



Home Office

The evaluation of the Restriction on Bail Pilot

Final report

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Home Office Online Report 06/07

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Executive summary

The Restriction on Bail (RoB) provision was introduced under the Criminal Justice Act 2003. It forms part of the Government's Drug Interventions Programme which aims to develop seamless drugs treatment provision throughout the criminal justice process from arrest through to sentence. RoB provides for defendants who have tested positive for a specified class A drug (under the provisions for testing persons in police detention) and the offence is believed to be related to, or motivated by their misuse of a specified Class A drug, to be granted conditional bail if they have agreed, when offered, to undergo an assessment and participate in any proposed follow-up, including treatment.

The RoB condition was piloted in three areas (Manchester, Nottingham and Salford) between May 2004 and October 2005. The pilot was evaluated by the University of Leeds. This is the final evaluation report which examines the operation of RoB during the period of the pilot. It discusses the use of RoB, the views of the professionals involved in the RoB process, defendants' views of RoB and measures the success of RoB in terms of compliance, reductions in offending on bail and channelling and retaining defendants in drug treatment. The report draws on monitoring data collected in the pilot sites, reconviction and treatment data, court observations and interviews carried out with 61 defendants and 124 staff and stakeholders.

Generally the pilot of Restriction on Bail has been a success in terms of its implementation. By the end of the pilot, RoB was functioning in the three pilot sites and valuable lessons had been learnt about how to implement RoB nationally. Its success in terms of channelling defendants into drug treatment and its impact on drug use and offending is less clear. The focus of this report has been to assess the effectiveness of RoB from the perspective of stakeholders, practitioners and defendants and to measure the impact of RoB in terms of offending, drug use and channelling defendants into drug treatment. In so doing its aim was to inform the national roll-out of RoB.

The use of RoB

- A total of 4,042 positive tests were recorded by court drugs workers over the 18- pilot period between 1 May 2004 and 31 October 2005. A total of 1,211 cases have been excluded from the analysis because they were dealt with on their first court appearance or failed to appear leaving a sample size of 2,831. This equates to 1,881 individuals.
- In 88 per cent (n=2,480) of cases the test result was communicated to the CPS and/or the court. The concordance between the number of positive tests recorded by the police and those known to the court RoB team increased during the pilot period so that in the latter stages of the pilot the CPS were aware of the majority of cases which involved defendants who had tested positive for specified drugs.
- A total of 2,229 defendants were deemed eligible¹ for RoB (90% of all RoB eligible² defendants).
- 1,315 defendants had RoB imposed. This represents nearly three-fifths (59%) of defendants who were deemed eligible for RoB.

¹ This term includes all defendants who the courts decided were eligible for RoB.

² This term includes all defendants who tested positive for a specified Class A drug and who lived in the pilot areas irrespective of the courts' knowledge or decision about eligibility.

- The proportion of eligible cases where defendants were bailed with RoB varied between pilot sites. Defendants were bailed with RoB in around two-thirds of cases in Nottingham (69%) and Salford (63%) compared with just over two-fifths (41%) of the eligible cases in Manchester.
- The proportion of defendants eligible for RoB who were remanded without RoB increased in Manchester during the pilot period.
- Defendants from minority ethnic groups were less likely than White defendants to be bailed with RoB and the difference is statistically significant. The small sample size means that it is not possible to provide valid explanations for this.
- A high proportion of defendants charged with theft were bailed with RoB. Conversely, defendants charged with more serious offences such as burglary, robbery and vehicle crime were less likely to be bailed with RoB.
- District Judges were much more likely to remand RoB eligible defendants in custody and less likely to remand them on bail without RoB.
- RoB was much less likely to be imposed during Saturday courts.
- The average length of time on bail with RoB was 56 days or eight weeks.
- The majority (n=950, 88%) of defendants granted bail with RoB were assessed within a week of RoB being imposed.

The impact of RoB on the remand process

The introduction of RoB appears not to have changed significantly the operation of the remand process. In fact, in Nottingham interviewees reported that remand decisions were taken and if conditional bail was granted RoB would automatically be applied. While this is an efficient way of ensuring that RoB is applied in all eligible cases, there was some concern that it was too mechanical and did not allow any enquiry into whether or not it was appropriate to apply RoB. In particular, concerns were voiced about recreational/controlled users of cocaine who may not be in need of treatment.

The impact of RoB on remand decisions was relatively small. There was some evidence that a small number of defendants were diverted from custodial remands as a result of RoB. By contrast, evidence was presented that RoB, or more accurately the availability of positive test results to courts, had increased the likelihood that some offenders would be remanded in custody. As expected, RoB increased the number of defendants remanded on conditional bail and this increase was largely accounted for by cases in which defendants would otherwise have been granted unconditional bail. Consequently, the introduction of RoB up-tariffed some defendants and meant that a higher proportion of defendants had additional bail conditions imposed particularly as RoB was often used in conjunction with other bail conditions.

Evidence of the effect of the introduction of RoB on sentencing decisions was mixed. Defendants who were bailed with RoB were more likely to receive community sentences with drug treatment requirements. It appeared that they received these sentences instead of other community sentences rather than instead of custodial sentences. There was only limited evidence that defendants who were granted bail with RoB were less likely to receive custodial sentences. This is unsurprising when the links between the RoB and sentencing processes appeared to be limited.

Overall, data suggest that the effect of the introduction of RoB on the prison remand population was minimal. It has been demonstrated that the majority of defendants who were remanded in custody during the RoB process were eligible for RoB. The proportion of custodial remands resulting from breaches of RoB was relatively low. Consequently, the introduction of RoB was likely to have had only a marginal impact on the prison population.

Offending and compliance

One of the ways in which the success of RoB may be measured is its effect on the incidence of offending on bail. Although there is no evidence from Police National Computer (PNC) data that offending on bail had reduced, it however had not increased. This conclusion is supported by evidence from a number of other sources. First, evidence from defendants' own accounts of their offending on bail suggests that some defendants had reduced their offending while others reported no change. However, no defendants said that their offending had increased. Defendants who claimed to have reduced their offending linked this directly to the drug treatment they had received while others linked it to factors such as simply being on bail or additional bail conditions such as curfews. Secondly, it is possible that any changes in patterns of offending, particularly in relation to frequency may be hidden as official data under-reports actual offending. Thirdly, official PNC data and defendants' accounts suggest that there was no change in the type of offences which were committed. Most defendants in the sample specialised in shop theft and continued to do so while on RoB. Indeed, there was no evidence that more serious offences were committed by defendants whilst on bail with RoB. Fourthly, there was no evidence of changes in the frequency or timing of offending.

Official data collected from the Police National Computer suggest that in two of the three pilot sites offending rates for defendants bailed with and without RoB were similar. However in one site Manchester, defendants granted bail with RoB were more likely to offend on bail than defendants who were bailed without RoB. The explanation for this finding is probably the nature of the defendant population. There was some evidence that defendants who appeared in Manchester were more persistent offenders and posed higher offending on bail risks than in the other two sites. Most offending was theft related and it is possible, that defendants bailed with RoB were more likely to be caught as they were specialist shoplifters who would be well known to both retail stores and the police

The lack of evidence relating to any reduction in offending by defendants on bail as a result of the introduction of RoB is not unexpected as the population dealt with were long-term offenders with entrenched criminal careers which involved the frequent commission of offences. It is unrealistic to expect a relatively short intervention such as RoB to reduce levels of offending in the short term. The average length of time on RoB was eight weeks and it is not feasible to expect drug use and offending to cease immediately. Engagement and retention in drug treatment has been shown to reduce offending (Gossop *et al.*, 1998) and as discussed later RoB has been effective in channelling defendants into treatment.

Compliance rates were better than stakeholders and practitioners expected with under two-fifths (n=426, 37%) of cases resulting in defendants being breached. Of some concern, was the steady rise in the breach rate which occurred during the pilot period. Breach rates varied between the pilot sites. The variations were largely explained by different practices within the pilot sites. Variations in breach practices raise issues of fairness and equity which need to be considered. Most breaches appeared to result from the chaotic lives of defendants rather than from deliberate actions.

Towards the end of the pilot period a 'one strike' breach policy was implemented across the pilot sites. This was broadly welcomed although some interviewees expressed concerns about the lack of flexibility this provided. They argued that in some cases defendants should be given a further opportunity to comply before formal breach proceedings were instigated. Stakeholders and practitioners were generally critical of the policy of re-imposing RoB after breach but this was tempered by the need to balance, on the one hand, the requirement to be seen to be dealing with breaches and on the other, an awareness of the chaotic lives of defendants.

Offending whilst on RoB was seen as more serious than breaches of RoB and more interviewees thought that defendants who offended on RoB should be remanded in custody. However, this was tempered by the realisation that the seriousness of the offences often did not warrant custodial remands being imposed.

Drugs treatment

RoB has the potential to be an effective mechanism for ensuring that defendants accessed drugs treatment during their remand period. According to locally managed RoB databases, a substantial number of defendants who were bailed with RoB had their needs assessed in relation to their drug use (n=1,226) and entered treatment as a result (n=1,109). Evidence suggests, also, that RoB appeared to channel some defendants into treatment who would not otherwise access it. A significant proportion (n=774, 70%) of defendants were recorded as not in treatment at the time RoB was imposed.

According to data collated by the NTA, over four-fifths (n=687, 81%) of defendants bailed with RoB received treatment during their remand period. Three-quarters (n=513, 75%) of defendants bailed with RoB were recorded as being retained in drugs treatment for 12 weeks or more. Treatment participation rates according to data collated by Salford DAT were lower suggesting that data may be unreliable. Nonetheless, both sets of data suggest that defendants who were already receiving treatment or who entered treatment by routes other than RoB were more likely to be retained in treatment for a period of 12 weeks or more and to comply with the treatment regime. Treatment retention rates were lower for defendants granted bail with RoB than for defendants granted bail without RoB. Retention rates for defendants bailed with RoB who were already receiving treatment when they were remanded were higher than those who were 'new' to treatment.

Interviewees raised a number of issues in relation to drugs treatment. Firstly, interviewees wanted further guidance on how to deal with defendants bailed with RoB who did not require or want drugs treatment. Concerns were also raised about the capacity of treatment services to work with defendants bailed with RoB and the resourcing issues which may arise. Generally court users had limited knowledge of what treatment was provided to defendants as part of the RoB process and wanted more feedback about treatment provision.

Defendants' perspectives on RoB

Defendants were generally positive about the RoB process and found that it was an effective way into drug treatment. The majority of defendants were satisfied, also, with the treatment and help they had received as a result of RoB. Defendants were particularly positive about the speed at which treatment was made available. However, some defendants were critical of the narrow range of treatment which was available and wanted a more holistic approach to treatment to be adopted.

Self-reported compliance with RoB was quite high. Breaches were generally reported to result from the chaotic lives drug users led rather than deliberate breaches. Defendants reported complying because of the threat of custodial remands; because they wanted to deal with their drug use or change their lifestyle; because they wanted medication and because they perceived RoB to be compulsory. A small proportion of defendants reported playing along with the system rather than actively engaging with it. Ease of access and transport to treatment were key determinants of attendance at appointments.

In terms of the impact of RoB, defendants reported that it had steered them into drug treatment which had resulted in reductions in drug use. Nearly half of the defendants reported reducing or ceasing their drug use during their time on RoB. Defendants also claimed that they had reduced their levels of offending whilst on RoB. Some of these reductions in offending were linked directly to the drug treatment they had received while others were linked to factors such as simply being on bail or additional bail conditions such as curfews.

Defendants mentioned consistently that an important determinant of success for both themselves and others was that people must be motivated to change in order for drug treatment to be effective. Without this, they argued, drug treatment would have little, if any, impact. Consequently, some defendants suggested that the compulsion inherent in RoB was misguided. Other interviewees suggested, however, that RoB itself was a motivator which provided a crucial step into treatment. Some interviewees reported that they have been motivated to comply with RoB because of the risk of custodial remands.

The operation of RoB

There was overwhelming support for RoB amongst stakeholders and practitioners. They outlined a number of advantages of RoB namely:

- it plugs a gap in provision of drug treatment in the criminal justice process between arrest referral and sentence;
- it enables defendants to access treatment at an early stage of the criminal justice process;
- it facilitates rapid access to treatment;
- it has the potential to reduce offending;
- it provides additional safeguards in terms of public protection; and
- it diverts defendants from custody.

The support from defence solicitors was particularly notable as this had enabled the RoB process to operate efficiently as they rarely opposed the imposition of RoB conditions and often ensured that defendants were aware of the provisions and what would be expected of them. However, their lack of opposition meant that there was rarely any resistance to RoB being imposed nor to a link being made between drug use and offending which in some cases may result in RoB being imposed unnecessarily.

Interviewees saw few, if any drawbacks of RoB and, therefore, suggested that it should be available nationally. However, they raised concerns about the need to ensure that RoB was adequately resourced.

An examination of the operation of RoB in the pilot sites demonstrated that:

- pre-court assessments have a number of disadvantages particularly in relation to the take-up of RoB;
- champions are important for the successful implementation and continued success of RoB;
- courts need to be a proactive partner in the operation of RoB; and
- NOMS involvement in RoB facilitates links between RoB and sentencing.

It also raised questions about the appropriate use of qualified drugs workers in the RoB process and suggested that many of the functions they presently perform could be carried out by other staff.

Recommendations

Valuable lessons have been learnt during the pilot and the following recommendations draw upon these. It is recommended that:

- an IT system similar to that used in Manchester is implemented to ensure that positive test results are transmitted efficiently from the police to the CPS and the courts;
- monitoring of decisions in relation to Black defendants and those from minority ethnic groups is put in place;

- guidance and training is provided to all personnel involved in the RoB process but particularly CPS, legal advisers and defence solicitors;
- arrangements are put in place to cover Saturday courts;
- a system is implemented to continually monitor the RoB process;
- the date and time of assessment appointments should be included in the wording of bail conditions during remand hearings;
- the location of assessments is easily accessible which is most likely to be in a city centre location with good public transport links;
- assessments should be undertaken after RoB has been imposed; and
- RoB should be pre-printed on bail notices.

It is recommended that consideration should be given to:

- how to deal with defendants who are controlled/recreational users;
- how treatment outcomes may be monitored;
- how to provide feedback about the operation of the RoB process to criminal justice professionals;
- how the range of treatment offered may be increased;
- providing financial assistance to defendants in order to attend assessment and treatment appointments;
- how links between the RoB and sentencing processes may be improved; and
- the relationship between NOMS and DIP and to the appropriate agency to oversee the operation of RoB.

1. Introduction

The Restriction on Bail (RoB) provision was introduced under the Criminal Justice Act 2003. It forms part of the Government's Drug Interventions Programme which aims to develop seamless drugs treatment provision throughout the criminal justice process from arrest through to sentence. RoB provides for defendants who have tested positive for a specified Class A drug in connection with their offence (under the provisions for testing persons in police detention) and the offence is believed to be related to their misuse of a specified Class A drug, to be granted conditional bail if they have agreed, when offered, to undergo an assessment and participate in any proposed follow-up, including treatment.

The RoB condition was piloted in three areas (Manchester, Nottingham and Salford) between May 2004 and October 2005. The pilot was evaluated by the University of Leeds. This is the final evaluation report which examines the operation of RoB during the period of the pilot. It discusses the use of RoB, the views of the professionals involved in the RoB process, defendants' views of RoB and measures the success of RoB in terms of compliance, reductions in offending on bail and accessing and retaining defendants in drug treatment. The report draws on monitoring data collected in the pilot sites, reconviction and treatment data, court observations and interviews carried out with 61 defendants and 124 staff and stakeholders.

Legislative framework

The Bail Act 1976, as amended by section 19 of the Criminal Justice Act 2003, provides for a restriction on bail to be imposed by the courts.³ The provision applies to defendants aged 18 and over who have tested positive for a specified Class A drug (under section 63B of PACE). Restriction on bail requires defendants to undertake drug assessment and treatment where required. Defendants who refuse to undergo assessments for drug misuse when offered or, having undergone such an assessment, refuse to participate in any relevant follow-up (treatment or other support) may be denied bail unless the court is satisfied that there is no significant risk of offences being committed on bail. Where they agree to be assessed, the court, if it grants bail, shall make this a condition of bail.

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

- is aged 18 or over; and
- has tested positive for a specified Class A drug either –
 - 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 161⁴ of the Criminal Justice Act 2003 (drug testing after conviction of an offence but before sentence); and
- either the offence is 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 court is satisfied that there are substantial grounds for believing that the offence was caused, wholly or partly, by the defendant's misuse of a specified

³ The provision can only be applied where 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 Local Justice Area in which it appears to the court the defendant will reside if granted bail.

⁴ Section 161 has not yet been brought into force

Class A drug or was motivated, wholly or partly, by his intended use of a specified Class A drug.

If an individual falls within the criteria above and:

- a) has either been offered an assessment, to which he agrees; or,
- b) following an assessment has had relevant follow-up proposed to him, and he agrees to participate in the relevant follow-up;

the court, if it grants bail, has a duty to impose as a condition of bail that the individual undergoes the assessment and/or participates in any relevant follow-up.

Where the individual,

- a) has been offered, but refuses to undergo an assessment of their dependency on or propensity to misuse specified Class A drugs), or
- b) having undergone such an assessment, and having had follow-up action proposed to address their dependency/propensity, refuses to undergo such follow-up,

the court may not grant bail unless it is satisfied that there is no significant risk of his committing an offence while on bail (whether subject to conditions or not). The provision thus reverses the normal presumption of bail in such circumstances.

The key to the application of RoB is the establishment of a link between the offences and drug use. The crucial test of such a link is a positive drugs test undertaken on charge when suspects have been accused of committing a trigger offence.⁵

Policy context

The introduction of Restriction on Bail is firmly embedded in current government policy which aims to tackle drug-related offending. Evidence of the link between drugs and acquisitive crime began to emerge in the 1980s. Ever since, research has shown consistently that drug use is linked to crime but the exact nature of causation is still debated (Stevens *et al.*, 2005). Nonetheless, one of the main planks of government crime policy is to tackle the link between drugs and crime.

Current drugs-crime policy can arguably be traced back to 1993 when Tony Blair, then Shadow Home Secretary, produced a pamphlet which claimed to show that 50 per cent of all acquisitive crime was 'drug-related'. Whilst this figure was challenged by some commentators (Dorn *et al.*, 1994), it rapidly became influential on policy. The national drugs strategy, *Tackling Drugs Together*, published in 1995 identified addressing drug-related crime as one of three strategic aims and increasingly attention was paid to exploring methods of using contact with the criminal justice process as an opportunity to channel drug users into treatment (Hough, 1996).

The second national drugs strategy, *Tackling Drugs to Build a Better Britain*, retained reducing drug-related crime as a strategic priority but had a much stronger emphasis on drug treatment as a key part of the solution (HM Government, 1998). Policy developed to enhance pathways from the criminal justice process into treatment services. A series of research

⁵ Trigger offences are: offences (under the Theft Act 1968) of theft; robbery; burglary; aggravated burglary; obtaining property by deception; taking motor vehicle or other conveyance without authority; aggravated vehicle taking; going equipped for stealing etc; offences (under the Misuse of Drugs Act 1971) of restriction on production and supply of controlled drugs; possession of controlled drug and possession of controlled drug with intent to supply, if committed in respect of a specified Class A drug; and, with effect from 27 July 2004, handling stolen goods; offences under section 1(1) of the Criminal Attempts Act 1981, if committed in respect of theft, robbery, burglary, obtaining property by deception and handling stolen goods; and offences of begging (under sections 3 and 4 of the Vagrancy Act 1824). RoB is also relevant in cases of a positive test for any offence where the test was authorised by an Inspector or above who suspected that misuse of a specified Class A drug caused or contributed to the offence.

studies examined the effectiveness of interventions at different stages in the criminal justice process (Hough, 1996; Edmunds *et al.*, 1998, 1999; Turnbull *et al.*, 2000; Mallender *et al.*, 2002; Sondhi *et al.*, 2002). These suggested that interventions resulted in reductions in drug use for those who did not drop out (Edmunds *et al.*, 1998; Hough *et al.*, 2003; Sondhi *et al.*, 2002). Contemporaneously, evidence began to emerge that directing drug-using offenders into treatment reduced offending rates (Coid *et al.*, 2000; Edmunds *et al.*, 1998; Gossop *et al.*, 1998; 2001; 2005; Gossop, 2005; Holloway *et al.*, 2005; Hough *et al.*, 2003).

One of the first attempts to channel drug-using offenders into treatment was arrest referral schemes. These schemes were based at police stations and aimed to facilitate drug-using suspects entering treatment voluntarily. Experimental schemes in the late 1980s and early 1990s were based on an 'information model' and essentially involved the police providing information to arrestees in custody, either on a targeted or universal basis. Take-up rates were low (Dorn *et al.*, 1990; Dorn, 1994). A second wave of arrest referral schemes utilised a more proactive model in which drugs workers had direct face-to-face contact with suspects at the police station. Take-up rates and referral numbers improved but evidence on the extent to which contacts in the police station translated into actual sustained treatment episodes remained slim (Edmunds *et al.*, 1998).

Measures for facilitating referrals into drug treatment through the criminal justice process accelerated at the end of the 1990s. The Drug Treatment and Testing Order (DTTO) was introduced by the Crime and Disorder Act 1998. This was a community sentence which required offenders to comply with strict regimes of testing and treatment. Its introduction marked the first significant attempt to use the criminal justice process to channel drug-using offenders into treatment (Turnbull *et al.*, 2000).

Further criminal justice initiatives were developed. Again, a major focus was on the entry into the process at the point of arrest. Drug testing on charge was piloted and subsequently extended to cover 22 police force areas (Matrix and Nacro, 2004; Deaton, 2004) and arrest referral schemes were further developed and enhanced (Sondhi *et al.*, 2002). In 2003, the Criminal Justice Interventions Programme (CJIP), subsequently renamed the Drug Interventions Programme (DIP), was launched with the aim of reducing drug-related offending. The programme comprises a range of interventions across the criminal justice process designed to break the pattern of drug-related offending by identifying, engaging and retaining drug misusers in effective drug treatment. The Drug Interventions Programme is operationalised through local Criminal Justice Integrated Teams (CJITs) who should provide 'joined-up' provision of drug treatment across the whole criminal justice process offering a seamless service to drug-using offenders.

Restriction on Bail (RoB) was piloted under the auspices of DIP and is part of the development of initiatives to deal with drug-related offending. Essentially, RoB aims to plug the gap in provision of drugs services between arrest referral and sentencing. It aims to channel drug-using offenders into treatment coercively by removing the presumption in favour of bail if defendants refuse to cooperate. It builds on the DTTO experience and draws on previous research findings that it is useful to summarise here.

Take-up rates for arrest referral schemes are relatively low (Sondhi *et al.*, 2002). Only some suspects have contact with arrest referral workers and are referred on to treatment. Many suspects referred to services fail to attend appointments and others subsequently drop out (Sondhi *et al.*, 2002). Consequently, while arrest referral schemes are successful in targeting problem drug users, many suspects do not receive drug treatment as a result of such schemes. Some specific groups have been found to be particularly difficult to engage with services namely: Black and Asian problem users; older heroin and crack users with long prison and treatment histories; young male crack-using street robbers; and female crack-using sex workers (Sondhi *et al.*, 2002).

RoB aimed to reduce attrition rates and engage hard-to-reach groups by the use of incentives and disincentives for individuals to engage with treatment. The incentive (carrot) provided was rapid access to treatment which was based on research findings which indicated that bad experiences of treatment, especially very long waiting times, presented a significant barrier to engagement (Sondhi *et al.*, 2002). The disincentive (stick) was the threat of custodial remands if defendants failed to engage with either assessment or treatment.

One of the most controversial aspects of RoB was the use of the criminal justice process to channel defendants into drug assessment and treatment. This draws on a broader debate about the effectiveness and ethics of coerced treatment. Concerns are heightened in relation to RoB because the individuals involved have not been convicted on any offence. For many years, the view was that internal motivation was essential to therapeutic success and, therefore, coerced treatment would not be effective as such motivation was absent (DeLeon *et al.*, 2000). This position has increasingly been challenged. Recent reviews of the international research literature (Wild *et al.*, 2002; Stevens *et al.*, 2005; Klag *et al.*, 2005) have concluded that the evidence is inconclusive. They draw the following conclusions about the effectiveness of coerced treatment, although it should be noted that this body of research is limited by conceptual and methodological weaknesses (Klag *et al.*, 2005; Wild, 2006).

- There have been major implementation problems in integrating the criminal justice and treatment systems.
- Outcomes are not inevitably worse for coerced rather than voluntary treatment.
- A wide range of outcomes are reported in the research, including negative effects.
- The English-language literature, largely from the USA, is the most positive, showing that users tend to do no worse in coerced treatment and that legal compulsion can aid retention.
- The literature from non-English speaking countries is more negative, including some findings that outcomes for coerced treatment are worse than for voluntary treatment.
- There is a complex interplay between legal pressure, other external pressures, perceived coercion and internal motivation. Outcomes resulting from this interplay are further mediated by individual susceptibility to pressure and the nature/quality of the treatment provided.

RoB has built on research evidence more generally about treatment effectiveness in at least two respects. First, it has been established that effective treatment for individuals tends to require several treatment episodes before it 'works' (NDEC, 2004). In other words, it is not a 'one-shot' intervention. RoB aims to facilitate an additional treatment episode which may not otherwise have occurred. Second, RoB, as part of DIP, focuses on the engagement process and attempts to sustain contact over time and beyond the initial bail period. This approach draws on evidence which suggests that clients who are retained in treatment for 12 weeks or more achieve better outcomes (Gossop *et al.*, 1999; 2001).

In summary, the introduction of RoB fits into current policy on tackling drug-related offending. It seeks to channel drug-using offenders into treatment at an early stage of the criminal justice process and neatly plugs the gap between arrest referral and sentencing. The evidence base for its three foundational propositions can be summed up as follows: there is strong evidence for the association between heroin/crack use and acquisitive crime although the nature and causation of the relationship are unclear; there is good evidence that drug treatment can reduce associated offending; and there is more limited evidence that coerced treatment can be effective in reducing crime.

Methodology

The research adopted a mixed-method approach. Data were collected from eight sources which are described below.

Administrative data from the pilot sites

RoB workers in the pilot sites were required to collate data on defendants appearing at magistrates' courts who had tested positive for opiates and/or cocaine on charge. Data are available for 4,042 cases. A total of 1,211 were excluded from the analysis because they were dealt with on the first appearance (n=926) or defendants failed to appear (n=285). This leaves 2,831 cases on which the analysis was conducted. This includes 1,876 defendants as 526 defendants appear in the data more than once.

Data include demographic and offence information, details of court decisions, compliance data and case outcomes. Data were collected from May 2004 to October 2005 inclusive. The reliability of data in the first half of the pilot is questionable as a result of initial problems with ensuring that test results were communicated from the police to courts which meant that details of some defendants with positive tests were not recorded (see Chapter 2 and Hucklesby *et al.*, 2005). This means that some defendants, who may have been eligible for RoB, (i.e. all defendants who tested positive for a specified Class A drug and who lived in the pilot areas irrespective of the courts' knowledge or decision about eligibility) if the court had been aware of a positive test result, are excluded from the data. Consequently, the proportion of defendants who had RoB applied during the early stages of the pilot was probably inflated.

Comparison sample

A sample of 984 cases involving defendants who tested positive for specified Class A drugs was collected from three magistrates' courts outside the pilot areas namely: Birmingham, Leeds and Leicester. The courts were selected on the same criteria used by the Home Office to identify RoB expansion sites. The most important criteria were that drug testing was operational, a CJIT was in place and that the courts had, at least one, full-time District Judge. Data collected included demographic and offence data, details of court decisions and case outcomes.

The following method was used to collect the data for the comparison sample. Details of cases in which defendants tested positive for specified Class A drugs were obtained from the police in each of the three comparison sites. The sampling periods varied between the sites because of different rates of positive tests. All cases involving positive tests in a three-month period (November 2004, January and February 2005) were collected in Birmingham and Leeds. A longer period of 12 months was required to collect a similar size sample in Leicester. A total of 1,834 cases were collected including 826 cases from Birmingham, 545 cases from Leeds and 463 cases from Leicester. These data were combined to comprise the comparison sample.

The police records were subsequently matched with court records detailing remand hearings and sentence outcomes. A total of 984 cases were matched (309 from Birmingham, 357 from Leeds and 318 from Leicester).

Tracking cases through the criminal justice process is difficult and a number of problems arose with the collection of the comparison sample which were linked to incompatibility of police and court recording. Cases which involved breaches of bail or further offending were particularly difficult to track. Consequently, the incidence of breaches of bail is likely to be underestimated. It was not possible also to track cases which were committed to the Crown Court. This inevitability skews the sample in favour of less serious offences and also means that no offending data were available for this group.

Table 1.1 compares the pilot sample with the comparison sample. It shows that the comparison sample is broadly representative of the pilot data. However, the comparison

sample includes a statistically significant higher proportion of defendants aged 30 and under⁶ and Black and minority ethnic groups.⁷

Table 1.1: Comparability of pilot sites data and comparison sample				
	Pilot sites		Comparison sample	
	n	%	n	%
Male	2,235	79	765	78
Aged 30 or under	1,507	53	643	65
Black and minority ethnic groups	455	16	187	19
Most serious offence				
Theft	1,838	65	584	59
Burglary	354	13	107	11
Drugs	220	8	106	11
Offences against the person	138	5	44	8
Total	2,831		984	

Court observations

Observations of remand hearings were undertaken in each of the three pilot sites. A total of 1,105 cases were observed. Of these, 241 cases related to defendants who were eligible for RoB.⁸ Cases were observed over 80 days between December 2004 and August 2005. The courtrooms in each court which dealt with the majority of remand cases were identified and court sessions were observed on random days. Information relating to the remand process including information presented to the court and its source was collected.

A total of 1,105 remand hearings were observed in the three pilot sites. The number of cases observed in each pilot site was proportional to the number of positive tests recorded. Consequently, 418 cases were observed in Manchester, 557 in Nottingham and 130 in Salford.

Observations were conducted in remand courts and particular remand courts were selected by the number of RoB eligible cases which were listed to appear. The observed sample is representative of the administrative data from the pilot sites in all respects except that it includes a higher proportion of defendants from Black and minority ethnic groups.⁹

PNC data

PNC data were obtained for 2,831 defendants from the pilot sites and 779 defendants in the comparison sample. This provides data relating to offending history and offending on bail.

PNC data relates to defendants who first appeared in court between May 2004 and July 2005 and whose case was recorded as complete prior to November 2005. Data were sent for matching with PNC records at least three months after the date of completion of the case to take account of time lags in the recording of offences onto PNC. It is probable, however, that some offences have been missed as they were not yet recorded on PNC.

⁶ 65% (n=643) compared with 53% (n=1507); $X^2=43.5625$.0005, df1.

⁷ 19% (n=187) compared to 16% (n=455); $X^2=5.2306$ >0.05, df1.

⁸ The terms remanded in used throughout the report as it is legally defined thereby defendants are remanded in custody or on bail.

⁹ 23% (n=55) of the observation sample compared with 15% (n=455) of the administrative sample were from Black and minority ethnic groups. The difference is statistically significant $X^2=7.1338$ >0.25, df1.

