

Working with service users who consume Class A drugs and are in contact with the criminal justice system



About the author



Tim McSweeney is currently a Senior Lecturer (Forensic Psychology) with the School of Life and Medical Sciences at the University of Hertfordshire, having previously worked at a number of prestigious universities both in the UK and Australia. He has also worked for the Home Office (where he was responsible for overseeing research and evaluation on aspects of the government's counter-extremism strategy) and at HM Inspectorate of Prisons as a senior researcher. He has a wide range of research interests within the criminal justice system including a long-standing involvement in major studies on the relationship between alcohol, drugs and crime.

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Why read this evidence review?

This evidence review provides an in-depth look at the issue of illicit drug use among people in contact with the criminal justice system.

Tim McSweeney has been a prominent researcher in this area for over 20 years and has advised international and global bodies such as the United Nations and World Health Organisation on policy responses for tackling drug-related crime.

The review covers a wide range of issues including:

- Trends in illicit drug use
- Our knowledge of patterns of opiate and cocaine use among people in contact with the criminal justice system
- Points of intervention throughout the criminal justice process
- A summary of evidence of 'what works' with this client group
- The critical success factors of working with service users who misuse Class A drugs.



Introduction

This article aims to summarise the current state of knowledge about illicit drug use – particularly of Class A drugs like heroin and cocaine – among people encountering the criminal justice system (CJS) as suspects, defendants or convicted people in England and Wales. It overviews the different options and disposals available for intervening with these groups, considers evidence of ‘what works’ and discusses some critical success factors for working with criminally involved service users who misuse Class A drugs.

Understanding the nature and extent of the ‘problem’

Those encountering the CJS – whether through police custody, the courts and sentencing process, while subject to probation supervision or serving a prison sentence – are significantly more likely to report having recently used illicit drugs compared with the general population.

Around one in 11 (9%) adults aged between 16 and 59 years in England and Wales reported having used an illicit drug in 2019/20; equivalent to 3.2 million people. While cannabis is the drug most commonly consumed, one in three users (or 3% of the adult population) said they had taken a Class A drug. Unsurprisingly, illicit drug use is concentrated among the young: one in five (21%) 16-24-year-olds said they had used at least once in 2019/20. However, the rate of Class A drug use – mainly involving powder cocaine and ecstasy – among 16-24 year-olds has been increasing since 2012/13 (from 4.8% to 7.4%).

These mirror trends among secondary school-age children (those aged between 11 and 15 years) in England who have reported large and statistically significant increases in their illicit drug use since 2014 (NHS Digital, 2019). In 2017/18, more than 10,000 secondary school pupils were excluded in England (either on a fixed-term or permanent basis) because of alcohol or drug issues. This represented a 50 per cent increase on figures from 2012/13 (Department for Education, 2019).

But rates of illicit use – particularly of Class A drugs like heroin and cocaine – are considerably higher among those known to criminal justice agencies. Monitoring data over a six-year period from 2004 in England and Wales, relating to more than one million arrests which rendered the suspect eligible for drug testing in custody, found that almost two in five (37%) tested positive for recent (past 24-hour) use of heroin and/or cocaine, but with rates falling from 47 per cent to 29 per cent over this period (Home Office, 2010).



A more recent profile of Her Majesty's Prison and Probation Service's (HMPPS) caseload drew on routinely collected risk and sentence planning assessment data in order to describe the needs of over 170,000 people serving custodial sentences and community orders in England and Wales on 30 June 2018 (Ministry of Justice, 2019). Overall, 38 per cent of those being supervised by HMPPS were assessed as having an offending-related need linked to drug misuse. Levels of drug-related need were found to be higher in custodial settings (45%) compared to those serving community disposals (34%), and females were more likely to be identified with a drug misuse need compared with males in both probation (37% vs. 34%) and prison (50% vs. 45%) settings.

