/\*(dilewch lle y bo'n briodol)  
Cewch gopi o'r ffurflen hon cyn i chi gael eich rhyddhau o ddalfa'r heddlu, cedwir copi ar eich cofnod yn y ddalfa ac anfonir copi i'r sefydliad a enwir uchod a fydd yn cynnal yr asesiad.

## Annex L Required Assessment Form (RA3)

### SECTIONS 12 (2) (INITIAL ASSESSMENT)/14 (2) (FOLLOW-ASSESSMENT)\* DRUGS ACT 2005 - ATTENDED / REMAINED REPORT

Date of issue:..... Arrest/Custody ref. no.:-----

Name..... Address .....

DOB ..... .....

Tel: ..... Post Code .....

was required to attend an initial/follow-up\* assessment and remain for the duration of it, in accordance with Section 9 (2)/10 (2)\* of the Drugs Act 2005.

The initial/follow-up\* assessment was to take place at the following place and at the stated date and time:  
**Place (e.g. name of custody suite/ office of named agency /other):**

.....  
**Address:**.....

.....

.....

Date : ..... Time: .....

**The assessment was to be conducted by (name of organisation / CJIT / agency):**

.....  
This is to confirm that the person named above attended/remained at an initial/follow-up\*:

attended and remained for the duration of the above assessment,

and the assessment fulfilled the purposes of a relevant assessment under Restriction on Bail provisions

If an initial assessment:

an appointment for a follow-up assessment was not made and the person informed that he is no longer required to attend the follow-up assessment

did **not** attend / remain\* for the duration of the assessment

If individual failed to attend / remain for the duration, please provide details including any contact from/with the individual, any reason for failure to attend / remain, whether the assessor made clear that the assessment was not complete before the individual left, whether the individual was violent or disruptive, whether RA2 issued

(\* delete as appropriate)

If individual attended and remained for the duration, this form should be retained on local CJIT records. If individual failed to attend or remain for the duration, the original must be sent to the police single point of contact (in the BCU where the requirement was made)

PTO

<b>7.10.4 Details of person making this report</b>	
<b>Signed:</b>	<b>Date:</b>
<b>Name Printed:</b>	<b>Time:</b>
<b>Job Title:</b>	
<b>Contact details:</b>	

archived

Required Assessment Form (RA3)  
Ffurflen Asesiad Gofynnol (RA3)

SECTIONS 12 (2) (INITIAL ASSESSMENT)/14 (2) (FOLLOW-ASSESSMENT)\* DRUGS ACT 2005 -  
ATTENDED / REMAINED REPORT  
ADRANNAU 12 (2) (ASESIAD CYCHWYNNOL)/14 (2) (ASESIAD DILYNOL) \* O DDEDDF CYFFURIAU  
2005 - AETH I'R ASESIAD / ARHOSODD DRWY GYDOL YR ASESIAD

Date of issue/Dyddiad anfon:

Arrest/Custody ref. no/ Rhif cyfeirnod yr Arestiad/y Ddalffa:

Name/Enw:

Address/Cyfeiriad:

DOB/Dyddiad Geni:

Tel/Ffôn:

Post Code/Cod Post:

Was required to attend an initial/follow-up\* assessment and remain for the duration of it, in accordance with Section 9 (2)/10 (2)\* of the Drugs Act 2005.

Gofynnwyd i'r sawl a enwir uchod fynd i asesiad cychwynnol/dilynol\* ac aros yno drwy gydol yr asesiad, yn unol ag Adran 9 (2)/10 (2) o Ddeddf Cyffuriau 2005.

The initial/follow-up\* assessment was to take place at the following place and at the stated date and time:

Place (e.g. name of custody suite/office of named agency/other):

Y bwriad oedd cynnal yr asesiad cychwynnol/dilynol\* yn y lleoliad canlynol ar y dyddiad a'r amser a nodir:

Lleoliad (e.e. enw ystafell y ddalffa/swyddfa'r asiantaeth a enwyd/arall):

Address/Cyfeiriad:

Date/Dyddiad:

Time/Amser:

Tel/Ffôn:

The assessment was to be conducted by (name of organisation/CJIT/agency):

Y bwriad oedd i'r asesiad gael ei gynnal gan (enw'r sefydliad/CJIT/asiantaeth):

This is to confirm that the person named above attended/remained at an initial/follow-up\*/Diben y ffurflen hon yw cadarnhau bod y person a enwir uchod wedi mynd i asesiad cychwynnol/dilynol\* ac wedi aros yno:

attended and remained for the duration of the above assessment,/wedi mynd i'r asesiad uchod ac wedi aros yno drwy gydol yr asesiad,

and the assessment fulfilled the purposes of a relevant assessment under Restriction on Bail provisions/a bod yr asesiad yn cyflawni dibenion asesiad perthnasol o dan ddarpariaethau Cyfyngiad ar Fechnïaeth

If an initial assessment/Os mai asesiad cychwynnol ydyw:

an appointment for a follow-up assessment was not made and the person informed that he is no longer required to attend the follow-up assessment/ni wnaed apwyntiad ar gyfer asesiad dilynol a hysbyswyd y person nad oes angen iddo fynd i'r asesiad dilynol mwyach

(\* delete as appropriate)

If individual attended and remained for the duration, this form should be retained on local CJIT records. If individual failed to attend or remain for the duration, the original must be sent to the police single point of contact (in the BCU where the requirement was made)

(\* dilewch fel y bo'n briodol)

Os aeth yr unigolyn i'r asesiad ac arhosodd yno drwy gydol yr asesiad, dylid cadw'r ffurflen hon ar gofnodion lleol CJIT. Os na aeth yr unigolyn i'r asesiad neu os na arhosodd yno drwy gydol yr asesiad, dylid anfon y ffurflen wreiddiol at bwynt cyswllt unigol yr heddlu (yn y BCU lle gwnaed yr ofyniad)

Required Assessment Form (RA3)  
Ffurflen Asesiad Gofynnol (RA3)

- did not attend/remain\* for the duration of the assessment/ni aeth i'r asesiad /ni arhosodd yno drwy gydol yr asesiad\*

If individual failed to attend/remain for the duration, please provide details including any contact from/with the individual, any reason for failure to attend/remain, whether the assessor made clear that the assessment was not complete before the individual left, whether the individual was violent or disruptive, whether RA2 issued/Os na aeth unigolyn i'r asesiad neu os na arhosodd yno drwy gydol yr asesiad, rhoch fanylion gan gynnwys unrhyw gyswilt gan yr unigolyn neu gydag ef, unrhyw reswm dros fethu â mynd i'r asesiad neu aros yno, p'un a esboniodd yr aseswr yn glir nad oedd yr asesiad wedi'i gwblhau cyn i'r unigolyn adael, p'un a fu'r unigolyn yn dreisgar neu'n aflonyddgar, p'un a roddwyd ffurflen RA2.