The PNC matched sample is broadly representative of the sample as a whole in terms of age¹⁰ and gender.¹¹ The PNC matched sample differs from the sample as a whole in terms of ethnicity and alleged offences and the differences are statistically significant. A higher proportion of the matched sample were White compared with the sample as a whole¹² and the matched sample were more likely to be charged with theft offences than the sample as a whole.¹³

A total of 779 cases in the comparison sample were matched with PNC records. There were no significant differences between the PNC matched comparison sample and the comparison sample as a whole in terms of age, gender, ethnicity or offences.

Comparisons of patterns of offending were made within pilot sites and between pilot data and the comparison sample. Comparisons between offending before and after bail with RoB was granted were not possible due to the quality of the available data.

Treatment data

Treatment data were collected from two sources namely one of the pilot areas and the NTA. Treatment data were unavailable in all but one pilot site due to issues of data protection and ethics. Data were unobtainable also in comparison sites. Individual-level treatment data were obtained for Salford only. Data are available on 231 cases which appeared at Salford magistrates' court during the pilot period. This represents 83 per cent of the total number of cases from Salford included in the administrative data. Data are missing primarily for cases in which defendants appeared in court between August and October 2005. The data provide information on treatment take-up and retention as well as treatment histories. Treatment histories are incomplete, however, as records were only available for Salford DAAT.

Additionally, data were provided by the NTA nationally which gives aggregate level data on treatment take-up and retention for defendants in both the pilot sites and the comparison sample during the remand period. Data on 30 defined groups were obtained from the NTA nationally for all pilot and comparison sites. Within each site, groups were defined in terms of eligibility for RoB and remand outcome. Data on treatment histories were available only from 1 April 2004 until the start of defendants' remand periods.¹⁴

Interviews with practitioners

Semi-structured interviews were conducted with 89 practitioners involved in the RoB process in the three pilot sites. These included District Judges, magistrates, legal advisers, RoB workers, Crown Prosecution Service lawyers and defence solicitors. All full-time District Judges, one part-time District Judge and RoB workers involved in the pilot were interviewed. The sample of magistrates, legal advisers and CPS prosecutors were selected by their respective managers. All defence solicitors on the duty solicitors' rota in each of the courts were approached for interview by letter. The majority did not respond and most of the solicitors who agreed to be interviewed did so after they were approached personally by the research team. Interviews took place at the end of the pilot period between September and November 2005. A total of 89 interviews were carried out which included police (n=4); District Judges (n=9); magistrates (n=25); legal advisers (n=12); CPS lawyers (n=13); defence solicitors (n=15) and RoB workers (n=11).

¹⁰ 56% (n=1025) cases in the PNC matched sample involved defendants aged 30 years or under compared with 53% (n=1507) in the sample as a whole ($X^2=3.6112 < 0.05$, df1).

¹¹ 81% (n=1472) cases in the PNC matched sample involved male defendants compared with 79% (n=2235) in the sample as a whole ($X^2=1.7008 < 0.05$, df1).

¹² 86% (n=1569) cases in the PNC matched sample involved White defendants compared with 85% (n=2376) in the sample as a whole ($X^2=3.1017 > 0.05$, df1).

¹³ 69% (n=1256) cases in the PNC matched sample involved defendants charged with theft offences compared with 65% (n=1838) in the sample as a whole ($X^2=9.6443 > 0.005$, df3).

¹⁴ This date is when defendants were remanded either in custody or on bail following a positive drugs test.

Interviews with stakeholders

Semi-structured interviews were undertaken with 35 stakeholders in the pilot sites. These included representatives of the police, CPS, courts, drugs services, National Treatment Agency (NTA) and Drug Action Teams (DAATs). Stakeholders were selected because of their role and involvement in the pilots which was usually as their agency's representative on the local steering group. The majority of the stakeholders were interviewed twice, once in the initial stages of the pilot and again in the latter stages of the pilot between September and November 2005. Interviews were conducted with police representatives (n=4); court managers (n=3); CPS managers (n=6); representatives from the NTA (n=4); DAATs (n=6); Government Office (n=1); managers of Drugs Services (n=5) and CJITs (n=3).

Interviews with defendants

Sixty-one defendants bailed with RoB were interviewed during the research. Most of the interviews were carried out in the courts. Where possible, defendants were interviewed at the end of their bail period. In order to encourage defendants to be interviewed they were given an incentive of £20 in high street vouchers. Defendants were asked about their views on and experiences of RoB and their subsequent treatment as well as changes in their offending and drug-using behaviour.

The sample is a convenience sample and, therefore, may not be representative of all defendants who were bailed with RoB. A range of recruitment methods were used. In Manchester and Nottingham interviewees were approached at court on the day of their appearance. They were identified primarily from court lists and in consultation with RoB workers and defence solicitors. Fifty defendants agreed to be interviewed in this way. Seven defendants refused and one defendant was deemed unfit for interview. All but one of the interviewees were on bail at the time of the interview or had been sentenced immediately prior to it. No interviews were conducted with defendants in custody so the sample is probably skewed towards defendants who complied.

In Salford, the low numbers of defendants granted bail with RoB required different recruitment methods. Treatment providers approached defendants and asked for their consent to be interviewed. Appointments were set up for those defendants who agreed to be interviewed. Thirteen defendants agreed to be interviewed, ten were actually interviewed. Two defendants failed to attend and one had to leave before the interview was completed. It is likely that this method of recruitment skewed the sample towards defendants who were engaged in treatment and more likely to be compliant with RoB. An eleventh interviewee was interviewed at Salford magistrates' court and was identified in the same way as those identified in Manchester and Nottingham.

The interview sample is broadly representative of the administrative data but includes slightly more women and defendants aged 30 years or under but these differences are not statistically significant. However, it is likely to under-represent defendants who did not comply or who failed to appear at court. Consequently, it is likely to over-represent the views of defendants who complied with RoB.

Summary

The mixed method approach adopted in this research increases the reliability and validity of the data collected. However, a number of problems arose which potentially limit the conclusions which may be drawn from the data. Firstly, the pilot data relied on RoB workers being aware of remand cases in which defendants had tested positive for specified Class A drugs. It was clear that RoB workers were unaware of all of these cases particularly at the beginning of the pilot but a small number are likely to have remained unknown to RoB workers. Secondly, the number of cases which could not be matched with PNC and treatment data means that the sample may be skewed towards particular groups of defendants. These data collection problems mean that any conclusions drawn in this report should be treated cautiously.

Structure and focus of the report

This report presents the findings of an evaluation of the RoB pilot between May 2004 and October 2005. The report is divided into eight chapters.

Chapter 2 presents data on the operation of RoB in the three pilot areas and draws largely on administrative data.

Chapter 3 explores the impact of RoB on the remand process and the prison remand population and draws on administrative data and views of interviewees.

Chapter 4 examines research findings relating to compliance with RoB, breach rates and offending and draws conclusions about the success of RoB in terms of reducing offending.

Chapter 5 discusses issues relating to treatment and examines evidence on treatment take-up and retention.

Chapter 6 explores the RoB process from the perspective of defendants and reports on findings relating to self-reported offending and drug use while bailed with RoB.

Chapter 7 discusses the research findings about the relative effectiveness of different models of operation of the RoB process.

Chapter 8 summarises the main findings and presents recommendations for the future of RoB and its effective operation.

2. The use of Restriction on Bail

This chapter presents data relating to cases which were dealt with by the courts from the start of the pilot on 1 May 2004 until 31 October 2005.¹⁵ Analysis has been conducted on 2,831 cases. This includes 1,876 defendants. The largest sample comes from Nottingham which accounts for half (n=1,417, 50%) of the total sample. Manchester accounts for two-fifths (n=1,135, 40%) of the sample and Salford a tenth (n=279, 10%).

Flow charts of the RoB process in all sites and the three pilot sites separately can be found in Appendix Two. However, it is useful to summarise the RoB process here. The trigger for RoB to be imposed is positive drugs test results. In terms of eligibility for the imposition of RoB, all defendants who tested positive for specified Class A drugs and who resided in the pilot areas were defined as eligible for the purposes of this report. Once defendants tested positive at the police station they are either bailed by the police or detained to appear at the next available magistrates' courts hearing. Meanwhile, the test result should be attached to the police file and sent to the CPS and also to the court with the charge sheet. Once the CPS is aware of the test result, they have sole responsibility for ensuring that this information is passed on to the court although legal advisers, drugs workers or defence solicitors may bring test results to the attention of courts. Once courts are aware of positive drugs test results RoB should be considered and, if the court grants bail, applied to all defendants where the criteria are met. The rest of this chapter explores this process and the use of RoB at every stage.

Overall trends in the application of RoB

This section presents data on the number of positive tests recorded by the police and court RoB workers. It then goes on to compare the number of positive tests known to court RoB workers with the number of cases recorded as eligible and the number granted bail with RoB.

Figure 2.1 shows that during the first half of the pilots there was a considerable disparity between the number of positive tests recorded by the police and the number known to court RoB workers. The unknown cases were nearly all accounted for by Manchester as Nottingham and Salford had high concordance rates between the number of positive tests known to the police and the court RoB workers throughout the pilot.¹⁶ In Manchester, a number of measures were taken to ensure that test results were passed from the police to the CPS during the pilot period which will be discussed later in this chapter. Figure 2.1 demonstrates that these measures were largely successful as there was a high concordance rate between positive tests known to the police and to court RoB workers in the final half of the pilot period in all pilot areas.

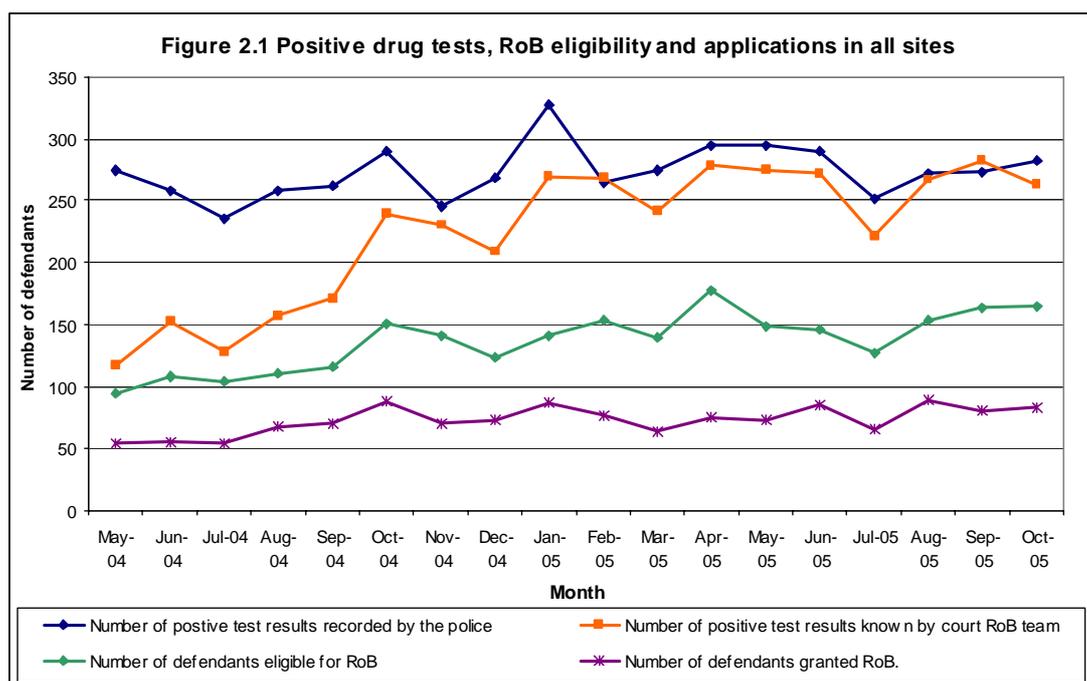
Figure 2.1 demonstrates, also, that the number of defendants eligible for RoB has increased steadily throughout the pilot period. It rose from an average of 114 per month in the first six months of the pilot to an average 153 per month in the final six months of the pilot period. Figure 2.1 shows, also, that the number of defendants granted bail with RoB increased slightly from an average of 65 in the first six months of the pilot period to 80 in the final six months of the pilot. This represents a slight fall in the proportion of eligible defendants bailed with RoB from 57 per cent in the first six months to 52 per cent in the final six months.

The number of defendants granted bail with RoB remained relatively constant in Salford throughout the pilot period. In Nottingham, however, the average number of defendants on RoB per month increased from 36 in the first six months of the pilot to 57 in the final six months. Conversely, in Manchester, the number of defendants granted bail with RoB decreased over the same period. During the first six months of the pilot an average of 18 defendants per month were granted bail with RoB whereas in the final six months of the pilot period the average dropped to 15 per month despite the fact that the average number of

¹⁵ There have been a number of difficulties with the data the most important of which is inconsistent recording between the pilot sites particularly in the early stages of the pilot. Consequently, findings should be treated with some caution.

¹⁶ Charts for each pilot site can be found in Appendix Three.

defendants eligible for RoB doubled from 30 to 63 during the same period. Possible explanations for the low of use of RoB in Manchester will be discussed in Chapter 7.



Defendants' characteristics

In this section, the characteristics of defendants are described.

Four-fifths (n=2235, 79%) of the defendants in the sample were male. The number of females in Manchester and Nottingham were consistent with this overall figure but females comprise a slightly higher proportion of the total in Salford (n=68, 24%).

Table 2.1: Age of defendants

	Manchester		Nottingham		Salford		Total	
	n	%	n	%	n	%	n	%
20 and under	63	5	119	8	26	9	208	7
21-25	143	13	386	27	45	16	574	20
26-30	271	24	383	27	71	25	725	26
31-35	294	26	281	20	69	25	644	23
36-40	229	20	154	11	44	16	427	15
41-45	94	8	49	4	22	8	165	6
46+	41	4	45	3	2	1	88	3
Total	1,135	100	1,417	100	279	100	2,831	100

Table 2.1 shows the age of the defendants. Over half (n=1507, 53%) of the defendants in the sample were aged 30 or under. Table 2.1 demonstrates, also, that there were differences in the age range in the pilot areas. Just under two-thirds (n=888, 63%) of defendants in Nottingham were aged 30 or under compared with half (n=142, 51%) of the defendants in Salford and two-fifths (n=477, 40%) of defendants in Manchester.

Table 2.2 shows the ethnic origin of defendants in the sample. It demonstrates that the majority (n=2,376, 85%) of the sample were White. Minority ethnic groups accounted for 15 per cent (n=427, 15%) of the sample as a whole. Manchester and Nottingham had similar proportions of defendants from minority ethnic groups in their samples (n=166, 16% and n=184, 13% respectively). Salford had a considerably lower proportion of minority ethnic defendants (n=10, 4%). Table 2.2 also shows that the largest minority ethnic group in both Manchester and Nottingham was Black.

	Manchester		Nottingham		Salford		Total	
	n	%	n	%	n	%	n	%
White	904	85	1,224	87	248	96	2,376	85
Black	77	7	123	9	3	1	203	7
Mixed	48	4	17	1	6	2	71	3
Asian	35	3	23	2	0	0	58	2
Other	6	1	21	1	1	1	95	3
Total	1,070	100	1,408	100	258	100	2,803	100

In terms of the type of drugs for which defendants tested positive, nearly half of the total sample (n=1,337, 47%) tested positive for both opiates and cocaine. A third (n=918, 33%) tested positive for cocaine only with a fifth (n=571, 20%) testing positive for opiates only. There were differences between the pilot areas in the proportion of defendants testing positive for different types of drugs. The number of defendants testing positive for opiates and cocaine was similar in Manchester (n=564, 50%) and Nottingham (n=695, 49%) but considerably less in Salford (n=78, 28%). Manchester had the lowest number of defendants testing positive for cocaine only (n=331, 27%). Conversely, Salford had the highest rate of positive tests for opiates alone (n=92, 33%). Around a third of defendants in both Nottingham (n=498, 35%) and Salford (n=107, 39%) tested positive for cocaine only.

The offences with which defendants are charged are important considerations in remand decisions (Hucklesby, 1996). Table 2.3 shows the most serious offences with which defendants were charged.¹⁸ Just under two-thirds of defendants (n=1838, 65%) were charged with theft. Theft was the most common offence in all sites. The second most common offence was burglary and the proportion of defendants charged with this offence was similar in Manchester and Nottingham but higher in Salford (n=53, 19%).

Table 2.3 shows also that a higher proportion of the sample (n=142, 10%) were charged with drugs offences in Nottingham compared with the other pilot sites. Notable, also, was the number of defendants in Nottingham (n=74, 5%) charged with begging offences. Overall, Table 2.3 shows that a higher proportion of the sample in Salford was charged with more serious offences such as burglary, robbery and vehicle crime. Very few defendants (n=21, 1%) were charged with violence offences in any of the pilot sites.

¹⁷ Ethnicity data are missing in 95 cases. The majority of missing data are from Manchester (n=65).

¹⁸ The most serious offence with which offenders were charged was not necessarily a trigger offence although all defendants would have been charged, also, with at least one trigger offence.

Table 2.3: Most serious offence charged								
	Manchester		Nottingham		Salford		Total	
	n	%	n	%	n	%	n	%
Theft and deception	748	66	931	66	159	57	1,838	65
Burglary	139	12	162	12	53	19	354	13
Drugs	66	6	142	10	12	4	220	8
Robbery	53	5	45	3	19	7	117	4
Begging	28	2	74	5	0	0	102	3
Vehicle crime	44	4	24	2	24	8	92	3
Offences against the person	14	1	2	>1	5	2	21	1
Other	40	4	34	2	7	3	81	3
Total	1,132	100	1,414	100	279	100	2,825	100

Communication of drug test results

A crucial step in the process to apply RoB is communicating the drug test results from the police to the CPS and subsequently to the courts. In the majority of cases (n=2,480, 88%) positive test results were provided to the CPS by the police. The proportion of drug test results communicated to the court improved significantly in the latter stages of the pilot period and the proportion of missing data was negligible towards the end of the pilots. Communicating the test result to the courts was a major problem during the initial stages of the pilot particularly in Manchester (see Hucklesby *et al.*, 2005 for further discussion) and considerable work was put into ensuring that test results were communicated to the courts during the latter stages of the pilots. This included prominent labelling of files, training administrative staff and setting up clear lines of communication and procedures between the police, CPS and the courts which were facilitated largely by IT solutions. Nottingham already had a custom-built IT system to perform this function whereas a new IT system was created and implemented by the CPS for Manchester. The Manchester system appears to have largely resolved the problem and it could be implemented nationally where appropriate to facilitate test results being available to courts. ***It is recommended that an IT system similar to that used in Manchester is implemented to ensure that positive test results are transmitted efficiently from the police to the CPS and the courts.*** Manchester also employed a case progression worker during the latter stages of the pilots.

Interviewees agreed that the problem of communicating test results to the CPS was largely resolved. Yet there were still some concerns about test results not being available consistently to the courts. As a member of the DAAT explained:

'If I am honest I have to say no I don't think they [the courts] are aware of them al.'

(DAAT, Manchester).

There appeared to be particular problems with the transmission of positive test results in Salford. A member of the RoB team explained:

'... we received a fax [from the police giving details of positive tests] today but it's unpredictable. We only had one fax in the whole of last week but we know there is more people that's tested.'

(RoB worker, Salford).

During the pilot period, in over a tenth of cases (n=351, 12%) RoB could not be applied because the courts were unaware of the positive drugs test result. In the majority (n=212, 60%) of these cases the RoB team did not know whether or not the CPS was informed of the positive test result by the police. In the majority (n=236, 84%) of cases defendants were deemed eligible¹⁹ for RoB. Nearly a quarter (n=56, 24%) of the defendants were known to have been remanded in custody.

Where the positive test result was communicated to the CPS, the majority of defendants were deemed eligible for RoB (n=2229, 90%). A slightly higher proportion of cases were deemed eligible for RoB in Nottingham (n=1224, 93%) compared with Salford (n=235, 88%) and Manchester (n=750, 85%). Most of the defendants who were not eligible for RoB (n=156, 72%) lived outside of the pilot areas. Fifty-one defendants were deemed ineligible as a result of judicial discretion.²⁰ All but six of the cases recorded as judicial discretion were in Nottingham. There were no substantial differences between defendants who were eligible and who were not eligible for RoB in terms of age, gender, ethnic origin or offence type.

The application of RoB

The section discusses the cases in which RoB was applied. In order for RoB to be applied the CPS and subsequently the court must be aware of the positive test result and defendants must be deemed eligible. Table 2.4 shows that in three-fifths (n=1315, 59%) of cases where defendants were deemed eligible for RoB they were granted bail with RoB. One hundred and forty-four of these defendants had RoB imposed on second or subsequent appearances. Table 2.4 demonstrates that there were differences between pilot sites in the rate at which RoB was imposed. Around two-thirds of eligible defendants in Nottingham (n=856, 69%) and Salford (n=149, 63%) were bailed with RoB compared with just over two-fifths (n=310, 41%) of eligible defendants in Manchester.

Table 2.4: Whether or not RoB was imposed								
	Manchester		Nottingham		Salford		Total	
	n	%	n	%	n	%	n	%
Yes	310	41	856	69	149	63	1,315	59
No	438	58	388	31	86	37	912	41
Not known	2	1	0	0	0	0	2	>1
Total	750	100	1,244	100	235	100	2,229	100

Table 2.4 shows also that two-fifths (n=912, 41%) of defendants deemed eligible for RoB did not have RoB imposed. In nearly two-thirds (n=577, 63%) of these cases defendants were remanded in custody. In just over a quarter (n=300, 29%) of the cases defendants were remanded on bail. This means that a substantial minority of eligible defendants were granted bail without RoB despite it being a condition which should have been considered. The majority (n=224, 75%) of defendants who were bailed without RoB were remanded on unconditional bail. Only 27 defendants who did not have RoB imposed were remanded on conditional bail. This suggests that RoB was routinely applied when conditional bail was deemed suitable yet it was unlikely to be applied when another remand decision was thought to be appropriate.

Table 2.5 shows that there were differences between the pilot sites in the remand decisions made in cases where defendants were eligible for RoB but where it was not imposed. A higher proportion of this group were remanded in custody in Salford (n=67, 79%) than in Manchester (n=279, 64%) or Nottingham (n=231, 64%). Table 2.5 demonstrates, also, that a third (n=300, 33%) of RoB-eligible defendants were remanded on bail without RoB. The

¹⁹ Pilot sites recorded whether or not cases were deemed eligible for RoB. This term includes all defendants who the courts decided were eligible for RoB.

²⁰ No details of what this meant were recorded by RoB workers.

proportions were similar to the overall figure in both Manchester (n=154, 36%) and Nottingham (n=128, 36%) but less (n=18, 21%) in Salford.

Table 2.5: Remand decisions for defendants eligible for RoB but where RoB was not imposed

	Manchester		Nottingham		Salford		Total	
	n	%	n	%	n	%	n	%
RIC	279	64	231	64	67	79	577	66
Bailed without RoB	154	36	128	36	18	21	300	34
Total	433	100	359	100	85	100	877	100

The number of defendants recorded as eligible for RoB but who were bailed without the RoB increased in Manchester during the pilot period. In Manchester in the first six months of the pilot only five defendants were recorded as being bailed without RoB compared with 36 defendants in the second six months and 113 in the final six months. This can be compared with Nottingham where 57 defendants were bailed without RoB in the first six months of the pilot, 36 defendants in the second six months and 35 defendants in the final six months. The increase in Manchester is probably accounted for by better recording of positive test results rather than an increase in the use of unconditional bail. It is likely that during the first half of the pilot period the test results which the CPS were unaware of were those for defendants who were bailed by the police and who consequently, were most likely to be bailed by the court (see Chapter 7). The test results of these defendants were available to the CPS towards the end of the pilot because of the new systems which had been put in place. Why a relatively high number of defendants eligible for RoB were bailed without having the condition imposed will be explored further in Chapter 7.

The gender and age of defendants do not appear to be factors in decisions about whether or not to impose RoB. Table 2.6 demonstrates that defendants from minority ethnic groups were less likely to be bailed with RoB than White defendants. This difference was apparent in all sites but was most marked in Manchester. The difference between the proportion of White defendants and defendants from Black and ethnic minority groups who were bailed with RoB imposed is statistically significant.²¹ This suggests that defendants from minority ethnic groups were less likely to be bailed with RoB. The difference is not explained by variations in the samples in terms of age or gender. One possible explanation is that defendants from Black and minority ethnic groups were more likely to be charged with more serious offences. However, there is no evidence for this. There are some small differences between the White and Black and minority ethnic groups in terms of the offences with which they were charged but this does not appear to account for all of the difference in the use of RoB for different ethnic groups. Furthermore, defendants from minority ethnic groups were only slightly more likely to be remanded in custody than White defendants which suggests that their offences were not generally more serious.²² However, numbers are small so findings must be treated cautiously and other explanations such as differences in offending and bail histories could not be explored and may account for the differences found. ***It is recommended that monitoring of decisions in relation to Black defendants and those from minority ethnic groups is put in place.***

²¹ $\chi^2=17.6469>0.005$, df1

²² 31% (n=125) of defendants from minority ethnic groups were remanded in custody compared with 27% (n=599) of White defendants.

	Manchester		Nottingham		Salford		Total	
	n	%	n	%	n	%	n	%
White	267	33	750	63	137	56	1,154	51
BME	43	22	106	57	12	40	161	40

The offence with which defendants were charged seems to affect whether or not RoB was imposed. A low proportion of defendants charged with robbery,²³ burglary,²⁴ vehicle crime²⁵ and violence offences were bailed with RoB.²⁶ Conversely, a high proportion of defendants charged with theft, drugs offences and begging were bailed with RoB.²⁷ The type of offence also influenced the remand decision when bail with RoB was not granted. Generally, defendants charged with more serious offences such as robbery and burglary were more likely to be remanded in custody than bailed. This suggests that the introduction of RoB did not divert defendants charged with serious offences from custodial remands.

The use of RoB varied depending on whether or not defendants appeared before District Judges or magistrates. Table 2.7 demonstrates that District Judges were more likely to remand defendants in custody who were eligible for RoB and when granting bail were less likely to bail defendants without RoB. This pattern exists in all pilot sites. However, in Manchester, while nearly all eligible defendants who were bailed had RoB imposed by District Judges, over a third (n=247, 64%) of this group of defendants were granted bail without RoB by magistrates. This demonstrates that it was magistrates rather than District Judges who were not imposing RoB when applicable. This probably reflects the lack of guidance and training received by magistrates and legal advisers in Manchester. The limited knowledge of RoB by legal advisers in Manchester was particularly notable during the interviews. The legal advisor in charge of RoB at Manchester City magistrates' court reported that very little had been done to raise the awareness of RoB amongst magistrates and legal advisers. A briefing session was run by the DAAT in the latter stages of the pilot but any benefits which occurred as a result would not be reflected in the data.

	District Judges		Magistrates	
	n	%	n	%
RIC	257	48	370	23
Bailed with RoB	248	47	846	53
Bailed without RoB	24	5	377	24
Total	529	100	1,593	100

Conversely, training sessions were undertaken and guidance had been circulated in both Nottingham and Salford to all magistrates and legal advisers. This appears to be reflected in higher use of RoB by magistrates in these two courts. Just over a tenth of the RoB-eligible cases dealt with by magistrates in Nottingham (n=115, 13%) and Salford (n=15, 9%) were bailed without RoB being imposed. Interviewees suggested also that while magistrates generally had poor knowledge of RoB in all pilot sites, legal advisers in Nottingham and Salford had much more awareness of RoB than legal advisers in Manchester. Consequently, ensuring that magistrates and particularly legal advisers are aware of RoB through training

²³ 16% (n=14) of defendants charged with robbery had RoB imposed.

²⁴ 41% (n=124) of defendants charged with burglary had RoB imposed.

²⁵ 43% (n=28) of defendants charged with vehicle crime had RoB imposed.

²⁶ 33% (n=6) of defendants charged with violence offences had RoB imposed.

²⁷ 66% (n=956) of defendants charged with theft, 63% (n=106) defendants charged with drugs offences and 63% (n=53) of defendants charged with begging were bailed with RoB.

sessions and the circulation of guidance appears to be one of the key determinants of its use. ***It is recommended that guidance and training is provided to all personnel involved in the RoB process but particularly CPS, legal advisers and defence solicitors.***

Fewer defendants who appeared on Saturdays were bailed with RoB. All pilot sites reported that courts were not staffed by RoB workers on Saturdays and that test results were sometimes unavailable. This was reflected in the number of eligible defendants granted bail with RoB. Over a tenth (n=210, 14%) of defendants' first court appearances took place on Saturday. Table 2.8 shows that just over a third (n=60, 37%) were granted bail with RoB. This represents just over half the number of eligible defendants granted bail with RoB during the week (n=1255, 62%). Table 2.8 demonstrates, also, that over half (n=179, 52%) of defendants who appeared on Saturday were remanded in custody compared with a quarter (n=492, 24%) of defendants who appeared on weekdays. While some of this difference is probably explained by the fact that all defendants who appeared on Saturdays would have been detained in police custody and were, therefore, more likely to be remanded in custody, it is unlikely that this explains fully the large disparity. ***It is recommended that arrangements are put in place to ensure that the RoB process operates effectively during Saturday courts.***

	Weekday		Saturday	
	n	%	n	%
RIC	492	24	85	52
Bailed with RoB	1,255	62	60	37
Bailed without RoB	282	14	18	11
Total	2,029	100	163	100

There were some differences between pilot sites in the outcome of cases which appeared on Saturdays. Defendants in Manchester and Nottingham who appeared on Saturdays were less likely to be bailed with RoB and more likely to be remanded in custody than defendants appearing on weekdays. Conversely, remand decisions in Salford were similar whatever day of the week they appeared and this may reflect the cooperative working relationship between RoB workers and probation staff discussed in more detail in Chapter 7 which ensured that cover was provided at weekends.

Other conditions

Restriction on Bail may be applied with or without other bail conditions such as residence or curfews. Data suggest that when RoB was imposed fewer additional conditions were applied to bail than if defendants were bailed without RoB. A third (n=312, 26%) of defendants who had RoB imposed on the first occasion also had other conditions attached to their bail. In the majority of cases one (n=189, 61%) or two (n=96, 30%) additional conditions were attached to bail. In a tenth (n=27, 9%) of cases, defendants had three or four additional conditions attached to their bail. Evidence suggests that when RoB is imposed fewer conditions are attached to defendants' bail. Defendants granted conditional bail in the comparison sample had a higher number of conditions attached to their bail.²⁸

Table 2.9 shows that the range of conditions which were applied in the pilot sites and comparison sample was similar although it clearly demonstrates that a higher proportion of defendants in the comparison sample were subject to each type of condition. Table 2.9 shows that residence conditions were the most used condition when RoB was applied and in the comparison sample. Reporting to the police station was the second more common condition

²⁸ Just over a quarter (n=84, 29%) of defendants in the comparison sample had one condition attached, two-fifths (n=118, 41%) had two conditions attached and a third (n=87, 30%) had three or more conditions applied to their bail.

for those granted bail with RoB yet, for defendants conditionally bailed in comparison sites, exclusion zones were the second most common condition.