The range and scale of the structural disadvantages experienced by substance misusers in contact with the justice system, particularly women, is now well established (McSweeney et al., 2004; Cattell et al., 2013; Light et al., 2013; Barnett and Wakeling, 2021). There is also evidence of an increased risk of drug-related death during the first few weeks following release from prison (Merrall et al., 2010).

The economic and social costs associated with Class A use are considerable: estimated at £19.3 billion for 2017/18 in England. Drug-related crime and associated CJS costs (in the region of £9.3 billion) made up almost half of this figure and the bulk (95%) of these crime costs were in turn attributed to crack and heroin use (Black, 2020). However, public expenditure on drug treatment fell by up to 40 per cent in some areas of England in recent years. A number of researchers have linked this drop in treatment capacity (and the reduction of other support services) to levels of drug-related exploitation involving children and vulnerable adults (Pitts, 2021), serious violence (Kincaid et al., 2019; Wieshmann et al., 2020; Redgrave et al., 2020) and homicide (Morgan et al., 2020). These links are complex in nature, interconnected and themselves subject to change in a rapidly evolving illicit drugs market which increasingly advertises and makes sales through online platforms (Winstock et al., 2021).

Points of intervention and evidence of 'what works'

Successive legislation and policy in Britain has since the 1980s sought to divert detainees, defendants and people convicted of drug-related offences away from the CJS, or into a range of diversion programmes (encompassing disposals like warnings, cautions, referrals to education and/or assessment, fines, bail conditions, structured treatment, case management and supervision). The main disposals and interventions currently available in England and Wales are illustrated in Figure 1, but some notable recent examples include:

- Police-led diversion schemes (for instance, those being piloted by Durham, Avon and Somerset and Thames Valley police)
- Liaison and diversion (L&D) schemes commissioned by NHS England
- Community sentence treatment requirements (CSTRs) imposed by the courts.



Figure 1: **Examples of existing CJS interventions and disposals targeting illicit drug users**



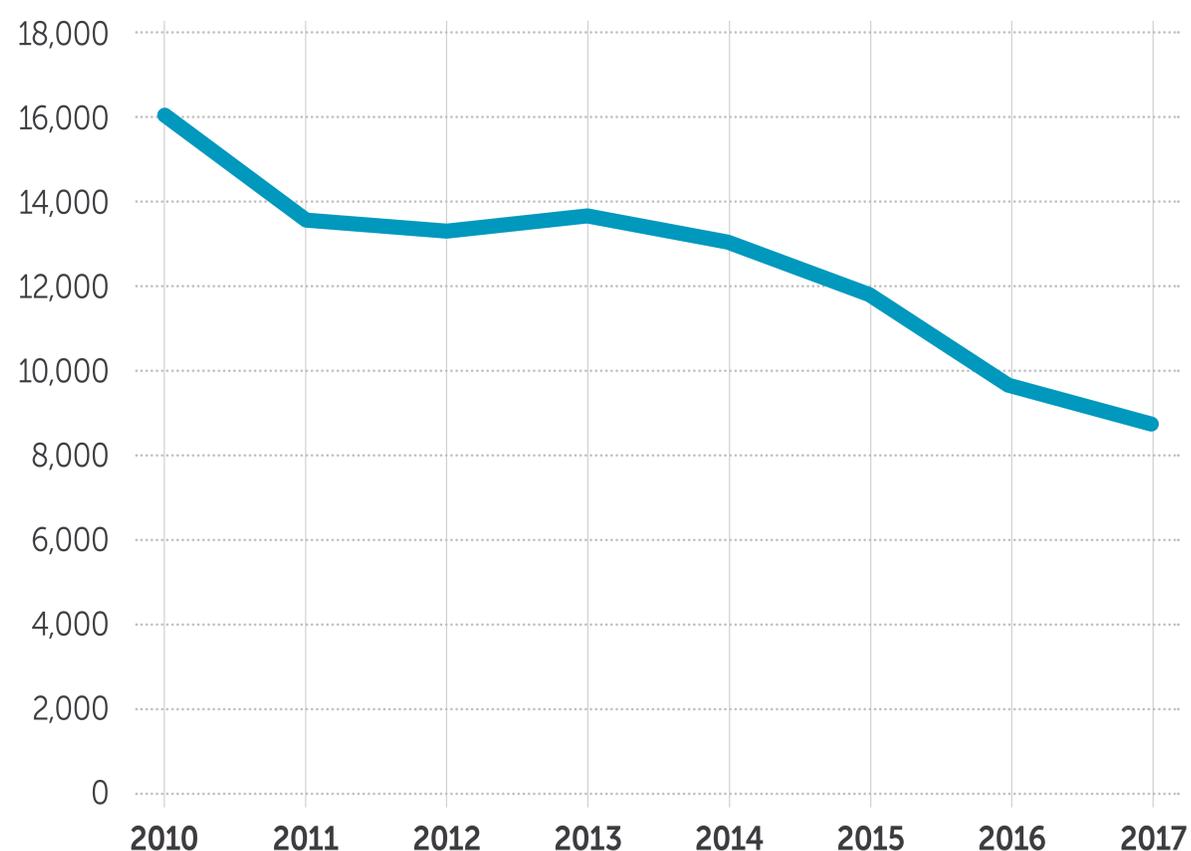
However, while there are some notable exceptions (for example, Weir et al., 2021), it has been acknowledged for some time that the evidence underpinning much of this work with criminally involved illicit drug users is either lacking or methodologically weak (e.g. UKDPC, 2008; National Audit Office, 2010). The provision of this support can also be patchy and inconsistent. A recent (unpublished) review conducted by the Centre for Public Innovation on behalf of the Mayor's Office for Policing and Crime found that 11 of London's 32 boroughs no longer fund drug workers to operate in police custody and a further nine had minimal levels of cover to identify and intervene with drug-using detainees. This review noted that funding lacked both a strategic perspective and intelligence-led approach which would ensure that areas with the greatest level of need received funding.

