

**DRUG INTERVENTIONS
PROGRAMME.**

**CONDITIONAL CAUTIONING AND
THE DIP CONDITION**



**Operational Guidelines for Criminal
Justice Integrated Teams and Partners**

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OPERATIONAL GUIDELINES FOR CRIMINAL JUSTICE INTEGRATED TEAMS AND PARTNERS

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1 INTRODUCTION

1.1 Purpose of Operational Guidelines for the DIP Condition

The Operational Guidelines for the DIP Condition were originally produced to support early implementation of Conditional Cautioning. These revised guidelines aim to provide an update which reflects:

- implementation advice based on both lessons learned from early implementation sites who have delivered the DIP Condition and on the experience of delivering other interventions within DIP;
- the introduction of other interventions within DIP which impact directly on the Conditional Cautioning disposals, particularly Testing on Arrest and Required Assessment (both the initial and follow-up assessments as introduced by the Drugs Act 2005),
- clarity around how Conditional Cautioning fits within the broader DIP process,
- proposed models of the condition and the operational processes and requirements for delivering them.

1.2 Who should use the operational guidelines for the DIP Condition?

These guidelines for the DIP Condition may be of interest to any one involved in the development or administration of Conditional Cautioning and are written to inform particularly:

- Criminal Justice Integrated Teams (CJITs)
- Drug Action Teams (DATs) and Crime and Disorder Reduction Partnerships (CDRPs) / Community Safety Partnerships
- Police
- Crown Prosecution Service (CPS)
- Government Office Crime and Drugs Teams
- All partners involved in national and local delivery.

The reader should also refer, as appropriate, to the Code of Practice for Conditional Cautioning¹, the DPPs guidance on Conditional Cautioning^{1.1} and the Conditional Cautioning Process Flowchart.

¹ Conditional Cautioning Code of Practice: <http://www.homeoffice.gov.uk/documents/cond-caution-cop?version=1>

^{1.1} DPPs guidance on Conditional Cautioning
http://www.cps.gov.uk/publications/directors_guidance/conditional_cautioning.html

2 BACKGROUND

2.1 Defining Conditional Cautioning

Conditional Cautioning was introduced by the Criminal Justice Act 2003.²

A Conditional Caution may be utilised where there is sufficient evidence to charge and it is an appropriate and proportionate response to the offending behaviour. It is aimed at cases where the public interest would be met more effectively by the offender carrying out specific conditions rather than being prosecuted. Failure to comply with any condition(s) may result in the offender being charged with the original offence.

Conditional Cautions are for adult offenders only (18 or over).

The conditions must be rehabilitative (address an offender's behaviour) or reparative (make good for the effects of the offence on the victim or the community) in nature. Restrictive conditions may be attached but only alongside a reparative or rehabilitative condition. All conditions must be proportionate, appropriate and achievable

The police will be able to administer a Conditional Caution where:

- the police³ have evidence that the offender has committed an offence and the offender has admitted the offence in a cautioned interview.
- the CPS decides: (a) there is sufficient evidence to charge a suspect with an offence: and (b) that a Conditional Caution should be administered to the offender
- the police have explained the effect of the Conditional Caution to the offender and warned him that failure to comply with any of the conditions may result in prosecution for the original offence.
- the offender signs a document containing details of the offence, an admission, his consent to the Conditional Caution and the conditions attached to the caution.

If the offender accepts the Conditional Caution but subsequently fails to comply (without reasonable excuse) they may be prosecuted for the original offence and the caution will cease to have effect. At the point of sentencing, the court will take into account the fact that the individual had been offered and accepted the opportunity to be dealt with without being charged but failed to comply with the conditions to which they had agreed.

² For full details see the Criminal Justice Act 2003 Part 3 Sections 22-27 and the related Code of Practice

³ Conditional Cautions may be given by an "authorised person", meaning a constable, an investigating officer or a person authorised by a "relevant prosecutor" as defined in the CJA 2003. For the purposes of this document, we refer only to "the police" as an authorised person and "the CPS" as a relevant prosecutor.

2.2 The Drug Interventions Programme

The Drug Interventions Programme is a critical part of the Government's strategy for tackling drugs and reducing crime. Introduced in 2003, with new elements having been phased in each year since, its purpose is to develop and integrate measures for directing adult drug-misusing offenders out of crime and into treatment. It attracts significant public funding and is continuing beyond the original three-year period due to the programme's success, 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, a world-first, involves criminal justice and treatment agencies working together with other services to provide a tailored solution for adults - particularly those who misuse Class A drugs and commit crime to fund their drug misuse. Services are linked across the criminal justice system, healthcare and drug treatment services together with a range of other supporting services. The programme introduced a case management approach to offer offender's treatment and support from the point of arrest to beyond sentencing. Sharing information on the treatment needs of individual offenders allows professional multi-skilled teams to provide tailored solutions.

Delivery at a local level is through Drug Action Teams in England, using integrated teams (known as Criminal Justice Integrated teams (CJITs) with a case management approach to provide, or broker access to, treatment and support which is appropriate to each individual client's needs. This begins at an offender's first point of contact with the criminal justice system and continues through the journey that can include arrest, court, sentence, custody and beyond into resettlement.

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 and treatment providers as well as those who offer wraparound services such as housing and job-seeker support.

Some elements of the Programme are in operation in all areas of England and Wales. Since its first year, 2003/4, the Programme has had a particular focus on and rolled out additional components only to certain Drug Action Team (DAT) areas in England and Community Safety Partnership areas in Wales. These are mainly areas with high levels of acquisitive crime, normally property crime such as burglary, shoplifting, robbery and so on. These areas, where the whole range of DIP elements for adults are operating fully, are known as "intensive" areas and comprise 68 DAT areas in England and 3 high crime areas in Wales (or 98 police Basic Command Units (BCUs) in total).

The measures introduced under the Drugs Act 2005 to identify and assess the needs of more drug misusers in the early stages of their involvement with the criminal justice system have now been introduced in these intensive areas. The measures are:

- **Testing on Arrest** - a provision to move the point at which a drug test may be carried out to arrest rather than post charge. Testing on Arrest enables the identification of people misusing specified Class A drugs earlier in their contact with the criminal justice system, so that they can be steered into treatment and away from crime as soon as possible. It will also increase the volume of individuals coming into contact with DIP services, as it will ensure

that those who misuse drugs - but are not charged with an offence - are nevertheless identified and helped to engage in treatment and other programmes of help.