Details of person making this report/Manylion y sawl sy'n llunio'r adroddiad hwn	
Signed/Llofnodwyd:	Date/Dyddiad:
Name Printed/Enw mewn Prif Lythrennau:	Time/Amser:
Job Title/Teitl Swydd:	
Contact details/Manylion cyswilt:	

(\* delete as appropriate)  
If individual attended and remained for the duration, this form should be retained on local CJIT records. If individual failed to attend or remain for the duration, the original must be sent to the police single point of contact (in the BCU where the requirement was made)  
(\* dilech fel y bo'n briodol)  
Os aeth yr unigolyn i'r asesiad ac arhosodd yno drwy gydol yr asesiad, dylid cadw'r ffurflen hon ar gofnodion lleol CJIT. Os na aeth yr unigolyn i'r asesiad neu os na arhosodd yno drwy gydol yr asesiad, dylid anfon y ffurflen wreiddiol at bwynt cyswilt unigol yr heddlu (yn y BCU lle gwnaed yr ofyniad)

**Annex M Required Assessment Form (RA4)**

**SECTION 10 (2) DRUGS ACT 2005 - WRITTEN NOTICE OF FOLLOW-UP ASSESSMENT**

Date of issue:..... Arrest/Custody ref. no.:.....

Name ..... Address .....

DOB ..... .....

Tel: ..... Post Code.....

You have attended and remained for the duration of an initial assessment with a suitably qualified person (drugs worker) in compliance with the requirement imposed on you by a police officer in accordance with section 9(2) of the Drugs Act 2005. You were also required by the officer, in accordance with section 10(2) of the Drugs Act 2005 to attend at a follow-up assessment and remain for its duration. This notice is to confirm that you are required to attend and remain for the duration of the follow-up assessment and to confirm the details of that assessment.

The follow-up assessment will take place at the following place and at the stated date and time:

**Place (e.g. office of named agency /other):**

.....

Address:..... Date : .....

..... Time: .....

..... Tel: .....

You should retain this notice and take it with you to your follow-up assessment appointment

**The assessment will be conducted by (name of organisation / CJIT / agency):**

.....

**WARNING**

You have already received an oral warning that you will be guilty of an offence under Section 14 (3) of the Drugs Act 2005 and will be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine of up to £2500 (level 4 on the standard scale) or both if you fail without good cause to attend the follow-up assessment and remain for its duration.

This notice repeats that warning in writing in accordance with the Drugs Act 2005.

	Details of person requiring the assessment (drugs worker)	Details of Recipient (and appropriate adult if relevant)
Signed:		
Name Printed:		
Date		
Time:		
Job Title:		
Location:		

Required Assessment Form (RA4)  
Ffurflen Asesiad Gofynnol (RA4)

SECTION 10 (2) DRUGS ACT 2005 - WRITTEN NOTICE OF FOLLOW-UP ASSESSMENT  
ADRAN 10 (2) O DDEDDF CYFFURIAU 2005 - HYSBYSIAD YSGRIFENEDIG O ASESIAD DILYNOL

Date of issue/Dyddiad anfon:

Arrest/Custody ref. no/Rhif cyfeirnod yr Arestiad/y Ddalfa:

Name/Enw:

Address/Cyfeiriad:

DOB/Dyddiad Geni:

Tel/Ffôn:

Post Code/Cod Post:

You have attended and remained for the duration of an initial assessment with a suitably qualified person (drugs worker) in compliance with the requirement imposed on you by a police officer in accordance with section 9(2) of the Drugs Act 2005. You were also required by the officer, in accordance with section 10(2) of the Drugs Act 2005 to attend at a follow-up assessment and remain for its duration. This notice is to confirm that you are required to attend and remain for the duration of the follow-up assessment and to confirm the details of that assessment.

Gwnaethoch fynd i asesiad cychwynnol gyda pherson sy'n meddu ar y cymwysterau addas (gweithiwr cyffuriau) ac aros yno drwy gydol yr asesiad yn unol â'r gofynion a wnaed gan un o swyddogion yr heddlu yn unol ag adran 9(2) o Ddeddf Cyffuriau 2005. Fe'i gwnaed yn ofynnol i chi hefyd, yn unol ag adran 10(2) o Ddeddf Cyffuriau 2005, fynd i asesiad dilynol ac aros yno drwy gydol yr asesiad. Diben yr hysbysiad hwn yw cadarnhau ei bod yn ofynnol i chi fynd i'r asesiad dilynol ac aros yno drwy gydol yr asesiad a chadarnhau manylion yr asesiad hwnnw.

The follow-up assessment will take place at the following place and at the stated date and time:  
Cynhelir yr asesiad dilynol yn y lleoliad canlynol ac ar y dyddiad a'r amser a nodir:

Place (e.g. office of named agency/other):

Lleoliad (e.e. swyddfa'r asiantaeth a enwyd/arall):

Address/Cyfeiriad:

Date/Dyddiad :

Time/Amser:

Tel/Ffôn:

You should retain this notice and take it with you to your follow-up assessment appointment/Dylech gadw'r hysbysiad hwn a mynd ag ef gyda chi i'ch asesiad dilynol

The assessment will be conducted by (name of organisation / CJIT / agency)/Cynhelir yr asesiad gan (enw'r sefydliad / CJIT / asiantaeth):

A copy of this form will be given to you before the completion of your initial assessment, a copy retained for local records and a copy sent to the organisation named above which will be conducting the assessment./ Cewch gopi o'r ffurflen hon cyn cwblhau eich asesiad cychwynnol, cedwir copi ar gyfer cofnodion lleol ac anfonir copi i'r sefydliad a enwir uchod a fydd yn cynnal yr asesiad.

**WARNING**

You have already received an oral warning that you will be guilty of an offence under Section 14 (3) of the Drugs Act 2005 and will be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine of up to £2500 (level 4 on the standard scale) or both if you fail without good cause to attend the follow-up assessment and remain for its duration.

This notice repeats that warning in writing in accordance with the Drugs Act 2005.

**RHYBUDD**

Rydych eisoes wedi cael rhybudd llafar y byddwch yn euog o gyflawni trosedd o dan Adran 14 (3) o Ddeddf Cyffuriau 2005 ac y byddwch yn atebol ar gollfarn ddiannod i gyfnod o garchar nad yw'n fwy na thri mis neu ddirwy o hyd at £2500 (lefel 4 ar y raddfa safonol) neu'r ddau os na fyddwch yn mynd i'r asesiad dilynol ac yn aros yno drwy gydol yr asesiad heb achos da.

Mae'r hysbysiad hwn yn ailadrodd y rhybudd hwnnw yn ysgrifenedig yn unol â Deddf Gyffuriau 2005.