A study undertaken to inform this review matched details of almost 10,000 detainees who tested positive for Class A drug use in London during 2017 to diversion services and to community or prison-based treatment services. It highlighted the importance of tailored packages of care being developed to support individuals from the point of arrest through to treatment engagement, in particular for those with complex needs, female detainees, poly-drug users and those with acute housing needs (Sondhi and Eastwood, 2020).

Across the country, by the end of 2015, almost one-third of England's 39 police force areas were no longer testing eligible detainees on arrest for recent use of heroin or cocaine following the suspension of central funding for these measures in April 2013 (HM Government, 2017). This coincided with referrals to treatment services from the CJS falling substantially in England, particularly so for crack cocaine users, with the largest falls seen from 2013/14 (Public Health England and Home Office, 2019; Black, 2020). Conversely, a range of

data sources indicate that crack cocaine use started increasing in England from around this time. As illustrated in Figure 2, below, the use of drug rehabilitation requirements (DRRs) – one of the main forms of post-sentence intervention available to the courts in England and Wales – fell by 46 per cent between 2010 (n=16,071) and 2017 (n=8,719), despite increasing prison and probation populations over this period (Hansard, 2019).

Figure 2: Trends in the use of drug rehabilitation requirements (DRRs) in England and Wales (2010-2017)



The findings from a recent large-scale review of responses to drug-related crime across Europe (Kruithof et al., 2016) found that most forms of intervention and support were universally under-utilised across the CJS. What was available tended to be offered at the latter (court and sentencing) stages of the CJS process and there was considerable scope to expand its availability through diversion from arrest, prosecution or investigation. Though limited in scale and quality, the study noted that there is a developing body of evidence about features that might make this work more effective (though this was typically limited to approaches like drug courts and evidence originating from the United States).

The research identified several common factors which appeared to influence use and uptake of different interventions and disposals available for illicit drug users in contact with the CJS. These were strongly influenced by the individual beliefs of those stakeholders responsible for imposing them, such as police, prosecutors and judges. These beliefs tended to centre on issues linked to:

- The perceived benefits of diversion or treatment over incarceration (e.g. in relation to public protection concerns)
- A perceived lack of clarity around intervention objectives (e.g. what does success look like?)
- The relapsing nature of drug dependence and motivations of drug users (and the flexibility of the justice system to respond constructively to this)
- Levels of awareness about what options and disposals are available (and their relative effectiveness).