- **Required Assessment** (initial and follow up) - police can require persons who have tested positive for a specified Class A drug when tested on arrest or charge to attend up to two assessments on their drug use. The initial assessment is usually held within custody, and if needed, a follow-up assessment would be held in the offender's DAT of residence. Prior to this new power, such assessments were purely voluntary. Required Assessment increases the number of offenders taking this step towards addressing or re-addressing their drug use related needs and behaviour. The power for these interventions came from the Drug Act 2005.
- **Restriction on Bail** – for those who have tested positive on arrest or charge for specified Class A drugs in England and who also reside in England, where the relevant conditions are met and the defendants have agreed to undergo an assessment of their drug use and to participate in any follow-up recommended by the assessor they will, in most cases, be released on conditional bail. If they refuse, the normal presumption for bail is reversed and the court will not grant bail unless it is satisfied that there is no significant risk that they will not offend whilst on bail.

The introduction of these interventions was staggered, with all interventions live across every intensive area in England by 31 March 2007; some areas have been operating parts of the interventions since December 2005. Restriction on Bail is now available across the whole of England including non-intensive DIP areas. The provisions have not yet been extended to Wales but the timing for their introduction is being reviewed with colleagues in the National Assembly for Wales.

From April 2004, the throughcare and aftercare parts of the Programme became nationwide elements and were phased in across the whole of England and Wales. In England, therefore, all 82 Drug Action Team areas that are not "intensive" are nonetheless actively involved in delivering some of the most important features of the Programme, including completing Required Assessments on their residents if required. In Wales, there are three intensive sites – Cardiff, Newport and Swansea. The rest of the country (which is divided into four regions and local Community Safety Partnerships) is operating the Programme non-intensively.

The key intervention points within DIP for adults are:

- testing on arrest or charge for certain trigger offences (or any offence where a police officer of Inspector rank or above reasonably suspects that specified Class A drug misuse caused or contributed to the commission of the offence and authorises a test)
- up to two "Required" assessments following a positive drug test. To be conducted by a CJIT drug worker with the initial assessment usually taking place within the custody suite following a positive drug test. The follow-up assessment (if required) occurring 4-8 days later in that offenders DAT of residence
- voluntary assessment with a CJIT drug worker in both intensive and non-intensive areas, in the absence of a positive test but where drug use is a factor in offending behaviour

- Conditional Cautioning – which may include a drug rehabilitative DIP Condition for those who receive this disposal as an alternative to prosecution
- Restriction on Bail – to move more drug using offenders into treatment following their appearance at court
- working with clients to prepare them for drug-related elements of community sentence such as the DTTO or DRR or as they finish those community sentences but have an ongoing drug treatment need
- CARATs teams working with clients in prison

Following engagement with the programme, CJITs in the community and CARATs teams in prison then work with their clients and together they ensure continuity of care and retention.

3 DIP and Conditional Cautioning

8.1 How Conditional Cautioning fits with DIP

DIP aims to use every contact a drug-misusing offender has with the Criminal Justice System to move them out of crime and into treatment. Conditional Cautioning may not be appropriate for highly problematic drug-misusing offenders who are more likely to be prosecuted and then engage in treatment through other DIP interventions as set out above. It does however provide an opportunity for intervention with first time or low level offenders as an alternative to prosecution; being able to make a real contribution to preventing the escalation of their drug related offending to more problematic levels. A Conditional Caution with a DIP Condition can be particularly effective with first time offenders and drug users who have not yet realised or acknowledged the possible consequences of their continued drug use.

However, there may be circumstances where this type of disposal may be suitable for drug-misusing offenders who are already involved in criminality linked to their drug use. In intensive areas this type of offender may have been tested for specified Class A drugs and required to attend both initial and follow up assessments. Having been required to attend both the initial and follow-up assessment does not preclude the police and CPS from considering the Conditional Caution – DIP Condition if this would be the appropriate disposal. In these cases benefit would be derived by the offender attending the Conditional Cautioning – DIP Condition sessions. Where the offender has tested positive for a specified Class A drug, the police and CPS may wish to consider information gained by the CJIT drug worker during a Required Assessment to help inform their decision. The more stringent DIP Conditions are likely to be suitable for offenders with previous convictions for drug related crime

In circumstances where the CPS authorise a Conditional Caution - DIP Condition but a follow up assessment has already been arranged it will be necessary to cancel this follow up appointment. This cancellation should be carried out once the offender has agreed to the conditions required and the police have administered the Conditional Caution – DIP Condition and documented the fact on the form MG14. The police should verbally explain to the offender the consequences of failing to attend the Conditional Caution – DIP Condition session and the possible sanction of prosecution.

If the CPS do not authorise a Conditional Caution – DIP Condition or the offenders refuses to accept it then the Required Assessment process should continue as normal.

In circumstances where the offender is given police bail the Required Assessment process should continue as normal.

A DIP Conditional Caution enables:

- the movement of drug-misusing offenders into treatment and out of crime, at the point of police disposal
- the reduction of crime that is a consequence of, contributes to or is caused by personal drug use
- the engage drug misusers in treatment who are not yet known to drug services or criminal justice agencies

- help to re-engage drug misusing offenders who have fallen out of drug treatment
- the retention in treatment of those who are already accessing treatment and services but are still offending and may be at risk of dis-engagement without an extra incentive to remain
- a further opportunity to engage offenders who have failed to attend and / or remain at either the initial or follow assessment
- a further DIP intervention for non-intensive areas to utilise
- a proportionate intervention to address the drug misuse of low level/first time offenders who are unaware of the consequences of their drug misuse.

Annex B suggest some profiles of offenders who might benefit from a Conditional Caution with a DIP Condition.