	Details of person requiring the assessment (drugs worker)/Manylion y sawl a ofynnodd am yr asesiad (gweithiwr cyffuriau)	Details of Recipient (and appropriate adult if relevant)/Manylion y Derbynnnydd (a'r oedolyn priodol os yw'n berthnasol)
Signed/Llofnodwyd:		
Name Printed/Enw mewn Prif Lythrennau:		
Date/Dyddiad:		
Time/Amser:		
Job Title/Teitl Swydd:		
Location/Lleoliad:		

*A copy of this form will be given to you before the completion of your initial assessment, a copy retained for local records and a copy sent to the organisation named above which will be conducting the assessment./Cewch gopi o'r furflen hon cyn cwblhau eich asesiad cychwynnol, cedwir copi ar gyfer cofnodion lleol ac anfonir copi i'r sefydliad a enwir uchod a fydd yn cynnal yr asesiad.*

## Annex N Required Assessment Form (RA5)

### SECTION 13(2) – NOTIFICATION THAT REQUIREMENT TO ATTEND AND REMAIN AT THE FOLLOW-UP ASSESSMENT CEASES

Date of issue:..... Arrest/Custody ref. no.:.....

Name..... Address .....

DOB.....

Tel:..... Post Code .....

You have attended and remained for the duration of an initial assessment with a suitably qualified person (drugs worker) in compliance with the requirement imposed on you by a police officer in accordance with section 9(2) of the Drugs Act 2005. You were also required by the officer, in accordance with section 10(2) of the same Act to attend a follow-up assessment and remain for its duration. This notice is to confirm that this requirement ceases and you are no longer required to attend and remain for the duration of a follow-up assessment.

Details of person making this report	
Signed:	Date:
Name Printed:	Time:
Job Title:	
Contact details:	

A copy of this form will be given to you and a copy held by the organisation named above who conducted the initial assessment. A copy may be held on your police custody record.

Required Assessment Form (RA5)  
Ffurflen Asesiad Gofynnol (RA5)

SECTION 13(2) – NOTIFICATION THAT REQUIREMENT TO ATTEND AND REMAIN AT THE FOLLOW-UP ASSESSMENT CEASES / ADRAN 13(2) - HYSBYSIAD BOD GOFYNIAD I FYND I'R ASESIAD DILYNOL AC AROS YNO WEDI DOD I BEN

Date of issue/Dyddiad anfon: .....

Arrest/Custody ref. no/Rhif cyfeirnod yr Arestiadly Ddalffa: .....

Name/Enw: ..... Address/Cyfeiriad: .....

DOB/Dyddiad Geni: .....

Tel/Ffôn: ..... Post Code/Cod Post: .....

You have attended and remained for the duration of an initial assessment with a suitably qualified person (drugs worker) in compliance with the requirement imposed on you by a police officer in accordance with section 9(2) of the Drugs Act 2005. You were also required by the officer, in accordance with section 10(2) of the same Act to attend a follow-up assessment and remain for its duration. This notice is to confirm that this requirement ceases and you are no longer required to attend and remain for the duration of a follow-up assessment.

Gwnaethoch fynd i asesiad cychwynnol gyda pherson sy'n meddu ar y cymwysterau addas (gweithiwr cyffuriau) ac aros yno drwy gydol yr asesiad yn unol â'r gofynion a wnaed gan un o swyddogion yr heddlu yn unol ag adran 9(2) o Ddeddf Cyffuriau 2005. Fe'i gwnaed yn ofynnol i chi hefyd, yn unol ag adran 10(2) o'r un Ddeddf, fynd i asesiad dilynol ac aros yno drwy gydol yr asesiad. Diben yr hysbysiad hwn yw cadarnhau bod y gofyniad hwn wedi dod i ben ac nad oes angen i chi mwyach fynd i asesiad dilynol ac aros yno drwy gydol yr asesiad.

Details of person making this report/Manylion y sawl sy'n llunio'r adroddiad hwn	
Signed/Llofnodwyd:	Date/Dyddiad:
Name Printed/Enw mewn Prif Lythrennau:	Time/Amser:
Job Title/Teitl Swydd:	
Contact details/Manylion cyswllt:	

A copy of this form will be given to you and a copy held by the organisation named above who conducted the initial assessment. A copy may be held on your police custody record.

Cewch gopi o'r furflen hon a chedwir copi gan y sefydliad a enwir uchod a gynhaliodd yr asesiad cychwynnol. Gellir cadw copi ar eich cofnodion yn nalfs'r heddlu.

**Annex O Basic Evidential Template**

**REQUIRED ASSESSMENT (DRUGS ACT 2005)**

**EVIDENTIAL STATEMENT OF FAILURE TO ATTEND AND REMAIN FOR AN ASSESSMENT.**

This statement is made by (name) ..... on (date)..... and is true to the best of my knowledge and belief and I know that if it were tendered in evidence, I would be liable to prosecution if I willfully stated in it anything which I knew to be false or did not believe to be true, pursuant to section 9 CJA 1967.

Signed.....

Statement must have section 9 CJA 1967 declaration and be signed and dated accordingly.

**On** (insert date).....

**Name (insert name of individual subject to RA)** .....

tested positive for specified Class A drug(s) and was required to attend and remain for the duration of an initial and a follow-up assessment (in accordance with sections 9(2) and 10(2) of the Drugs Act 2005).

*(The below paragraph refers to initial assessment - delete as appropriate)*

**On (insert date)** , before being released from detention at the police station s/he was informed orally and given notice in writing by a police officer that an appointment date and time had been fixed for an initial assessment to take place at the following location at the stated date and time:

*(The below paragraph refers to the follow up assessment - delete as appropriate)*

**On (insert date)** , before the conclusion of the initial assessment s/he was informed orally and given notice in writing by an initial assessor that an appointment date and time had been fixed for a follow-up assessment to take place at the following location at the stated date and time:

**Date (insert date, including day, date, month and year)**.....

**Time (insert time)**.....

**Location.** (insert location of assessment including name of agency and full address)  
.....  
.....  
.....  
.....

A copy of this written notice is exhibited as .....

Complete this box if appropriate i.e. if appointment was re-arranged. The box may be expanded to show any number of re-arrangements. For each it will be necessary to confirm that written notice was given of the change. If the appointment was not re-arranged this box may be deleted.

**On (insert date) Date.**

S/he was given a further notice in writing by a police officer / the initial assessor / suitably qualified person (*delete as appropriate*) of a change to the appointment time/place and that the initial/follow-up assessment (*delete as appropriate*) was now due to take place at the following location at the stated date and time:

N.B. a suitably qualified person is as set out in the guidance in accordance with section 19 of the Drugs Act 2005

**Date (insert date, including day, date, month and year)**.....

**Time (insert time)**.....

**Location.** (insert location of assessment including name of agency and full address)

.....  
.....  
.....  
.....

A copy of this further written notice is exhibited as .....

I can confirm that I was at the stated location on the given time and date and that

**Name** (insert name of person subject to RA) .....

failed to attend the initial / follow up (*delete as appropriate*) assessment / failed to remain for the duration of the initial / follow up (*delete as appropriate*) assessment

FREETEXT: the statement given in this section may elaborate on the individual facts of the case, including any contact made with the individual, any reason for failure to attend and remain, whether the assessor made clear that the assessment was to complete before the individual left, whether the individual was violent or disruptive.