Table 2.9: Conditions attached to defendants' bail who had RoB applied in pilot sites compared with conditions applied in the comparison sample

Condition	Pilot sites		Comparison sample	
	n	%	n	%
Residence	279	89	225	78
Reporting to police station	81	26	105	36
Exclusion zone	47	15	127	44
No contact with victim/witnesses	18	6	34	4
Curfew	14	4	49	17
Other	33	7	75	26
Total	472		615	

Differences appear to exist in the use of additional bail conditions between pilot sites although this may be due to variations in the recording of remand decisions. Nearly all (n=138, 93%) defendants bailed with RoB had additional bail conditions imposed in Salford compared with just under a quarter (n=164, 23%) of defendants in Nottingham and under a tenth (n=17, 6%) in Manchester. This is reflected in the interviews where remand decision-makers in some courts confirmed that they would nearly always apply additional conditions when imposing RoB while decision-makers in other courts suggested that they would not routinely do so unless it was necessary to deal with bail risks posed by defendants. Consequently, variations in the use of additional conditions are probably explained by differences in routine court practices.

Defendants who appeared in court more than once for different offences

Just over a quarter (n=526, 28%) of defendants appeared in court on multiple occasions for different offences during the pilot period. Over half (n=299, 57%) of these defendants appeared on two occasions with a further quarter (n=124, 24%) appearing on three occasions in total. The highest number of different bail episodes for one defendant was 12.

Nearly half (n=250, 48%) of the group who appeared more than once, were granted bail with RoB in one or more of their cases. Three-fifths (n=212, 60%) were granted bail with RoB on more than one occasion. The majority (n=317, 84%) of this group of defendants were granted RoB on one or two occasions. The highest number of RoB episodes was seven. Nottingham accounts for over half (n=290, 55%) of the defendants with multiple RoB episodes.

Time on RoB

Data are available on the amount of time defendants spent on bail in RoB cases. Table 2.8 demonstrates that the time available for interventions to take place was often very limited for defendants on RoB. Table 2.10 shows that just under half (n=1174, 48%) of defendants spent a month or less on RoB. This includes 408 defendants (17%) who spent a week or less on RoB. The maximum amount of time anyone spent on RoB during the pilot was 16 months. The average time on RoB was 56 days or eight weeks.

	n	%
1 week	408	17
2 weeks	246	10
3 weeks	274	11
4 weeks	246	10
Total 1 month	1,174	48
5 weeks	158	7
6 weeks	131	5
7 weeks	92	4
8 weeks	95	4
Total 2 months	476	20
3 months	226	9
4 months	158	7
5 months +	124	5
6 – 12 months	118	5
Over 12 months	136	6
Total	2,412	100

Assessment and treatment appointments

This section examines the length of time between the granting of bail with RoB and assessment and treatment appointments. Table 2.11 shows that two-thirds (n=722, 67%) of cases in which defendants were granted bail with RoB were assessed on the same day as their court hearing. A fifth (n=228, 21%) of defendants were assessed within a week of their court date. Just over a tenth (n=132, 12%) of defendants were not assessed within a week of their court hearing. Table 2.11 demonstrates that there were differences between the pilot sites in how quickly they conducted assessments. Nearly a fifth (n=114, 17%) of assessments in Nottingham were not carried out within a week of RoB being imposed compared with a tenth (n=16, 11%) of cases in Salford and only two cases in Manchester.²⁹ These variations may partly reflect differences in caseloads as Nottingham has a significantly higher caseload than either Manchester or Salford.

	Length of time												Total n
	Same day		1-7 days		8-14 days		15-21 days		22-28 days		Over 28 days		
	n	%	n	%	n	%	n	%	n	%	n	%	
Manchester	260	97	7	3	1	<1	0	0	1	<1	0	0	269
Nottingham	408	61	147	22	44	7	17	3	16	2	37	5	669
Salford	54	38	74	51	12	8	3	2	0	0	1	1	144
Total	722	67	228	21	57	5	20	2	17	2	38	3	1,082

Table 2.12 shows that nearly all (n=912, 96%) defendants received treatment appointments within two weeks of being assessed. Table 2.12 demonstrates, also, that there were differences between pilot sites. In Manchester, the majority (n=280, 95%) of defendants attended treatment appointments within a week whereas in Nottingham less than three-quarters (n=458, 75%) of appointments occurred in the first week. In Salford waiting times were longer still with a third (n=17, 33%) of defendants waiting more than a week for first

²⁹ The figures in Manchester reflect the practice there of carrying out pre-court assessments, as discussed elsewhere in this report.

treatment appointments. Caseloads do not appear to explain variations in waiting times as Salford has the lowest throughput of defendants.

Table 2.12: Length of time between attending assessment and treatment date

	Length of time												Total
	Same day		1-7 days		8-14 days		15-21 days		22-28 days		Over 28 days		
	n	%	n	%	n	%	n	%	n	%	n	%	
Manchester	31	11	249	85	13	4	1	<1	0	0	0	0	294
Nottingham	34	6	458	75	82	13	21	4	5	1	8	1	608
Salford	4	8	31	59	10	19	4	8	2	4	1	2	52
Total	69	7	738	77	105	11	26	3	7	1	9	1	954

Sentence outcomes

It was suggested by most interviewees that RoB should link into the sentencing process in so far as defendants bailed with RoB were known drug users and that sentences should reflect this by including drug treatment requirements where possible. Consequently, the introduction of RoB may have been expected to increase the use of community sentences with drug treatment requirements. Furthermore, compliance with RoB may divert some defendants from custodial sentences as it demonstrates motivation to tackle drug use. By contrast, if defendants failed to comply with RoB they may be more likely to receive custodial sentences because evidence of motivation and likely compliance is missing.

Sentence outcome data are available in 1,837 cases where defendants were deemed eligible for RoB. In 1,065 of these cases defendants were bailed with RoB. A total of 99 defendants were acquitted including 56 defendants bailed with RoB. The majority (n=1,653, 90%) of defendants were known to have been convicted and this includes 961 defendants granted bail with RoB. Details of the sentences imposed are available in 1,638 cases including 953 defendants granted bail with RoB.

Table 2.13: Most serious sentence imposed for defendants bailed with and without RoB

	RoB imposed		Bailed without RoB	
	n	%	n	%
Custody	290	30	129	27
DTTO or Community sentence with DTTO/DRR	297	31	77	16
Community sentence	225	24	129	27
Fine	31	3	40	9
Conditional discharge	78	8	73	16
Other	32	4	25	5
Total	953	100	473	100

Table 2.13 presents the most serious sentence imposed for defendants bailed with and without RoB. It demonstrates that defendants who were bailed with RoB were more likely to receive a custodial sentence than defendants who were bailed without RoB. This may be partly explained by differences in other factors such as the seriousness of the offence and/or

offending history. Table 2.13 shows also that just under a third (n=297, 31%) of defendants who had been subject to RoB had sentences imposed which involved either a DTTO or a drug rehabilitation requirement (DRR). This is a higher proportion than defendants who were bailed without RoB (n=77, 16%). This suggests that the introduction of RoB increased the use of community sentences including drug treatment requirements. Yet, a quarter of defendants (n=222, 24%) who were subject to RoB had community-based sentences imposed without any drug conditions despite being known drug users. Table 2.13 shows that only slightly fewer defendants granted bail with RoB compared with defendants bailed without RoB had community sentences without drug treatment requirements imposed.

Table 2.14 compares sentencing outcomes in the pilot sites with sentencing outcomes in the comparison sample. It demonstrates that the introduction of RoB in the pilot sites has not substantially changed sentencing outcomes as overall sentencing decisions were similar in the pilot sites and the comparison sample. Table 2.14 provides little evidence that defendants granted bail with RoB were less likely to have custodial sentences imposed upon conviction than defendants granted conditional bail without RoB whether in the pilot sites³⁰ or the comparison sample.³¹ Table 2.14 does show, however, that defendants granted bail with RoB were more likely to have community sentences involving drug treatment requirements imposed than defendants granted conditional bail in the comparison sample.³² Yet, this difference is not apparent within the pilot sites.³³ This suggests that the introduction of RoB into courts may increase the use of community sentences with drug treatment requirements generally and not simply for those defendants subject to RoB pre-trial. Table 2.14 demonstrates also that any increase in the use of sentences involving drug treatment appeared to be accounted for by decreased use of community sentences without drug treatment requirements or financial penalties rather than custodial sentences.

Table 2.14: Sentence outcomes for pilot sites and comparison sample																		
	Pilot sites										Comparison sample							
	UB		RoB		CB		RIC		Total		UB		CB		RIC		Total	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%
Custody	61	19	290	30	17	25	332	59	700	37	32	18	87	33	76	54	195	34
DTTO or community sentence & DTTO/DRR	49	16	297	31	20	30	126	237	492	26	34	19	68	26	31	22	133	23
Community sentence	93	30	225	24	19	28	63	11	400	21	66	37	67	25	25	18	158	27
Other	111	35	141	15	11	16	29	5	302	16	45	25	42	16	9	6	96	16
Total	314	100	953	100	67	100	560	100	1,894	100	177	100	264	100	141	100	582	100

In order to take account of RoB in the sentencing process, the sentencing courts need to be aware of the defendants' progress on and compliance with RoB. There are two ways in which this may occur: firstly, in the pre-sentence report and secondly, by the RoB team providing feedback to the court (this is discussed further in Chapter 5). Twenty cases were observed during the pilot in which defendants on bail with RoB were sentenced and these provide some indication of the links between RoB and subsequent sentencing decisions although the

³⁰ 30% (n=290) of defendants bailed with RoB received custodial sentences compared with 25% (n=17) of defendants in the pilot sites.

³¹ 30% (n=290) of defendants bailed with RoB received custodial sentences in the pilot sites compared with 33% (n=87) of defendants granted conditional bail in the comparison sample.

³² 31% (n=297) of defendants granted bail with RoB in the pilot sites compared with 26% (n=68) of defendants granted conditional bail in the comparison sample had community sentences involving drug treatment requirements imposed.

³³ 31% (n=297) of defendants granted bail with RoB compared with 30% (n=20) of defendants granted conditional bail in the pilot sites had community sentences involving drug treatment requirements imposed.

sample is small. Twelve of the cases were observed in Nottingham and four each in Manchester and Salford.³⁴

The links between the RoB and sentencing processes appear to be minimal. In 15 of the sentencing hearings, defendants' drug use was mentioned mainly stating that it was directly related to their offending (n=14). This information was most likely to have been raised by the defence but was also provided in small numbers of cases by the CPS, the bench and the probation service.

RoB teams appeared to have limited input into the sentencing process in two of the three courts. In Manchester, the RoB team were not present in court nor were they known to have provided reports to the court. In Nottingham, the RoB teams were present in court for two cases but did not provide reports. Conversely, in Salford, reports were provided by the RoB team in three out of the four cases and in two cases the team were present, also, at the hearing and stated that defendants had complied with their treatment.

A further source of information provided to the court about defendants' drug use was in pre-sentence reports. In six cases, it was known that pre-sentence reports included details about the defendants' drug use.

Interviewees had mixed views about the extent to which sentencing was linked to the RoB. Some interviewees said that they believed that offenders were being diverted away from custodial sentences because they had complied with RoB. Other interviewees thought that the use of community sentences with drug requirements had increased as a result of RoB. By contrast, some interviewees thought that the introduction of RoB had not affected sentencing decisions.

Summary

- A total of 4,042 positive tests were recorded by court drugs workers over the 18- pilot period between 1 May 2004 and 31 October 2005. A total of 1,211 have been excluded from the analysis leaving a sample size of 2,831. This equates to 1,881 individuals.
- In 88 per cent (n=2,480) of cases the test result was communicated to the CPS and/or the court. The concordance between the number of positive tests recorded by the police and those known to the court RoB team increased during the pilot period so that in the latter stages of the pilot the CPS were aware of the majority of cases which involved defendants who tested positive for specified drugs.
- A total of 2,229 defendants were deemed eligible³⁵ for RoB (90% of all RoB-eligible defendants).
- 1,315 defendants had RoB imposed. This represents nearly three-fifths (59%) of defendants who were deemed eligible for RoB.
- The proportion of eligible cases where defendants were bailed with RoB varied between pilot sites. Defendants were bailed with RoB in around two-thirds of cases in Nottingham (69%) and Salford (63%) compared with half (41%) of the eligible cases in Manchester.
- The proportion of defendants eligible for RoB who were remanded without RoB increased in Manchester during the pilot period.

³⁴ Four of these defendants had custodial sentences imposed one of which was suspended. Twelve defendants had community sentences imposed, eight of which included drug treatment requirements. Two defendants were conditionally discharged and one defendant had an Anti-Social Behaviour Order imposed.

³⁵ All defendants who tested positive for specified Class A drugs and who resided in the pilot areas were defined as eligible for the purposes of this report.

- Defendants from minority ethnic groups were less likely than White defendants to be bailed with RoB and the difference is statistically significant. The small sample size means that it is not possible to provide valid explanations for this.
- A high proportion of defendants charged with theft were bailed with RoB. Conversely, defendants charged with more serious offences such as burglary, robbery and vehicle crime were less likely to be bailed with RoB.
- District Judges were much more likely to remand RoB-eligible defendants in custody and less likely to remand them on bail without RoB.
- RoB was much less likely to be imposed during Saturday courts.
- The average length of time on bail with RoB was 56 days or eight weeks.
- The majority (n=950, 88%) of defendants granted bail with RoB were assessed within a week of RoB being imposed.
- There is some limited evidence that the introduction of RoB reduced the use of custodial sentences in a small number of cases.
- The use of community sentences with drug treatment requirements increased in the pilot sites. These sentences were generally imposed instead of community sentences without drug treatment requirements. The increase appears to be explained by a general rise in the use of community sentences with drug treatment requirements in the pilot areas rather than the introduction of RoB specifically.

3. The impact of RoB on the remand process

This chapter discusses the findings relating to the impact of RoB on the remand process. It explores interviewees' views before going on to examine data on the influences of RoB on remand decisions. The chapter then examines evidence relating to the impact of RoB on the prison population.

The impact of RoB on remand decision-making

The introduction of RoB appears to have had limited effect on the remand process from the point of view of interviewees. Generally, they suggested that RoB had made very little difference to the way in which the remand decision-making process operated or indeed, to remand decisions. As one legal adviser explained:

'... It's just, that's what happens if you test positive to Class A drugs, and you fit the criteria, then it's imposed as a condition of bail. I can't say that recently, or within the last few months, there's been any question about it, or any problem in imposing it ... I think they would consider everything else first, then if they decide custody isn't appropriate, then they would say RoB conditions apply. They would not remand someone into custody because they can be made subject to RoB conditions.'

(Legal adviser, Nottingham)

A CPS lawyer commented on how RoB had limited impact on the decision-making process:

'Generally [RoB adds] not a lot except ... it is an additional consideration but I don't think it affects your decision or alters it, it's just another consideration ... in that specific instance where you have a RoB case you apply the scheme, but I think what I'm saying is it doesn't alter generally the bail, you still have to consider whether or not to apply the RoB criteria to it.'

(CPS, Manchester)

Generally, RoB was seen as simply another bail condition which should be imposed in appropriate cases. One solicitor commented:

'I think as time has gone on it has just become another condition that one can impose so it has become assimilated into almost everybody's bail applications ... it is just another one of those things rather than an extra too.'

(Defence solicitor, Nottingham)

The introduction of RoB appeared not to have required any major shift in how the remand process operated. A legal adviser explained:

'[RoB] is a fairly straightforward decision, so it's not affected it drastically in terms of the process.'

(Legal adviser, Nottingham)

Indeed, in Nottingham, RoB was generally applied automatically when remand decisions had already been made and it had been decided to grant defendants bail. A District Judge explained:

'... the way I see it operating is very mechanical. There never appears to be any argument as to whether the offending, the alleged offending triggers the provisions. It's always accepted that that's the case. I've never once heard anybody query it.'

(District Judge, Nottingham)

Often, it was the legal adviser who reminded the bench that RoB was applicable. Certainly as long as the drug test results were available to remand decision-makers, the process of applying the RoB condition appeared to be relatively straightforward. A defence solicitor from Salford explained:

'Most times I would say, it is presented almost as it's just a ... it is not really considered one way or the other whether it is appropriate or not, it is just yes, this person has tested positive, it is going to be a condition of their bail.'
(Defence solicitor, Salford)

RoB also appears to have had limited impact on remand decisions. Interviewees reported that the availability of RoB had not changed remand decisions significantly. A prosecutor explained from the CPS perspective:

'... we [CPS] tend to take RoB out of the equation in judging whether or not there's going to be an application for remand [in custody]. We simply look at the degree of risk presented by any one defendant from their antecedent history, their bail history, the nature and circumstances of a particular offence and we make a judgement as to whether or not we feel there are appropriate conditions to be imposed to address those risks ... I don't think RoB impacts significantly in anybody's mind when judging whether or not conditions can address those risks.'
(CPS, Nottingham)

A solicitor explained one reason why RoB had had little effect on the remand process:

'Yes, but at the outset the question whether or not the bail condition is making magistrates prefer granting bail than remanding, I think the answer to that is no, I don't think it has any effect at all because the type of candidate who comes forward testing positive for drugs when he's arrested for a theft matter, is only facing a theft matter. So if it weren't for the drug testing the offences that you're talking about aren't usually sufficiently serious in themselves to justify custody anyway, unless his record is so bad that it's an offence of theft whilst on bail for other thefts, which they often are, but I don't think it's the drug thing, I don't think it's the RoB that's preventing the magistrates from remanding them. I think they would struggle to remand them anyway.'
(Defence solicitor, Nottingham)

District Judges and magistrates stated that RoB was another factor to consider during bail decisions but would not usually impact upon those decisions. District Judges and magistrates reported that the existence of RoB had resulted in defendants being diverted from custodial remands but that these cases were quite rare.

'Well it can [change my remand decision] ... if we're talking about the difference between a remand in custody and a remand on bail ... But it's not going to be a decisive factor, it's going to be a factor that could make a difference potentially depending on the other circumstances.'
(District Judge, Nottingham)

Another District Judge concurred:

'... Sorry, can I just add to that one knows fairly well whether or not you are going to grant bail in principle or not irrespective of the RoB condition, there are cases where the decision could be swung because of the ability to impose a RoB condition, I have to say I think they are fairly rare.'
(District Judge, Manchester)

RoB only had the capacity to affect remand decisions in a small proportion of cases which were on the borderline between being remanded in custody or on bail. As a District Judge explained:

'I think it has helped in the sense that in a borderline case where bail might perhaps otherwise be withheld, I feel able to grant bail with the RoB conditions attached, provided my assessment of the defendant is that he will keep to that condition.'

(District Judge, Manchester)

Another District Judge confirmed:

'I don't think it's had a huge impact, but I think there must be some people who are bailed with the conditions when if there were not that system available they would be remanded in custody.'

(District Judge, Nottingham)

More frequently, interviewees described RoB as being applied in cases where bail would have been granted in any event. Some interviewees argued that knowledge of positive tests provided concrete evidence of drug-related offending which, in some cases, made it more likely that defendants would be remanded in custody. One member of the CPS explained:

'One of the big benefits for the CPS ... when we are trying to oppose bail we presume and allege that the person will re-offend because we are informed by the police on the basis of their experience rather than a test that this guy is on drugs and if he is bailed he is going to commit further offences, now we have proof that he is on drugs ... [this] gets them locked up rather than put on an assessment programme.'

(CPS, Manchester)

District Judges also raised this point:

'The CPS if they're opposing bail for instance have always used any evidence of a drug addiction as a ground for opposing bail as it prevents the likelihood of further offending. Of course evidence of a spit test adds to their arguments on that.'

(District Judge, Nottingham)

One explanation for the limited impact of RoB on remand decisions may be CPS views on its effectiveness in reducing bail risks as CPS views about the remand status of defendants are important considerations in remand decisions (Hucklesby, 1996). CPS lawyers expressed harsher views in relation to remand decisions and drug-using defendants than most other interviewees and were generally sceptical about RoB's ability to reduce bail risks. They believed that granting bail was often inappropriate for such defendants as the risk of further offending whilst on bail was unacceptably high. Consequently, they often applied for custodial remands in such cases despite individual offences being relatively low level. A CPS lawyer explained:

'If someone is a recidivist and they have a drug problem, I don't honestly think I would be persuaded to agree bail on the basis that they will go along with their RoB condition. I think it is easy for somebody to say, in the cold light of day in the remand court, oh I will do something about it, I am sure if they focused their mind on it they ... [A positive test] works in my favour because if somebody commits a theft and they are a positive tester, I think it is a lot easier to say that there are substantial grounds to believe that they would continue to offend ... I don't honestly know that you can get over the substantial grounds to believe they will carry on offending. I think everybody knows that if you have got a Class A habit, then you are going to be prepared to do things that you wouldn't normally do to get the drug.'

(CPS, Nottingham)

In summary, the introduction of RoB appears to have had limited impact of the remand process and remand decision-making. Essentially RoB was imposed in cases where bail would have been granted in any event. Interviewees recalled few cases where the existence of RoB had affected their remand decisions. In some cases positive drugs tests made it more

likely that defendants would be bailed but also that they would be remanded in custody. Quantitative data broadly support this conclusion and will now be discussed.

Data supports these general conclusions suggesting that slight changes may have occurred in remand decision-making in the pilot areas as they differ from remand decisions in the comparison sample. However, these findings must be treated cautiously as research evidence suggests that remand decisions vary between courts (Hucklesby, 1996). Indeed, remand decisions vary between both comparison sites³⁶ and pilot sites.³⁷ However, table 3.1 demonstrates that defendants in the pilot sites were less likely to be remanded in custody than defendants in the comparison sample.³⁸ This suggests that RoB may have diverted a small number of defendants away from custodial remands.³⁹ Table 3.1 shows also that defendants in the pilot sites were less likely to be bailed unconditionally than defendants in the comparison sample.⁴⁰ The difference between the use of conditional and unconditional bail between the pilot and comparison sites is statistically significant.⁴¹ Consequently, the introduction of RoB appears to have resulted in defendants being granted conditional bail rather than unconditional bail. This finding is in line with what would be expected as the imposition of RoB should be considered in bail decisions for all defendants who have tested positive for a specified Class A drug.

Table 3.1: Remand decisions in pilot sites and comparison sample

	Pilot sites		Comparison sample	
	n	%	n	%
RIC	759	30	321	33
Total bailed	1,807	70	663	67
Conditional bail	1,262	49	386	39
Unconditional bail	471	18	277	28
Bail type unknown	74	3	0	0
Total	2,566	100	984	100

The limited impact of RoB on remand decisions described by interviewees and shown in the data is partly explained by how RoB was viewed by remand decision makers and criminal justice personnel. District Judges and magistrates consistently stated that RoB was suitable for relatively low-level persistent offenders with long records of previous offending who were mainly involved in shop theft to fund their drug use. As one District Judge described:

'It [RoB] is targeted at the minor offender who steals to fund a drug habit ... the majority are shoplifters.'

(District Judge, Manchester)

Indeed, nearly all criminal justice personnel identified this group as the primary population for RoB. Data support this. Nearly, three-quarters (n=956, 73%) of defendants who were bailed with RoB were charged with theft-related offences. In many cases, these defendants would have been bailed in any event because the seriousness of the offence did not warrant a custodial remand. Interviewees reported that defendants who had committed more serious offences or who were more organised professional shoplifters were unlikely to be bailed with

³⁶ 50% of defendants were remanded in custody in Birmingham compared with 28% in Leicester and 22% in Leeds.
³⁷ 34% of defendants were remanded in custody in Manchester compared with 31% in Salford and 28% in Nottingham.
³⁸ 30% (n=759) of defendants were remanded in custody in the pilot sites compared with 33% (n=321) of defendants in the comparison sample.
³⁹ The difference between the number of defendants bailed and remanded in custody between the pilot and comparison sites is not statistically significant ($X^2=3.1111 < 0.05$, df1).
⁴⁰ 18% (n=471) of defendants were bailed unconditionally in the pilot sites compared with 28% (n=277) of defendants in the comparison sites.
⁴¹ $X^2=21.0322 > 0.005$, df1.

RoB because it was perceived to be appropriate that they should be remanded in custody and the existence of RoB did not affect this assessment.

Data support the fact that seriousness of the offence impacts upon the decisions about whether or not defendants were bailed with RoB. Table 3.2 demonstrates that defendants charged with more serious offences such as robbery and burglary were more likely to be remanded in custody. It shows, also, that defendants charged with less serious offences such as theft and begging were more likely to be bailed with RoB. In a tenth (n=49, 10%) of cases seriousness of the offence was recorded as the primary reason for custodial remands.

	RIC		Bailed with RoB		Bailed without RoB		Total
	n	%	n	%	n	%	n
Burglary	156	52	124	41	20	7	300
Theft	304	22	956	67	157	11	1,417
Robbery	63	77	14	17	5	6	82
Vehicle crime	25	39	28	44	11	17	64
Drugs	25	15	106	65	32	20	163
Begging	11	13	53	65	18	22	82

The effect of the introduction of RoB on remand decisions may also be explained in terms of offending on bail. Offending on bail is one of the primary considerations in remand decisions (Morgan and Henderson, 1998; Hucklesby and Marshall, 2000). Defendants who are alleged to have offended on bail either during current or previous periods on bail are less likely to be bailed subsequently (Hucklesby and Marshall, 2000). Interviewees agreed with this. Data support this, and also demonstrates that risk of offences being committed on bail was an important consideration in decisions to remand defendants in custody. Three-fifths (n=290, 59%) of reasons recorded for custodial remands were because of the risk that offences would be committed on bail. Remand decision-makers did recognise, however, that RoB had the potential to impact upon the risk that offences would be committed on bail. A District Judge explained:

[RoB provides a] slightly tighter regime control of the ... offender during the course of the proceedings and in many cases one can be fairly confident that it will assist in preventing them offending whilst on bail.'

(District Judge, Nottingham)

As already discussed, most of the defendants who were perceived to be candidates for RoB had long criminal records and were persistent offenders. District Judges and magistrates believed that drug treatment received as a result of RoB may reduce levels of offending on bail and the frequency with which defendants re-offended. A District Judge described his position:

'... I think [RoB]'s a very helpful step into rehabilitating people who otherwise would not be rehabilitated, and a huge proportion of the crime we're dealing with is fuelled by drug addiction.'

(District Judge, Nottingham)

A second District Judge agreed:

'... [W]e know that people who have been sentenced in the past and have had drug treatment and testing or community orders with drug rehabilitation required that even those who appear to be failures in the sense they still test positive, we do know that there is reliable research that often their offending rate is greatly reduced, they may test positive but their drug use has reduced to

the extent that they can often fund it on their income which is usually benefits and not by stealing, so I suppose it would follow although you are dealing with a short time span here that it may well be that they have resisted committing offences that they might have otherwise have been committing had they not been bailed in this way with these conditions.'

(District Judge, Manchester)

As offending on bail was one of the primary determinants of remand decisions, interviewees comments suggest that some defendants may have been diverted from custody as a result of RoB.

The effect of RoB on the prison population

It has already been established that the introduction of RoB appears to have had a limited impact on remand decisions from the point of view of interviewees. Consequently, it seems unlikely that its introduction has had any great effect on the prison remand population. This section utilises data on the use of custodial remands during the pilots in an attempt to assess the impact of RoB on the prison population. It examines the number of defendants remanded in custody during the RoB process before assessing the likely impact of breaches on the prison population.

Just under a third (n=879, 31%) of defendants who tested positive were remanded in custody at some point in the remand process. A slightly smaller proportion of defendants who tested positive were remanded in custody in Nottingham (n=402, 28%) compared with Manchester (n=384, 34%) and Salford (n=93, 33%).

Table 3.3 presents data on the use of custodial remands during initial remand hearings. It shows that non-communication of drugs test results to the CPS accounted for around a tenth (n=67, 9%) of custodial remands during initial remand hearings. A further tenth (n=80, 11%) of custodial remands were accounted for by defendants deemed not eligible for RoB.

Table 3.3 demonstrates that most defendants remanded in custody during the RoB process were eligible for RoB and therefore could have had RoB applied. Four-fifths (n=575, 79%) of defendants remanded in custody were deemed eligible for RoB. There were small differences between pilot sites. Around three-quarters (n=230, 77%) of custodial remands in Nottingham were accounted for by RoB-eligible defendants compared with four-fifths of remands in custody in Manchester (n=278, 81%) and Salford (n=67, 80%). In theory, these defendants could have been diverted from custody by the use of RoB but in practice, the bail risk posed by them was probably assessed as too high.

	Manchester		Nottingham		Salford		Total	
	n	%	n	%	n	%	n	%
CPS unaware of drug tests	27	8	33	11	7	8	67	9
RoB-eligible	278	81	230	77	67	80	575	79
Not eligible	36	11	34	11	10	12	80	11
Refused RoB	1	>1	1	>1	0	0	2	>1
Total	342	100	298	100	84	100	724	100

The number of defendants remanded in custody as a result of refusing to consent to RoB was very low (n=2).

The prison population may also be affected by the introduction of RoB if breach or arrest rates for alleged offending on bail were high and if breaches were likely to result in defendants being remanded in custody. Table 3.4 demonstrates that just over a tenth (n=112, 13%) of

custodial remands resulted from breaches. The majority of these breaches (n=97, 87%) were RoB-related.⁴² Table 3.4 shows also that a further five per cent (n=43) of custodial remands were accounted for by defendants who were arrested for offences allegedly committed while on RoB.

Table 3.4: Defendants remanded in custody as a result of breaches or arrests

	Manchester		Nottingham		Salford		Total	
	n	%	n	%	n	%	n	%
RoB-related breach	23	55	67	64	7	78	97	63
Breach of other conditions	2	5	12	12	1	11	15	9
Arrested	17	40	25	24	1	11	43	28
Total	42	100	104	100	9	100	155	100

Summary

In summary, the introduction of RoB appears to have had a limited impact on the remand process or remand decisions. RoB was generally imposed in cases where bail would have been granted in any event. Consequently, the use of custodial remands was largely unaffected by the introduction of RoB. Yet, the introduction of RoB resulted in a decrease in use of unconditional bail and increased use of conditional bail.

Overall, data suggest that the effect of the introduction of RoB on the prison remand population was minimal. It has been demonstrated that the majority of defendants who are remanded in custody during the RoB process were eligible for RoB. The proportion of custodial remands resulting from breaches of RoB was relatively low. Consequently, the introduction of RoB was likely to have had only a marginal impact on the prison population.

⁴² RoB-related breaches are breaches of bail which resulted from the RoB conditions of either assessment or treatment not other bail conditions such as curfews or exclusion zones.

4. Offending and compliance

Restriction on Bail, as part of the DIP initiative, has two primary aims: to reduce offending on bail and to channel drug-using defendants into treatment and retain them there. The following two chapters will discuss each of these aims in turn, exploring how successful RoB has been.

This chapter will discuss compliance with RoB and offending on bail. It will examine three primary measures of success.

- Reductions in offending on bail.
- A high rate of compliance.
- A low breach rate.

Offending

Data are available for 2,831 completed cases involving defendants appearing in the three pilot sites with a positive drugs test between May 2004 and July 2005. Just under two-thirds (n=1828, 65%) of cases were matched on the PNC database and information on offending history and offending whilst on bail is available for these defendants. A higher proportion of cases in both Manchester and Salford (51% and 43% respectively) could not be matched with PNC data than cases in Nottingham (22%).