This guidance reflects how the implementation of the Drugs Act 2005 provisions on Testing on Arrest and Required Assessment will support the effectiveness of Conditional Cautioning by targeting offenders suitable for the DIP Condition. For the first time, a drug test result and potentially the outcome of the initial assessment will be available to inform the decision to give a Conditional Caution or to prosecute. In non-intensive DIP areas without drug testing, and DIP intensive areas where a drug test has not been conducted or the result is negative, this should not be a factor to prevent a DIP Condition being utilised. There are other ways of identifying that drug use is a factor in offending behaviour such as previous tests, prior knowledge of client, self referral etc. A positive drugs test may be a useful tool for identifying suitable offenders for a DIP Conditional Caution but it is by no means the only method of identifying such offenders. This is particularly the case within DIP non-intensive areas.

Treatment and support provided by CJITs is only effective when based on an assessment of the drug-misusing offender's needs. A DIP Condition, must therefore have at its core such an assessment if it is to be effective and able to help the offender address his/her drug use and related issues; any treatment and support must be appropriate to the offender's actual needs.

3.2 Summary of the aims of a DIP Condition within Conditional Cautioning

Aims and benefits of a DIP Condition within Conditional Cautioning include:

- Increasing the number of cases which can be processed promptly, diverting individuals from the court system
- Making available a new disposal appropriate for some drug using offenders
- Diverting from the court system those offenders whose drug use and offending may be reduced effectively within the community
- Creating an opportunity, with sanctions for non-compliance, to move drug-using offenders into planned interventions, sooner than would otherwise have occurred.
- Providing non-intensive areas with an additional intervention to help direct drug misusing offenders into treatment.
- Retaining drug misusing offenders within drug services

- Reducing the potential escalation of drug use.
- Reducing re-offending.
- Increasing partnership working.
- Increasing victim satisfaction.

4 THE DIP CONDITION

4.1 Eligibility

Consideration of the use of the DIP Condition should look beyond the obvious drug-related offences such as simple possession of controlled substances. Consideration should be given to other offences such as acquisitive crime that may be caused by an offender's drug use. Low-level theft such as shoplifting committed by a drug misusing offender is a typical example of where a caution with a DIP Condition may be appropriate.

Although a DIP Condition can be considered for offenders involved with any type of illegal drug, it is expected that the majority of offenders who are offered a Conditional Caution with a DIP Condition will have misused a class A drug.

The following factors may indicate that an offender [aged 18 and over] may be suitable for a DIP Conditional Caution:

- has been arrested for simple possession;
- has been arrested for low-level acquisitive crime, often linked with drug use; and/or
- has a limited criminal record.

Certain groups within society claim to utilise drugs 'socially' or 'recreationally'. Their drug use is often intermittent and they claim they do not have a drug dependency. In many cases these individuals do not commit acquisitive crime to fund their drug use, but may be arrested for non-acquisitive offences such as violence, public order and alcohol related matters. DIP Conditional Cautioning may be an appropriate disposal for this type of offender especially where there is a limited criminal history as it would allow a CJIT drugs worker to offer harm minimisation and other appropriate advice as part of the DIP Condition and help them as necessary into treatment and other forms of support.

The existence of previous convictions is not necessarily a bar to a Conditional Caution. A history of recent offending, especially offences of a similar nature, is likely to be an indication that a prosecution should be preferred, but each case should be considered on its own merits. The police and CPS may have the benefit of information obtained by the CJIT drugs worker during a Required Assessment. This information may help inform the decision whether a DIP Conditional Caution is appropriate. In addition, the offender's attitude to both their offending behaviour and the proposed conditions should be considered. An offender who has shown some remorse for the offending behaviour and who has demonstrated a willingness to comply with the conditions is more likely to be suitable for a Conditional Caution than those who deny responsibility. A Conditional Caution will not be appropriate for an offender who fails to accept full responsibility for his actions or who has given any indication that he may not comply with the conditions.

However, where the police consider that appropriate conditions would assist in the rehabilitation of the offender and would minimise the likelihood of re-offending, the

case should be referred to the CPS to determine whether a Conditional Caution is appropriate in all the circumstances.

The local DAT and CJIT have pivotal roles in working with local partners on the LCJB to make clear the potential benefits of using Conditional Cautioning with drug using offenders. At a national level, DIP will be working with key partners to deliver the same message.

4.2 The aim of the DIP Condition

The aim of the DIP Condition is to reduce crime by identifying at the pre-court disposal stage those offenders who have drug misuse problems. This is achieved by assessing their needs, engaging with them and providing or brokering the most appropriate treatment and support to change their drug misuse and offending behaviour. Therefore the overarching aim of DIP is move drug misusing offenders out of crime and into treatment.

4.3 DIP Conditions – who should deliver them and staff training

The intention is that the DIP Condition will engage appropriate adult drug misusing offenders in an appropriate intervention. It should therefore be delivered, as part of DIP, by a CJIT worker competent in delivering a tier 2 intervention, within the National Treatment Agency *Models of care* framework – May 2006. Such workers will have or will be working towards the relevant DANOS competencies.

The emphasis should be on enabling offenders to make informed decisions about their drug use. To respond effectively to these offenders, the CJIT workers delivering interventions must be:

- knowledgeable about harm reduction
- competent in conducting triage assessments
- competent in conducting basic motivational interviewing and counselling interviews
- familiar with group-work
- aware of the availability of local drug treatment and other appropriate helping agencies, including the referral process and criteria.
- appropriately trained in Conditional Cautioning and have an awareness of both national and local guidance

All CJIT workers who are to deliver the DIP Conditions within Conditional Cautioning must be appropriately trained about their own role and the wider process and its context within the menu of criminal justice disposals.

It is recommended that the CJIT, police and CPS hold joint local training sessions within which each may present their own area of expertise, roles and responsibilities in relation to Conditional Cautioning. A typical training event might cover:

- Police perspective – cautioning process, processes relating to compliance / breach, what constitutes compliance / breach, administrative issues around recording, monitoring, storing and filing case papers.

- CPS perspective – including eligibility of offences, how decisions are made to prosecute or administer Conditional Cautions, public interest test.
- CJIT / treatment provider perspective – how drug careers develop and change, problems resulting from drug use, links with offending, role of CJIT, the broader context of DIP locally, the framework for drug services and CJIT workers in relation to the criminal justice system, issues around information sharing and client confidentiality.

The value of such joint training sessions includes:

- greater mutual understanding of diverse and common objectives.
- greater clarity about the roles and responsibilities of each party and the parameters within which they operate.
- a wider positive impact on effective local partnership work .