Signed.....

Contact Details

archived

## Annex P Extracts from relevant legislation

### Restriction on Bail - Section 19, Criminal Justice Act 2003

#### 19 Drug users: restriction on bail

(1) The 1976 Act is amended as follows.

(2) In section 3 (general provisions), after subsection (6B) there is inserted-

"(6C) Subsection (6D) below applies where-

(a) the court has been notified by the Secretary of State that arrangements for conducting a relevant assessment or, as the case may be, providing relevant follow-up have been made for the petty sessions area in which it appears to the court that the person referred to in subsection (6D) would reside if granted bail; and

(b) the notice has not been withdrawn.

(6D) In the case of a person ("P")-

(a) in relation to whom paragraphs (a) to (c) of paragraph 6B(1) of Part 1 of Schedule 1 to this Act apply;

(b) who, after analysis of the sample referred to in paragraph (b) of that paragraph, has been offered a relevant assessment or, if a relevant assessment has been carried out, has had relevant follow-up proposed to him; and

(c) who has agreed to undergo the relevant assessment or, as the case may be, to participate in the relevant follow-up,

the court, if it grants bail, shall impose as a condition of bail that P both undergo the relevant assessment and participate in any relevant follow-up proposed to him or, if a relevant assessment has been carried out, that P participate in the relevant follow-up.

(6E) In subsections (6C) and (6D) above-

(a) "relevant assessment" means an assessment conducted by a suitably qualified person of whether P is dependent upon or has a propensity to misuse any specified Class A drugs;

(b) "relevant follow-up" means, in a case where the person who conducted the relevant assessment believes P to have such a dependency or propensity, such further assessment, and such assistance or treatment (or both) in connection with the dependency or propensity, as the person who conducted the relevant assessment (or conducts any later assessment) considers to be appropriate in P's case,

and in paragraph (a) above "Class A drug" and "misuse" have the same meaning as in the Misuse of Drugs Act 1971, and "specified" (in relation to a Class A drug) has the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000.

(6F) In subsection (6E)(a) above, "suitably qualified person" means a person who has such qualifications or experience as are from time to time specified by the Secretary of State for the purposes of this subsection."

(3) In section 3A(3) (conditions of bail in case of police bail), for ", (6A) and (6B)" there is substituted "and (6A) to (6F)".

(4) In Schedule 1 (which contains supplementary provisions about bail), in Part 1 (imprisonable offences)-

(a) after paragraph 6 there is inserted-

"Exception applicable to drug users in certain areas

6A Subject to paragraph 6C below, a defendant who falls within paragraph 6B below may not be granted bail unless the court is satisfied that there is no significant risk of his committing an offence while on bail (whether subject to conditions or not).

6B (1) A defendant falls within this paragraph if-

(a) he is aged 18 or over;

(b) a sample taken-

(i) under section 63B of the Police and Criminal Evidence Act 1984 (testing for presence of Class A drugs) in connection with the offence; or

(ii) under section 161 of the Criminal Justice Act 2003 (drug testing after conviction of an offence but before sentence),

has revealed the presence in his body of a specified Class A drug;

(c) either the offence is one under section 5(2) or (3) of the Misuse of Drugs Act 1971 and relates to a specified Class A drug, or the court is satisfied that there are substantial grounds for believing-

(i) that misuse by him of any specified Class A drug caused or contributed to the offence; or

(ii) (even if it did not) that the offence was motivated wholly or partly by his intended misuse of such a drug; and

(d) the condition set out in sub-paragraph (2) below is satisfied or (if the court is considering on a second or subsequent occasion whether or not to grant bail) has been, and continues to be, satisfied.

(2) The condition referred to is that after the taking and analysis of the sample-

(a) a relevant assessment has been offered to the defendant but he does not agree to undergo it; or

(b) he has undergone a relevant assessment, and relevant follow-up has been proposed to him, but he does not agree to participate in it.

(3) In this paragraph and paragraph 6C below-

(a) "Class A drug" and "misuse" have the same meaning as in the Misuse of Drugs Act 1971;

(b) "relevant assessment" and "relevant follow-up" have the meaning given by section 3(6E) of this Act;

(c) "specified" (in relation to a Class A drug) has the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000.

6C Paragraph 6A above does not apply unless-

(a) the court has been notified by the Secretary of State that arrangements for conducting a relevant assessment or, as the case may be, providing relevant follow-up have been made for the petty sessions area in which it appears to the court that the defendant would reside if granted bail; and

(b) the notice has not been withdrawn.",

(b) in paragraph 8(1), for "(4) to (7)" there is substituted "(4) to (6B) or (7)".

**SECTION 63B PACE ACT 1984:**

**As amended by the Drugs Act 2005 (section 7 and Paragraph 4 of Schedule 1)**

**63B Testing for presence of Class A drugs**

(1) A sample of urine or a non-intimate sample may be taken from a person in police detention for the purpose of ascertaining whether he has any specified Class A drug in his body if —

- (a) either the arrest condition or the charge condition is met;
- (b) both the age condition and the request condition are met; and
- (c) the notification condition is met in relation to the arrest condition, the charge condition or the age condition (as the case may be).

(1A) The arrest condition is that the person concerned has been arrested for an offence but has not been charged with that offence and either—

- (a) the offence is a trigger offence; or
- (b) a police officer of at least the rank of Inspector has reasonable grounds for suspecting that the misuse by that person of a specified Class A drug caused or contributed to the offence and has authorised the sample to be taken.

(2) The charge condition is either —

- (a) that the person concerned has been charged with a trigger offence; or
- (b) that the person concerned has been charged with an offence and a police officer of at least the rank of Inspector, who has reasonable grounds for suspecting that the misuse by that person of any specified Class A drug caused or contributed to the offence, has authorised the sample to be taken.

(3) The age condition is—

- (a) if the arrest condition is met, that the person concerned has attained the age of 18;

(b) if the charge condition is met, that he has attained the age of 14.

(4) The request condition is that a police officer has requested the person concerned to give the sample.

(4A) The notification condition is that—

(a) the relevant chief officer has been notified by the Secretary of State that appropriate arrangements have been made for the police area as a whole, or for the particular police station, in which the person is in police detention, and

(b) the notice has not been withdrawn.

(4B) For the purposes of subsection (4A) above, appropriate arrangements are arrangements for the taking of samples under this section from whichever of the following is specified in the notification—

(a) persons in respect of whom the arrest condition is met;

(b) persons in respect of whom the charge condition is met;

(c) persons who have not attained the age of 18.

(5) Before requesting the person concerned to give a sample, an officer must—

(a) warn him that if, when so requested, he fails without good cause to do so he may be liable to prosecution, and

(b) in a case within subsection (1A)(b) or (2)(b) above, inform him of the giving of the authorisation and of the grounds in question.