Three-fifths (n=1120, 61%) of the cases involved defendants who appeared for different offences on more than one occasion between May 2004 and October 2005. Consequently, the data include details of 1,105 defendants. Two-thirds (n=708, 64%) of defendants were remanded following positive drug tests once during the pilot period. A further quarter (n=320, 29%) appeared on two or three occasions. Seventeen defendants were known to have appeared on more than five occasions during the pilot period.

The findings presented in the following section must be treated cautiously as PNC data may be unreliable especially when there were considerable time lags between defendants being charged and convicted of offences and the data appearing on the PNC. There are also inconsistencies in the data which make some information unreliable and this has not been included in the analysis. In addition, PNC data are not a measure of re-offending. PNC data measure convictions, consequently it only measures offending which is known to criminal justice agencies. The data presented below are likely, therefore, to underestimate the extent of offending on bail.

In addition to questions about the reliability of PNC data, there is no agreement on how to measure offending on bail. The fundamental question is whether or not it is appropriate to use alleged rather than confirmed offending as the measure (for further discussion see Hucklesby and Marshall, 2000; Morgan, 1992). Depending on the stance taken, offending on bail may be measured by arrests, charges and/or convictions. PNC data are presented below which uses convictions as a measure of offending on bail. Before this, data on arrests from the locally managed RoB databases are presented.

Defendants arrested for an offence committed on bail with RoB

Arrest data are available from the RoB database and are, therefore, only obtainable for defendants subject to RoB. The data may overestimate the number of defendants who allegedly committed an offence on bail as it is likely to include arrests which took place during the bail period for offences allegedly committed outside of the bail period. Additionally, arrests do not equate with convictions. A total of 162 (12%) defendants were known to have been re-arrested during their time on RoB. Twenty-nine of these defendants had been arrested more than once. Nottingham had the highest rate of known re-arrest (n=138, 13%) compared with Manchester (n=23, 8%) and Salford (n=1).

Generally, arrests took place quickly after RoB was imposed. Just over half (n=85, 53%) of all known arrests during the bail period occurred within the first two weeks of defendants being granted bail with RoB and half of these (n=41, 50%) occurred within the first week.

In 114 cases data are available on the outcome of court proceedings for defendants bailed with RoB who were known to have been re-arrested for offences while subject to RoB. In three-fifths (n=69, 60%) of these cases, defendants were bailed with RoB again. Just under two-fifths (n=43, 38%) of defendants were remanded in custody. The pilot areas appeared to deal differently with defendants who were re-arrested while on bail with RoB. Nottingham was the only area to reimpose RoB in any numbers⁴³ after an individual allegedly committed an offence while on bail with RoB. Conversely, in Manchester most (n=17, 81%) of the defendants who were re-arrested while on bail with RoB were remanded in custody whereas, in Nottingham, a quarter (n=25, 27%) of similar defendants were remanded in custody.

PNC sample

In the following sections, offending histories of defendants appearing at their first hearing with a positive test will be discussed followed by the extent of offending on bail. Data were collated from PNC data. Prior to reviewing evidence on defendants' offending, a description of the sample is provided to give a context to data which follows.

The majority of the PNC matched sample (n=1,109, 60%) appeared in Nottingham magistrates' court. A third (n=559, 31%) of the sample appeared in Manchester and a tenth (n=160, 9%) of the sample in Salford. Cases from Nottingham were over-represented and cases from Manchester under-represented compared within the sample as a whole. The PNC sample is broadly representative of the sample as a whole in terms of age, gender, ethnicity and offences.

The majority (n=1,502, 92%) of cases matched with PNC data which the courts were aware of were recorded as being eligible for RoB. Of these nearly two-thirds (n=950, 63%) were granted bail with RoB which is a slightly higher proportion than in the sample as a whole. RoB was imposed in a higher proportion of cases in the PNC sample in Nottingham (n=662, 68%) than in Salford (n=80, 59%) and Manchester (n=208, 52%). A quarter (n=365, 25%) of defendants who were eligible for RoB were remanded in custody. Greater use was made of custodial remands in the PNC sample in Manchester (n=136, 34%) and Salford (n=44, 33%) compared with Nottingham (n=185, 19%).

Offending history

This section discusses the offending histories of the defendants in the PNC sample. Generally, defendants had numerous convictions, had offended in the six months prior to their first court appearance with a positive test during the RoB pilots, had lengthy criminal careers and had received numerous custodial sentences. There were no significant differences in offending histories between those bailed with and without RoB.

- Defendants had numerous convictions. All but 18 of the 1,828 defendants had previous convictions recorded on the PNC. The majority of defendants (n=1,089, 60%) had more than 50 convictions. The mean number of known convictions was 170.
- Defendants started offending at a young age. Just under half (n=829, 45%) of the sample were recorded as being convicted of an offence before their sixteenth birthday. The mean age of first conviction was 17 years old.
- Defendants had lengthy offending careers. Over four-fifths of the sample (n=1484, 85%) were known to have been first convicted more than five years before their first court appearance with a positive test during the RoB pilots. The mean number of years between the first conviction and their first court appearance during the RoB pilots was 14 years.

⁴³ Nottingham reimposed bail with RoB in nearly three quarters (n=67, 73%) of cases where defendants were re-arrested. Manchester reimposed RoB in only two cases.

- A large proportion of the sample were persistent and/or prolific offenders. In over three-quarters (n=1,422, 78%) of the cases defendants were recorded as being convicted of at least one group of offences committed in the six months prior to their court appearance during the RoB pilots. In just over half (n=739, 52%) of these cases defendants were convicted of two or more groups of offences during the six-month period. In nearly half (n=640, 45%) of these cases defendants were convicted of an offence within four weeks of their court appearance.
- The majority of defendants in the sample were recorded as being convicted of shoplifting or other theft-related offences in the six months prior to their first appearance during the RoB pilots. Details of the offences committed during this period were available in 1,269 cases. In terms of their most serious offence, around three-fifths (n=726, 57%) of defendants were known to have been convicted of shoplifting offences with a further nine per cent (n=119) convicted of other theft offences. Burglary offences accounted for a further tenth (n=119, 9%) of offences committed in the six months before defendants were bailed.
- In terms of the severest sentence ever served, the majority (n=1,555, 85%) of the sample were recorded as previously serving custodial sentences. The majority (n=1,387, 89%) of defendants had served more than five custodial sentences. In a third (n=539, 35%) of these cases, custodial sentences had been imposed during the six months before defendants appeared in court.

Offending on bail

It was demonstrated in the last section that defendants in the sample had prolonged criminal careers. It is, therefore, unrealistic to expect a relatively short intervention like RoB to affect rates of offending on bail to any great extent. It is unlikely that defendants would stop offending completely. A more reasonable measure of success is likely to be reductions in the frequency and severity of offending.

In a quarter (n=457, 25%) of cases which appeared in the PNC sample, defendants were recorded as being convicted of at least one offence committed during the bail period. Table 4.1 shows that in the majority (n=406, 89%) of cases defendants were recorded as committing one group of offences only during the remand period.

	Manchester		Nottingham		Salford		Total	
	n	%	n	%	n	%	n	%
One	112	82	270	93	24	83	406	89
Two	19	14	18	6	4	14	41	9
Three	4	3	3	1	1	3	8	2
Four	2	1	0	0	0	0	2	>1
Total	137	100	291	100	29	100	457	100

Table 4.1 shows, also, that the proportion of cases where it was recorded that defendants were convicted of an offence committed while on bail varied between pilot sites. A quarter of cases involved defendants who appeared in Nottingham (n=291, 26%) and Manchester (n=137, 25%) were recorded as offending on bail compared with less than a fifth (n=29, 18%) in Salford.

In terms of the type of offences committed on bail, the majority were theft-related offences. Three-quarters (n=836, 76%) of cases in which defendants were known to have been convicted of at least one offence committed on bail involved theft-related offences. The majority (n=674, 81%) of which were recorded as shoplifting offences. Defendants bailed with

RoB were more likely than defendants bailed without RoB to have been convicted of shoplifting offences.⁴⁴

There appears to be no relationship between offending on bail and patterns of offending in the six months before defendants appeared in court during the RoB pilot. Defendants who had not been convicted of an offence in the six months before being bailed were at least as likely to be recorded as having offended on bail as defendants who had been convicted of offences in the previous six months in both the pilot and comparison samples.⁴⁵

In terms of offending while on bail with RoB, Table 4.2 shows that in around a third (n=295, 31%) of cases involving defendants bailed with RoB, they were known to have been convicted of at least one offence on bail. There were differences between the pilot sites. In cases involving defendants granted bail with RoB, they were more likely to have been convicted of offences committed on bail in Manchester (n=72, 35%) than in Salford (n=23, 29%) and Nottingham (n=200, 28%).

Table 4.2 compares the number of cases in which defendants were known to have been convicted of committing offences on bail with remand decisions. Table 4.2 suggests that in cases where defendants were bailed with RoB they were more likely to have been recorded as being convicted of offences committed on bail than defendants who were bailed without RoB. Table 4.2 shows that a third (n=295, 31%) of defendants who were bailed with RoB compared with a quarter (n=83, 25%) of those bailed without RoB were known to have been convicted of committing an offence on bail. The difference is statistically significant⁴⁶ and suggests that defendants granted bail with RoB were more likely to be convicted of offences committed on bail than defendants who were bailed without RoB.

Table 4.2: Number of cases in which defendants were known to have been convicted of offences committed on bail

	Convicted of an offence committed on bail				
	Yes		No		Total
	n	%	n	%	n
Bail	83	25	252	75	335
Bail with RoB	295	31	655	69	950
Total	378		907		1,285

Table 4.3 shows that differences exist in offending on bail rates between the pilot sites. Table 4.3 demonstrates that offending on bail rates were not only higher in Manchester than in Nottingham but defendants on bail with RoB were more likely to offend on bail. In over a third (n=72, 35%) of cases in Manchester defendants were known to have offended while on bail with RoB. Table 4.3 shows, also, that in Manchester defendants on bail with RoB were more likely to be known to have been convicted of at least one offence on bail compared with defendants who were bailed without RoB. The difference is statistically significant.⁴⁷

A slightly different picture emerges in Nottingham. Table 4.3 shows a slightly lower proportion (n=200, 30%) of defendants bailed with RoB were known to have been convicted on an offence committed on bail. Additionally, table 4.3 demonstrates that defendants on RoB in

⁴⁴ 76% (n=397) of cases in which defendants were known to have been convicted of committing offences on bail with RoB involved shoplifting offences compared with 71% (n=132) of cases involving defendants bailed without RoB.

⁴⁵ 75% (n=1072) of defendants who offended in the six months before they were bailed were not recorded as offending on bail compared with 74% (n=299) of defendants who were not known to have offended in the six months before being bailed in the pilot and in the comparison sample the figures were 80% (n=398) and 76% (n=212) respectively.

⁴⁶ $\chi^2=4.6990>0.005$, df1.

⁴⁷ $\chi^2=5.7080>0.025$, df1

Nottingham were only slightly more likely to have offended on bail than defendants who were bailed without RoB and the difference is not statistically significant.⁴⁸

Table 4.3: Offending on bail with and without RoB⁴⁹

	Manchester		Nottingham	
	n	%	n	%
Bail with RoB	72	35	200	30
Bailed without RoB	32	23	49	28

The higher rate of offending on bail recorded for defendants on bail with RoB compared with defendants bailed without RoB was confirmed by data from the comparison sample. It showed that just over a quarter (n=142, 28%) of defendants who were bailed offended on bail irrespective of whether or not they were granted bail with or without conditions. The three comparison sites had similar offending on bail rates.⁵⁰

The higher rate of offending on bail for defendants bailed with RoB was apparent for all defendants whatever their age⁵¹ or gender.⁵² Yet, there were differences between defendants from different ethnic backgrounds. Defendants from minority ethnic groups were more likely to be convicted of an offence committed on bail than White defendants⁵³ but they were less likely to commit these offences on bail with RoB than White defendants.⁵⁴

Evidence suggests that defendants bailed with RoB were a higher-risk group in terms of offending on bail than defendants who were bailed without RoB and that this may explain the higher offending on bail rate.⁵⁵ There are a number of reasons for drawing this conclusion. Firstly, the main group captured by RoB provisions were defendants charged with theft-related offences and more specifically, persistent shoplifters. One District Judge explained how he identified potential RoB cases:

'... simply the type of offence ... the vast majority of them, I suppose statistically the vast majority are shoplifting cases.'

(District Judge, Nottingham)

Another District Judge made a similar point:

'One can assess from experience usually, especially on looking at the defendant's record, I say on that information alone I would almost certainly want to see a defendant's record to see what the general pattern of offending is and the level of offending ... probably low level offences for dishonesty, stealing to fund a drugs habit basically.'

(District Judge, Manchester)

The main group captured by RoB, persistent shoplifters, by their very nature pose significant risks in terms of offending on bail but the relatively low seriousness of their offences means that this group of defendants were unlikely to be remanded in custody. Consequently, a high

⁴⁸ $X^2=0.1936<0.05$, df1.

⁴⁹ Numbers are too small to do this analysis with data from Salford.

⁵⁰ The known offending on bail rate in Birmingham was 24% (n=31) compared with 29% in Leeds (n=56) and Leicester (n=55). The differences between comparison sites are not statistically significant ($X^2=1.0848 < 0.05$, df2).

⁵¹ 26% (n=270) of defendants aged 30 or under were convicted of committing an offence on bail compared with 23% (n=187) of defendants aged over 30 years old. The difference is not statistically significant ($X^2=2.2394 < 0.05$, df1).

⁵² 25% (n=369) of male defendants were convicted of committing an offence on bail compared with 25% (n=88) of female defendants. The difference is not statistically significant ($X^2=0.0186 < 0.05$, df1).

⁵³ 52% (n=60) defendants from Black and minority ethnic groups were known to have offended on bail compared with 36% (n=397) of White defendants. The difference is not statistically significant ($X^2=0.092 < 0.05$, df1).

⁵⁴ 46% (n=264) of White defendants committed an offence on bail with RoB compared with 38% (n=31) of defendants from Black and minority ethnic groups.

⁵⁵ It was not possible to undertake analysis on the significance of previous patterns of offending as sample sizes were too small.

proportion of defendants on bail with RoB were high risk in terms of their propensity to commit offences on bail.

Data provides some support for this contention and suggests that the higher rate of offending on bail on RoB partly reflects the high number of cases involving defendants charged with theft-related offences. Defendants charged with theft-related offences were more likely to be bailed with RoB⁵⁶ and defendants charged with theft-related offences were more likely to offend on bail.⁵⁷ However, this only provides a partial explanation as offending on bail rates for defendants charged with theft-related offences were higher for defendants on bail with RoB than for defendants on bail without RoB.⁵⁸

The second reason for suggesting that defendants bailed with RoB were a higher-risk group in terms of offending on bail is the nature of the defendants included in the samples. The sample of cases involving defendants bailed without RoB includes only a small number of cases in which defendants were granted conditional bail (n=48). In most cases, defendants were granted unconditional bail if RoB was not applied (n=151).⁵⁹ This group is unlikely to pose as higher level of bail risk as defendants granted bail with conditions as conditions are imposed to militate against bail risk. This supposition is supported by data. Defendants granted unconditional bail were less likely to be recorded as offending on bail than defendants granted conditional bail with or without RoB.⁶⁰ This suggests that differences between the samples of those bailed with and without RoB may explain the higher offending on bail rate for defendants granted bail with RoB.

Differences in the samples of defendants granted bail with RoB probably explain differences in offending on bail rates between Manchester and Nottingham also. In Manchester, it can be surmised that defendants bailed with RoB were likely to be a more risky group in terms of their potential to offend on bail than defendants granted bail with RoB in Nottingham. This is likely to have occurred because of the different ways in which RoB was applied in the two courts. In Manchester, it appeared that RoB was generally applied only in cases where defendants appeared in court from police custody. These defendants were more likely to be greater bail risks than defendants bailed by the police. By contrast, the police bail decisions appeared to play no part in remand decisions in Nottingham so that defendants on police bail and in police custody were bailed with RoB. Consequently, it is likely that a larger proportion of the Manchester sample posed greater bail risks.

It is also useful to explore the extent of offending on bail for individual defendants rather than cases. Two-thirds (n=558, 67%) of defendants were not recorded as committing offences on bail. By contrast, a third (n=279, 33%) of defendants were known to have been convicted of at least one group of offences committed on bail. Of these, over three-quarters (n=217, 78%) of defendants were known to have committed at least one group of offences while on bail with RoB. Three-quarters (n=161, 74%) of these defendants were known to have been convicted of one group of offences only. Fourteen defendants were recorded as committing offences on three or more separate periods of bail with RoB. A total of 78 defendants were convicted of offending on bail without RoB.

Severity, frequency and timing of offending on bail

As already discussed, it is unlikely that defendants bailed with RoB would stop offending immediately. More realistic measures of success are reductions in the severity and frequency of offending. This section explores the evidence in relation to these measures and demonstrate that RoB does not appear to have changed the severity, frequency or timing of offending.

⁵⁶ 73% (n=956) cases in which defendants were bailed with RoB involved theft-related offences compared with 67% (n=409) of cases in which defendants were not bailed with RoB.

⁵⁷ In three fifths (n=337, 61%) of cases involving defendants originally charged with shoplifting offences, they were convicted of committing an offence on bail compared with two fifths (n=119, 42%) of defendants charged with other types of offences.

⁵⁸ In 48% (n=237) of cases involving defendants bailed with RoB compared with 35% (n=59) of cases involving defendants bailed without RoB, defendants were charged with an offence committed on bail.

⁵⁹ The type of bail was not recorded in 52 cases.

⁶⁰ 22% (n=47) of defendants granted unconditional bail offended on bail. A similar proportion (n=20, 34%) of defendants granted conditional bail were known to have offended on bail as defendants granted bail with RoB (n=295, 31%).

In most cases, the severity of offending on bail was similar to previous recorded offending. Table 4.4 shows that most offending was theft-related. It also demonstrates that very few offences of violence offences or more serious property offences were recorded. Table 4.4 demonstrates that the majority of offences committed on bail were of a similar type to the offences for which defendants were on bail and their previous convictions. There were no differences between the types of offences committed on bail by defendants on bail with and without RoB.

Table 4.4: Type of offences committed by defendants who offended on bail

	Offences committed in six months prior to bail		Original offence charged		Offences committed on bail	
	n	%	n	%	n	%
Theft	224	72	337	74	246	70
Burglary	29	9	45	10	30	9
Drugs	14	4	19	4	19	5
Vehicle crime	3	1	8	2	11	3
Robbery	1	>1	8	2	5	1
Other	42	13	39	8	41	12
Total	313	100	456	100	352	100

The imposition of RoB does not appear to impact upon the frequency of offending as there were no significant differences in the number of occasions when offences were committed on bail between defendants bailed with and without RoB in the pilot sites⁶¹ or the comparison sample.⁶² The majority (n=406, 89%) of defendants convicted of offences committed on bail in the pilot sites were convicted of one group of offences. A tenth (n=41, 9%) of cases involved defendants convicted on two occasions of committing offences on bail. The highest number of offences committed in one bail period was four.

The imposition of RoB appears to have made no difference to the timing of offences committed on bail. In half (n=249, 54%) of the cases in which defendants were known to have committed offences while on bail in the pilot sites, offences were committed within four weeks of them being granted bail. In a third (n=79, 32%) of these cases, offences were committed within a week of the start of the bail period. By contrast, just over a tenth (n=65, 14%) of offences were committed over six months after bail was granted. There are no differences in the time elapsing between the start of bail periods and defendants being charged with offences on bail for defendants bailed with and without RoB.⁶³ Consequently, being bailed with RoB does not appear to affect the timing of offending on bail episodes.⁶⁴

Compliance

One of the measures of success of RoB is the proportion of defendants who have RoB imposed who comply. In order to comply with RoB, defendants were required to attend their assessment and subsequent treatment appointments. Defendants who were recorded as fully compliant attended all their appointments whereas defendants who complied partially may have missed one or two assessment/treatment appointments. Table 4.5 shows that in nearly three-fifths (n=688, 59%) of the cases where defendants were bailed with RoB they were recorded as fully compliant. A further four per cent (n=49) were recorded as partially

⁶¹ $X^2=0.1089 < 0.05$, df1.

⁶² $X^2=0.0429 < 0.05$, df1.

⁶³ 56% (n=164) of defendants bailed with RoB compared with 58% (n=48) of defendants bailed without RoB were known to have offended within four weeks of being granted bail. 14% (n=42) of defendants granted bail with RoB compared to 15% (n=12) of defendants bailed without RoB offended on bail more than six months into their bail period.

⁶⁴ There are no statistically significant differences between the comparison sample and defendants granted bail with RoB in the pilot sites in terms of the time between the imposition of bail and offending on bail ($X^2=0.7206 < 0.05$, df1).

compliant. Table 4.5 shows, also, that compliance rates varied between pilot sites. Manchester (n=214, 79%) and Salford (n=110, 75%) recorded the highest level of full compliance whereas Nottingham recorded a compliance rate of just under half (n=364, 49%). Partial compliance rates were negligible in Manchester and Nottingham but over a tenth in Salford (n=20, 14%). The different levels of compliance probably partially reflect the different breach policies in the three pilot sites which are discussed later in this chapter.

	Manchester		Nottingham		Salford		Total	
	n	%	n	%	n	%	n	%
Full	214	79	364	49	110	75	688	59
Partial	3	1	26	3	20	14	49	4
Breach	53	20	356	48	17	12	426	37
Total	270	100	746	100	147	100	1,163	100

Compliance rates varied between different groups. A slightly higher proportion of defendants over 30 (n=340, 58%) were recorded as complying with RoB than defendants aged 30 or under (n=348, 49%). A lower proportion of Black and minority ethnic defendants (n=40, 47%) were recorded as complying compared with White defendants (n=600, 53%) or other members of minority ethnic groups (n=33, 63%). There were no significant differences in compliance rates in terms of gender.

Breaches

This section presents data on breaches in relation to defendants bailed with RoB before going on to explore interviewees' views on breach policy and the operation of the breach procedure. The outcomes of breaches are then discussed along with interviewees' views on the action which should be taken as a result of breaches of RoB.

Defendants bailed with RoB can breach this in two main ways: they may breach bail i.e. breaching other conditions of bail such as curfews or exclusion zones or they may breach the RoB component of bail by not attending assessment or follow-up appointments. The latter type of breach is designated as a RoB-related breach. Table 4.6 shows that over a third (n=426, 37%) of defendants bailed with RoB were recorded as having breached their bail on at least one occasion. The majority (n=469, 83%) of breaches were RoB-related. Table 4.6 shows that the highest number breaches were for non-attendance at treatment (n=322, 69%). Only a small proportion of breaches were for not complying with treatment (n=54, 11%).

Table 4.6 demonstrates that there were some differences in the reason for breach action being taken between pilot sites. Nearly, three-fifths (n=10, 59%) of breaches in Salford were for failing to attend assessments compared with a fifth (n=81, 20%) of breaches in Nottingham and very few (n=2, 4%) in Manchester. The relatively high number of breaches in Salford for failing to attend assessments may be explained by the location of the assessment centre. Conversely, in Nottingham, just over a tenth (n=54, 13%) of breaches were for failing to comply with treatment while no breaches occurred for this reason in either Manchester or Salford. The highest level of breaches in both Manchester (n=48, 96%) and Nottingham (n=268, 81%) were for non-attendance at treatment.

Table 4.6: RoB-related breaches								
	Manchester		Nottingham		Salford		Total	
	n	%	n	%	n	%	n	%
Non-attendance at assessment	2	4	81	20	10	63	93	20
Non-attendance at treatment	48	96	268	67	6	37	322	69
Not complying with treatment	0	0	54	13	0	0	54	11
Total	50	100	403	100	16	100	469	100

Breaches occurred quite quickly after RoB was imposed. Nearly three-quarters (n=299, 74%) of breaches occurred in the first month defendants were subject to RoB with nearly half (n=140, 47%) of these breaches occurring in the first week after RoB was imposed.

The number of RoB-related breaches increased steadily during the pilot period. In the first six months the pilots operated, the RoB-related breach rate was 31 per cent (n=122). In the second six months this breach rate rose to 36 per cent (n=163) and in the final six months the breach rate increased again to 38 per cent (n=184). The increase in breach rates was most marked for defendants who failed to attend treatment. This rose from 18 per cent (n=69) in the first six months of the pilot to 29 per cent (n=140) in the final six months.

Breach rates varied between the pilot sites. Nottingham had a substantially higher breach rate than the other two sites. Nearly half (n=356, 48%) of defendants breached bail with RoB in Nottingham compared with 20 per cent (n=53) in Manchester and just over a tenth (n=17, 12%) in Salford. Manchester had a higher proportion of RoB-related breaches (n=50, 94%) than the other two sites⁶⁵ although this may simply be a consequence of lack of awareness on the part of the court drug team of breaches of other bail conditions.

There are a number of explanations for variations in breach rates between pilot sites. Firstly, for the majority of the pilot period the sites had different breach policies. Not until the latter stages of the pilot did the Home Office issue guidance on breach which implemented a 'one strike' policy which was subsequently adopted universally. Throughout the pilot, Manchester adopted a 'one strike and you're out' policy meaning that in principle a single failure to comply would result in breach action being taken. The rationale behind this was twofold. First, it recognised and communicated the seriousness in which RoB was viewed particularly in relation to its place as an alternative to custodial remands. Second, it gave a clear and simple message about the consequences of non-compliance and helped to ensure that individuals had a very clear understanding of what was required of them.

During the early stages of the pilot Nottingham had a two strikes policy but subsequently changed this to a one strike policy. In Salford, a 'three strikes' model was adopted. This was seen by some as a controversial approach and several interviewees stated their opposition. A CPS lawyer explained:

'Three strikes and you're out is not appropriate. It's obviously not working as there are no breaches.'

(CPS, Salford)

By contrast, representatives of the treatment provider were strongly in favour of the model, arguing the treatment capacity there allowed it to function effectively:

'It worked very successfully in Salford, we had a lot of people, I think we had good figures for retention, we got people through, we had a lot of people

⁶⁵ 82% (n=403) of breaches were RoB-related in Nottingham and 88% (n=16) of breaches were RoB-related in Salford.

attending, so I think it worked well for us ... Three appointments was easy, we can see people very quickly, we have a very good team, we have very good turnaround, so we could do three appointments with people before [other sites] could do their first appointment, so we could meet our three appointments no problem, in a four week period it was never an issue for us. I know with other drug teams in other areas that isn't the case.'

(Drugs Service, Salford)

The second explanation for the variations in breach rates was the approach taken by RoB workers and in particular what constitutes non-compliance. The approach taken in Nottingham appeared to allow less discretion and be stricter than in either Manchester or Salford. In Nottingham, defendants were breached if they did not attend their appointments on time. A RoB worker explained:

'... often for very little practical reasons, really ... they may be still attending, well, they're certainly picking up their script. They may have got back in touch with the agency. Just ... the fact that they haven't turned up for an appointment, they may turn up the next day. But technically, because they've not contacted us in advance, they're in breach ... sometimes I feel they've been breached purely as a formality ... they're probably still scripted and attending appointments ...'

(RoB worker, Nottingham)

Another RoB worker confirmed this approach:

'One missed appointment [constitutes a breach] if they haven't called up to say why, even if they are late, if they are an hour late they can be breached if they haven't called up to say they are going to be late. It is quite strict but then they still get put back on med again.'

(RoB worker, Nottingham)

By contrast, defendants in both Manchester and Salford were reported to be given more leeway. As long as they attended their appointments on the correct day this was treated as complying whether or not they turned up at the allotted time. It was reported that this approach was taken because workers recognised the chaotic lives of drug users. One RoB worker explained:

'... so far we've not had to breach on the one strike yet but I just think to myself well they're drug users who are chaotic and anybody can miss one appointment. You could oversleep and these are chaotic people as it is. But we do leave it till the end of the day and then contact them the next day and if they haven't been in by that day and they haven't rung and there's no reason why they shouldn't have been in then we'd have to think about breach then.'

(RoB worker, Salford)

A representative from the treatment agency explained why she thought that breach policies should be flexible:

'We're dealing with a fairly chaotic group of clients ... one appointment I think makes their lives far more difficult. I think for a lot of the clientele yes, one appointment ... but there are a percentage of clients ... that because of other issues or other problems that they have, may not fully understand or fully be aware of that and I think three appointments gives you more chance to chase and to understand it, to explain it to them in more detail and to fit in with them, because ... for me, the idea of RoB is to look long term. We want to reduce the criminality long term and we want to reduce the amount of drugs that people use and improve people's health long term. One breach to me is a short-term answer.'

(Drugs service, Salford)

A consequence of these differing approaches appeared to be that breach rates in Nottingham were higher.

A third explanation for different breach rates was the priority and speed given to executing warrants. Interviewees reported that warrants were not given high priority in Manchester and that despite a policy of executing warrants within 48 hours this rarely occurred. As a result, defendants who had breached RoB were not being returned to court. Similarly, in Salford, concerns were raised by interviewees about the police's ability to deal with warrants efficiently as the police were going through a reorganisation at the time of the pilot. By contrast, in Nottingham the policy of ensuring that warrants were executed within 48 hours was reported by interviewees to be working effectively in most cases.

Data demonstrates variations between pilot sites in the speed at which warrants were executed. Overall, just under half (n=176, 45%) of RoB-related breaches were dealt with within a week with a further fifth (n=71, 18%) being dealt with within two weeks. Just over a tenth (n=46, 12%) of RoB-related breaches were not executed within four weeks. The speed at which breaches were dealt with varied between sites. Over two-thirds of all RoB-related breaches in Nottingham (n=58, 69%) and Salford (n=9, 75%) were recorded as being dealt with within two weeks. Conversely, in Manchester, just over half (n=103, 47%) of breaches were executed within two weeks. Although the number of outstanding breaches after four weeks in Manchester (n=12, 30%) and Nottingham (n=13, 15%) was similar, as a proportion of breaches, Manchester had twice as many breaches outstanding after four weeks.

A fourth explanation for the high rate of breaches in Nottingham appears to be the treatment regime. Once defendants had entered treatment in Manchester and Salford the providers and treatment regime did not change. However, in Nottingham the treatment regime originally had two stages. During the initial stage, most defendants were referred to the Rapid Prescribing Service (RPS) where they were assessed, provided with a script and stabilised. Once their drug use was stabilised defendants were referred on to a local drugs service (see Chapter 5). This may increase non-compliance in a number of ways. Firstly, defendants may be less likely to comply simply because of the change in the place, regime and workers. Secondly, the incentive to attend the drugs service is not as great as it is to attend the RPS as defendants who attend the drugs service must obtain their scripts from different locations. By contrast, scripts were picked up from RPS during the initial stages of treatment. A RoB worker explained:

'Well when we were breaching people purely for not engaging, their compliance at rapid prescribing was very high, because they're receiving their methadone there. And then when they moved to [xxx], because the script ... the actual methadone would come via the chemist, there was less need to attend their appointments ... So it depends on what the client perceives the benefit of attending the appointment to be. If they're going to actually get a substance in their hands then they'll usually turn up.'

(RoB worker, Nottingham)

Managers in Nottingham recognised these issues and had, during the pilot, implemented measures to tackle this problem including improved liaison between the CJIT and treatment providers and increased CJIT involvement in clients treatment programmes.