The DAT Joint Commissioning Group will need to be aware of Conditional Cautioning when commissioning CJIT services but it should not usually require any additional core competencies or resources.

4.4 DIP Conditions - relevant local protocols / planning agreements

The following written protocols agreements should usually be agreed and in place to support the implementation of the DIP Conditions:

- a partnership agreement for service provision between the police, the DAT Adult Joint Commissioning Group for Treatment and the CJIT⁴
- an agreement between the CJIT and the police about the CJIT's role in informing the police if the offender succeeds or fails to comply with the DIP Condition. Processes must be in place to ensure this information sharing happens consistently and appropriately and is properly recorded.

Any written agreements / material produced must be complementary to the general Conditional Cautioning information referred to in police operational guidelines.

When issuing a DIP Conditional Caution the police must agree:

- the content of the DIP Condition with the CJIT
- explain the content of the DIP Condition to the offender

4.5 DIP Conditions – the possible models

⁴ This will usually be as part of broader commissioning of CJIT services, as Conditional Cautioning is another way of engaging with the potential CJIT client group, albeit in some instances at an earlier stage.

The Police and CPS will consider what form of DIP Condition best fits the individual offender and the offence. The CPS will make the final decision of whether it is appropriate to give the offender a Conditional Caution.

The CJIT should contribute to these considerations as appropriate. How this works in practice will need to be established locally with the agreement of key partners. The approach outlined in this guidance is flexible and allows the CPS to use Conditional Cautioning as a diversion from court for a wider range of offenders. The circumstances of an offender's background, plus the positive benefits they will gain from the DIP Condition, should be considered when setting the Conditional Caution. An additional benefit is that individual areas will be able to design DIP Conditions to match their local client profile and available resources, whilst ensuring that the overall Conditional Caution continues both to fit the individual offender's circumstances and remain proportionate to the offence.

4.6 Menu of available DIP Conditions

A menu of DIP Conditions is available. This disposal provides the CPS with flexibility when deciding on the most appropriate DIP Condition for both the offender and the seriousness of the offence.

The DIP Conditional Caution has been designed to complement other DIP interventions such as drug testing and the Required Assessment process. In DIP intensive areas, testing for specified Class A drugs and the Required Assessment process is available. The results of these interventions may inform decisions taken by the police and CPS in relation to the use of Conditional Cautioning as a means of disposal. Information from the CJIT drugs worker who may have conducted an initial assessment with the offender will be of benefit in the decision making process.

The scale of DIP Conditions available ranges from a One Session Condition, requiring an individual to attend a single session with a CJIT worker, through to the Three Session Condition with a follow-up condition, which requires an offender to attend three separate sessions with a CJIT worker and to participate in follow-up treatment for a specified maximum period.

In DIP intensive areas the outcome of the initial required assessment (usually conducted in custody) may be available to help inform the decision around giving a Conditional Caution. This is subject to the offender providing written permission to share relevant information with the police. The initial required assessment itself does not form part of a Conditional Caution but it may indicate whether an offender is suitable for a Conditional Caution. If a decision is taken to utilise a Conditional Caution the most appropriate DIP Condition should be selected from the available menu. A DIP Conditional Caution would be an inappropriate disposal where written permission to share information with the police is refused.

The range of DIP Conditions available are:

- One Session Condition
- Two Session Condition (with additional Follow-Up Condition available)
- Three Session Condition (with additional Follow-Up Condition available)
- Follow-Up Condition

All DIP Conditions must include:

- an assessment of the offender's drug use to enable the worker to establish the person's dependency on or propensity to use 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.
- the worker providing harm minimisation and general drug awareness advice and, as appropriate, an explanation of the types of assistance and treatment available. The worker should also take the opportunity to explain the support available including relevant wraparound services.
- a review of the offender's readiness to engage, whether there is a need for further interventions and, if so, what interventions might be appropriate.

All DIP Conditions require the offender to attend and participate appropriately in structured sessions with a CJIT worker.

4.6.1 One Session Condition

The offender is required to attend a single session with a CJIT worker which includes the elements as above. A DIP Conditional Caution consisting of one session may be appropriate for a drug user who has offended for the first time and is unlikely to require any further intervention.

4.6.2 Two Session Condition

The offender is required to attend two sessions with a CJIT worker covering an assessment and education / awareness session at one appointment and the review / referral at the second appointment. A DIP Conditional Caution consisting of two sessions may be appropriate for low level offenders where there is some history of previous offending. Where there is sufficient throughput of offenders the second session may form part of a group session.

4.6.3 Three Session Condition

This condition is designed on a three session structure, requiring the offender to attend three separate appointments with the CJIT as follows:

Session 1 - an individual triage assessment of needs with a CJIT worker

Session 2 - an information and education session on drugs and drug related issues including harm minimisation advice to be facilitated by a CJIT worker. Where there is sufficient throughput of offenders the second session may form part of a group session.

Session 3 - an individual review with a CJIT worker to discuss particular issues raised in Session 2 and, if appropriate, to develop an initial care plan with the offender. This should include information on available services and assess the offender's readiness and need for further interventions.

Annex C provides a possible model.

The One Session or Two Session DIP Conditional Caution may be considered appropriate for offenders who have failed to attend and remain at a Required Assessment (initial or follow up). Disposal for this type of offence by a DIP Conditional Caution would require a further element of commitment from the offender. In return, they may be able to avoid prosecution; however, the provision would provide a further opportunity to engage the offender with treatment services.

4.6.4 Follow-Up Condition

This requires the offender to:

- attend all the sessions of either Two Session or Three Session Condition and
- agree to participate, for a specified maximum period, in any proposed follow-up which is agreed with the CJIT worker.

The Follow-Up Condition requires the most commitment. This condition may be appropriate for more serious offences / offenders where CPS need a high level of commitment and engagement to satisfy that a Conditional Caution is an appropriate alternative to prosecution.

The length of time required by the offender to participate in any follow-up is specified on the face of the Conditional Caution and is decided upon by the CPS. However, the duration of the actual required follow-up is based on the CJIT worker's assessment of need. For example, one offender may be required by the CPS to comply for up to 2 months but be judged by the worker to be suitable for discharge after only 1 month; another may be required to comply for up to 2 months but continue to be engaged voluntarily with the CJIT for another 3 months.