(5A) In the case of a person who has not attained the age of 17—

(a) the making of the request under subsection (4) above;

(b) the giving of the warning and (where applicable) the information

under subsection (5) above; and

- (c) the taking of the sample,

may not take place except in the presence of an appropriate adult.

(5B) If a sample is taken under this section from a person in respect of whom the arrest condition is met no other sample may be taken from him under this section during the same continuous period of detention but—

- (a) if the charge condition is also met in respect of him at any time during that period, the sample must be treated as a sample taken by virtue of the fact that the charge condition is met;
- (b) the fact that the sample is to be so treated must be recorded in the person's custody record.

(5C) Despite subsection (1)(a) above, a sample may be taken from a person under this section if—

- (a) he was arrested for an offence (the first offence),
- (b) the arrest condition is met but the charge condition is not met,
- (c) before a sample is taken by virtue of subsection (1) above he would (but for his arrest as mentioned in paragraph (d) below) be required to be released from police detention,
- (d) he continues to be in police detention by virtue of his having been arrested for an offence not falling within subsection (1A) above, and
- (e) the sample is taken before the end of the period of 24 hours starting with the time when his detention by virtue of his arrest for the first offence began.

(5D) A sample must not be taken from a person under this section if he is detained in a police station unless he has been brought before the custody officer.

(6) A sample may be taken under this section only by a person prescribed by regulations made by the Secretary of State by statutory instrument.

No regulations shall be made under this subsection unless a draft has been laid before, and approved by resolution of, each House of Parliament.

(6A) The Secretary of State may by order made by statutory instrument amend—

- (a) paragraph (a) of subsection (3) above, by substituting for the age for the time being specified a different age specified in the order, or different ages so specified for different police areas so specified;
- (b) paragraph (b) of that subsection, by substituting for the age for the time being specified a different age specified in the order.

(6B) A statutory instrument containing an order under subsection (6A) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(7) Information obtained from a sample taken under this section may be disclosed—

- (a) for the purpose of informing any decision about granting bail in criminal proceedings (within the meaning of the Bail Act 1976) to the person concerned;
- (aa) for the purpose of informing any decision about the giving of a conditional caution under Part 3 of the Criminal Justice Act 2003 to the person concerned;<sup>†</sup>
- (b) where the person concerned is in police detention or is remanded in or committed to custody by an order of a court or has been granted such bail, for the purpose of informing any decision about his supervision;
- (c) where the person concerned is convicted of an offence, for the purpose of informing any decision about the appropriate sentence to be passed by a court and any decision about his supervision or release;

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<sup>†</sup> See SI 2009/2780 art.2(2) in respect of a youth conditional caution under the Crime and Disorder Act 1998. March 2010

- (ca) for the purpose of an assessment which the person concerned is required to attend by virtue of section 9(2) or 10(2) of the Drugs Act 2005;
- (cb) for the purpose of proceedings against the person concerned for an offence under section 12(3) or 14(3) of that Act;
- (d) for the purpose of ensuring that appropriate advice and treatment is made available to the person concerned.

(8) A person who fails without good cause to give any sample which may be taken from him under this section shall be guilty of an offence.

(9) [ *To be omitted* ]

(10) In this section—

“appropriate adult”, in relation to a person who has not attained the age of 17, means—

- (a) his parent or guardian or, if he is in the care of a local authority or voluntary organisation, a person representing that authority or organisation; or
- (b) a social worker of a local authority;<sup>5</sup> or
- (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed by the police;

“relevant Chief Officer” means—

- (a) in relation to a police area, the Chief Officer of police of the police force for that police area; or
- (b) in relation to a police station, the Chief Officer of police of the police force for the police area in which the police station is

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<sup>5</sup> As amended by Children Act 2004. See SI 2006/885.

situated.

### **63C Testing for presence of Class A drugs: supplementary**

- (1) A person guilty of an offence under section 63B above shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 4 on the standard scale, or to both.
- (2) A police officer may give an authorisation under section 63B above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (3) If a sample is taken under section 63B above by virtue of an authorisation, the authorisation and the grounds for the suspicion shall be recorded as soon as is practicable after the sample is taken.
- (4) If the sample is taken from a person detained at a police station, the matters required to be recorded by subsection (3) above shall be recorded in his custody record.
- (5) Subsections (11) and (12) of section 62 above apply for the purposes of section 63B above as they do for the purposes of that section; and section 63B above does not prejudice the generality of sections 62 and 63 above.
- (6) In section 63B above—

“Class A drug” and “misuse” have the same meanings as in the Misuse of Drugs Act 1971;

“specified” (in relation to a Class A drug) and “trigger offence” have the same meanings as in Part III of the Criminal Justice and Court Services Act 2000.

## Assessment of Misuse of Drugs

### 9 Initial assessment following testing for presence of Class A drugs

(1) This section applies if-

- (a) a sample is taken under section 63B of PACE (testing for presence of Class A drug) from a person detained at a police station,
- (b) an analysis of the sample reveals that a specified Class A drug may be present in the person's body,
- (c) the age condition is met, and
- (d) the notification condition is met.

(2) A police officer may, at any time before the person is released from detention at the police station, require him to attend an initial assessment and remain for its duration.

(3) An initial assessment is an appointment with a suitably qualified person (an "initial assessor")-

- (a) for the purpose of establishing whether the person is dependent upon or has a propensity to misuse any specified Class A drug,
- (b) if the initial assessor thinks that he has such a dependency or propensity, for the purpose of establishing whether he might benefit from further assessment, or from assistance or treatment (or both), in connection with the dependency or propensity, and
- (c) if the initial assessor thinks that he might benefit from such assistance or treatment (or both), for the purpose of providing him with advice, including an explanation of the types of assistance or treatment (or both) which are available.

(4) The age condition is met if the person has attained the age of 18 or such different age as the Secretary of State may by order made by statutory instrument specify for the purposes of this section.

(5) In relation to a person ("A") who has attained the age of 18, the notification condition is met if-

- (a) the relevant Chief Officer has been notified by the Secretary of State that arrangements for conducting initial assessments for persons who have attained the age of 18 have been made for persons from whom samples have been taken (under section 63B of PACE) at the police station in which A is detained, and
- (b) the notice has not been withdrawn.

(6) In relation to a person ("C") who is of an age which is less than 18, the notification condition is met if-

- (a) the relevant Chief Officer has been notified by the Secretary of State that arrangements for conducting initial assessments for persons of that age have been made for persons from whom samples have been taken (under section 63B of PACE) at the police station in which C is detained, and
- (b) the notice has not been withdrawn.

(7) In subsections (5) and (6), "relevant Chief Officer" means the Chief Officer of police of the police force for the police area in which the police station is situated.

### 10 Follow-up assessment

(1) This section applies if-

- (a) a police officer requires a person to attend an initial assessment and remain for its duration under section 9(2),
- (b) the age condition is met, and
- (c) the notification condition is met.