There were a range of practical and administrative barriers identified too. These included:

- The availability of financial resources to fund treatment
- Instances where the use of interventions and forms of diversion were associated with lengthy and/or bureaucratic procedures
- Varying levels of partnership working within and between health, social care and justice systems
- Problems ensuring effective forms of communication between those delivering treatment (for example, health professionals) and those monitoring compliance (such as probation and the judiciary).

In the absence of these elements, those proposing these sorts of interventions with illicit drug misusers may lack confidence in the quality, content and effectiveness of such support, which may in turn serve as a significant barrier to their use. (A similar set of barriers and facilitators have been identified more recently concerning CJS responses to the personal possession and use of illicit drugs in other countries: see Hughes et al., 2019; Stevens et al., 2019).

At an individual level, dependent Class A drug users are likely to present to services with a chronic, relapsing condition and a range of enduring complex needs. Meta-analyses of data from treatment outcome studies conducted in Australia, England and the United States, for example, found that between one-quarter (25%) and one-third (35%) of heroin users followed up over time reported continued use of heroin three to five years after beginning treatment, and with repeated episodes of treatment during this time being the norm (Bell, 2012).

Those for whom illicit drug use contributes to, or amplifies, their offending behaviour have been shown to be at heightened risk of both non-compliance with the conditions of supervision and the likelihood of reoffending (Gyateng, McSweeney and Hough, 2010; Wood et al., 2013). This risk can be elevated further when service users have prior histories of breaching and failing to adhere to the conditions of probation supervision and other CJS requirements. In these cases, practitioners should be encouraged to proactively



identify, anticipate and work to minimise those factors associated with non-compliance or disengagement, and work with service users to propose and develop strategies and solutions for overcoming these.

Options here might include the use of 'compliance checklists' which can consider a range of practical issues that might hamper effective engagement, including:

- The scheduling and timing of appointments
- Family or other commitments
- Medical conditions
- Childcare responsibilities
- The logistics involved in travelling to and attending services.

Once aware of these issues, practitioners and service users may be better placed to consider appropriate strategies that can then be developed and deployed in order to overcome these potential barriers to compliance and engagement with services.

What are the critical success factors when working with service users who misuse Class A drugs?

Despite ongoing concerns about the quality and range of the existing evidence base to support work with criminally involved Class A drug misusers (Hayhurst et al., 2019), the theories and principles underpinning these endeavours are well established. The National Institute for Drug Abuse (NIDA) in the United States, for instance, has established 13 principles of drug addiction treatment for criminal justice populations (2014).

Best practice guidelines have consistently identified different elements considered crucial to the effective implementation and delivery of such work. Guidelines of this sort are usually systematically developed statements to assist and inform stakeholders in their decision making about appropriate interventions for specific situations and circumstances. Typically, guidelines include a set of recommendations or steps that can be followed when implementing an intervention. Guidelines are commonly based on the available research evidence (see for example, those produced by the European Monitoring Centre for Drugs and Drug Addiction – EMCDDA).



There are parallels here with the dimensions of the 'EMMIE' framework, developed as part of a Crime Reduction Toolkit to inform the work of the 'What Works Centre for Crime Reduction'. The framework seeks to present existing evidence from key pieces of research in a format that helps users to access and understand it quickly. The main elements which serve as the focus of the framework are:

- Effect (the impact of an intervention)
- Mechanism (how it works)
- Moderator (where it works)
- Implementation (how to do it)
- Economic cost (how much it costs).

The toolkit has been applied to areas of direct relevance to this article, such as drug substitution programmes (e.g. methadone), drug courts and therapeutic communities.