4.6.5 Why participating in follow up treatment / support is voluntary for some offenders and not for others

The offender's agreement to comply with any follow-up treatment / support which is agreed with the CJIT worker does not form part of the condition for all offenders because:

- such a condition might be disproportionate to the original offence
- many offenders may not require follow-up treatment or support because of their comparatively low levels of drug use and low risk of escalation. A condition that required them to engage with services for a set period would not only be inappropriate for their need but could also be counter-productive, deterring some from accepting the Conditional Caution.

4.6.6 DIP Condition – delivery process

Step 1 – Police / CPS consider whether an offender may be suitable for a DIP Conditional Caution. This consideration could be informed by a CJIT worker's knowledge of the offender or, if in a non-intensive DIP area, by an initial voluntary assessment subject to the offender giving written permission for the worker to share relevant information with the police. In DIP intensive areas, the consideration could be additionally informed by a positive drug test and an initial assessment (subject to

the offender giving written permission to share information arising from the Required Assessment with the police)

Accordingly the process for the police is:

- inform the offender, who has already admitted the offence, that he is being considered for a Conditional Caution

If in a non-intensive DIP area

- ask the offender if he is willing both to see the drug worker and allow the worker to share information with the police and the CPS to inform the consideration of a Conditional Caution. The offender must give written agreement to the information sharing.

If in an intensive DIP area

- a drug test and initial assessment should be arranged as normal. The offender should also be asked whether he is willing for the drug worker to share information about the Required Assessment with the police and the CPS to inform the consideration of a Conditional Caution. The offender must give written agreement to this information sharing;
- in the absence of consent, the police may still use the positive drug test (but not information from the assessment) to inform their considerations with regard to Conditional Cautioning, as set out in section 63B 7(aa) of the Police and Criminal Evidence Act 1984;
- if a drug test and Required Assessment is not possible, then ask the offender if he is willing to undergo a voluntary assessment and to share information as above to inform the consideration of a Conditional Caution. The offender must give written agreement to the information sharing.

CJIT workers are not always available in custody suites. If the police require advice out of working hours, they should utilise existing local arrangement established by the CJIT to enable advice to be given by phone and arrangements made for a worker to attend later. (Details will depend upon local circumstances, demand and resources). Every custody suite should have a complete list of the CJITs' Single Points of Contact (SPOC) for professionals across England and Wales.

If the offender is resident in another area, the Police/CPS need to take into account whether he would be able to comply with the conditions. (e.g. if the CJIT in their area of residence could deliver the DIP Condition and report appropriately compliance or non-compliance). If not, then it may be more appropriate to consider an alternative means of disposal for the offender.

Step 2 – If the Police consider a DIP Conditional Caution may be appropriate, they will seek CPS authorisation. (CPS will take in to account, where available, information provided by the CJIT worker in relation to the appropriateness of a DIP Condition).

Step 3 – With CPS authority, the Police will offer the DIP Condition, as part of the Conditional Caution, for the offender to consider. This will include verbal and written information describing:

- the referral process to the CJIT including:
 - Its name and full contact details
 - a date by which the offender must contact the CJIT or a specified first appointment
- the detail of the DIP Condition including:
 - a description of the number of sessions and their purpose (so the offending participant knows what will be provided and why) and
 - whether there is a requirement to comply with any follow-up and, if so, for how long
- the commitment required from the offender, including that:
 - he must attend for all specified sessions
 - he must comply until a specified date
 - he must behave appropriately – as detailed at paragraph 6.

If the offender accepts the Conditional Caution and signs to that effect, the police should then deliver the Conditional Caution and formally refer the offender to the CJIT as the service provider. If the offender declines the Conditional Caution they may be prosecuted for the original offence.

Step 4 – the offender attends for the requisite number of sessions with the CJIT worker and participates in any follow-up if specified within the caution.

Step 5 – the CJIT, with input from other service providers if required, confirms to the police in writing whether or not the offender attended and participated in all sessions within the agreed time period. A locally agreed protocol between the CJIT, police and CPS will be required to define the method of notification.

Step 6 – as appropriate, the police either inform the offender they have complied with the terms of the Conditional Caution [*NB there might be other conditions than the DIP one attached*] and close the case, or initiate a response for failure to comply. The method of notification should be agreed by means of a local protocol between the CJIT, police and CPS.

Annex A is a flow diagram of the steps involved in implementing a DIP Conditional Caution, reflecting instances where the drug test results and information from the initial assessment may and may not be available.

5. Conditional Cautioning and the Drug Interventions Record (DIR)

The DIR is a form that is used by all CJITs across all parts of England and Wales in their dealing with drug using offenders through DIP. Its main roles are to:

- facilitate and improve standards of continuity of care for drug misusing offenders, and minimise duplication of assessments, especially when they are moving between custody and community or community and custody but also when information is passed between case managers and /or treatment providers
- support the monitoring and research functions around the Drug Interventions Programme, in line with the Programme's, and other related, Performance management Frameworks
- be the standard Substance Misuse Triage Assessment SMTA used by all CARATs workers in prison establishments across England and Wales in dealing with all drug misusing clients, whether or not they become DIP clients.

A DIR should be completed on every individual who has a triage assessment and the standard completion guidance⁵ should be followed. If the assessment was as a result of a Conditional Caution, this should be recorded at 4.5 of the DIR - 'What promoted the initial screening/triage assessment'.

⁵ <http://www.drugs.gov.uk/drug-interventions-programme/guidance/DIR/?view=Standard>

6. Compliance with the DIP Condition

The offender must comply with the DIP Condition as set out in writing in the formal record of the Conditional Caution MG14. This will include attendance at however many sessions with the drug worker are specified and participation in any follow-up for a specified maximum period if appropriate.

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 appointments, without prior notification of any difficulty
- leaving appointments 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 failed to participate appropriately in the session [see para 4.6] 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 offender. In particular, it would be good practice to remind the offender of the possible legal consequences of a failure to engage appropriately. This should have been made clear to them at the point the Conditional Caution was offered as a means of disposal.