(2) The police officer must, at the same time as he imposes the requirement under section 9(2)-

- (a) require the person to attend a follow-up assessment and remain for its duration, and
- (b) inform him that the requirement ceases to have effect if he is informed at the initial assessment that he is no longer required to attend the follow-up assessment.

(3) A follow-up assessment is an appointment with a suitably qualified person (a "follow-up assessor")-

- (a) for any of the purposes of the initial assessment which were not fulfilled at the initial assessment, and
- (b) if the follow-up assessor thinks it appropriate, for the purpose of drawing up a care plan.

(4) A care plan is a plan which sets out the nature of the assistance or treatment (or both) which may be most appropriate for the person in connection with any dependency upon, or any propensity to misuse, a specified Class A drug which the follow-up assessor thinks that he has.

(5) The age condition is met if the person has attained the age of 18 or such different age as the Secretary of State may by order made by statutory instrument specify for the purposes of this section.

(6) In relation to a person ("A") who has attained the age of 18, the notification condition is met if-

- (a) the relevant Chief Officer has been notified by the Secretary of State that arrangements for conducting follow-up assessments for persons who have attained the age of 18 have been made for persons from whom samples have been taken (under section 63B of PACE) at the police station in which A is detained, and
- (b) the notice has not been withdrawn.

(7) In relation to a person ("C") who is of an age which is less than 18, the notification condition is met if-

- (a) the relevant Chief Officer has been notified by the Secretary of State that arrangements for conducting follow-up assessments for persons of that age have been made for persons from whom samples have been taken (under section 63B of PACE) at the police station in which C is detained, and
- (b) the notice has not been withdrawn.

(8) In subsections (6) and (7), "relevant Chief Officer" means the Chief Officer of police of the police force for the police area in which the police station is situated.

## 11 Requirements under sections 9 and 10: supplemental

(1) This section applies if a person is required to attend an initial assessment and remain for its duration by virtue of section 9(2).

(2) A police officer must-

- (a) inform the person of the time when, and the place at which, the initial assessment is to take place, and
- (b) explain that this information will be confirmed in writing.

(3) A police officer must warn the person that he may be liable to prosecution if he fails without good cause to attend the initial assessment and remain for its duration.

(4) If the person is also required to attend a follow-up assessment and remain for its duration by virtue of section 10(2), a police officer must also warn the person that he may be liable to prosecution if he fails without good cause to attend the follow-up assessment and remain for its duration.

(5) A police officer must give the person notice in writing which-

- (a) confirms that he is required to attend and remain for the duration of an initial assessment or both an initial assessment and a follow-up assessment (as the case may be),

- (b) confirms the information given in pursuance of subsection (2), and
- (c) repeats the warning given in pursuance of subsection (3) and any warning given in pursuance of subsection (4).

(6) The duties imposed by subsections (2) to (5) must be discharged before the person is released from detention at the police station.

(7) A record must be made, as part of the person's custody record, of-

- (a) the requirement imposed on him by virtue of section 9(2),
- (b) any requirement imposed on him by virtue of section 10(2),
- (c) the information and explanation given to him in pursuance of subsection (2) above,
- (d) the warning given to him in pursuance of subsection (3) above and any warning given to him in pursuance of subsection (4) above, and
- (e) the notice given to him in pursuance of subsection (5) above.

(8) If a person is given a notice in pursuance of subsection (5), a police officer or a suitably qualified person may give the person a further notice in writing which-

- (a) informs the person of any change to the time when, or to the place at which, the initial assessment is to take place, and
- (b) repeats the warning given in pursuance of subsection (3) and any warning given in pursuance of subsection (4).

## 12 Attendance at initial assessment

(1) This section applies if a person is required to attend an initial assessment and remain for its duration by virtue of section 9(2).

(2) The initial assessor must inform a police officer or a police support officer if the person-

- (a) fails to attend the initial assessment at the specified time and place, or
- (b) attends the assessment at the specified time and place but fails to remain for its duration.

(3) A person is guilty of an offence if without good cause-

- (a) he fails to attend an initial assessment at the specified time and place, or
- (b) he attends the assessment at the specified time and place but fails to remain for its duration.

(4) A person who is guilty of an offence under subsection (3) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, or to a fine not exceeding level 4 on the standard scale, or to both.

(5) If a person fails to attend an initial assessment at the specified time and place, any requirement imposed on him by virtue of section 10(2) ceases to have effect.

(6) In this section-

- (a) the specified time, in relation to the person concerned, is the time specified in the notice given to him in pursuance of subsection (5) of section 11 or, if a further notice specifying a different time has been given to him in pursuance of subsection (8) of that section, the time specified in that notice, and
- (b) the specified place, in relation to the person concerned, is the place specified in the notice given to him in pursuance of subsection (5) of section 11 or, if a further notice specifying a different place has been given to him in pursuance of subsection (8) of that section, the place specified in that notice.

(7) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (alteration of penalties for summary offences), the reference in subsection (4) to 51 weeks is to be read as a reference to 3 months.

### 13 Arrangements for follow-up assessment

(1) This section applies if-

- (a) a person attends an initial assessment in pursuance of section 9(2), and
- (b) he is required to attend a follow-up assessment and remain for its duration by virtue of section 10(2).

(2) If the initial assessor thinks that a follow-up assessment is not appropriate, he must inform the person concerned that he is no longer required to attend the follow-up assessment.

(3) The requirement imposed by virtue of section 10(2) ceases to have effect if the person is informed as mentioned in subsection (2).

(4) If the initial assessor thinks that a follow-up assessment is appropriate, the assessor must-

- (a) inform the person of the time when, and the place at which, the follow-up assessment is to take place, and
- (b) explain that this information will be confirmed in writing.

(5) The assessor must also warn the person that, if he fails without good cause to attend the follow-up assessment and remain for its duration, he may be liable to prosecution.

(6) The initial assessor must also give the person notice in writing which-

- (a) confirms that he is required to attend and remain for the duration of the follow-up assessment,
- (b) confirms the information given in pursuance of subsection (4), and
- (c) repeats the warning given in pursuance of subsection (5).

(7) The duties mentioned in subsections (2) and (4) to (6) must be discharged before the conclusion of the initial assessment.

(8) If a person is given a notice in pursuance of subsection (6), the initial assessor or another suitably qualified person may give the person a further notice in writing which-

- (a) informs the person of any change to the time when, or to the place at which, the follow-up assessment is to take place, and
- (b) repeats the warning mentioned in subsection (5).

### 14 Attendance at follow-up assessment

(1) This section applies if a person is required to attend a follow-up assessment and remain for its duration by virtue of section 10(2).

(2) The follow-up assessor must inform a police officer or a police support officer if the person-

- (a) fails to attend the follow-up assessment at the specified time and place, or
- (b) attends the assessment at the specified time and place but fails to remain for its duration.