Interviewees' views on breach

Generally, interviewees had little knowledge of breach policy or procedures mainly because they had no experience of dealing with breaches. Interviewees frequently described how they had dealt with few, if any, breaches. A District Judge explained:

'Having had no experience of it, we may find things go wrong but at the moment, the fact that we aren't getting in court, I am taking to be an indication that they are complying with the terms of the restriction.'

(District Judge, Manchester)

They had concluded from this that breach rates were low and certainly lower than they had expected. A CPS lawyer explained:

'I don't know [what the breach rate is] but I would imagine it is fairly low because I haven't, I can't think of any case where, well you don't know because you only

get a snapshot of the case but I can't think of any so I would imagine it is fairly low ... I think I had expected it to be higher actually because of the nature of the person.'

(CPS, Manchester)

Very few interviewees had any knowledge of the breach policy unless they were directly involved in using it. As one interviewee explained:

'Restriction on Bail? The breach policy, I don't know to tell you the truth, if it is one assessment that you have breached or two, I don't know.'

(Legal adviser, Salford)

Despite their lack of actual experience most interviewees had views about when it was appropriate to breach defendants for non-compliance. Generally, interviewees believed in the one strike policy as one interviewee commented:

'I think the answer is one shot. I think it is a very simple message. You either attend and continue to attend and if you don't you go to jail.'

(DAAT, Nottingham)

Yet, this still left a number of issues unresolved which may militate against a fair and equitable breach policy. First, questions were raised about what constituted non-compliance. Potentially difficult decisions have to be made about situations when some defendants were attending treatment but who were not properly engaged and when defendants missed some appointments but were still genuinely engaging with treatment.

Secondly, a large amount of discretion was left in the hands of treatment providers in relation to deciding at what stage non-compliance becomes breachable. RoB workers were aware of the potential for differing practices to occur and were also concerned about the variable quality of information provided to them:

'We don't always get the in-depth knowledge that the person is just sort of paying lip service and toeing the line ... you don't always get to know the in's and out's ... So we get a lot of information from some workers and minimal from others and we have to delve a bit.'

(RoB worker, Nottingham)

Another RoB worker questioned the quality of the information provided and whether or not decisions made by treatment providers were always correct:

'Well for all I know the drugs team may be saying it is acceptable when they have attended on the following day because I don't know whether that is happening or not, CDT give me the reasons for breaches and who am I to say that they are telling me an untruth ... if CDT say oh he turned up late or they rang us and we've rearranged the appointment ... I've got no reason to disbelieve them at all so I just leave it.'

(RoB worker, Salford)

Outcomes of breach proceedings

Outcome data are available for 430 breaches of bail with RoB. In three-fifths (n=266, 62%) of these cases defendants were re-bailed with RoB. A further five per cent (n=21) were bailed without RoB. In just under a quarter (n=112, 26%) of cases defendants were remanded in custody. The data suggests that multiple breaches during the same bail period were not treated significantly differently to first breaches. In terms of dealing with breaches, the pilot sites appeared to have very different practices. Three-fifths (n=25, 61%) of breaches in Manchester resulted in custodial remands compared with half (n=8, 50%) in Salford and a fifth (n=78, 21%) in Nottingham. Conversely, Nottingham was much more likely than either of the other sites to grant bail with RoB after a breach had occurred.⁶⁶ Four per cent (n=22) of

⁶⁶ Nottingham re-granted bail with RoB in 67% (n=251) of cases compared with 50% (n=8) in Salford and 17% (n=7) in Manchester.

defendants recorded as breaching conditions in Nottingham failed to appear for their court appearance. There were no significant differences in breach outcomes between ethnic groups but women⁶⁷ and younger defendants⁶⁸ were less likely to be remanded in custody as a result of breaches.

Re-imposition of bail with RoB after breach

Re-RoBs are the continuation of a remand episode after defendants have been breached and bail with RoB has been reimposed. In just under half (n=199, 59%) of the cases in which defendants were breached, they had RoB reimposed. Just over four-fifths (n=173, 87%) of the total number of breaches which preceded the re-imposition of RoB were RoB-related.

Almost all (n=184, 93%) of the cases where defendants were granted bail with RoB on a second occasion were in Nottingham. Very few cases where RoB was reimposed after breach occurred in Manchester (n=7) or Salford (n=8).

Table 4.7 displays the number of times each defendant had RoB reimposed after breach. It shows that the majority of defendants had RoB reimposed on one occasion only (n=158, 79%). Defendants who had RoB reimposed more than once were more likely to have been breached for non-RoB-related bail conditions than those who had RoB reimposed only once.⁶⁹ This suggests that multiple use of RoB after breach was more likely when defendants were breached for non-RoB-related reasons. In such cases it can be surmised that defendants were complying with treatment.

Table 4.7: Number of cases where RoB was reimposed after breach									
Number of Re-RoBs	1	2	3	4	5	6	7	8	Total
Number of defendants	158	24	9	3	1	1	0	1	199

In terms of compliance when RoB was reimposed, over a third (n=62, 36%) of the defendants fully complied with RoB on the first occasion it was reimposed and a further two cases were recorded as partially compliant. Half (n=87, 50%) of the defendants were breached again and 13 per cent (n=23) were re-arrested. A quarter (n=10, 26%) of defendants who had RoB reimposed on more than one occasion complied with their final RoB. Conversely, over half (n=22, 58%) of the defendants who had RoB reimposed never complied and a further six defendants' RoB episode ended as a result of arrests.

Interviewees' perspectives on breach outcomes

Interviewees' limited experience of dealing with breaches has already been discussed. Consequently, most interviewees had no first-hand experience of dealing with breaches. However, nearly all interviewees were able to discuss their views on appropriate outcomes in relation to breaches of RoB. Interviewees had differing views but there were areas of consensus. Most interviewees thought the practice of reimposing RoB after breach was too lenient particularly when this occurred on multiple occasions. A legal adviser commented:

'It's too lenient, I think if they won't work with them magistrates forget that this was an alternative to being remanded in custody.'

(Legal adviser, Nottingham)

As already discussed, the high incidence of reimposing RoB after breach in Nottingham may, however, be a result of their policy to breach defendants more quickly than the other pilot sites. As a result, breaches which reached court in Nottingham may be less serious than breaches which were dealt with by courts in other pilot sites.

⁶⁷ 16% (n=13) of women compared with 32% of men (n=81) were remanded in custody as a result of a first breach.

⁶⁸ 34% (n=44) defendants over the age of 30 were remanded in custody as a result of a first breach compared with 24% (n=50) of defendants aged 30 and under.

⁶⁹ 29% of (n=32) defendants who had RoB reimposed on more than one occasion were breached for non-RoB-related reasons compared with 14% (n=22) of defendants who had RoB reimposed on only one occasion.

Generally, interviewees agreed with the one strike model although there was some support for defendants to be given one additional chance if it could be shown that they were attending and complying with treatment. One interviewee explained:

'Yes [I agree with RoB being reimposed] if there is any chance that by bashing away and giving them the fright of their life. Somebody like [xxx] ... it doesn't hold any fear for him but I don't really see why we shouldn't have at least one more go because he's not dangerous. I'm happy for at least one more go, I'm not so stupid as to say we keep bailing and bailing.'

(RoB worker, Manchester)

A CPS lawyer agreed:

'I think where somebody has breached once or twice I think re-bailing them with the same conditions is about right. I think when they continue to flout any of their conditions just re-admitting them to bail is too lenient.'

(CPS, Nottingham)

The circumstances surrounding the breach were perceived to be important as one interviewee explained:

'I would see [a breach of RoB] as being very serious because that is the opportunity which is being rejected. You would want to know why and I wouldn't accept any nonsense and I would want to know whether the people working on the case thought there was still a prospect there could be some successful outcome. If I was satisfied that the non-compliance wasn't serious or persistent and there was still a prospect it might work then I would be likely to give them another go.'

(District Judge, Manchester)

In order to assess the likelihood of re-engagement with the RoB process, decision-makers reported that they relied on the views of RoB teams. Essentially, if the report which the RoB team produced said that they were willing for the defendant to continue then remand decision-makers would generally readmit defendants to bail with RoB. As a magistrate confirmed:

'If the [RoB workers] say that they think this person is still admissable [sic] to bail because that one breach was possibly out of character or they still feel they can work with them, and they still feel they ought to have another chance, then we might take that into account.'

(Magistrate, Manchester)

Generally, RoB teams were reported to be positive about defendants' prospects if they returned to treatment. As a RoB worker explained:

'[In the event of a breach] the defence solicitor will say CJIT are happy to have them back, that is their sentence that they use. CJIT are happy. It's on the witness statement, despite this person's failure to comply, the Restriction on Bail team would like for them to have another opportunity to engage...'

(RoB worker, Nottingham)

Interviewees were aware that reapplying RoB after breach was controversial and indeed some interviewees disagreed with the practice. However, most interviewees recognised that the decision was difficult particularly as the seriousness of the original offence may not warrant imposing a custodial remand. In such circumstances, interviewees thought it unlikely that defendants would be remanded in custody as a result of breaches of RoB. A District Judge explained his position:

'The majority of [defendants who breach on RoB] in my experience are re-bailed, and I have to say in the majority of cases there's no objection from the prosecution to them being re-bailed. If it's simply a breach of the drug conditions ... I don't accept it automatically but I would think in the majority of cases yes I agree with them.'

(District Judge, Nottingham)

A legal adviser agreed when discussing the practice in Nottingham:

'We think there's a better chance of them not re-offending if we do release them on bail with RoB, rather than if we don't give RoB, and the breach is not worth them losing their liberty for. Most of the offenders are not actually dangerous offenders. There is a conflict with locking these people up. It's people who are dangerous you should lock up.'

(Legal adviser, Nottingham)

Interviewees had slightly different views on the action which was appropriate in cases where defendants had allegedly offended on bail. In general, this was viewed more seriously and it was reported as being more likely to result in custodial remands. A District Judge explained:

'If they have re-offended and they have had bail with these restrictions then it is unlikely that they are going to be re-bailed.'

(District Judge, Manchester)

Many interviewees talked about returning to the original remand decision and considering bail under the Bail Act when defendants had allegedly committed offences on bail. Views about the appropriate action were also tempered by the need to consider the seriousness of the offences and the number of times defendants had allegedly offended on bail. Consequently, alleged offending whilst on RoB may not always result in custodial remands because many of the offences in question, i.e. shop theft, were of relatively low seriousness. A District Judge explained:

'[But] if it's low level, very low level shoplifting, [this is] not necessarily so ... Not for a hopeless drug addict. If there are positive indications about the benefits that might accrue from letting them carry on with the CJIT conditions, they may be re-bailed. If it's a more serious offence the chances are they'll be remanded in custody.'

(District Judge, Nottingham)

There was a realisation on the part of some of the interviewees that tackling drug use was a process which took time and that many defendants led chaotic lives. Consequently, it was unrealistic to expect defendants to simply stop taking drugs and, therefore, stop offending overnight.

'I would have to be satisfied that there is no substantial ground for believing that he would continue to commit further offences, it may have been a blip, they often are with drug addicts, you cannot cure them overnight and I am aware of that they are not cured overnight.'

(District Judge, Manchester)

Summary

This chapter discussed the effect of the introduction of RoB on offending. It suggested that offending on bail rates appear not to have decreased as a result of the introduction of RoB. Indeed, the offending on bail rates for defendants bailed with RoB appeared to be higher than for defendants not bailed with RoB. There were also differences in offending on bail rates between pilot sites. These variations, however, can be explained partly by differences in the samples as defendants granted bail with RoB appear to be a more risky group in terms of offending on bail than defendants granted bail without RoB. This chapter has shown, also, that the introduction of RoB does not appear to have affected the frequency, severity or timing of offending on bail.

These findings are not unexpected as the group of defendants bailed with RoB were shown to have long entrenched criminal careers which involved the frequent and persistent commission of offences. It is, therefore, unrealistic to expect a relatively short intervention such as RoB to change entrenched patterns of offending. More positively, the offences committed by defendants on RoB were generally theft-related offences and more specifically shop theft rather than more serious offences.

Compliance with RoB was relatively high and higher than most interviewees had expected. Around two-fifths of defendants bailed with RoB were breached. Breach rates were significantly higher in Nottingham but this appears to be explained by the different ways breach procedures operated in the pilot areas.

Interviewees generally agreed with the 'one strike' breach policy but there was some support for giving defendants an additional chance before formal breach proceedings were instigated. Interviewees were more critical of the policy of reimposing RoB after breach but there was again a realisation that most defendants should be given another chance to comply.

Offending whilst on RoB was seen as more serious than breaches of RoB and more interviewees thought that defendants who offended on RoB should be remanded in custody. However, this was tempered by the realisation that the seriousness of the offences often did not warrant custodial remands being imposed.

5. Drugs treatment

The preceding chapter examined the evidence relating to the impact of RoB on offending. This chapter discusses the effectiveness of RoB in terms of its ability to ensure that defendants access drug treatment. It presents data from three sources: the administrative database; aggregate data from the National Treatment Agency (NTA); and individual level data from one of the pilot sites. These data provide information about the level of engagement of defendants granted bail with RoB in drug treatment including the success of RoB in terms of the number of defendants assessed for drug treatment, the number of defendants who received drug treatment and retention rates. The chapter discusses also a number of issues relating to drug treatment provision raised by interviewees. The chapter begins with a description of the throughput and provision of treatment and waiting times in the three pilot areas.

Throughput and treatment provision in the three sites

Restriction on Bail is part of the wider DIP programme. The three pilot sites for RoB were part of phase one of DIP. As a result, the infrastructure including a range of treatment services, should have been available to operate RoB. There are a number of measures available which provide some indication of the pilot sites ability to operate RoB effectively and which may be relevant to the provision of treatment to defendants granted bail with RoB. Firstly, throughput as measured by the number of individuals in treatment. Data from the NTA suggest that Manchester DAAT has double the caseload of Nottingham and Salford.⁷⁰ Secondly, rapid access to treatment is an important component of RoB and waiting times may have some bearing on how quickly treatment can be delivered. Table 5.1 shows the waiting times in each DAAT area. It demonstrates that waiting times in the three pilot sites were generally below the national average although in Nottingham waiting times for residential rehabilitation were much longer than average. Table 5.1 demonstrates, also, that Salford generally had shorter waiting times than Manchester and Nottingham but differences between the sites were relatively small.

	Inpatient	Residential rehabilitation	Specialist prescribing	GP	Day care	Structured counselling
Manchester	2.0	1.0	2.0	2.0	1.0	1.0
Nottingham	1.8	5.7	1.7	1.0	1.3	1.8
Salford	2.1	0.0	0.7	0.0	0.0	0.2
National average	2.6	3.1	3.0	1.8	1.6	2.5

Source: NTA

The third measure which is available is the retention of individuals in treatment for periods of 12 weeks or more. National statistics suggest that around half (53%) of the individuals who access treatment are retained for 12 weeks or more. Statistics from the pilot sites suggest that they matched closely the national average which indicates that there were no significant underlying or systemic differences in the effectiveness of treatment services in retaining clients in the pilot sites.

In terms of the type of treatments available in the pilot sites, most interventions delivered as part of RoB were reported to be tier three which is defined by the NTA as 'community-based specialised drug assessment and coordinated care-planned treatment'. The central focus of tier three interventions is a care plan which sets out a package of interventions which may include: prescribing (maintenance, reduction etc.); harm reduction activities; structured

⁷⁰ According to NTA statistics 3374 individuals in Manchester were in contact with structured treatment services in 2004-5 compared with 1702 in Nottingham and 1553 in Salford.

psychosocial interventions such as motivational work; structured day care; liaison with physical and mental health services; and liaison with social care services.

The three pilot sites had different models of treatment provision which affected the operation of RoB once it had been applied. In Manchester and Salford, the CJIT was fully integrated with the drugs service. This had a number of benefits namely that: the whole range of treatment services were available to defendants; other needs of defendants such as housing could be dealt with; and it should ensure that treatment providers were fully aware of and supported RoB. A DAAT representative from Manchester explained their approach:

'We have a treatment system that can and does work right alongside and within sometimes our criminal justice system too. So the fact that we have a CJIT that is part of our Tier three treatment provision means that people very quickly go from point A to point B. There are no delays for people in terms of accessing treatment, so that's worked really well and I think that has enabled us to keep people engaged and in terms of their outcome in treatment that has been really really encouraging and I think that's because treatment and criminal justice interventions are absolutely in the same package, they are not separated at all.'

(DAAT, Manchester)

By contrast, the CJIT in Nottingham was separated from treatment services. The CJIT case-managed DIP clients and referred them to a range of specialist services, including treatment provision. The links between the RoB team and treatment services were reported to be limited. Some difficulties were reported, also, with joint working between the CJIT team and the court RoB team. These referred mainly to resource issues within the CJIT and specifically about the lack of appropriate accommodation for work to be undertaken. Consequently, not all defendants bailed with RoB were referred to CJIT workers. This meant that other issues such as housing and benefits were not always dealt with adequately. The separation of treatment from the CJIT also meant that treatment providers did not necessarily understand and support the RoB process. For example, it was reported that treatment agencies' understanding of the breach process was limited. It was claimed, also, that the separation of provision required defendants to attend extra appointments which imposed additional burdens. During the pilot, managers had recognised some of these issues and had implemented measures to improve liaison between CJIT and RoB staff but operational staff reported that issues remained unresolved.

The range of interventions which were reported to be available in the three pilot sites was similar and typically included prescribing; counselling; the provision of advice, information and support; group work; acupuncture and alternative therapies; and assistance with other needs such as housing. All sites had access to stimulant services. Access to these services differed, however. In Manchester and Salford, defendants on RoB were channelled into mainstream services as soon as they had been assessed whereas there was a two-stage process in Nottingham. In Nottingham, defendants were typically referred to the Rapid Prescribing Service (RPS) which was a service provided for heroin users whose primary focus was to assess prescribing needs, provide prescriptions as quickly as possible and stabilise clients' drug use. Defendants would normally stay with the RPS for a period of two to four weeks before moving on to core treatment services. The main advantage of this approach was the speed at which substitute prescribing was available. However, there were also a range of disadvantages with this approach namely that: defendants had to change treatment regimes during their bail period which may have affected attrition rates; defendants did not have access to mainstream services during the early stages of their bail period; and defendants did not receive help and support with other issues such as housing during the time they were in contact with the RPS.

Although the range of interventions provided by the three sites was similar, the focus differed. Both Manchester and Salford reported taking a holistic approach to treatment which encompassed not only dealing with drug issues but also broader economic and social issues such as housing and benefits. A drugs worker from Salford explained that the variety of services offered was a particular advantage:

'... a lot of them are not happy to go on methadone ... The fact that there's other prescribable options has changed them and that we offer more than just giving

them a script ... we've got a lot of things going on like constructive use of time we have a day care centre now so there's loads of different opportunities for them you know and to get themselves sorted ...'

(RoB worker, Salford)

By contrast, in Nottingham interventions were more narrowly drug-focused. Most of the defendants subject to RoB were referred to RPS which provided rapid access to substitute drugs but no other support. RPS dealt with the immediate problems of needing to access cash and drugs thus addressing short-term problems. RoB workers in Nottingham perceived this service to be sufficient for defendants bailed with RoB but it did not deal with long-term problems which may underlie drug use and/or offending. It was intended that broader issues would be addressed by core treatment services or by CJIT at a later stage in the remand process but in practice problems arose with CJIT which often meant that defendants bailed with RoB did not receive help and support with issues other than drugs in a consistent and effective way.

Similarly differences existed between pilot sites in relation to issues of compliance and enforcement. In Manchester and Salford, it was reported that the fundamental goal of the service was to retain clients in treatment particularly where they were genuinely attempting to engage. There were different manifestations of this philosophy. In Manchester, these included providing lifts to defendants to attend appointments and the use of discretion in terms of whether or not defendants attended assessments and treatment at the appointed time. In Salford, they operated a 'three strikes' breach policy during the early stages of the pilot. A drugs worker explained the approach taken:

'I never saw RoB as a primary enforcement issue, I always saw it as a primary treatment issue ... A lot of our clients, we've had one client with 32 prison sentences. You can lock him up every week if you want, it won't make a blind bit of difference. You need to be looking at engaging them long term ... You need flexibility.'

(Drugs service, Salford)

By contrast, Nottingham appeared to focus on enforcement. As discussed in Chapter 4, these differences in approaches may partially explain variations in breach rates.

There were contrasts, also, in the way that the pilot sites dealt with defendants who were already in treatment at the time when RoB was imposed. In Manchester and Salford, the imposition of RoB was viewed as an opportunity to review the treatment defendants were receiving. There was no evidence that this review process took place in Nottingham.

Waiting times varied between areas and were dependent on the services required. In Manchester, it was reported that full drugs assessments were carried out within a day or two of RoB being imposed although access to treatment was not immediate. It was reported that prescriptions could take a week or longer to be provided while other interventions such as the stimulant service took four or five days. However, some periodic blockages were reported to have occurred during the pilot period. In Nottingham, appointments for the RPS were given within one or two days of RoB being imposed. Prescriptions were usually supplied within one to three days after this. The speed at which prescriptions were available was seen as a major factor in the effectiveness of RoB in Nottingham:

'The success story has to be the Rapid Prescribing Service and the change of culture and ethos from the treatment providers as they've realised how successful and well it could work.'

(NTA, East Midlands)

However, provision of mainstream services and other types of support for heroin users were delayed by referral to RPS as they were not accessed until defendants' drug use was stabilised. Waiting times for mainstream services were reported to be the same for defendants subject to RoB than for individuals who had come into treatment by other routes. In Nottingham, crack-only users were referred to Compass which provides a six-week

treatment 'course' including acupuncture, counselling and a structured day programme. Appointments took place within a week of RoB being imposed.

In Salford, first appointments took place at Salford Drugs Service offices in Eccles within a day or two of RoB being imposed. Subsequent access to treatment usually occurred within a week. This reflects the generally low waiting times in Salford and was seen as an important feature of RoB:

'You can get somebody into treatment in less than seven days you know, it's remarkable ... there's no waiting list at all, it's just assessment and then treatment.'
(Drugs worker, Salford)

In summary, the pilot sites took different approaches to the provision of treatment services to defendants granted bail with RoB. In Manchester and Salford, defendants' accessed mainstream services immediately whereas in Nottingham most defendants were referred firstly, to RPS before being transferred to mainstream services up to a month later. Consequently, most defendants subject to RoB in Nottingham received a more restricted service. Both approaches had advantages. In Nottingham the rapid provision of scripts had the benefit of removing the need to offend almost immediately whereas the approach taken in Manchester and Salford attempted to deal with drug use in the longer term.

Accessing drugs treatment

One of the primary aims of RoB was to channel drug-using defendants into treatment. This section uses data from the administrative database to examine evidence relating to one of the measures of success for RoB namely how many defendants have accessed treatment as a result of RoB being imposed. Overall, RoB has been relatively successful in ensuring that defendants had some initial contact with drug treatment.

The first stage of the treatment process is assessment. Table 5.2 shows that in the majority (n=1226, 93%) of cases in which bail was granted with RoB, defendants attended assessments. Most (n=1206, 98%) defendants attended their assessment on the first occasion. Table 5.2 demonstrates, also, that nearly all defendants attended their assessment in Manchester (n=308, 99%) reflecting the use of pre-court assessments compared with 91 per cent (n=781) in Nottingham and 92 per cent (n=137) in Salford.

Table 5.2: Cases in which defendants bailed with RoB attended assessments and treatment was recommended								
	Manchester		Nottingham		Salford		Total	
	n	%	n	%	n	%	n	%
Attended assessment	308	99	781	91	137	92	1226	93
Treatment recommended	308	100	697	89	104	76	1109	90

Table 5.2 shows that in the majority (n=1109, 90%) of cases in which defendants attended their assessments some form of drug treatment was recommended. Table 5.2 demonstrates that there were differences between the pilot sites. In Manchester, all defendants had treatment recommended (n=308, 100%) whereas in Nottingham 89 per cent (n=697) of defendants granted bail with RoB were recommended for treatment and three-quarters (n=104, 76%) of defendants were recommended treatment in Salford.

Table 5.3 shows that in just over two-thirds (n=774, 70%) of cases, defendants recommended for treatment were not receiving treatment at the time RoB was imposed. This does not mean that this group had never previously been in treatment but that they were not undergoing treatment at the time RoB was imposed. Table 5.3 demonstrates that there were some differences between pilot sites in the proportion of defendants not receiving treatment when RoB was imposed. In Manchester, in three-quarters (n=230, 75%) of cases, defendants were

not in treatment when RoB was imposed compared with 71 per cent (n=492) of cases in Nottingham and half (n=52, 50%) of the cases in Salford.

The proportion of cases involving defendants granted bail with RoB who were not receiving treatment at the time RoB was imposed decreased during the pilot period. Table 5.3 shows that during the first six months (May to October 2004) of the pilot period four-fifths (n=258, 81%) of defendants were not in treatment at the time RoB was imposed compared with just over two-thirds (n=263, 67%) in the six months between November 2004 and April 2005 and just under two-thirds (n=398, 64%) in the final six months (May to October 2005). This suggests that after the initial period of six months, RoB was being imposed repeatedly, albeit for different alleged offences, on a significant minority of defendants who have already accessed treatment as a result of the RoB, other criminal justice interventions or through self-referral.

Table 5.3: Defendants not in treatment at the time RoB was imposed								
	Manchester		Nottingham		Salford		Total	
	n	%	n	%	n	%	n	%
May-October 2004	100	92	134	83	24	51	258	81
Nov 2004-April 2005	65	59	186	73	12	44	263	67
May-October 2005	65	73	172	62	16	53	253	64
Total	230	75	492	71	52	50	774	70

Table 5.3 demonstrates that Manchester and Nottingham have similar percentage decreases of around 20 per cent in the number of defendants not in treatment at the time RoB was imposed during the pilot period. Salford consistently had around half of its defendants not in treatment at the time RoB was imposed.

Treatment received

Data were obtained from the NTA relating to the treatment histories and the treatment received during the remand period for defendants who tested positive for specified Class A drugs in both the pilot sites and the comparison sample. Data were provided as aggregate data rather than individual level data and this limited the analysis which could be undertaken. Nevertheless, data provides some indication about the effectiveness of RoB in terms of channelling drug users in treatment. Data were available for the period between 1 April 2004 and 31 December 2005 so it is possible that defendants had received drugs treatment prior to these dates which was not recorded. Data was only collated which related to the pilot sites so it is possible that defendants had accessed treatment in another locality.

Treatment data were available in three-quarters (n=1551, 74%) of cases in the pilot areas. The proportion of cases from the administrative data which were matched with treatment data was similar in the three pilot sites.⁷¹ These cases included 987 defendants which represents just over two-thirds (69%) of the total number of defendants on the administrative database.⁷² In terms of the comparison sample, treatment data were matched in just over two-thirds of cases (n=614, 70%).⁷³ These data suggest that a similar number of defendants remanded by magistrates' courts were known to treatment agencies in both the pilot and comparison areas.

⁷¹ 74% (n=560) cases were matched with treatment data in Manchester compared with 75% (n=838) in Nottingham and 72% (n=153) in Salford.

⁷² There are no significant differences between the pilot sites. In Manchester, 71% (n=401) individual defendants who appeared in the administrative data were matched with treatment data compared with 67% (n=457) in Nottingham and 69% (n=129) in Salford.

⁷³ There were differences between the comparison sites in the number of cases matched. Nearly three-quarters of cases were matched in Leicester (n=215, 74%) and Leeds (n=234, 72%) compared with less than two-thirds (n=165, 63%) in Birmingham.

In the pilot sites, cases involving defendants bailed with RoB were more likely to be matched with treatment data than cases involving defendants who were remanded in custody or on bail without RoB.⁷⁴ This may suggest that this group were more likely to have accessed treatment since 1 April 2004 than defendants who were not subject to RoB but this may be explained by variations in data quality. It appears also that the higher treatment participation rate of defendants on RoB may be explained partly by the characteristics of defendants granted conditional bail as defendants granted conditional bail in the comparison sample were also more likely to have been matched with treatment data.⁷⁵

Recent treatment histories

This section examines the recent treatment histories of defendants. In half (n=767, 49%) of the cases dealt with in the pilot sites defendants were known to have been in treatment between 1 April 2004 and the start of their remand period. Table 5.4 shows that the treatment histories of defendants who were remanded in custody and on bail with and without RoB were similar. Table 5.4 demonstrates also that there were differences between the pilot sites in the proportion of cases which involved defendants granted bail with RoB who were known to have accessed drug treatment prior to being remanded. A higher proportion of cases in Nottingham (n=277, 52%) involved defendants who had accessed treatment recently than in Manchester (n=100, 46%) and Salford (n=42, 42%).

Table 5.4: Cases involving defendants who had recently accessed drug treatment

	Manchester		Nottingham		Salford		Total	
	n	%	n	%	n	%	n	%
RIC	58	43	76	55	24	60	158	51
Bailed with RoB	100	46	277	52	42	42	419	49
Bailed	49	48	35	63	2	50	86	53

Recorded participation in previous drug treatment was lower in the comparison sample which suggests that the pilot sites generally had higher rates of treatment uptake. In a third (n=200, 33%) of cases in the comparison sample, defendants were known to have accessed treatment between 1 April 2004 and the start of their remand period. There were differences between the comparison sites.⁷⁶

The average number of recorded treatment episodes between 1 April 2004 and the start of defendants remand periods was 1.6 in the pilot sites. There were no differences in the number of recorded treatment episodes between pilot sites or different remand outcomes. The average number of previous treatment episodes was slightly higher (2.1) in the comparison sample.

Completion rates for previous treatment episodes as defined by the NTA⁷⁷ appeared to be low in the pilot sites. Table 5.5 shows that a total of 13 per cent (n=154) of treatment episodes which commenced before the remand period were recorded as being completed successfully. Table 5.5 shows that completion rates were similar for the pilot sites but that the proportion of unsuccessful treatment episodes varied between pilot sites. The highest rate of unsuccessful treatment episodes was recorded in Nottingham where nearly two-thirds (n=382, 63%) of cases involving defendants who had at least one unsuccessful treatment episode between 1 April 2004 and the start of their remand period. Very limited data were available on

⁷⁴ 84% (n=851) cases involving defendants bailed with RoB were matched with treatment data compared with 66% (n=475) of cases involving defendants who were remanded in custody or on bail without RoB.

⁷⁵ In the comparison sample, three-quarters (n=279, 76%) of cases involving defendants who were conditionally bailed were matched with treatment data compared with two-thirds (n=335, 66%) of defendants remanded in custody or unconditionally bailed.

⁷⁶ Over a third of cases involved defendants who had previously accessed treatment in Leeds (n=234, 38%) and Birmingham (n=60, 36%) compared with a quarter (n=51, 24%) in Leicester. A similar pattern emerged when individuals rather than cases were examined.

⁷⁷ The NTA use three definitions of successful completion namely: that treatment is completed; that treatment is completed and the individual is drug free; or that the individual has been referred on.

completion rates in the comparison sample. A tenth (n=43, 10%) of cases were recorded as being completed successfully.