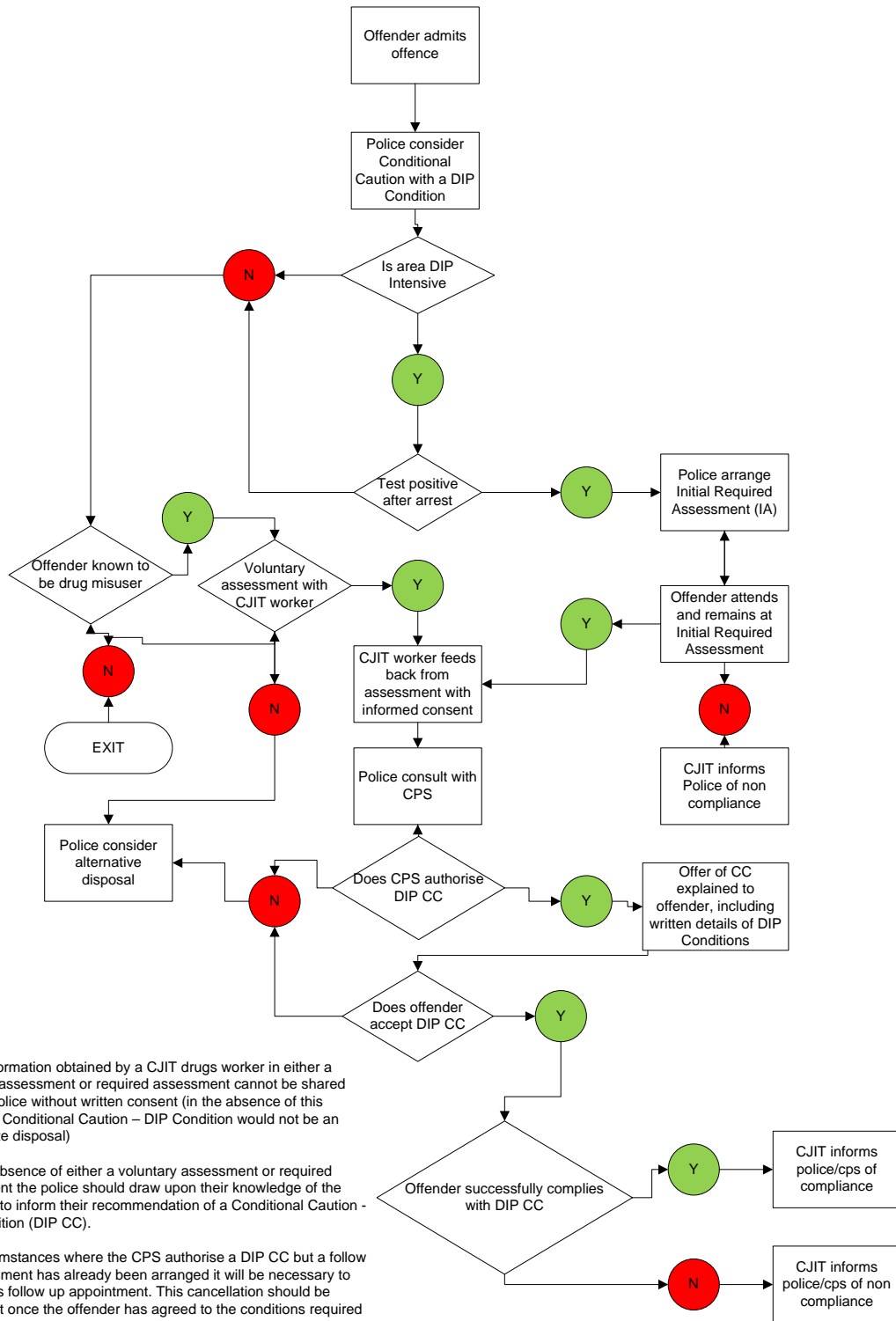
In some cases of non-attendance, the CJIT worker will need to exercise judgement about whether it is reasonable to re-arrange the appointment and allow the offender another opportunity to meet the condition. This may be the case, for example, when the offender has made prior contact to explain particular difficulties in attending an appointment. In those cases, the CJIT worker might vary the appointment. Any new arrangement must be confirmed in writing and must include a warning about the possible consequences of failure to attend.

It may be that, following reasonable warnings that certain behaviour or non-attendance is unacceptable. The final recourse would be for the CJIT worker to tell the offender that their behaviour may constitute non-compliance with the condition and report the circumstances to the police and CPS. Local CJITs will have their own protocols for dealing with issues of behaviour and they should be followed in these instances.

As stated at para 4.4, local arrangements and protocols should be in place to ensure that all parties, including the individual offender, are aware of how the CJIT will report compliance and non-compliance. These arrangements will need to take into account local circumstances and structures whilst also meeting legal requirements and national guidelines.

Process Map for a Conditional Caution – DIP Condition

ANNEX A



Notes:

1. Any information obtained by a CJIT drugs worker in either a voluntary assessment or required assessment cannot be shared with the police without written consent (in the absence of this consent a Conditional Caution – DIP Condition would not be an appropriate disposal)
2. In the absence of either a voluntary assessment or required assessment the police should draw upon their knowledge of the individual to inform their recommendation of a Conditional Caution - DIP Condition (DIP CC).
3. In circumstances where the CPS authorise a DIP CC but a follow up assessment has already been arranged it will be necessary to cancel this follow up appointment. This cancellation should be carried out once the offender has agreed to the conditions required and the police have administered the DIP CC and documented the fact on the form MG14.

ANNEX B

RANGE OF DRUG USERS WHO MAY BENEFIT FROM DIP CONDITION

Every individual offender being considered for a DIP Condition must be considered as an individual with all relevant circumstances being taken into account. This Annex seeks simply to show in broad terms the range of offenders who may benefit from such a condition. It is not intended that individuals should be required to fit neatly into any one category in order to be considered.

1. Non Problematic Drug Users

The prime target group is likely to comprise those (mainly younger) offenders whose drug use is recreational and non-problematic i.e. not causing any real harm to themselves or others at this stage. These young adults will, in the main, be in employment or education, and be law abiding – not usually having come to the attention of the police before. They are likely to be using legitimate income to finance their drug use.