(3) A person is guilty of an offence if without good cause-

- (a) he fails to attend a follow-up assessment at the specified time and place, or
- (b) he attends the assessment at the specified time and place but fails to remain for its duration.

(4) A person who is guilty of an offence under subsection (3) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, or to a fine not exceeding level 4 on the standard scale, or to both.

(5) In this section-

- (a) the specified time, in relation to the person concerned, is the time specified in the notice given to him in pursuance of subsection (6) of section 13 or, if a further notice specifying a different time has been given to him in pursuance of subsection (8) of that section, the time specified in that notice, and
- (b) the specified place, in relation to the person concerned, is the place specified in the notice given to him in pursuance of subsection (6) of section 13 or, if a further notice specifying a different place has been given to him in pursuance of subsection (8) of that section, the place specified in that notice.

(6) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (alteration of penalties for summary offences), the reference in subsection (4) to 51 weeks is to be read as a reference to 3 months.

## 15 Disclosure of information about assessments

(1) An initial assessor may disclose information obtained as a result of an initial assessment to any of the following-

- (a) a person who is involved in the conduct of the assessment;
- (b) a person who is or may be involved in the conduct of any follow-up assessment.

(2) A follow-up assessor may disclose information obtained as a result of a follow-up assessment to a person who is involved in the conduct of the assessment.

(3) Subject to subsections (1) and (2), information obtained as a result of an initial or a follow-up assessment may not be disclosed by any person without the written consent of the person to whom the assessment relates.

(4) Nothing in this section affects the operation of section 17(4).

## 16 Samples submitted for further analysis

(1) A requirement imposed on a person by virtue of section 9(2) or 10(2) ceases to have effect if at any time before he has fully complied with the requirement-

- (a) a police officer makes arrangements for a further analysis of the sample taken from him as mentioned in section 9(1)(a), and
- (b) the analysis does not reveal that a specified Class A drug was present in the person's body.

(2) If a requirement ceases to have effect by virtue of subsection (1), a police officer must so inform the person concerned.

(3) Nothing in subsection (1) affects the validity of anything done in connection with the requirement before it ceases to have effect.

(4) If a person fails to attend an assessment which he is required to attend by virtue of section 9(2) or fails to remain for the duration of such an assessment but, at any time after his failure, the requirement ceases to have effect by virtue of subsection (1) above-

- (a) no proceedings for an offence under section 12(3) may be brought against him, and
- (b) if any such proceedings were commenced before the requirement ceased to have effect, those proceedings must be discontinued.

(5) If a person fails to attend an assessment which he is required to attend by virtue of section 10(2) or fails to remain for the duration of such an assessment but, at any time after his failure, the requirement ceases to have effect by virtue of subsection (1) above-

- (a) no proceedings for an offence under section 14(3) may be brought against him, and
- (b) if any such proceedings were commenced before the requirement ceased to have effect, those proceedings must be discontinued.

**17 Relationship with Bail Act 1976 etc.**

(1) A requirement imposed on a person by virtue of section 9(2) or 10(2) ceases to have effect if at any time before he has fully complied with the requirement-

- (a) he is charged with the related offence, and
- (b) a court imposes on him a condition of bail under section 3(6D) of the Bail Act 1976 (c. 63) (duty to impose condition to undergo relevant assessment etc.).

(2) For the purposes of section 3(6D) of the 1976 Act, a relevant assessment (within the meaning of that Act) is to be treated as having been carried out if-

- (a) a person attends an initial assessment and remains for its duration, and
- (b) the initial assessor is satisfied that the initial assessment fulfilled the purposes of a relevant assessment.

(3) For the purposes of paragraph 6B(2)(b) of Schedule 1 to the 1976 Act (exceptions to right to bail for drug users in certain areas), a person is to be treated as having undergone a relevant assessment (within the meaning of that Act) if-

- (a) the person attends an initial assessment and remains for its duration, and
- (b) the initial assessor is satisfied that the initial assessment fulfilled the purposes of a relevant assessment.

(4) An initial assessor may disclose information relating to an initial assessment for the purpose of enabling a court considering an application for bail by the person concerned to determine whether subsection (2) or (3) applies.

(5) Nothing in subsection (1) affects-

- (a) the validity of anything done in connection with the requirement before it ceases to have effect, or
- (b) any liability which the person may have for an offence under section 12(3) or 14(3) committed before the requirement ceases to have effect.

(6) In subsection (1), "the related offence" is the offence in respect of which the condition specified in subsection (1A) or (2) of section 63B of PACE is satisfied in relation to the taking of the sample mentioned in section 9(1)(a) of this Act.

**18 Orders under this Part and guidance**

(1) A statutory instrument containing an order under section 9(4) or 10(5) must not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(2) Any such order may-

- (a) make different provision for different police areas;
- (b) make such provision as the Secretary of State considers appropriate in connection with requiring persons who have not attained the age of 18 to attend and remain for the duration of an initial assessment or a follow-up assessment (as the case may be), including provision amending this Part.

(3) In exercising any functions conferred by this Part, a police officer and a suitably qualified person must have regard to any guidance issued by the Secretary of State for the purposes of this Part.

**19 Interpretation**

(1) This section applies for the purposes of this Part.

(2) "Class A drug" and "misuse" have the same meanings as in the Misuse of Drugs Act 1971 (c. 38).

(3) "Specified", in relation to a Class A drug, has the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000 (c. 43).

(4) "Initial assessment" and "initial assessor" must be construed in accordance with section 9(3).

(5) "Follow-up assessment" and "follow-up assessor" must be construed in accordance with section 10(3).

(6) "Suitably qualified person" means a person who has such qualifications or experience as are from time to time specified by the Secretary of State for the purposes of this Part.

(7) "Police support officer" means a person who is employed by a police authority under section 15(1) of the Police Act 1996 (c. 16) and who is under the direction and control of the Chief Officer of police of the police force maintained by that authority.

(8) "PACE" means the Police and Criminal Evidence Act 1984 (c. 60).