Table 5.5: Completion rates

	Manchester		Nottingham		Salford		Total	
	n	%	n	%	n	%	n	%
Successful	74	15	64	11	16	14	154	13
Unsuccessful	230	46	382	63	62	53	674	55

In the pilot sites defendants granted bail with RoB were slightly less likely to have successful recent treatment episodes recorded than other remanded defendants⁷⁸ and slightly more likely to have at least one unsuccessful treatment episode recorded.⁷⁹

Treatment received during remand periods

The NTA provided data on the number of cases and defendants who received treatment during their remand period. Numbers for some groups are small so findings must be treated cautiously. In three-quarters (n=1155, 74%) of cases involving a positive drugs test in the pilot sites, defendants were in treatment at sometime during their remand period. Three-quarters (n=875, 76%) of these cases involved defendants who were already receiving at least one form of treatment when they appeared at court and were remanded. In 280 cases, defendants were recorded as commencing 'new' treatment episodes during their remand period. A similar picture emerged for individuals who appeared in the pilot sites.⁸⁰ This suggests that a higher proportion of defendants were already receiving treatment than appeared to be the case from data collected in the pilot sites. This may be explained by issues with data quality or that RoB team were unable to find out whether or not defendants were in treatment in all cases or defendants hiding the fact that they were already in treatment to avoid being remanded in custody.

Data suggest that RoB ensures that some defendants receive treatment during their remand period. Table 5.6 shows that in over four-fifths (n=687, 81%) of cases in which bail was granted with RoB defendants received treatment during their remand period. This can be compared with three-quarters (n=121, 74%) of cases involving defendants bailed without RoB.

⁷⁸ 11% (n=74) of treatment episodes involving defendants bailed with RoB compared to 20% (n=80) of cases involving defendants remanded in custody or on bail with or without RoB were recorded as successful.

⁷⁹ 57% (n=378) of treatment episodes involving defendants bailed with RoB compared to 74% (n=296) of treatment episodes involving defendants remanded in custody or on bail with or without RoB were recorded as unsuccessful.

⁸⁰ The majority (n=862, 88%) of individuals who appeared in court and who were remanded during the pilot period were known to have been in treatment at sometime during their remand period. Of these, nearly three-quarters (n=614, 71%) were already in treatment when they were remanded. A total of 248 defendants were recorded as commencing 'new' treatment episodes during their remand period.

Table 5.6: Cases in which defendants received treatment at some point during their remand period

	Already in treatment		New to treatment		Total in treatment	
	n	%	n	%	n	%
Pilot sites						
RIC	166	86	27	14	193	62
Bail with RoB	486	71	201	29	687	81
Bail without RoB	104	86	17	14	121	74
Total	756	76	245	24	1001	75
Comparison sites	247	83	50	17	297	66

Defendants bailed with RoB were more likely to be 'new' to treatment when they were remanded compared with defendants who were remanded in other ways. Table 5.6 demonstrates that a higher proportion (n=201, 29%) of cases in which RoB was imposed resulted in 'new' treatment episodes compared with cases in which defendants were remanded in custody (n=27, 14%) or were bailed without RoB (n=17, 14%). Table 5.6 shows, also, that a smaller proportion (n=486, 71%) of cases where RoB was imposed involved defendants who were already in treatment compared with cases involving defendants who were remanded in custody (n=166, 86%) or bailed without RoB (n=104, 86%).

Data from the comparison sample appears to confirm the effectiveness of RoB in ensuring that defendants received treatment during their remand period. Table 5.6 shows that two-thirds (n=297, 66%) of cases involving defendants who were bailed in the comparison sample were known to have been in treatment during their remand period. In the majority (n=247, 83%) of these cases defendants were already receiving treatment when they were bailed. 'New' treatment episodes were started during the remand period in less than a fifth (n=50, 17%) of cases where defendants were on bail which is around half of the cases in which defendants were bailed with RoB in the pilot sites. However, treatment participation rates were much lower in the comparison sample than in the pilot sites. This suggests that the pilot sites generally had a larger number of individuals in treatment who were in contact with the criminal justice process which may be a result of the wider DIP programme.

A similar picture emerged when individuals who appeared in the pilot sites rather than cases were examined. Table 5.7 shows that nearly all (n=552, 91%) defendants bailed with RoB received some form of treatment during at least one remand period. Table 5.7 demonstrates, also, that nearly a third (n=186, 31%) of these defendants were 'new' to treatment at the time RoB was imposed.

Table 5.7: Defendants who received treatment at some point during their remand period

	Already in treatment		New to treatment		Total in treatment	
	n	%	n	%	n	%
RIC	150	57	25	9	175	66
Bail with RoB	366	60	186	31	552	91
Bail without RoB	97	64	16	11	113	74
Total	613	73	227	27	840	82

Table 5.8 demonstrates that there were differences in treatment participation rates between pilot sites. Salford had the highest proportion of cases involving defendants in treatment at some time during their remand period (n=124, 87%) compared with just over three-quarters (n=349, 77%) of cases in Manchester and under three-quarters (n=528, 73%) of cases in Nottingham. Table 5.8 shows, also, that there were differences between the pilot sites in the number of cases involving defendants who were already in treatment when they were remanded. A higher proportion of defendants from Manchester (n=301, 86%) were known to have been already in treatment compared with Salford (n=90, 72%) and Nottingham (n=366, 69%).

Table 5.8: Treatment participation rates in the pilot sites						
	Already in treatment		New to treatment		Total in treatment	
	n	%	n	%	n	%
Manchester						
RIC	95	90	10	7	105	78
Bail with RoB	134	23	31	19	165	76
Bail without RoB	72	91	7	9	79	77
Total	301	86	48	14	349	77
Nottingham						
RIC	46	75	15	25	61	45
Bail with RoB	290	68	138	32	428	80
Bail without RoB	30	77	9	23	39	70
Total	366	69	162	31	528	73
Salford						
RIC	25	93	2	7	27	47
Bail with RoB	62	66	32	34	94	82
Bail without RoB	2	67	1	33	3	23
Total	89	72	35	28	124	87
Grand total	756	76	245	24	1,001	75

Table 5.8 shows that cases in which defendants were bailed with RoB were more likely to commence treatment episodes during their remand periods in Manchester and Nottingham⁸¹ than defendants who were bailed without RoB. However, the proportion of cases in which defendants commenced 'new' treatment episodes during the time they were bailed with RoB was lower in Manchester (n=48, 19%) than in either Nottingham (n=162, 32%) or Salford (n=35, 34%).

Retention rates

Another measure of the success of RoB is the number of defendants who were retained in treatment as a result of it being imposed. Evidence suggests that individuals who stay in treatment for at least 12 weeks are more likely to be successful (Hough, 1996). Consequently, this section uses this measure to assess the effectiveness of RoB.

Four-fifths (n=920, 80%) of cases in the pilot sites involved defendants who were recorded as being retained in treatment for 12 weeks or longer. This is a relatively high retention rate compared with national statistics from the NTA and may suggest that DIP has been

⁸¹ Numbers are too small to undertake this analysis in Salford.

successful at retaining drug-using offenders/defendants in treatment whether they entered treatment as a result of RoB or by another route. The majority (n=763, 83%) of these cases involved defendants who were already known to be in treatment at the start of their remand period. Table 5.9 demonstrates that retention rates were better for defendants who were already in treatment at the start of their remand period (n=763, 87%) compared with those who commenced treatment during their remand period (n=157, 56%).

Table 5.9 shows treatment retention rates for different remand outcomes. It demonstrates that retention rates for cases involving defendants bailed with RoB were lower than defendants who were bailed without RoB irrespective of whether or not defendants were in treatment at the time they were bailed. Table 5.9 shows, also, that retention rates for defendants granted bail with RoB were higher when defendants were already in treatment at the start of their remand period. This relationship may be explained by a number of factors including whether or not treatment was entered into voluntarily or as part of sentences or RoB and the length of time defendants had been in treatment.

Table 5.9: Treatment retention rates by remand outcome						
	Already in treatment		New to treatment		Total in treatment	
	n	%	n	%	n	%
RIC	139	84	20	80	159	82
Bail with RoB	409	84	104	56	513	75
Bail	98	94	11	69	109	90

Data from the comparison sample suggest also that retention rates in cases where defendants commence treatment during their remand period were lower than defendants who were already in treatment when remanded suggesting that this relationship may be explained by factors other than the use of RoB.⁸² Yet, retention rates for all remand outcomes were remarkably similar in the comparison sample with 85 per cent of defendants being retained in treatment for 12 weeks or more whatever the remand outcome. This supports the suggestion that defendants who entered treatment as a result of RoB being imposed were less likely to be retained in treatment than defendants who entered treatment by another means.

Table 5.10 presents retention rates for each of the pilot sites. It shows that there were differences between pilot sites. It demonstrates that Manchester (n=402, 94%) had better overall retention rates than Nottingham (n=432, 72%) and Salford (n=86, 64%) and better retention rates for defendants bailed with RoB.⁸³ Table 5.10 shows, also, that these differences persist whether or not defendants were already in treatment when RoB was imposed although retention rates for those 'new' to treatment were consistently lower than for defendants who were already in treatment.

Table 5.10 shows that defendants bailed with RoB were less likely to be retained in treatment than defendants bailed without RoB in Manchester and Nottingham. However, in Manchester, these differences appear to be partly explained by whether or not defendants were already in treatment when they were bailed.

⁸² 73% (n=50) of cases involving defendants 'new' to treatment compared with 88% (n=280) of cases involving defendants who were already in treatment were retained in treatment for 12 weeks or more.

⁸³ In Manchester the retention rate for defendants bailed with RoB was 93% (n=154) compared with 69% (n=296) in Nottingham and 67% (n=63) in Salford.

Table 5.10: Retention rates by pilot sites⁸⁴						
	Already in treatment		'New' to treatment		Total	
	n	%	n	%	n	%
Manchester						
Bailed with RoB	131	98	23	74	154	93
Bailed	71	99	5	71	76	96
Nottingham						
Bailed with RoB	227	78	69	50	296	69
Bailed	25	84	5	56	30	77

In summary, this section has demonstrated that RoB is an effective mechanism for ensuring that defendants receive treatment during their remand period. A high proportion of defendants received treatment while on RoB. There was some evidence that RoB targeted defendants who were not already in contact with treatment services although nearly three-quarters of defendants granted bail with RoB were already in treatment when they were remanded. Three-quarters of defendants bailed with RoB were retained in treatment for 12 weeks or more. However, retention rates for defendants who accessed treatment by a means other than RoB were higher than for defendants subject to RoB which suggests that defendants who enter treatment as a result of RoB being imposed were less likely to be retained in treatment than defendants who entered treatment by another means.

Salford treatment data

The third source of data available on drug treatment was provided by Salford DAAT. The findings from these data are broadly similar to those from the NTA data thus validating the conclusions already drawn. This section presents data relating to treatment for 231 cases in which defendants appeared in Salford magistrates' court with a positive test result during the pilot period. The sample does not differ significantly from the Salford sample as a whole.⁸⁵

In nearly all (n=202, 87%) of the cases, defendants were deemed eligible for RoB. In three-fifths (n=124, 61%) of cases defendants were bailed with RoB. In a further 32 cases (16%) defendants were bailed without RoB (21 unconditionally). A third (n=69, 34%) of defendants were remanded in custody.

In nearly half (n=112, 48%) of the cases, defendants were recorded as being in treatment during their bail period which is a lower figure than the NTA figures suggest. In just over half (n=59, 53%) of these cases, defendants were already in treatment when they were remanded. In terms of retention, three-fifths (n=70, 63%) of these cases, defendants were recorded as still being in treatment when the remand episode ended and a further seven defendants stopped their treatment at the same time as their remand period ended. Retention rates were better for defendants who were already in treatment at the start of their remand period than for defendants whose treatment commenced at the start of their remand.⁸⁶ The number of cases where treatment episodes ceased simultaneously with the remand period was similar for both groups.

Data suggest that RoB is an effective means of facilitating contact between defendants and drugs services. In nearly three-quarters (n=87, 70%) of the cases, defendants bailed with

⁸⁴ Numbers are too small to carry out this analysis in Salford.

⁸⁵ The majority of the sample were male (n=174, 75%) and White (n=204, 88%). Half (n=118, 51%) of the cases involved defendants aged 30 years or under.

⁸⁶ In 59% (n=41) of cases where defendants were already in treatment at the start of their remand period were still in treatment at the end compared with 55% (n=29) of defendants who entered treatment at the start of the remand period.

RoB were known to have had contact with treatment services during their remand period which is slightly lower than the figures suggested by the NTA. This figure is similar to the proportion of cases in which defendants were recommended for treatment in the administrative data which suggests that when treatment is recommended it is received. The level of contact is higher for defendants bailed with RoB than cases in which defendants were granted bail without RoB (n=3, 10%) or remanded in custody (n=21, 30%). Furthermore, nearly half (n=42, 48%) of the defendants who had contact with treatment services while on RoB were not in treatment at the start of their bail period. Cases involving defendants bailed with RoB accounted for four-fifths (79%) of 'new' contacts between defendants and treatment services during the bail period.

Most 'new' treatment contacts can be linked with the imposition of RoB as three-quarters (n=32, 76%) of 'new' treatment episodes during the remand period for defendants bailed with RoB occurred within seven days of the beginning of the remand period. However, in six cases contact was made more than five weeks after the remand period started and it is more difficult to correlate these treatment episodes with the imposition of RoB.

Treatment histories

In terms of previous contact with treatment services, just over a third (n=86, 37%) of defendants in the sample were known to have had previous contact with Salford Drugs service. This is a much lower figure than suggested by the NTA and may be explained partly because only drug treatment received in Salford is recorded. Any treatment received elsewhere was not included. Defendants granted bail with RoB were more likely to have been in contact with treatment services previously than defendants not bailed with RoB.⁸⁷ Nearly all (n=62, 94%) of the cases involving defendants bailed with RoB, who had been in contact previously with treatment services, were in treatment during their remand period. In over half (n=35, 56%) of these cases, defendants were also in treatment at the time they were bailed with RoB. Very few (n=2) of these contacts were recorded as successful.

An important measure of success of RoB is the number of 'new' contacts between defendants bailed with RoB and treatment services. In over a quarter (n=25, 29%) of cases, defendants bailed with RoB were recorded as having no previous contact with Salford Drugs Service and 15 of these defendants were not in treatment at the time they were bailed with RoB. By contrast, some defendants appeared to be missed in terms of treatment provision despite the existence of RoB. A small but significant number (n=12) of defendants bailed with RoB who had had no contact with Salford Drugs Service previously were recorded as not being in treatment during their remand period.

Retention rates

Restriction on Bail aims not only to ensure that defendants access treatment but also that they are retained in treatment. Data suggests that a small but significant number of defendants were retained in treatment for their bail period. In two-thirds (n=59, 68%) of cases, defendants bailed with RoB were still in treatment at the time their remand periods ended. However, in a significant minority (n=13) of cases defendants dropped out of treatment as soon as their bail period was over.⁸⁸

Defendants bailed with RoB who were already in treatment at the start of the remand period were slightly more likely to still be in treatment when their bail period ended.⁸⁹ Of the 87 cases in which defendants were bailed with RoB, a third (n=27, 31%) of the defendants were known to have stayed in treatment for at least 12 weeks and a further third (n=31, 36%) were still in treatment when data were collected. In only seven cases were defendants bailed with RoB

⁸⁷ In two-thirds (n=66, 64%) of cases in which defendants were bailed with RoB they were known to have had some contact previously with Salford Drugs Service. This is a higher proportion than cases involving defendants who were bailed without RoB (n=3, 20%) or who were remanded in custody (n=17, 40%).

⁸⁸ Treatment episodes in seven of these cases ended within a week of the end of their bail period. In a further six cases not included above treatment episodes ended simultaneously with remand periods.

⁸⁹ 77% (n=34) of defendants who were already in treatment at the start of their bail period were still in treatment at the end compared with 69% (n=25) of defendants who were not in treatment when their bail period started.

recorded as being in treatment for less than four weeks. Defendants bailed with RoB who were already in treatment were more likely to remain in treatment for 12 weeks or over.⁹⁰

Compliance

In terms of compliance with RoB, there appears to be a clear relationship between being 'new' to treatment as a consequence of RoB being imposed and non-compliance. In all but five (n=40, 89%) of the cases where defendants were recorded as already in treatment at the time RoB was imposed they were recorded as complying fully with RoB compared with under two-thirds (n=26, 62%) of cases involving defendants who were 'new' to treatment. Furthermore, in seven cases defendants who were not in treatment when bailed with RoB were recorded as being breached compared with only two defendants who were already in treatment.

Defendants

A number of defendants appeared in the Salford data more than once and it is useful to examine briefly treatment outcomes for defendants rather than cases. Data provides details of 205 defendants. Most (n=181, 88%) defendants appeared in the data only once during the pilot period, 22 defendants appeared twice and two defendants appeared on three occasions. Just over half (n=111, 54%) of defendants were bailed with RoB at least once during the pilot period and just over two-thirds (n=77, 69%) of these defendants were recorded as receiving treatment during the remand period. Just over half (n=42, 54%) of this group were not recorded as being in treatment at the time they were bailed with RoB. Two-thirds (n=53, 69%) of defendants were recorded as being still in treatment at the end of their remand period.

Summary

In summary, data from Salford suggest that RoB results in defendants accessing treatment who were not already in treatment at the time it was imposed and for a smaller number of people it is likely to be the very first time they have accessed treatment services. Some defendants bailed with RoB were retained in treatment for 12 weeks or more. However, retention rates and compliance was much higher if defendants were already in treatment when RoB was imposed. In short, 'new' treatment contacts which resulted from RoB appeared to be less effective than treatment accessed in other ways.

Issues with drug treatment during RoB

A number of issues relating to the provision of drug treatment during RoB were raised by interviewees and these will be discussed in the following section.

Defendants who did not require or want treatment

RoB workers appeared to be unsure of how to deal with defendants granted bail with RoB who, in their opinion, did not require treatment. Typically, these defendants were recreational/controlled users who used drugs other than heroin. This seemed to be a particular issue in Nottingham where service provision was more drugs-focused and services such as support and advice were not as readily available for these users. A worker explained:

'... stimulant users go to Compass Adult Services on Mansfield Road. But people have to have a daily dependency. People who are using less frequently ... it's probably not appropriate to refer them because ... these agencies are pretty much under pressure.'

(RoB worker, Nottingham)

⁹⁰ In two-fifths (n=19, 42%) of the cases in which defendants were already in treatment when they were bailed with RoB they were still in treatment 12 weeks later compared with a fifth (n=8, 19%) of cases involving defendants who were not in treatment when RoB was imposed. Additionally, nearly half (n=22, 49%) of the cases involving defendants who were in treatment when RoB was imposed remained in treatment when data were collected compared with a fifth (n=9, 21%) of cases involving defendants who were not in treatment when RoB was imposed.

However, such clients were sometimes provided with other types of support as a RoB worker explained:

'In some cases where treatment hasn't been deemed appropriate for referral, we've ... decided that they must see their CJIT worker as part of the bail perhaps because they are using drugs, but not sufficient to require actual treatment. So whoever assessed them, perhaps have deemed that would be an appropriate avenue to go down ... and it might be that they do need help from other areas in their life and that's where the CJIT worker can become involved and we have got people that ... see their CJIT worker and we've got one young man that's actually got a job so he sees his CJIT worker after he has finished work. He doesn't need treatment.'

(RoB worker, Nottingham)

Similarly, these defendants were provided with some advice in Manchester as a worker explained:

'[What treatment is necessary] is dependent on the client's drug use; say if someone only uses once a month on a Saturday night when they're out partying then it wouldn't appear that they'd need any formal intervention, just a bit of brief work can be done with them; tell them of the options if they ever start to use more regularly.'

(RoB worker, Manchester)

Issues arose, also, with defendants who clearly did not want treatment. In Manchester these defendants were generally not breached, instead they were provided with general advice on harm reduction and allowed to continue on RoB but receive no treatment. A RoB worker explained:

'If they agree that their use is problematical then we offer them treatment ... [the decision to offer treatment is taken] in consultation with them, if they accept that their use is causing them problems both either medically or through the criminal justice system ... if they don't want treatment ... you get quite a lot of that again with stimulant users, they go off down to xxxx, ... they are seen by a specialist ... if the stimulant worker thinks that treatment is not appropriate for them they say they keep it at what they call, again a cross over term, a Tier two, which means the defendant] knows where to go ... [It is down to the defendant to make that decision] in consultation, [it's a] client focus, client led service ... you can't force them.'

(RoB worker, Manchester)

In Salford, defendants who did not want treatment were also encouraged rather than forced into treatment as a worker explained:

'[We would not recommend someone for treatment] if they don't want it. If it's not something they are looking at they will comply to ROB but ... onto a treatment programme it's not what I want ... [They would not be breached but would offer them alternative appointments] ... we'll look at other angles and try and get them involved in what we are providing, services and stuff like that and if you know hopefully by then they will say well I'll discuss try and get them booked in with the doctor.'

(RoB worker, Salford)

It is recommended that consideration is given to how to deal with defendants who are controlled/recreational users.

Treatment capacity and resourcing

Several interviewees were concerned about capacity and resourcing of treatment services. RoB workers in Nottingham were aware that despite the fact that all defendants on bail with RoB were supposed to have a CJIT worker, in reality there were not enough workers to support this. As one explained:

[They get a CJIT worker but] they often don't keep in touch with them and then the big bosses said well they should be seen by their CGIT worker at least once a week if they are on RoB, well there weren't enough drugs workers for that to be put into place. I think we have increased the number of drugs workers now ...now I don't know what the average caseload is but ... I did hear one of the drugs workers got about 28 cases which I think is rather high ...'

(RoB worker, Nottingham)

Capacity issues were not so apparent in Manchester and Salford probably because the number of defendants subject to RoB at any one time was lower. However, managers and workers were aware that if numbers increased the issue of capacity within treatment services would need to be addressed.

Lack of information and feedback about treatment services

There was a general lack of knowledge on the part of interviewees about what treatment entailed. Only interviewees who were directly involved in the provision of treatment services were able to provide any detail about the services offered. A magistrate's comments were typical:

'Well, I don't know ... It's got to be a proper treatment programme hasn't it? I don't know what it is, what happens.'

(Magistrate, Manchester)

A District Judge agreed:

'I would quite like to know the mechanics of the follow-up appointment actually and this may be because I haven't read the literature properly but the first appointment is within a day or two of the court appearance and I would quite like to know how demanding the series of appointments that follow that is, and what it is hoped to do because it is such a short period that we tend to deal with. I suppose I would like some more information ... with somebody who runs the scheme and know how it works and can tell us of successes and failures would be quite useful.'

(District Judge, Manchester)

A common theme raised during interviews was that bail decision-makers wanted more feedback about the treatment provided to defendants bailed with RoB. As a magistrate explained:

'I doubt that anybody is going to be able to answer these questions for you [about effectiveness] because it's always been something that I thought that we have missed. We should have feedback, we ought to have feedback ... we ought to know.'

(Magistrate, Manchester)

A District Judge concurred:

'I would like to think so but I don't know because I don't get any feedback ... I would like to know generally how effective all this really is in stopping re-offending and getting people into treatment.'

(District Judge, Nottingham)

There was some evidence to suggest that if positive feedback was available this may influence decision-makers and increase the use of RoB. A CPS lawyer explained:

'Yes, I suppose if you know how successful it was working then, yes, we have got some statistics to look at and it may well influence as decision.'
(CPS, Manchester)

A legal adviser agreed:

'I don't know how effective it's been because we don't get the figures through ... Yes, I think so, and especially from the magistrate's point of view if they can actually see that it's working then maybe they'd be more inclined to impose restriction on bail and perhaps in terms of factors and other considerations, they'd give it a higher priority, they'd think about it a little bit more.'
(Legal adviser, Manchester)

Despite the lack of concrete evidence of the effectiveness of RoB in channelling defendants into treatment, most interviewees thought that RoB should be effective and there was a general feeling that it was. A District Judge explained:

'I suspect it ought to be because you have caught some of the people that want to be helped so I would like to think it has made some difference and I suspect it has.'
(District Judge, Manchester)

A magistrate concurred:

'I would hope it would have an effect, I have no direct knowledge of this.'
(Magistrate, Manchester)

Other interviewees provided more concrete evidence:

'It appears to be quite effective. You regularly get defendants coming back and say 'yes, I've already got my methadone script sorted and I'm looking at a residential detox'. That's something that I've heard more in the last eighteen months than I did the eighteen months before that.'
(Legal adviser, Nottingham)

It is recommended that consideration should be given to how treatment outcomes may be monitored and how feedback about the operation of the RoB process may be provided to criminal justice professionals.

Fair access to treatment services

There was a perception by some interviewees of the potential contradiction inherent in RoB in as much as individuals who offend receive preferential access to treatment services. A magistrate explained:

'... you almost want to say to people, you know, if you want the help, commit a crime, get a record.'
(Magistrate, Nottingham)

Summary

This chapter explored the effectiveness of RoB in ensuring that defendants access drugs treatment. It demonstrated that RoB has the potential to be an effective mechanism for ensuring that defendants access or continue to access drugs treatment during their remand period. The chapter has shown that a significant number of defendants who were bailed with RoB had their needs assessed in relation to their drug use and entered treatment as a result. A significant number of defendants were not in treatment at the time RoB was imposed. Evidence suggests, also, that RoB appeared to channel defendants into treatment who would not otherwise access it. However, a relatively high proportion of defendants who were bailed with RoB were already in treatment. This raises issues about the role of RoB in such cases particularly as retention rates in such cases appear to be lower than if RoB is not imposed.

The majority of defendants bailed with RoB were recorded as being retained in drugs treatment for 12 weeks or more. Defendants who were already in treatment or who entered treatment by another route were more likely to be retained in treatment for a period of 12 weeks or more and to comply with the treatment regime. Treatment retention rates were lower for defendants granted bail with RoB than for defendants granted bail without RoB. Retention rates for defendants bailed with RoB who were already receiving treatment when they were remanded were higher than those who were 'new' to treatment.

Interviewees raised a number of issues in relation to drugs treatment. Firstly, interviewees wanted further guidance on how to deal with defendants bailed with RoB who did not require or want drugs treatment. Concerns were also raised about the capacity of treatment services to work with defendants bailed with RoB and the resourcing issues which may arise. Generally court users had limited knowledge of what treatment was provided to defendants as part of the RoB process and wanted more feedback about treatment provision.

6. Defendants' perspectives on RoB

This chapter reviews defendants' views on RoB and draws on self-report data collected in interviews. First, it provides details of the background and circumstances of interviewees. Secondly, it discusses the process by which RoB was applied. Finally, it examines the impact of RoB primarily in relation to drug use and offending.

A total of 61 defendants were interviewed who were bailed with RoB during the pilot. Nearly half (n=29) of the interviewees appeared in Nottingham City magistrates' court, a third (n=20) of interviewees appeared in Manchester City magistrates' court and a fifth (n=11) of interviewees appeared in Salford court.

Three-quarters (n=47, 77%) of the interviewees were male. The majority (n=50) were White. Five interviewees described themselves as Black, two Mixed Race and one Asian. Just under half (n=28, 46%) of interviewees were aged 30 or under. The youngest interviewee was 18 and the oldest 50.

A total of 15 interviewees had been on bail with RoB for 12 weeks or more at the time of the interview. Half (n=31) of the interviewees had been on RoB for four weeks or less. A quarter (n=16) of interviewees reported having been on RoB at least once before. Five interviewees claimed to have breached bail with RoB previously. Prior knowledge of RoB was patchy. Around half (n=28, 46%) of interviewees had heard of RoB before being bailed with the condition applied, including 12 interviewees who had not been on bail with RoB previously.

Interviewees' circumstances

In terms of living arrangements, three-fifths (n=36, 59%) of the interviewees were living in rented accommodation. Only one interviewee was an owner-occupier. A further 13 interviewees were living with family or friends. Ten interviewees lived in more temporary accommodation. This included six interviewees who were living in probation or bail hostels, three interviewees who lived in other hostels or shelters and one interviewee who was living in bed and breakfast accommodation. Nearly half (n=28, 46%) of the interviewees had lived in their accommodation for six months or less implying a degree of housing instability.

Three-quarters (n=46, 75%) of interviewees lived with at least one other person. Sixteen interviewees lived with their parents only (n=11) or with siblings (n=2) or partner (n=1) or friends (n=1). A further 12 interviewees were living with their partner either solely (n=7) or with parents (n=1), children (n=3) or friends (n=2). Three interviewees lived with just their children and one with an ex-partner. Three-fifths (n=37, 61%) of interviewees had children. Most interviewees had one (n=12) or two (n=15) children. All but one of these interviewees had at least one child under 16. Twelve interviewees had no contact with their children.

Twenty-two interviewees claimed that the people they lived with used drugs and this included 12 partners. One interviewee's partner, who he did not live with, used drugs, also. Ten interviewees admitted that their partners' drug use affected their own use. Additionally, 46 interviewees claimed that their friends used drugs and 37 of these interviewees said that their friends' drug use affected their own use.

In terms of employment, only four interviewees reported working, two full-time and two part-time. All of them worked in unskilled jobs. Half (n=33, 54%) of interviewees described themselves as unemployed with a further 22 claiming that they were sick or unable to work. Nearly two-thirds (n=36, 63%) of interviewees who were not working had been out of work for more than two years. Interviewees appeared to have very limited incomes. Only five interviewees claimed to have weekly incomes of over £100 with 22 interviewees claiming to have weekly incomes of £50 or less.

Interviewees' expectations of RoB

Table 6.1 presents interviewees' expectations of RoB. It demonstrates that a quarter (n=17, 28%) of interviewees did not expect to gain anything from being bailed with RoB. The largest proportion of interviewees who had expectations of RoB hoped to tackle their drug use (n=17, 28%) or receive treatment (n=14, 23%). Other interviewees cited changing their lifestyle or behaviour (n=11, 18%). These expectations suggest that at least some interviewees wanted to tackle their drug use and appeared to be motivated to change.

Table 6.1: Interviewees' expectations of RoB	
	N
Nothing	17
Stop or reduce drug use	17
Script	7
Treatment	7
Change lifestyle	7
Stop or reduce offending	4
Help/support	4
Advice/information	3
Quick treatment	2
DTTO	2
Accommodation	1
Don't know	4

Arrest referral

The first opportunity for suspects to meet with drugs workers is at the police station when all suspects should be asked if they wish to see arrest referral workers. This is a service which aims to encourage drug users into treatment by providing advice and access to drug treatment services (Sondhi *et al.*, 2002). It is entirely voluntary.

Nearly all (n=56, 92%) of the interviewees reported being offered the opportunity to see arrest referral workers at the police station. Yet, 34 interviewees reported not seeing arrest referral workers. A high proportion (n=14) of these interviewees said they did not want to see workers because they were already in treatment. As one interviewee explained '[I'm] already in touch with drug treatment so no point in seeing them'. Six interviewees explained that they simply could not be bothered. Other reasons provided by interviewees for not seeing arrest referral workers included wanting to get out of the police station as quickly as possible (n=3), that they did not want help (n=3) or that they thought that it was inappropriate to discuss drug issues in police stations (n=2). However, five interviewees reported not seeing an arrest referral worker because they were unavailable. As one interviewee recounted: '... agreed to see one but it was late ... maybe they had all gone home so did not see one'.

A total of 22 interviewees reported seeing arrest referral workers at the police station. Nearly half (n=10) of these interviewees mentioned that they saw the workers because they wanted to tackle their drug problems. Other interviewees simply wanted to get out of their cells (n=6) or wanted someone to talk to (n=1). Two interviewees mentioned accessing scripts or fast track treatment if they saw a worker.