The results of a qualitative comparative analysis of best practice guidelines for working with this target group, in different parts of the world, have identified several distinct themes considered to be critical success factors (Bull, 2003). Consistent with the findings to emerge from other reviews (Freiberg et al., 2016), the main considerations for effective implementation, development and delivery of work with Class A drug misusers in contact with the CJS include:

- Establishing and securing sustainable sources of funding for all aspects of the intervention
- Achieving a consensus on programme objectives and agreeing the overall aim(s) of the intervention – such as crime reduction or preventing future drug use and related harms
- Clarifying the overall treatment philosophy for the intervention – e.g. whether the drug treatment component should be abstinence-based or harm reduction in focus, or residential or community-based in terms of its setting
- Establishing eligibility criteria for the targeting and identification of appropriate clients
- Observing client rights – gaining informed consent from participants and implementing ethical processes for securing this
- Integrating a system for compliance monitoring and judicial review, which could include the use of sanctions and rewards
- Ensuring a focus on reintegration, with appropriate follow-up services and aftercare support – such as housing, education, training and employment – being in place to promote social integration
- Given the multi-disciplinary nature of efforts which bring together public health, social care, third sector and criminal justice practitioners, developing effective partnership working arrangements is a crucial success factor
- Clearly defined and demarcated roles and responsibilities for different partners and agencies involved in delivering the intervention have been identified as important



- Regular training for different stakeholders – such as the police, magistrates or judges, court workers, and drug treatment providers – should feature prominently
- Interventions must be underpinned by appropriate management and communication structures and informed using tailored and relevant documentation relating to all aspects of a programme or intervention
- Establishing and imbedding at the outset monitoring and evaluation to routinely track throughputs, outputs and outcomes, and independently evaluating (and re-evaluating) intervention effectiveness.

Conclusions

Diversion to and engagement in therapeutic interventions and related integrated support services at each stage of the CJS can reduce the extent to which some people use illicit drugs, often the main driver of criminal behaviour, sometimes of a very persistent and high-volume nature (e.g. daily shoplifting to generate funds to buy drugs) (see for instance, Jones et al., 2016; Ministry of Justice and Public Health England, 2017). Engagement and retention in forms of evidence-based psycho-social and/or pharmacological treatment, of sufficient quality, duration and intensity, can significantly reduce the nature and extent of substance misuse-related problems service users may encounter (Donmall et al., 2009; Advisory Council on the Misuse of Drugs, 2013). However, existing best practice principles and guidelines point to the importance of understanding how different contexts and mechanisms for implementation and delivery can either hinder or enhance the effectiveness of attempts to engage and intervene with criminally involved service users who misuse Class A drugs.

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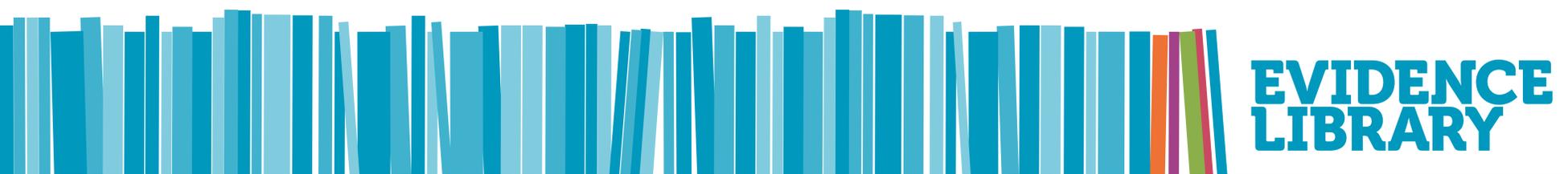
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- 1 To increase the extent to which the voluntary sector bases its services on the available evidence base
- 2 To encourage commissioners to award contracts to organisations delivering an evidence-based approach.

Each article has been written by a leading academic with particular expertise on the topic in question. The topics are selected by Clinks' members as areas of priority interest. Clinks intends to build a comprehensive directory of the best evidence available across a wide range of criminal justice topics within the next three years (2020-2023). The online evidence base is co-ordinated by Russell Webster on behalf of Clinks.

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