Aim

Given that the majority of this target group are usually law abiding, apart from their drug use, the main impact of the Conditional Caution will be on the individual's level of drug use. It will not have a significant crime reduction impact, as these are not regular offenders. However, this early intervention will contribute to preventing any progression towards a problematic drug career and related potential offending. Therefore the overall aim for the majority is a drug and crime prevention impact, and a reduced offending impact for a minority.

Outcome

Likely outcomes might include:

- a reduction in the quantity or range of drugs being consumed ;
- the cessation of all illegal drug use sooner than would otherwise have occurred;
- the prevention of an escalation of usage, which for some vulnerable individuals would have become problematic to both themselves and the community around them.

Referral needs

These offenders are least likely to require referral to specialist drug treatment agencies or other helping services. Some onward referral may be appropriate, but local resources must be targeted where the need is greatest.

Appropriate DIP Condition – likely to be a One Session Condition

2. Offenders whose drug use is becoming problematic

This group will include those whose drug use is causing some physical, psychological, social or legal problems for themselves and may be affecting others. They may have come to the attention of the police before, possibly for an issue not directly related to drug use. They are likely to be using legitimate income to finance their drug use. They may or may not perceive their drug use as problematic. On the occasion the Conditional Caution is issued, they are likely to have been arrested for possession or some other minor offence that has arisen as a consequence of their drug misuse.

Aim

The intervention is unlikely to significantly reduce levels of offending, as this group are not yet regular offenders. However there will be a crime prevention impact if individuals are successfully referred to specialist drug treatment agencies and other helping services at this stage. The aim will be to reduce drug use or, as a minimum, prevent further escalation of problematic use and a consequential increase in offending or other contact with the criminal justice system.

Outcome

Likely outcomes might include:

- a reduction in the quantity or range of drugs being used;
- the cessation of all illegal drug use sooner than would otherwise have occurred;
- the prevention of escalation of usage, which would probably have become increasingly problematic to both themselves and the community around them.

Referral needs

It is probable that in addition to the DIP Condition, some of these offenders will also benefit from further intervention.

Appropriate DIP Condition – likely to be either the Two or Three Session Condition with appropriate encouragement to engage further with CJIT voluntarily.

3. Offenders who are committing offences and using drugs

These will be low-level offenders whose lifestyle includes the use and misuse of drugs. They will have been arrested for a comparatively minor offence, possibly including possession, and in the course of the investigative interview suspicions may be raised or confirmed that they use/misuse drugs. They will not be offending in order to finance their drug use. A Conditional Caution may be used to encourage them to address their drug use. They may or may not perceive their drug use as problematic.

Aim

The desired outcome of the Conditional Caution will be an intervention to reduce drug use, which will reduce offending behaviour and the risk of escalation.

Outcome

Likely outcomes might include:

- a reduction in the quantity or range of drugs being used;
- the cessation of all illegal drug use sooner than would otherwise have occurred;
- Reduction in offending behaviour.

Referral needs

Some of these offenders will benefit from further intervention.

Appropriate DIP Condition – likely to be the Three Session Condition with appropriate encouragement to engage further with CJIT voluntarily.

4. Offenders who have begun offending in order to fund their drug misuse

These are offenders whose drug misuse is becoming problematic and they are beginning to commit acquisitive offences to finance their drug use. There is a causal link between their drug misuse and their acquisitive offending. They will probably have come to the attention of the police before for either drugs or acquisitive crime

offences or a combination of both and will traditionally have been dealt with by charging rather than through a cautioning intervention.

Aim

Conditional Cautioning is likely to be appropriate for a minority of these offenders. To be considered for a Conditional Caution, if they have a previous record, the current offence would be relatively minor and there would probably be an exceptional reason for police / CPS believing that the caution would be in the public interest. The aim would be to reduce crime by tackling problem drug use.

Outcome

Likely outcomes might include:

- a reduction in the quantity and range of drugs being consumed;
- the cessation of all illegal drug use sooner than would otherwise have occurred;
- significant crime reduction given their probable frequent acquisitive offending behaviour.

Referral needs

It is highly likely that, in addition to the DIP Condition, these offenders will need further intervention, possibly including specialist drug treatment and other support. They are likely to be taken on to the CJIT caseload and further intervention would be part of an agreed care plan to address their needs.

Appropriate DIP Condition – likely to be the Three Session Condition plus a requirement to engage further with the Follow-Up Condition.

ANNEX C

AN EXAMPLE OF A THREE SESSION DIP CONDITION

This should be used as reference and amended as appropriate to local and individual client needs

SESSION 1	Initial (triage) assessment. 1:1
<p>Purpose – to gather sufficient information to assess:</p> <ul style="list-style-type: none">• extent of any drug (and alcohol) related problems• if offender should be assigned to Set A or B• if offender would benefit from onward referral to other agencies <p>Preparation</p> <ul style="list-style-type: none">• if possible check if offender already known to any local drug agencies, and obtain relevant information• if offender on CJIT caseload, follow usual DIR procedures <p>Methodology - assessment process should be based on any existing local triage assessment protocols and in line with <i>Models of care</i> guidance.</p> <p>Desired outcome – offender begins to understand the link between their personal drug use and related problems.</p>	
<p>Recommended content of session 1</p> <ul style="list-style-type: none">• Drug worker makes offender feel at ease, then explains:<ul style="list-style-type: none">○ detail of condition○ CJIT duty to inform police if Condition breached.• Worker carries out triage assessment including:<ul style="list-style-type: none">○ brief social history○ extent of drug use○ any identified problem areas under headings such as physical, psychological, social and legal.• Worker then:<ul style="list-style-type: none">○ Informs offender of identified problem areas○ Provides any immediate required harm reduction advice○ Confirms date and venue to attend session 2○ Explains that the offender must not be intoxicated by drugs or alcohol when attending sessions as this may constitute a breach <p>Follow up</p> <ul style="list-style-type: none">• Worker completes written triage record• Worker completes DIR / DIR Initial Contact Form as appropriate• Worker passes assessment to drug worker who will lead session 2.	