Most (n=18) of the interviewees who saw arrest referral workers recalled being assessed by them. Other interviewees reported discussing their drug use or RoB with arrest referral workers. Most (n=20) of the interviewees thought that seeing arrest referral workers was

useful mainly because they provided help and advice. One interviewee explained: '[they] told me a lot of stuff I didn't know, explained ways of getting off it [drugs]'. Another interviewee commented when asked about her experience of arrest referral:

'She encouraged me to take steps to get off drugs, opened my eyes to what was the right direction.'

Other interviewees mentioned receiving help to access treatment services (n=14). One interviewee commented:

'Got into treatment straight away. They were that good that without them, I don't think I would have come off them [drugs].'

Thirteen interviewees reported that treatment appointments were made for them by arrest referral workers within a week. All interviewees claimed that they intended to go to these appointments mainly because they wanted help to reduce their drug use. Two interviewees reported not attending their appointments because they had no money to get there or because details of the appointment arrived too late.

The RoB process

This section presents interviewees' views on the RoB process including what happens at court before, during and after remand hearings.

Before court

In terms of contact with RoB teams, around half (n=25) of the interviewees reported seeing RoB workers before their court appearance. Additionally, two interviewees recalled seeing probation staff. Interviewees said that these discussions generally related to current drug use (n=12) or treatment (n=4) or whether or not they understood (n=3), would comply with (n=2) or consent to (n=2) to RoB. The majority of interviewees (n=20) found this contact very useful or useful. One interviewee explained that it: 'enlightened me about what was on offer' while another commented 'basically knew there was somebody there that was going to help you'. Thirteen interviewees said that they were satisfied with what RoB workers had done mainly because they told them what they needed to know (n=4) or because they were helpful (n=2) or easy to get along with (n=1). One interviewee commented that simply talking helped:

'Talking about problems ... useful to tell people why you are doing things ... reasons for doing things.'

Solicitors appeared to play an important role in RoB in terms of discussing it with their clients before court and ensuring that defendants are aware that RoB may be imposed. Two-thirds (n=40, 66%) of interviewees reported that they had discussed RoB with their solicitors before their court appearance. Many of these discussions focused around the requirements of RoB (n=28). In other discussions between interviewees and solicitors likely sanctions were discussed (n=3) and consent (n=3). In thirteen cases, interviewees recalled RoB being 'sold to them' as a way of getting help or treatment by their solicitors. Six interviewees recalled solicitors asking about their drug use prior to court hearings. Of some concern was that one interviewee claimed that he was advised to plead guilty in order to have RoB imposed. He said: '... pleaded not guilty. Told to change it to guilty then they would give me RoB.'

In court

Around three-quarters (n=43, 71%) of interviewees recalled their drug use being discussed during the court hearing. Usually these discussions were about current drug use (n=38). On only five occasions could interviewees remember their drug use being linked directly to their offending during remand hearings.

While legally defendants do not have to consent to RoB, they may refuse to have it applied. Defendants' consent may signal motivation to change although it may simply be a response to the risk of a custodial remand. However, for some remand decision-makers, ensuring that

defendants actively consented to having RoB applied was reported to be crucial. Three-fifths (n=36, 60%) of interviewees remembered being asked whether or not they would attend assessments and/or treatment during court hearings. Twenty-eight of these interviewees recalled being asked about both assessment and treatment. Eighteen defendants could not remember being asked about the likelihood that they would attend assessment and/or treatment. Nevertheless, most interviewees claimed that they would have given their consent. All but two interviewees said that they either agreed to attend assessments during court hearings or would have done so if asked. Similarly, only four interviewees said that they would not have agreed to attend treatment. A substantial minority of interviewees mentioned that they agreed to assessment and treatment conditions because of the risk of custodial remands or to ensure that they were released on bail. One interviewee explained:

'Just thinking about getting out [of custody], would comply anyway. I knew I had to comply with it [RoB] to get bail.'

Another interviewee agreed: *'I did not care, just agreed to it. I just wanted to get out.'*

All but one of the interviewees remembered being told by the court what RoB entailed when it was imposed. Most of them recalled being told that they had to attend appointments or go and see the RoB team (n=46). Two-thirds (n=38, 62%) of interviewees remembered being given an appointment time by the court. Interviewees in Nottingham were less likely to report being given an appointment time which reflects the practice discussed in Chapter 7 of simply asking defendants to visit the RoB office immediately after court. In terms of other information provided by courts, two-thirds (n=40, 66%) of defendants recalled being told that they must attend appointments otherwise they would be remanded in custody. Around half (n=29, 48%) of the interviewees reported being told that RoB was a bail condition which they must comply with. Some interviewees mentioned that they were advised that RoB would provide them with help or treatment for their drug problem (n=8) or to get a script (n=4). Four interviewees reported that nothing was said to them. A further six interviewees said that they were confused or could not remember what they were told at court hearings. As one interviewee explained:

'I didn't understand it at first. Didn't turn up for it, the way magistrates described it I didn't understand a word of it.'

Another interviewee explained his lack of understanding:

'Apparently I was meant to go [to see the RoB workers] as soon as finished out of court. I didn't understand. I left the building.'

This highlights the need to ensure that defendants understand fully the requirements of RoB.

Twenty-eight defendants reported going to see the RoB team immediately after court. At the time they left court, most (n=53, 87%) of the interviewees intended to go to their first appointment.

After court

Over half (n=34, 58%) of interviewees reported that their first appointment with drugs services was arranged within three days of their court appearance. Eighteen interviewees recalled waiting a week or more and two interviewees said they never attended an appointment. The majority (n=43) of these appointments were for assessments.

Content of assessment and treatment

In terms of the content of assessments, interviewees reported mainly discussing their drug use (n=17) and possible treatment (n=9). Nearly all interviewees (n=28) claimed that assessments were useful because they provided treatment (n=13), help and advice (n=9) and an opportunity to talk to someone (n=4). One interviewee explained how it had helped her: 'helped talking about it. Helped me see what was wrong, how far I had slipped'. Another interviewee agreed that talking about his drug problem had helped:

'I realised how bad [it is] on drugs. I had not had opportunity to sit down and talk about drugs before. When talking about it with someone else I realised how bad it has got.'

Other interviewees were impressed by the speed at which treatment was available and this was seen as a major advantage of RoB. As one interviewee explained:

'[The assessment] points out drug use and what treatment is on offer and it is not as hard as you think it is. Had tried to get treatment before but had to wait four weeks if not more for the first appointment. With RoB I was seen in two weeks. This is much better. Anyone who wants to get treatment, really wants it, RoB is good. I had a script within two weeks.'

Another interviewee concurred:

'I'm desperate for treatment. Before this came out it used to take months to get treatment. Now if you want it, it's there straight away.'

Three interviewees said that assessments were not very useful because they were too inquisitive or because they were already in treatment. The outcome of assessments for most interviewees was some form of treatment.

Half (n=30) of the interviewees reported that treatment appointments were made during assessments and one further interviewee said that he was already in treatment so he did not need one. One interviewee who was not given an appointment reported wanting treatment. In terms of waiting times for appointments, nine interviewees said that treatment appointments were made for them within a week. A further nine interviewees said that appointments were made for a week later and three interviewees for two weeks later. Two interviewees claimed that they had to wait over two weeks for appointments. All but two of the interviewees felt they required treatment and only one interviewee, who was not already in treatment, reported that he would not attend.

In terms of the treatment received, the majority (n=44) of interviewees were provided with medication. The medication provided was methadone (n=31) and subutex (n=10) or both. Seven interviewees reported receiving counselling. One interviewee explained how this was useful for him:

'... I can talk to [name] about anything. One day when I was stressed I went to use, talked to her [drugs worker] and it calms me down.'

A small proportion of interviewees had received other forms of treatment. These included medication such as sleeping tablets, attendance at courses, massage and art or boxing classes. Additionally, a few interviewees had received assistance with other aspects of their lives including housing (n=5) and general support (n=2). This additional support was perceived to be helpful. Yet, a significant minority (n=15) of interviewees reported that they would have liked to have received another form of assistance. In particular, interviewees wanted counselling and help with housing, benefits and finances. Most of these interviewees came from Manchester (n=10) which raises questions about whether the holistic approach which is theoretically taken in Manchester is practised in reality.

All but three interviewees who had received treatment thought that it was helpful. Generally this was because their drug use was being addressed, their offending had reduced, their lifestyle had improved or they had someone to talk to. Of the three interviewees who found treatment unhelpful, one said that he had stopped using drugs on his own, another that he was prescribed the wrong medication and another that there was no treatment available for crack users.

A small proportion of interviewees were critical of the narrow range of treatment which was available. Comments were made about methadone being the only treatment available, that treatment services concentrated on heroin users and that counselling and other support was not available. One interviewee explained: '... would like help in all aspects of my life.'

Methadone is not enough'. For a few interviewees this meant that they did not engage in drug treatment during their time on RoB as they wanted a more holistic approach to be taken with their treatment. ***It is recommended that consideration should be given to how the range of treatment offered may be improved.***

Compliance

Most interviewees reported that they complied with both assessment and treatment. Thirty-nine interviewees claimed that they attended assessment appointments. The majority (n=50, 85%) of interviewees had attended, at least, one treatment appointment. Half (n=27) of these interviewees had attended between one and three appointments. A third (n=16) of the interviewees had attended ten or more appointments. Most (n=44) of the interviewees who received treatment were still in treatment at the time they were interviewed and said that they intended to continue.

The reasons given by interviewees for their compliance generally fell into two broad categories. Firstly, interviewees complied because of threats from the criminal justice process. These included the risk of custodial remands. One interviewee put it simply: *'They said I had to turn up or go to prison.'* A second interviewee agreed:

'It keeps me out of trouble. I knew if I got into trouble from then to now I would have been remanded [in custody] straight away.'

Interviewees reported complying also because they perceived RoB to be compulsory. One interviewee explained:

'I knew I had to have treatment, without RoB it is so easy to see the dealer rather than have treatment. RoB forced me and I needed this coercion.'

A second interviewee concurred:

'I usually have no will-power but because it's a court order got condition over head. Have to go rather than want to go.'

A second source of compliance was internal motivation. This included interviewees wanting to stop or reduce their drug use. For example, one interviewee explained that RoB provided an 'opportunity to do something, to address drug use'. Other interviewees mentioned that they wanted to change their lifestyle. Thirdly, a smaller number of interviewees consistently mentioned that they complied because they wanted to access medication.

Reasons for complying with RoB may change over time. Fear of custodial remands was mentioned by a greater number of interviewees in relation to ensuring that they attended initial assessments than complying with treatment. For the latter group, internal motivations such as wanting to deal with drug problems or lifestyle changes was more frequently discussed. One interviewee explained how her reasons for complying had changed:

'By complying with it, I would not get into trouble. If I didn't comply with it, get arrested. It was good later to have someone to talk to.'

Another interviewee concurred when asked if he wanted to stop taking drugs when RoB was applied:

'I was not convinced at first, undecided ... I am convinced now, [since] spending time on RoB changed my mind because do not want to go to prison, want my family back, more respect from girlfriend.'

Yet, a few interviewees commented that complying with RoB by attending appointments does not necessarily result in reductions in drug use. As one interviewee explained:

'I still tested positive while on RoB but because I attended all the appointments that was counted as compliance.'

Reported rates of non-compliance were relatively low. In terms of treatment, very few interviewees reported not attending any treatment appointments. Mostly interviewees missed one or two appointments and attended the rest. The main reasons given for non-attendance were ill health, family problems, lack of money for transport or simply forgetting about the appointment. One interviewee commented:

'I forgot to go. No reason why I did not attend although I did intend to attend when given RoB.'

Deliberate breaches appeared to be rare. Only one interviewee said that she did not attend her assessment because she did not need treatment while another interviewee claimed that he had not attended his treatment appointments because he did not approve of the treatment offered.

Accessibility and transport to and from appointments were raised by a significant minority of interviewees in relation to attendance. Interviewees' perceptions of how easy it was to get to appointments appeared to be an important determinant of attendance. The location of appointments, public transport links, the provision of bus passes and lifts were given as reasons why appointments were attended. Meanwhile lack of money for transport and lifts not appearing were provided as reasons why appointments had been missed. ***It is recommended that consideration should be given to providing financial assistance to defendants in order to attend assessment and treatment appointments.***

A few interviewees reported playing the system by giving the impression they were complying when they had no intention of tackling their drug use. One interviewee explained:

'I did not want to stay in custody, agreed to go on methadone till court case is over even though I have no intention of giving up drugs or stopping offending.'

Another interviewee explained her strategy:

'I had decided that would play along, attend appointments but would sell or give away the methadone.'

Yet another interviewee concurred:

'I just went along with everything that was said. I had to do something not to go to prison.'

Nearly all the solicitors interviewed recognised that not all their clients were going to comply. As one explained:

'Well there's two types of client who have a drug problem. The clients who have really really struggled through to try and get help and assistance of treatment ... so the impact of RoB had given those clients the opportunity to see people ... the other clients couldn't give a damn and are going to fail to comply with any restriction either because they don't know how to comply ... or the addiction and the power of the drug that they are addicted to is so great that they just couldn't comply. There is nothing that can tempt them away from it.'

A second solicitor confirmed this view:

'... I get the impression ... that people will say they will keep the appointments, etc., just to get bail, when they've perhaps got little intention of doing anything about it.'

In terms of more formal breach action, four interviewees had received informal warnings. Sixteen interviewees reported that they had been breached and six of these interviewees had received an informal warning also. Around half of the interviewees who breached RoB said they were breached simply because they did not attend. Two interviewees said they failed to cooperate.

In terms of the action taken as a result of breaches, most interviewees reported being re-arrested. Two interviewees said that nothing had happened and one interviewee had his treatment withdrawn. Six interviewees thought that it was fair that they were breached but seven interviewees thought it was unfair. Several interviewees who were breached thought that it was unfair because the requirements were not clear and they had misunderstood them. One interviewee explained:

'I was told to go to court ... but not clear ... could have made it clearer to me. Didn't know the room existed [outside court 10], never been before.'

Another interviewee concurred: *'If it had been explained to me, I would have turned up.'* This reiterates the importance of ensuring that defendants are aware of their commitments in terms of RoB.

Drug use

This section presents the findings relating to interviewees' self-reported drug use. Interviewees were asked about their drug use six months prior to being bailed with RoB, the month prior to being bailed and during the time they were on bail with RoB.

Unsurprisingly, all interviewees were drug users and reported using drugs in the six months prior to RoB being applied. Most interviewees had long drug-using careers. Two-thirds (n=49, 64%) of the interviewees had started using drugs by the age of 16. The youngest starting age reported was nine and the oldest 28. The mean age for starting drug use was 15 years. Interviewees had long drug-using careers ranging from four to 37 years. The average length of time between first drug use and the imposition of RoB was 17 years. Only 14 interviewees had drug-using careers which were 10 years or less in length.

The majority (n=51, 84%) of interviewees stated that they had a drug problem. The length of time interviewees reported having a drug problem varied between one and 30 years. The mean length of time was just over 11 years. Forty-nine of these interviewees said that they needed drug treatment. Nine interviewees thought that they did not have a drug problem mainly because they were either recreational or controlled users. Seven of these interviewees were recreational/controlled drug users, one interviewee was a crack/cocaine user and one was a non-user in the month before RoB was imposed. Despite not perceiving himself as having a drug problem, one interviewee said that he required drug treatment.

In terms of previous treatment, two-thirds (n=42, 69%) of interviewees had accessed drug treatment in the past. Around half (n=19) of these interviewees claimed to have had no contact with treatment services for more than five years. A further eight interviewees reported having no contact with treatment services within the last two years. Interviewees were most likely to have had contact with community drugs teams (n=22) while others had been in contact with specialist treatment services (n=7), DIPs (n=7) and GPs (n=5).

In terms of the treatment they received previously, most interviewees reported being given methadone (n=26) or subutex (n=5). Three reported simply seeing drugs workers while others mentioned receiving advice and counselling (n=2) or accessing needle exchanges (n=2).

Twenty-six interviewees reported still being in contact with treatment services when they were bailed with RoB. Most of these interviewees were in touch with drug agencies but seven interviewees were serving sentences with drug treatment requirements and four were receiving help from their GPs.

In terms of interviewees' perceptions of their previous drug treatment, 20 stated that it was mostly positive. This was because they received scripts (n=5), received support (n=2), wanted to tackle their drug problem (n=3) and had a good worker (n=1). Conversely, 13 interviewees said that their experience of drug treatment was mostly negative mainly because they were not ready for treatment (n=4). Other interviewees blamed the fact that they simply received medication and no additional support (n=2) or that they were given inappropriate treatment (n=2) for its failure. Several interviewees said that the treatment took too long to access as

one interviewee explained: 'only problem was waiting, induction then a month before treatment'.

A fifth (n=13, 21%) of the interviewees said that they had never managed previously to reduce or stop their drug use. Conversely, nearly three-quarters (n=42, 70%) of interviewees claimed to have successfully reduced or stopped their drug use in the past. The reasons given for being able to reduce their drug use were diverse but centred around: going to prison (n=9), going into treatment (n=8), lifestyle changes (n=7), illness (n=4), problems with family or friends (n=4), pregnancy (n=2) and will-power (n=7). Twenty-one of these interviewees reported having treatment at the time their drug use ceased or was reduced.

The majority (n=52, 85%) of interviewees claimed that they wanted to stop taking drugs when they were bailed with RoB. More than half (n=30) of these interviewees reported being motivated to reduce their drug use in order to change their lifestyles. Other interviewees mentioned getting access to treatment (n=6), illness (n=1) and reducing offending behaviour (n=1) as motivators. Six interviewees said that they did not want to give up drugs and three of these individuals were heroin and crack/cocaine users. The majority of interviewees who were not motivated to change their drug use did not see it as a problem. One interviewee said that he was not ready to stop.

Drug use in the month before RoB was imposed

All but two interviewees reported using drugs in the month before they were bailed with RoB.⁹¹ The 59 users were categorised according to their pattern of drug use.

- **Heroin and crack/cocaine users:** all 36 interviewees in this group used heroin and either crack or cocaine. All of them used either heroin, crack or cocaine daily and at least another one of these drugs more frequently than weekly. They described their use as dependent.
- **Heroin users:** these ten interviewees used heroin daily. All but one interviewee described their use as dependent. The interviewee who labelled his use as recreational used weekly and spent £300 a week on drugs.
- **Crack/cocaine users:** four interviewees used cocaine or crack daily and described themselves as dependent.
- **Recreational and controlled users:** this group of nine interviewees includes one recreational user of cannabis and ecstasy, three recreational cannabis users who six months before being bailed with RoB were using heroin and crack/cocaine but who were in treatment the month before RoB was imposed and three recreational and controlled crack/cocaine users who reported using no more frequently than monthly.

Most of the interviewees (n=42) using the month prior to RoB being imposed were poly-drug users. The highest number of drugs reported to have been used in the month prior to RoB being imposed was eight but most interviewees (n=36) had used two or three drugs. Twenty-seven of the interviewees using the month prior to being bailed with RoB reported injecting. Most (n=21) interviewees were heroin and crack users. Six interviewees were heroin users and one interviewee claimed to be a recreational user.

The average daily spend in the month before RoB was imposed was £96. Heroin and crack users spent the most on average (£115). Heroin only and cocaine/crack only users reported spending similar amounts on drugs (£73 and £70 respectively). Recreational/controlled users spent an average of £10 a week.

For most users, patterns of drug use did not change in the period between six months prior to RoB being imposed and one month prior to being bailed. However, two users who were using six months prior to RoB being imposed reported no drug use one month before RoB was

⁹¹ One interviewee explained that this was because there was a long delay between his arrest and the date he was bailed with RoB and in the intervening period he had stopped using drugs. A second interviewee had been in a coma for most of the month prior to being bailed with RoB.

imposed. A further five interviewees reported that their drug use had decreased between six months and one month before they were bailed with RoB. Several of these reported reductions in drug use were the result of receiving treatment.

It is clear that many users continue their use of illegal drugs in conjunction with methadone which has been identified as problematic (Best and Ridge, 2003). Nearly two-fifths (n=23, 39%) of drug users interviewed reported using methadone in the month before RoB was imposed. Sixteen drug users were using prescribed methadone, two drug users were using non-prescribed methadone and five were using both. A further two drug users reported using methadone six months before being bailed with RoB but not the month before. The majority (n=24) of methadone users were users of heroin and crack/cocaine and the five interviewees who used both prescribed and non-prescribed methadone were in this group.

Drug use whilst on bail with RoB

This section discusses interviewees self-reported drug use while on bail with RoB. It shows that half of the interviewees reported reductions in drug use while on bail, just under half reported that their drug use was unchanged and a small number of interviewees reported increased use.

Table 6.2 presents data on changes in drug use between the month prior to RoB being imposed and while on RoB. Table 6.2 demonstrates that seven out of the 59 interviewees who were using in the month prior to RoB being imposed claimed to have stopped using while on RoB. A further 22 interviewees reported reducing their drug use during this time.

Table 6.2 shows that over half (n=17) interviewees reported reducing the frequency of use of, at least, one drug. For example, 11 heroin and crack/cocaine users reported reducing use from daily to between two or three times weekly and monthly. Some of this group also described their use as recreational rather than dependent during the time they were on RoB. Nine interviewees stopped using, at least, one drug type while on bail with RoB. For example, six of the seven pre-RoB heroin and crack/cocaine users reported that they had not used crack or cocaine while on RoB but continued to use of heroin. Four interviewees reported reducing the frequency of drug use and stopping the use of at least one drug.

Conversely, six interviewees claimed to have increased their drug use while on RoB. One non-user who claimed to be an occasional cocaine user but who was not using in the month before RoB was imposed, used cocaine during his time on RoB. A further five interviewees reported increases in their use between the month before they were on RoB and their time on RoB. All of the increased use related to crack. Two heroin users reported that they started to use crack while on RoB having both claimed never to have used it before. A further two users started to use crack while on RoB having used it before but not in the month before RoB was imposed and one user increased his use of crack from weekly to twice weekly. Two-thirds (n=24) of users reported that their drug use remained the same while they were on RoB as it was in the month before it was imposed.

Table 6.2: Changes in drug use between the month prior to RoB being imposed and while on RoB						
	Drug User Group one month before bailed with RoB					
	Heroin & Crack/Cocaine ⁹²	Heroin	Crack/Cocaine	Recreational/controlled	Non-users	Total
No change	13	5	3	2	1	24
Total reductions	21	2	1	5	0	29
Desister	3	0	1	3	0	7
Frequency	11	2	0	0	0	13
Frequency and stopped at least one drug type	3	0	0	1	0	4
Stopped at least one drug type	4	0	0	1	0	5
Total Increases	1	3	0	1	1	6
Frequency	1	1	0	1	0	3
Frequency and new drug type	0	0	0	0	1	1
New drug type	0	2	0	0	0	2
Total	35	10	4	9	2	60

Despite the changes in drug use, few interviewees who continued to use changed drug-using groups. Overall, four heroin and crack/cocaine users became heroin-only users during their time on RoB and three reported becoming recreational/controlled users. Conversely, two heroin-only users became heroin and crack/cocaine users and one non-user became a recreational/controlled user.

Seven interviewees who reported injecting in the month before being bailed claimed to have stopped while on RoB. A total of 18 interviewees reported injecting while on RoB. Sixteen of these interviewees reported injecting in the month before they were bailed with RoB. One interviewee reported starting to inject while on RoB while another restarted injecting having not injected in the month prior to RoB being imposed.

Reported expenditure on drugs appeared to decrease dramatically while interviewees were on RoB. The average daily spend dropped from £96 in the month prior to RoB being imposed to £43 while interviewees were on RoB. Expenditure dropped in all drug-using groups except the recreational/controlled users which rose from £10 to £24 per week.

Over half (n=29) of the interviewees were using methadone or subutex while on RoB. This included 21 interviewees who reported using methadone in the month before RoB was imposed. Seven interviewees who were using methadone in the month before RoB was imposed reported no use of methadone while on RoB. It appears that many interviewees used methadone in conjunction with other drugs while on RoB. Twenty-two of the interviewees who reported using methadone while on RoB also reported heroin use. One interviewee was also using crack/cocaine and two interviewees described themselves as recreational/controlled users. Methadone was being used by four interviewees who reported not using drugs while on RoB.

⁹² One interview was terminated early so information on drug use while on RoB is missing.

Alcohol use

Under a third (n=18, 30%) of interviewees reported using alcohol and only 12 interviewees claimed to have drunk alcohol in the month before RoB was imposed. However, five of these interviewees drank daily and described themselves as dependent. A further four interviewees reported drinking, at least, weekly. Reported patterns of alcohol use did not change substantially while interviewees were on RoB

Offending

This section examines the self-reported offending of the interviewees. First, the section discusses the offending histories of the interviewees. It is clear from the data that interviewees had long and entrenched criminal careers. Many interviewees were persistent offenders yet most of the offending they reported was low-level predominantly theft from shops.

Offending history

Generally, interviewees reported that they had long and entrenched criminal careers. All but one of the interviewees reported that they had previous convictions. The age at which interviewees reported being first convicted of an offence ranged from 10 to 29 years of age. Half (n=29, 49%) of interviewees had convictions before the age of 16.⁹³ Interviewees had criminal careers ranging from one to 37 years. Nearly three-quarters (n=41, 71%) of interviewees had criminal careers spanning more than ten years.⁹⁴ The number of previous convictions reported by interviewees ranged from one to 300. The majority (n=43) of interviewees said they had more than ten convictions.⁹⁵

In terms of the type of offences committed, the majority of the interviewees claimed to typically commit theft and deception offences and most of these interviewees admitted to committing shop theft. Very few interviewees admitted to usually committing more serious offences such as robbery and burglary. Most (n=53, 88%) of those interviewed described their offending as drug-related. Thirty interviewees reported stopping offending when they had reduced or ceased taking drugs previously.

In the month before being bailed with RoB nearly three-quarters (n=44, 72%) of the interviewees reported that they had committed at least one offence. The number of offences admitted during this period ranged from one to 500. The mean number of offences admitted in the month before RoB was imposed was 48. In terms of the offences interviewees admitted committing, most were thefts from shops (n=35) and/or begging (n=2). Very few interviewees reporting committing more serious offences such as robbery, burglary or TWOC (n=4).

The majority (n=52, 85%) of interviewees had been in prison. Most (n=48) of these had served custodial sentences. More than half (n=28, 54%) of the interviewees had been in prison on more than five occasions. Only six interviewees had been to prison on only one occasion. A third (n=18) of the interviewees reported that they had not been in prison for at least two years. A similar number (n=19) claimed to have been out of prison for six months or less and seven of these interviewees had been back in the community for a month or less.

Half (n=30, 50%) of the interviewees reported serving community sentences with drug treatment requirements. Nine interviewees claimed to have had more than one such sentence imposed. Just under half (n=13) reported breaching, at least, one of these sentences. Only three interviewees claimed to have successfully completed sentences involving drug treatment.

Three-quarters (n=47) of the interviewees claimed that they wanted to stop offending when they were bailed with RoB. Additionally three interviewees said that they did not really offend. Most interviewees wanted to stop offending in order to change their lifestyle (n=26) or

⁹³ The mean age of first conviction was 17.

⁹⁴ The mean length of interviewees' criminal careers was 15 years.

⁹⁵ The mean number of convictions reported was 49.

because they were bored or fed up with offending (n=8). Eight interviewees said they had no intention of stopping offending.

Bail history

The majority (n=51, 84%) of interviewees admitted to offending on bail in the past. Eight interviewees said that they had not. Around half (n=32) of the interviewees claimed that being on bail previously had not affected their patterns of offending in terms of the amount and frequency of offending. However, nine interviewees who admitted to offending on bail in the past claimed they had not while on RoB.

In terms of compliance with previous bail conditions, 42 interviewees said they had complied with a further six stating that they had complied with some. Eight interviewees claimed they had not complied with bail conditions previously.

Offending while on bail with RoB

Overall, two-thirds of interviewees claimed not to have offended while on bail with RoB. A third had offended but the majority of these reported reductions in offending. No defendants reported increased levels of offending whilst on bail with RoB.

Two-thirds (n=40) of interviewees claimed not to have offended while on bail with RoB. Interviewees provided a range of reasons for not committing offences including fear of going to prison (n=9), reducing or stopping drug use (n=11) and lifestyle changes such as finding stable accommodation (n=9). One interviewee explained the impact of RoB on his offending:

'Not committing crime. I'm more stable as [I've] not had to worry about making money to buy drugs. Constant pressure to offend to buy drugs but don't feel anymore as got methadone.'

Another interviewee agreed that being on RoB had reduced his offending:

'Stopped shoplifting by taking methadone. I was paying for drugs with shoplifting.'

A third interviewee explained that it was RoB rather than simply being on bail which had made the difference:

'Every other time I got bail I committed offences apart from this time. It's made a difference.'

Twenty interviewees reported offending whilst on RoB. No interviewees said that they had increased their offending. Three interviewees reported that their offending had not changed. One interviewee explained his position:

'It makes no difference that on bail. In some ways it makes it worse. You get locked up for a couple of days and you are rattling. When you come out you want gear.'

Seventeen interviewees reported that their offending had decreased during their time on RoB. Twelve of these interviewees said that their offending had decreased substantially. The reasons provided by interviewees for their reduced levels of offending included reducing drug use (n=5), lifestyle changes (n=5) and the threat of prison (n=4). One interviewee explained his reasons for reducing his levels of offending:

'Not [affected] drug taking but affects offending. I try not to go out as I'm worried about being arrested on bail.'

Another interviewee explained his strategy:

'Look at it [RoB] as the last chance saloon. I have offended and done drugs on bail. I'm a lot more careful. I use what I got more wisely to make it last so not have to go out as often.'

Reported levels of offending varied between one and 100 offences per week but very high levels of offending, over seven offences per week, were restricted to two interviewees. Most interviewees reported committing shop theft (n=17). No interviewees reported that they had committed more serious offences.

Impact of RoB

This section discusses the overall impact of RoB. A third (n=21, 34%) of the interviewees reported that RoB had not impacted upon them. Generally this group commented that their lives simply carried on as they had before being bailed with RoB. Some of these interviewees explained that RoB had not made any difference because they were already receiving treatment for their drug problem. Consequently they reported that being on RoB appeared to make no difference to their treatment regime. One interviewee explained: 'nothing has changed as already in treatment'. Another interviewee commented that he was told:

'... to carry on going to drugs team, had to go anyway to pick up script so it [RoB] has made no difference.'

Yet for some interviewees who were already in treatment, RoB had made a difference as it had made them more likely to turn up for appointments:

'The bail condition was a bloody good idea. Before I might turn up a bit late but now I make sure I turn up for appointments.'

The majority of interviewees reported that RoB had positively impacted upon their lives. One interviewee said of RoB '[It's] brilliant. Helped me stabilise my life, feel better, healthier'. Another interviewee agreed saying:

'[RoB] helped a lot really, got to where I wanted to be only because I was made to get it.'

A third interviewee explained what had happened to him as a result of RoB:

'Everything's stopped, I don't offend, don't take drugs. I'm trying to live life, get employment. I've just done a fork-lift driving course, my family is coming together. Sorted head out, see things clearer.'