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## ANNEX Q Glossary

BCU	Basic Command Unit
Care plan	A care plan is a structured plan developed with and for the client. It sets the goals and milestones to be achieved by the client and the nature of the assistance and treatment (or both) which may be most appropriate for the person, identifies agencies involved in support and translates the needs, strengths and risks identified by the assessment into a service response. A care plan can and should be regularly reviewed and can encompass a brief, initial plan through to a comprehensive review.
Case management	Many organisations use the concept of case management to describe the way they deliver services to their users. To work effectively with drug misusers, Criminal Justice Integrated Teams adopt the Case Management Model which applies the DH Models of Care approach, setting out the minimum requirements expected to be undertaken at each stage of the process as well as the skills needed for delivery. In the DIP context, case management describes the process of management of the individual client by a named worker.
CARAT	Every prison has 'CARAT' workers. CARAT stands for 'Counselling, Advice, Referral, Assessment and Throughcare'. Everyone coming into prison who is identified as having a drug problem is assessed, given advice about their misusing, and referred to the specific drug service they need.
CDO	Civilian Detention Officer employed by the police service to conduct drug tests.
CJIP	Criminal Justice Interventions Programme – former name for DIP
CJIT	Criminal Justice Integrated Teams (CJITs) are the key local delivery mechanism of the Drug Interventions Programme. They are established by the DATs as co-located, multi-agency partnerships, comprising members from a range of disciplines with a range of competencies and skills. A typical team might include: arrest referral workers, case managers, those with specialist knowledge of housing issues, mental health, education, training and employment, family support, outreach workers working in the community, dedicated PPO case managers etc The team provides access to the full range of Tier 2 type interventions available in the DAT area, including a single point of contact for accepting referrals from police, courts, probation and prisons as well as self referrals from those leaving prison or treatment.
CJU	Criminal Justice Unit – here all completed court case papers are collated in the police station
CJS	Criminal Justice System.
Cozart	Cozart Bioscience Ltd. Contracted by Home Office to supply equipment to police sites for the purposes of drug testing.
Compacts	Compacts in the DIP intensive areas set key deliverables and expectations for the local DIP programme based on a national approach, but allowing for local or regional variations.
CPS	Crown Prosecution Service – responsible for prosecuting criminal cases investigated by the police in England and Wales.
DANOS	Drug and Alcohol National Occupational Standards specify the standards of performance that people in the drugs and alcohol field should be working to. They also describe the knowledge and skills workers need in order to perform to those standards. Details can be found at <a href="http://www.skillsforhealth.org.uk/page/competences/completed-competences/list/drugs-alcohol-danos">http://www.skillsforhealth.org.uk/page/competences/completed-competences/list/drugs-alcohol-danos</a>
DAT or DAAT	Drug (and Alcohol) Action Team. DATs are strategic partnerships expected to implement the National Drug Strategy at a local level through planning, commissioning and performance management processes. They comprise senior local officials such as Chief Executives of Local Authorities and PCTs, senior Police and Probation and Prison staff and Directors of Social Services and Housing.
DIP	Drug Interventions Programme. A key part of the Government's Drug Strategy involving criminal justice and drug treatment providers working together with other

services to provide a tailored solution for adults – particularly those who misuse Class A drugs – who commit crime to fund their drug misuse.

DIR	Drug Interventions Record. The DIR is the key tool for continuity of care and monitoring and research in relation to the Drug Interventions Programme for CJITs and CARATS. It gathers information that CJIT workers will have received during contact and assessment(s). For CARATS teams in prisons, the DIR is also the Drug Misuse Triage Assessment Form, replacing the CARATS Initial Assessment Form. The DIR and associated forms are under review and the new forms will be used from 2 <sup>nd</sup> April 2007 to coincide with the implementation of the follow-up assessment.
DPA	Data Protection Act 1998. Gives individuals rights regarding information held about them and sets out principles which must be complied with when processing personal data.
DT1	The “Drug Testing 1” form is designed to lead police staff sequentially through the drug testing procedure, and prompts the police to carry out certain duties if particular outcomes are achieved.
DT2	The “Drug Testing 2” form is completed by police staff at the time that a drugs test result is achieved and must be with the court papers. Subject to local procedures, this is achieved via the local Criminal Justice Unit / File Preparation Unit and Crown Prosecution Service.
DRR	Drug Rehabilitation Requirement – part of the community order of the Criminal Justice Act 2003 and available for adult offenders convicted of offences on or after 4th April 2005. The amount of drug treatment delivered under a DRR can be tailored to individual treatment needs and the community order (including the DRR) can be packaged so as to give an equivalent of the DTTO at the medium and high seriousness community sentencing bands. Community Orders in the medium and high bands of the community sentence require 8 and 15 contact hours respectively.
DTDR	Drug Test Data Recorder
DTR	Drug Test Recorder
DTTO	A Drug Treatment and Testing Order is a community sentence which requires an offender to receive treatment. This will initially be for 15 – 20 hours per week. This sentence has been replaced by the community order with a DRR for offences committed on or after 4th April 2005.
FOI Act	Freedom of Information Act 2000. Gives people a general right of access to information held by or on behalf of public authorities and promotes a culture of openness and accountability of public sector bodies.
MDT	Mandatory Drug Test (prisons).
NDTMS	National Drug Treatment Monitoring System. Relates to the process of collecting, collating and analysing information from and for those involved in the drug treatment sector.
PHO	The Public Health Observatories are regional public health intelligence organisations based in the government regions forming a national network. They are involved in the collection and analysis of the National Drug Treatment Monitoring System (NDTMS) data and will be doing the same for the non intensive DIP areas and Prison Service via the monitoring and research sections of the DIR.
PPO Programme	<p>Prolific and other Priority Offenders Programme. This is a single, coherent initiative in three complementary strands:(i) prevent and deter (ii) catch and convict (iii) rehabilitate and resettle, to reduce crime by targeting those who offend most or otherwise cause most harm to their communities.</p> <p>PPO schemes are multi-agency partnerships, based on a very close working relationship between the Police and Probation services to identify, monitor and intensively manage a key target group of offenders (PPOs) in a local area. In some, particularly high crime areas, up to 85% of those identified as PPOs are also problem drug users.</p>
PSR	Pre Sentence Report. The purpose of the PSR is to assist the court with sentencing. This may involve an adjournment of up to 15 days but can be prepared more quickly

(even on the same day) in more straightforward low seriousness cases where sufficient information is available.

RA	Required assessment
RA1 form	In instances where a positive test result is obtained and the police require an assessment (initial and follow-up) to be undertaken, that decision is communicated to the individual and to the Criminal Justice Integrated Team (which will be conducting the assessment) on form RA1. A copy of the RA1 form is also held on the custody record.
RA2 form	Once the police have imposed the requirement for a required assessment in writing, the arrangements for the assessment may be varied in writing by the police or the CJIT worker using the RA2 form. Can be used for varying the arrangements for the initial and follow-up assessment.
RA3 form	Form used by the CJIT worker to inform a police officer or police support officer if an individual fails to attend or remain for the duration of the required assessment. Also used to record attendance at the required assessment and reasons if appropriate for the CJIT worker not arranging a follow-up assessment.
RA4 form	Form used by the CJIT worker to inform the individual of the time, date and place of the follow-up assessment. Also repeats the warning for failure to attend and remain.
RA5 form	Form used by the CJIT worker to inform the individual that the requirement to attend and remain the follow-up assessment ceases.
RoB	Restriction on Bail provision restricts access to court bail if an individual refuses a drug assessment and any follow-up treatment proposed at that time following a positive test for specified Class A drugs. The provision is now in place in all Local Justice Areas in England.
SLA	Service Level Agreement. Is the term that describes the formal contract for services between commissioner and provider agency.
SMAT	Substance Misuse Action Team
SPOC	Single point of contact
S.I.	Statutory Instrument (secondary legislation)
S of S	Secretary of State
ToA	Testing On Arrest