SESSION 2	Information and education – (possible group work)
<p>Purpose – To increase offenders’ knowledge and understanding of:</p> <ul style="list-style-type: none"> • why they use drugs • how their drug use began and could escalate • the range of problems that may result from escalation of drug use • the legal position in relation to drug use, including any recent changes • the effects of specific drugs • harm reduction information (how to use drugs less dangerously) • the extent to which their personal drug use is problematic • what actions they need to take to tackle / reduce any problems <p>Preparation – Drug workers leading the session must familiarise themselves with the background of each participating offender by reading, in advance of the session, the written triage assessment record.</p> <p>Follow up – After the session has finished the drug worker <u>must</u> add to the written triage assessment record their observations regarding:</p> <ul style="list-style-type: none"> • if offender made an effort to participate • if they appeared to increase their understanding of the problems of drug use • if they exhibited any change in attitudes and intended behaviour regarding drug use <p>Written record is then passed to drug worker leading session 3.</p>	
<p>Methodology – This session should be a combination of formal presentation, group work exercises and group discussion. A certain amount of <u>information</u> has to be transmitted by formal presentation, however the participants will become <u>educated</u> by the self-learning that results from exercises and discussion in which they are <u>active participants</u>. A number of exercises are suggested later below.</p> <p>Desired Outcome – Emphasis should be on facilitating offenders in making informed decisions about their drug use by focussing on:</p> <ul style="list-style-type: none"> • the drugs they are using – so individuals may consider their current usage – criminal justice aim to reduce drug use and achieve early cessation; • the drugs they are considering using – so individuals may consider their future usage - criminal justice aim to prevent escalation; • the drugs they would not consider using – to reinforce individual’s current decision not to use such drugs – criminal justice aim to prevent escalation. 	

Recommended content of session 2

Introduction

Drug worker (facilitator):

- makes offenders feel at ease, with name introductions
- explains purpose of the session;
- explains duty of CJIT to inform police if Condition breached.
- explains any group-work etiquette or confidentiality rules (e.g. belittling of others' contributions etc.)

Exercise 1 – Reasons why people use drugs

Facilitator asks participants to name the reasons why a person (possibly themselves) should choose to use a drug. Facilitator records reasons on flip chart in two columns. Unknown to the participants, left hand column should be reasons associated with pleasure, right hand column reasons associated with problem solving. Facilitator asks participants common feature of the entries in each column.

Learning point – participant 'learns' why they use drugs i.e. are they seeking fun or are they trying to solve/block out problems they face.

Likely that target group 1 will be primarily fun seekers. Likely that target group 2 will include many who began as fun seekers but now are also problem solvers. For my reference - Are different sessions held for different target groups? Or is this just a way to distinguish between offenders within the initial group session?

Exercise 2 – What problems result from drug use

Facilitator asks participants to name all the problems that can arise from drug use. Facilitator records reasons on flip chart in four columns headed Physical, Psychological, Social, Legal. Facilitator asks participants to consider problems that currently and potentially apply to them. Learning point – participant 'learns' problems arising from drug use and risks of escalation.

Presentation 1 – How drug careers develop

Facilitator draws series of steps on flipchart, and explains:

- characteristic features of each step
- how people travel down the steps by their own volition often without realising it is happening
- how helping agencies assist with the difficult uphill steps
- drug careers are dynamic, individuals move around the steps

Learning point – participants understand the downward progression that can happen and identify where they are positioned on the steps.

Drug free

start here

Experimental

offer situation
peer group
curiosity

Recreational

leisure
pleasure
in control

Dependent

physical
psychological
losing control

Chaotic

lost control
drug controls life

Presentation 2 – Drugs and the law

Facilitator gives brief presentation on Misuse of Drugs Act, including section 8 re: allowing use on your premises.

Learning point – participants understand the legal position.

Exercise 3 - Drugs the facts

Facilitator could use a quiz format to test participants' knowledge of properties and effects of specific drugs. This could include harm reduction information. Participants to discuss the answers.

Learning point – dispels any myths or misunderstandings the participant had.

Other discussion topics - anything the facilitator reckons is relevant, including topics raised by the participants.

Drug worker reminds participants:

- They must not be intoxicated by drugs or alcohol when attending sessions.
- Confirms date and venue to attend session 3.

SESSION 3	Review 1:1 meeting
<p>Purpose – to review what the offender has learned and inform the offender of the final assessment of their situation. It is recommended there is a minimum gap of three days between session 2 and 3, so the offender may reflect on what they have learned and applies to their own situation.</p> <p>Preparation - Drug worker leading the session, familiarises themselves with the background of each participating offender, by reading in advance of the session, the triage assessment record including the additional comments from session 2.</p> <p>Follow up – at the end of the session the drug worker:</p> <ul style="list-style-type: none"> • agrees a care plan with the individual and takes on to CJIT caseload if appropriate and/or makes any appropriate onward referral or signposts to other treatment/support with the offender’s agreement • Informs the police, in writing or by fax, whether or not the offender completed all three sessions. (Detail of who makes this report and how will be part of the locally agreed protocol in each site). 	
<p>Methodology – This session is a one to one discussion between drug worker and each individual offender.</p> <p>Desired Outcome –</p> <ul style="list-style-type: none"> • reinforce offender’s positive intentions and behaviours; • prompt action by the offender to change their negative attitudes and behaviour; • encourage relevant offenders to accept referral to appropriate helping agencies <u>those requiring further intervention</u>. These offenders will benefit from being taken on to the CJIT caseload and delivery / brokering of specialist drug treatment / support. The session should focus on encouraging these offenders to recognise their situation, using motivational interviewing techniques when required. These offenders must be encouraged to take appropriate action and to agree a care plan. 	
<p>Recommended content of session 3</p> <p>Drug worker:</p> <ul style="list-style-type: none"> • makes offender feel at ease; • explains purpose of the session; • asks offender what they have learned in general; • asks offender what they have learned that applies to their own particular circumstances; • reinforces any positive changes in attitude or proposed behaviour on the part of the offender; • questions any denial about factors that drug worker considers are relevant to the offender’s circumstances; • provides offender with the drug worker’s assessment of the offender’s circumstances; • advises offender of potential benefits of onward referral to other helping agencies; • obtains offender’s agreement to any appropriate onward referral; • ensures that harm reduction information understood; • informs offender if drug worker will be informing the police of successful completion of the Programme or failure to complete. 	