The major impact of RoB reported by interviewees was that it directed them into drug treatment. As one interviewee explained:

'I probably would not have got treatment if I hadn't been on the CJIT [RoB] condition.'

A second interviewee concurred:

'If not had the CJIT [RoB] condition, wouldn't have sought treatment now, maybe eventually but not yet.'

Several interviewees explained how RoB had given them the final push to seek help with their drug use:

'Getting arrested spurred me on to get treatment ... was planning on getting treatment but would have put it off for another day.'

Another interviewee agreed:

'Ready to give up, wanted to keep appointment but was still good that RoB gave that push.'

Although interviewees perceived RoB to be an important instrument for getting into treatment this was tempered by the view that individuals had to be motivated to change. One interviewee explained when asked if RoB could help other drug users: 'It can do if ready for it. This is the bottom line.' Many interviewees agreed saying that RoB only helped them get into treatment because they were ready to change. One interviewee explained about this experience: 'It only now had an effect because the time is right. I was ready to change.'

Table 6.3 presents data on the impact of bail with RoB upon interviewees' behaviour. Table 6.3 shows that a significant minority (n=15) of interviewees reported that being on bail with RoB had no impact on their behaviour. Table 6.3 shows, also, that the most reported impact of RoB was reduced offending and drug use. One interviewee explained the impact on his drug use:

'I've reduced drug taking by more than half. Made me better with appointments, stabilised me for life in general. Methadone has replaced the need for heroin. I haven't needed to use as much heroin.'

Another interviewee explained the impact on her:

'Stopped taking drugs, treatment acted as a substitute. It is giving me time to think about what doing, not having to run about getting money for drugs.'

Most interviewees who reported reducing their drug use also claimed to have stopped or reduced their offending. As one interviewee described:

'I've changed, I'm thinking want to get clean. Not been on drugs, not needed to offend.'

Table 6.3: Impact of bail with RoB on behaviour	
	n
Reduced offending	12
Reduced drug use	9
More aware and careful	7
Think twice about offending	7
Increased motivation	6
Changed lifestyle	4
Displacement of offending	1
None	15

Table 6.4 presents the reasons provided by interviewees why RoB had changed their behaviour. Table 6.4 shows that the most common reason why bail with RoB affected interviewees' behaviour was that the treatment they received reduced their drug use. The risk of prison was also a factor for some interviewees. One interviewee explained why being on RoB had changed his behaviour:

'If I got bail and then went out shoplifting, would go back into jail again so started reducing offending.'

A second interviewee agreed:

'Bail with treatment has made me think twice. It changed my offending because if I were breached I would go to jail.'

Interviewees commented that other bail conditions such as curfews and exclusion zones also impacted upon their behaviour. Curfews were reported as particularly useful as they provided structure to interviewees' lives and prevented them from going out and offending. This suggests that reported changes to behaviour may not simply be a result of RoB but of a package of bail conditions. It may, therefore, be useful to impose other bail conditions to support RoB and increase the likelihood that changes in behaviour may occur as a result.

	N
Treatment reduced drug use	27
Threat of prison	10
Other bail conditions	10
Fear of arrest	6
Support	5

Some interviewees reported that it was the support they received while on RoB which had changed their behaviour as one interviewee explained:

'In the long term, hopefully I will stop drugs altogether ... means a lot to get help and support.'

Three-fifths (n=37, 61%) of interviewees said that RoB would affect their behaviour in the longer term. This was mainly because it had helped them to stop or reduce their drug use and change their lifestyle. Twenty-two interviewees said that it would not affect their behaviour in the longer term.

The majority (n=52, 85%) of interviewees claimed that they intended to continue with drug treatment after RoB had finished. Twenty-three of these interviewees stated that they would continue because they were motivated to change. Seven interviewees reported that they had received sentences involving drug treatment and three interviewees said they would continue with treatment because of the support they received. A further six interviewees stated that they would continue because they wanted a script. Only six interviewees said that they would definitely not continue in treatment.

General views of RoB

The majority of interviewees were positive about RoB. Forty-seven interviewees reported positive aspects of RoB. Additionally, 45 interviewees were unable to think of any negative aspects of RoB. Although 13 interviewees reported negative aspects of RoB, all but three also mentioned positive points. Fifty-four interviewees said they would agree to going on RoB again. Only five interviewees said they would definitely not consent to RoB again.

Interviewees were nearly evenly split in their opinions about whether or not it was right that bail could be refused if defendants do not agree to have RoB imposed. Interviewees (n=28) who thought that bail should not be refused in such circumstances commented that entering treatment should be voluntary and to be a success individuals must be motivated to change. One interviewee explained:

'[RoB] is a bad thing. If you try to make someone stop using drugs they will rebel ... they have to want to stop using.'

Another interviewee agreed:

'Don't think it should be so. Some people aren't ready for treatment. I've been in treatment before and messed up. You shouldn't threaten people with it. I agreed to it because I wanted treatment. Other people could agree because they want bail and they clog up the system.'

Interviewees (n=30) who looked more positively on the way in which RoB persuaded defendants to seek treatment commented that it was justified if defendants were assisted to tackle their drug use. One interviewee explained:

'If offending for drug use, it gives them a chance. If they're not going to get off their arse to get into drug treatment. If it leads into getting treatment, it is not a waste of time.'

Other interviewees mentioned that defendants still had a choice about whether or not to take up the offer of treatment. Six interviewees thought that RoB was necessary to force people into treatment. One interviewee summed up this position:

'Basically, they're saying to you, you can get help yourself or go back to prison. It's your choice.'

Summary

This chapter explored interviewees' views on the RoB process and examined the impact of RoB on interviewees' lives focusing particularly on drug use and offending. Interviewees were generally satisfied with the RoB process and found that it was an effective way into drug treatment. The majority of interviewees were satisfied, also, with the treatment and help they had received as a result of RoB. Interviewees were particularly positive about the speed at which treatment was made available. However, some interviewees were critical of the narrow range of treatment which was available and wanted a more holistic approach to treatment to be adopted.

Self-reported compliance with RoB was quite high. Breaches were generally reported to result from the chaotic lives drug users led rather than deliberate breaches. Interviewees reported complying because of the risk of custodial remands; because they wanted to deal with their drug use or change their lifestyle; because they wanted medication and because of the compulsory nature of RoB. A small proportion of interviewees reported playing along with the system rather than actively engaging with it. Ease of access and transport to treatment were key determinants of attendance at appointments.

In terms of the impact of RoB, interviewees reported that it had steered them into drug treatment which had resulted in reductions in drug use. Nearly half of the interviewees reported reducing or ceasing their drug use during their time on RoB. Interviewees also claimed that they had reduced their levels of offending whilst on RoB. Some of these reductions in offending were linked directly to the drug treatment they had received while others were linked to factors such as simply being on bail or additional bail conditions such as curfews.

Interviewees mentioned consistently that an important determinant of success for both themselves and others was that people needed to be motivated to change in order for drug treatment to be effective. Without this, they argued, drug treatment would have little, if any, impact. Consequently, some interviewees suggested that the compulsion inherent in RoB was misguided. Other interviewees suggested, however, that RoB was a motivator and provided a crucial step into treatment. Some interviewees reported that they have been motivated to comply with RoB because of the risk of custodial remands.

7. The operation of RoB

This chapter examines interviewees' views of RoB. It suggests that there is overwhelming support for RoB amongst criminal justice professionals and drugs services workers and representatives. The chapter then draws on the findings about the operation of the RoB process during the pilot period to suggest an efficient and effective operational model for RoB.

Stakeholders' and practitioners' views on RoB

There was overwhelming support from interviewees for RoB. Almost universally interviewees saw RoB as a useful tool. A member of the CPS explained:

'I think that RoB was worth doing and I think that the fundamental thinking was right.'

(CPS, Manchester)

A District Judge agreed:

'My overall experience of it [RoB] is that it seems to be working extremely well and is a very positive step.'

(District Judge, Nottingham)

Drugs service members also thought that RoB was useful as one representative explained:

'I think it has been a very positive provision, very positive.'

(Manchester Drugs service)

Defence solicitors may have been expected to object to the imposition of RoB. However, they also supported it, recognising that many of their clients would potentially benefit from it as many openly admitted long-term drug use. One defence solicitor stated when asked about his role in RoB:

'I see my role as supporting the project. It could do a lot of good.'

Another solicitor agreed:

'... my duty is to act in the best interest of my client and I honestly believe that the RoB is in the best interests of my client.'

(Defence solicitor, Manchester)

Interviewees were more circumspect about RoB's success and wanted to see evidence of its effect on offending and drug use. A legal adviser commented:

'I can't [say whether RoB is a success] because I've never seen any stats to say that as a result of the RoB conditions people have come off drugs.'

(Legal adviser, Nottingham)

A member of the CPS agreed:

'I think if it works then there is [a need for RoB], but I don't know because I don't know what your results are ... don't know, it depends what your stats show as to how successful it is.'

(CPS, Nottingham)

Nevertheless, interviewees supported RoB because they believed that it was an initiative that, at the very least, did no harm and may have substantial benefits for defendants and deal with some of the drug-crime problem. One interviewee explained:

'I can't see what harm it can do if people who do need assistance with their problems have treatment as part of their bail.'

(District Judge, Salford)

Another interviewee concurred

'Can drug treatment do any harm anyway? Presumably if you are using Class A frequently enough to be positively drug tested, then some form of treatment response is not going to do you any harm, it is probably going to do you some good.'

(DAAT, Manchester)

Interviewees were realistic about the likely success of RoB. Thus the fact that one or two individuals may have received drug treatment was perceived as a success. As one interviewee explained:

'... I think it can be another tool that can be of assistance. I think if you just get one person off drugs off crime than that has got to be a plus for him or her and other aggrieved parties, finances, a million reasons.'

(CPS, Salford)

A solicitor agreed:

'... if it makes them access treatment and there is just one out of ten that gets completely clean then yes, it has got to be a good thing.'

(Defence solicitor, Nottingham)

Several interviewees recognised that RoB filled a gap in provision in the criminal justice process for drug-using offenders as one interviewee explained:

'In the stage of proceedings in which it's [RoBs] at, it's to all intents and purposes the only system. Arrest referral has no real role to play once they've been charged and they've gone to court. Drug Treatment and Testing Orders likewise don't have any impact prior to the sentencing exercise so I think it's more effective than anything we've got simply because it's really the only thing that's available to the courts to implement at that stage of proceedings.'

(CPS, Nottingham)

Another interviewee agreed:

'... it's the only method at the moment ensuring an early tackling of the drugs problems which is causing particular defendants to commit crime.'

(District Judge, Manchester)

Interviewees reported that RoB had a number of benefits including that it enabled defendants to access drug treatment rapidly and at an early stage of the criminal justice process. Another advantage of RoB was seen to be the fact that more information was available during remand hearings. Other benefits included its potential to reduce offending and providing additional safeguards in terms of protecting the public. Some interviewees saw one of the benefits of RoB as keeping defendants out of custody while other interviewees mentioned that it provided additional support to defendants.

Generally, interviewees saw few, if any, drawbacks with RoB. While many interviewees reiterated that they had yet to see any firm evidence of its success, some anecdotal evidence of success was provided. A police officer explained that he had noticed the effect on some defendants:

'... we are beginning to have or beginning to show success we are beginning to see people starting to drop out of the criminal justice system. There are offenders who we are not seeing once a week, in fact some of them we haven't seen for

several months who have been on RoB and in some instances have completed the full RoB programme.'

(Police Officer, Nottingham)

Defence solicitors had also noticed that they had not seen some of their clients as regularly as one explained:

'A lot of the clients I have dealt with I haven't seen them as regularly as I might have done. Put it that way.'

(Defence solicitor, Nottingham)

Restriction on Bail was readily accepted as part of the remand process. No interviewees thought that the condition was unfair or unjust. The fact that RoB provided a level of compulsion to defendants to attend drugs assessment and treatment was not perceived to be problematic. As one interviewee explained:

'I don't necessarily see it as a coercive thing or force, I see it as a bit of a nudge I think [...] I feel quite comfortable with that because I know when they come to us maybe we are providing help to somebody that could do with a bit of help.'

(Drugs Service, Manchester)

Remand decision-makers agreed:

'The type of individual I am referring to needs to be coerced, they will not, in many cases, seek help voluntarily.'

(District Judge, Manchester)

Indeed, many interviewees referred to 'choices' rather than coercion as one interviewee explained:

'Theoretically it isn't coercing. I find that a difficult word to apply because you have a choice whether to do it or not. I mean, it's a very large stick because we're saying we'll take away your right to bail if you don't but we're not saying you have to do it.'

(CPS, Salford)

Another interviewee concurred:

'I completely go away from the idea of coercion as it is about the exercise of choice and accepting the consequences.'

(Probation, Nottingham)

Some interviewees argued that RoB had provided the evidence that coerced treatment can work. As one interviewee commented:

'I think this notion, this myth that's around that coercing people into treatment will fail has been dispelled by the RoB pilot because what it's about really is giving people choices and opportunities that perhaps they hadn't taken before for whatever reason.'

(NTA, Nottingham)

Representatives of drugs services, who in the past had often argued against coerced treatment, reported that the principles behind RoB had been accepted and that RoB had been embraced. One representative of the drugs service explained:

'I don't really think that coercion was such a shock to clients as we thought it was. I think it was probably more of a shock to politically correct workers than clients in a lot of ways. And I think it's about clients taking responsibility for their actions and empowering clients to do that, so I've not really had a problem with it in terms of coercive treatment, as long as there are clear choices, and the

thing that's always been important to me is clients know exactly what they're getting.'

(Drugs Service, Salford)

It was reported that this had happened because drugs services saw that RoB had the potential to assist drug users to desist from both drug use and offending as one interviewee explained:

'The feedback from users is that they do like the treatment and being given an extra push to reinforce their motivation. We have had no negative feedback at all.'

(DAAT, Nottingham)

While there was general agreement that defendants should be channelled into treatment, there was less agreement about whether or not this would work ultimately. A legal adviser explained:

'Well I think that as a first step ... it probably is needed ... it represents a carrot and stick, you do something that will help, in theory will help you and help your offending, and if you do that then bail will be allowed ... But ultimately I don't think the coercion is going to work because ... the individual has to be ready to accept treatment and to want to stop offending or stop the habit and then stop offending which usually goes together.'

(Legal adviser, Manchester)

A District Judge agreed:

'No, I don't say coercing defendants into drug treatment because probably unless there was some degree of motivation it won't be effective. When I say, the non violent drug-related recidivist shoplifter, I like to see some sort of glimmer, however faint, of some sort of motivation.'

(District Judge, Nottingham)

Interviewees generally thought that the pilot had gone well and that most of the initial difficulties, especially in relation to communicating the drug test result to court, had been overcome. There was almost universal support for RoB to be made available nationally. However, some interviewees raised concerns about how RoB would translate to operate nationally. In particular, interviewees questioned whether or not the same level of resources would be available if the initiative was available nationally. There was an awareness that considerable resources had been employed in the pilot sites to ensure that the RoB process operated as it should but scepticism about whether or not these would be made available when RoB was mainstreamed. A District Judge explained:

'... But I was sceptical as to whether resources would be put into it. I'm still sceptical as to whether the resources having been put into the pilot project, there will be sufficient funding when it rolls out.'

(District Judge, Nottingham)

A CPS lawyer shared his concern:

'I think there are benefits [to RoB]. I think [whether or not it is extended nationally] comes down to the age old question of how much money one is prepared to put into it. If you were saying that you had to take the resource and the drug testing salaries etc out of your normal budget, then I think it becomes more difficult.'

(CPS, Salford)

This appears to be a legitimate concern as the pilots had been well resourced which is a fact which is best illustrated by staffing levels in the courts. During the pilot, each site had three personnel working on RoB although some of these people also had other duties. In addition, many other individuals spent considerable time ensuring that the RoB process operated as

effectively as possible. Many interviewees put the success of RoB down to the efforts of individuals or champions. Another driver for the successful operation of RoB was its high political profile which translated into close scrutiny from and intervention by Home Office staff especially in the early stages of the pilot. National roll-out would present challenges to the Home Office in terms of the level of resources and support which were made available. Consequently, the rest of this chapter draws on the data collected during the evaluation to provide a workable model for the national roll-out of RoB.

The RoB process

The RoB infrastructure and process were different in the three pilot sites and their relative success in terms of the proportion of positive testers who were bailed with RoB also varied. This section explores how RoB operated in the three pilot sites, highlighting the parts of the process which were more effective and those which appeared to be less successful. First, it is useful to summarise the use of RoB in the three pilot sites.

Manchester faced considerable difficulties during the initial stages of the pilot in ensuring that positive drugs tests were available to the CPS. Interviewees suggested that this problem had been largely overcome in the latter half of the pilot period (see Chapter 2). Despite this, however, Manchester continued to have a relatively low use of RoB (n=310, 41%) and a large number of defendants who were eligible for RoB but who were bailed without it (n=154, 21%). In fact, the proportion of defendants eligible for RoB who were bailed without RoB increased during the pilot period so in the last six months of the pilot a third (n=113, 34%) of all RoB eligible defendants were bailed without RoB.

The RoB process in Nottingham generally worked well throughout the pilot. There was a high concordance rate between the number of defendants with positive tests known to the police and those identified at court. The proportion of eligible defendants who were bailed with RoB was high (n=856, 69%). In addition, the number of eligible defendants bailed without RoB during the pilot period was relatively low (n=128, 10%) and this dropped to under a tenth (n=35, 7%) in the final six months of the pilot.

The throughput of defendants was much lower in Salford than the other two pilot sites. The number of defendants testing positive in Salford was lower than expected. This may be explained by problems with the testing procedure at the police stations and the reorganisation of policing in Salford during the pilot period. Once the test results were known to the CPS, however, the process worked relatively well. The number of eligible defendants who were bailed with RoB was high (n=149, 63%) and the number of eligible defendants bailed without RoB was low (n=14, 6%).

Overall, data suggest that Nottingham and Salford had RoB processes which more effectively ensured that eligible defendants were bailed with RoB. Before going on to explore the key components of these relatively successful processes, the significant features of the RoB process in Manchester are examined.

Administrative data from the pilot sites has played an important role in performance management of the pilots especially in terms of take-up and compliance. ***It is recommended that similar systems are implemented in all areas so that the RoB process is continually monitored.***

Manchester

The key to Manchester's low use of RoB appears to be the way in which the RoB process operated and the genesis of the scheme. Before RoB was introduced a successful Bail Information Scheme run by the Probation Service in Manchester magistrates' court. Crucially, two of the three RoB court personnel were employed in this scheme. Bail Information Schemes were first created in the 1980s as a mechanism to reduce the number of defendants remanded in custody (Godson and Mitchell, 1991; Lloyd, 1992). They worked by providing written reports to the courts about defendants' suitability for bail and were originally intended to counter CPS objections to bail. The information contained in reports was collected by interviewing defendants before court hearings and, where possible, verifying the information provided. Crucially, only defendants who were at risk of custodial remands were interviewed. In practice, only those defendants where there was some likelihood that the courts would bail them were interviewed partly because of resourcing issues but also because, initially in any event, only information in favour of bail would be presented in bail information reports.

The RoB process in Manchester operated along similar lines to Bail Information Schemes although this may not have been the intention when the process was set up. Pre-court assessments were undertaken which involved RoB personnel interviewing defendants prior to court. Short reports were then written and presented to the CPS, defence and the court. Magistrates and District Judges stated that these reports were very useful as they provided additional information. However, this was reported to be limited normally to the date and time of drug assessment/treatment appointments. The other important function of the report was to signal to the court that defendants were eligible for RoB.

There are a number of problems with the use of pre-court assessments. Courts relied on the reports to signal that defendants were eligible for RoB, so that if no report was presented RoB would not be considered or applied by the court. A District Judge explained:

'... [CPS] flag [RoB cases] up ... You then get the report and as I say I haven't had [RoB] flagged up where I haven't had a report ... if they are eligible and I have got a report saying they have been told and here are the arrangements, I make it a condition, there is no decision.'

(District Judge, Manchester)

A magistrate concurred:

'Well if they have had no assessment as far as their drug habit is concerned then they can't be on restriction can they. So if they appear from custody and they have had no assessment we may well set bail but we cannot include a bail restriction because we have got no report on them.'

(Magistrate, Manchester)

No District Judges could recall a case in which they had applied RoB without a report being provided by the RoB team. So, in order for RoB to be applied a report would have to be provided to the court but reports were not provided in every case for a number of reasons. Firstly, it creates resourcing issues. It would be extremely difficult for three personnel to interview all RoB-eligible defendants in a busy court such as Manchester prior to their court appearance. Secondly, while it is relatively easy to interview defendants who appeared in court from police custody, it was much more difficult to track down defendants who appeared on police bail. In fact, RoB workers reported that they rarely interviewed defendants who appeared on bail because of the logistical difficulties involved. Consequently, in cases where defendants appeared in court on police bail, courts did not have reports routinely. This was explained by RoB workers:

'[We] don't do written reports [on those appearing on bail], we tend very rarely to have time to do written reports on bailers [sic].'

(RoB worker, Manchester)

Consequently, RoB was not usually imposed on defendants on bail as no reports were available to signal their eligibility. This provides a plausible explanation of the high number of defendants bailed without RoB in Manchester. Certainly several Manchester-based solicitors

commented that they rarely, if ever, remembered RoB being imposed for defendants who were already on police bail. As one described:

'Although my recollection is ... that it was meant to be applying to anybody who'd been charged and tested positive in the police station, people on bail as well, but in my experience I struggle to recall the last time I dealt with someone on bail.'

(Defence solicitor, Manchester)

Thirdly, RoB workers reported that they concentrated on carrying out pre-court assessments with defendants who were in custody yet had a chance of being released on bail by the courts. Defendants who were likely to be remanded in custody were rarely interviewed as this limited the number of interviews which had to be undertaken. A RoB worker explained:

'... occasionally we have to say this offence looks too serious we will only do anything if the court asks or is considering bail ... we wouldn't submit a report to court which in any way looks as if we were assisting a bail application ... on very rare occasions, we would say no this is too serious.'

(RoB worker, Manchester)

Finally, RoB workers reported that they were reluctant to include negative information in pre-court assessment reports and would never report that defendants were unsuitable for treatment. Instead, they would simply not provide a report in such cases. A RoB worker explained how she dealt with such cases:

'...I don't think I'd write a completely negative report saying this person is a waste of space and would never comply.'

(RoB worker, Manchester)

A second RoB worker commented:

'What we will do, because we have the whole credibility of the drug ... team here is if we really, really in our heart of hearts don't think somebody is going to cooperate or we know that they are going into custody, we probably wouldn't put a written report in.'

(RoB worker, Manchester)

In short, pre-court assessments and the reliance of the courts on receiving reports meant that a substantial minority of defendants eligible for RoB who were bailed by the court do not have it applied. The procedure as it operated in Manchester provided an effective way for the RoB team to ensure that they were targeting those defendants who were most at risk of custodial remands in much the same way as Bail Information Schemes did. Yet it largely failed to target defendants who would have been bailed in any event. It, therefore, appears to be a model which should not be adopted to roll-out RoB and that assessment should be undertaken after bail with RoB has been granted.

While the interview which takes place prior to the court hearing was called a pre-court assessment, it appeared that assessments did not take place at this first meeting. Instead, it was reported by defendants and RoB workers that it was more of a 'chat' where RoB was explained and defendants' consent sought. Certainly another more in-depth assessment was carried out at the first appointment after RoB had been imposed. Leaving assessments until after court hearings saves resources which may otherwise be used to assess defendants who would not be granted bail with RoB. This would mean, also, that any interview which was undertaken at the court could be carried out by personnel other than drugs workers.

The selective use of RoB is heightened by how the defence view and work with RoB. Defence solicitors constantly referred to RoB as providing additional leverage to their arguments during bail applications. A solicitor commented:

'I mean it's difficult because the scheme for us is of benefit to us because it gives us additional tool if you like to make a bail application ... to have the RoB ... to get them fast tracked towards treatment is a huge advantage to us.'

(Defence solicitor, Salford)

Another solicitor agreed:

'I would never argue against it, because it's a carrot to give to the magistrate to grant bail.'

(Defence solicitor, Manchester)

While defence solicitors supported the aims of RoB generally, they referred to it only as an addition to their arguments to get their clients bail. In other words, they mentioned RoB during court proceedings only when it was in their interests and this was when defendants were at risk of custodial remands. No solicitor stated that they would mention RoB to courts when defendants were going to be granted bail in any event or when test results were not available to courts.

Another explanation for RoB not being imposed on defendants who appeared on police bail in Manchester, was reluctance by the court to change police bail decisions and add extra conditions. A District Judge explained:

'I have no experience of having applied RoB to defendants' bail if they are already on police bail, no recollection of having done so.'

(District Judge, Manchester)

Nottingham

As has already been discussed the process in Nottingham appears to have been successful in ensuring that a relatively high proportion of defendants eligible for RoB had it imposed. However, the way in which the success of the pilot in Nottingham was achieved may not be replicated elsewhere as it was resource-intensive and, as a result, expensive. The RoB court personnel spent large amounts of time ensuring that courts were aware that cases were RoB-eligible and, therefore, making sure that RoB was applied when appropriate. This basically involved, at least, one RoB worker being in and around the courts at all times while another worker was available in the office to deal with defendants immediately after RoB was imposed. However, this approach caused logistical difficulties as RoB workers could not be in two places at once as they explained:

'... you see I should be out tracking, but I tend to get involved with what is going off in the office with telephone calls, clients coming into the office. ... a lot of time can be spent in the office dealing with things as they crop up and telephone calls and giving out appointments for rapid prescribing ... but you can, you know you can be in the office and then I can miss – or I will be interviewing a client and then sometimes I will go around to the courts and it might be closed.'

(RoB worker, Nottingham)

Another RoB worker explained how she could not be in court all of the time:

'I'll be in and out of courts pretty much the whole time. But you don't often sit and listen to the entire process all the way through, I mean, you're sort of dipping in and out to see if you can catch people ...'

(RoB worker, Nottingham)

This personal approach was facilitated by the layout of the court building which is unlikely to be the case elsewhere. The approach adopted in Nottingham was unsustainable in the long term or when the RoB team were short-staffed even for short periods. As a RoB worker recognised:

'... We work really, really hard to make this work and [the drugs worker] works in the morning and she is putting extra hours – ok, she gets paid for them, but she has put in extra time, especially when I go on holiday ...'

(RoB worker, Nottingham)

Nottingham did not generally assess defendants for RoB prior to the court hearing. Instead, the court required defendants to contact the court RoB team immediately after the bail hearing. The RoB office was located in the court building and was easily accessible to defendants. There are a number of issues which arise with this approach. Firstly, it represents a point of attrition in the process. It is possible that some defendants did not find their way from the courtroom or the cells to the RoB office. It was reported that there were sometimes queues of defendants outside waiting to see RoB staff and this would have increased the likelihood that defendants would leave without being seen. A RoB worker explained the problem:

'... There has been a few that have gone [at this point]. We have had them queuing up outside for assessments and sometimes we have called the Bridewell⁹⁶ staff to come up and do an assessment if they can but that doesn't always happen so they'll have to wait or we'll have to give them an appointment to come back.'

(RoB worker, Nottingham)

Secondly, workers were unable to control the flow of defendants to the office and, therefore plan their work more effectively as one RoB worker explained:

'[I]t's completely unpredictable [how many there are to see after court]. It's quiet this week, so we could have seen anybody at any time. Sometimes ... I've been there on my own and three people have turned up at once ... when we were assessing people at Carlton⁹⁷, at least ... you had a set time to spend with them. You just try and manage it as best you can. I mean, if somebody says I need to go and collect my children, then you get them to sign a form quickly to say as part of their bail they'll come back and be assessed.'

(RoB worker, Nottingham)

This can cause practical problems as another RoB worker described:

'... sometimes you just get swamped ... there's so much paperwork to complete on each person, you can often finish up with three separate lots of unfinished paperwork ... as regards best practice, it's not good to be trying to write up an assessment on somebody you saw two or three people ago ...'

(RoB worker, Nottingham)

Thirdly, workers mentioned that practical difficulties were caused by expecting defendants to be assessed straight after court hearings. As one worker explained about some defendants:

'... They're tired, they've had enough, they've been sitting around for ages. If they've been in the Bridewell for a while and they've not ... they've been detoxing, they can physically be in an incredibly rough state. We don't have many facilities, and you're often ... you're assessing somebody who's literally holding the wastepaper basket in front of them, heaving into it. You know, they may be unable to sit still ... vigorous jerks of arms and legs ... people who are just desperate to go. And then you say I'd just like you to sign these forms to share confidential information, and they will sign anything ... it's morally wrong to get people in that condition to sign official documents, but we have to.'

(RoB worker, Nottingham)

If defendants did not report to the RoB office the fact that the time and date of appointments were not mentioned as part of the RoB condition effectively meant that if defendants left the court building they would be unlikely to be assessed and participate in treatment. It may cause problems, also, in terms of breach as one worker explained:

'... some can't even confirm to us that they were told to come and report to CJIT, so then we have been unable to breach them ...'

(RoB worker, Nottingham)

⁹⁶ The police custody suite adjacent to the court.

⁹⁷ In the first months of the pilot, assessments took place at Carlton which was some distance away from the city centre. Attrition was very high during this period.

It is recommended that the date and time of assessment appointments should be included in the wording of bail conditions during remand hearings.

A fourth issue with the approach taken in Nottingham is that defendants were often required to report to two different offices within the court building immediately after their court appearance as they needed to see Probation staff in order to set up interviews for reports to be written as well as RoB workers. Fifthly, the RoB office was not staffed at weekends which meant that defendants who are bailed with RoB on Saturdays had to return to court on Monday to see RoB workers and this increased the likelihood of non-attendance. As one defence solicitor commented:

'So Saturday mornings, I don't know whether there is a CJIT worker who could be available just to come to court on a Saturday. In the old days if I remember rightly, there used to be a duty probation officer on a Saturday ... it would be useful just to have somebody who could see them, rather than say 'Come back here on a Monday'. It just goes back to the immediacy or speed of treatment.'
(Defence solicitor, Nottingham)

Sixthly, staffing the office at all times means that staff were unavailable to carry out other tasks such as liaising with court or criminal justice personnel in order to ensure that RoB was imposed when appropriate. In short, staff cannot be in several places at once.

Interviewees raised issues about the use of drugs workers in the courts and whether or not it was necessary to have trained drugs workers undertaking the role of RoB worker. In particular, they were concerned about wasting scarce and expensive resources when much of the work undertaken by them was administrative and required no drugs expertise. As one legal adviser explained:

'It's not a valuable use of drugs workers' time to be just sat around here [in court] in case something comes up ... It is a question of what is an appropriate use of that specialist's time.'
(Legal adviser, Salford)

A good example of this was the meetings which took place immediately after court hearings with RoB workers in Nottingham. This meeting was not an in-depth drugs assessment rather a short drugs assessment was undertaken, information about RoB and what was expected of defendants was provided and an appointment time for an assessment/treatment was set. It also enabled RoB workers to find out whether or not defendants were already in treatment. Most of these roles do not have to be undertaken by qualified drugs workers and could be carried out by staff with training in drugs awareness and more general communication skills.

Another reason why trained staff would not be required in court if the RoB process operated effectively was demonstrated in Nottingham. The imposition of RoB in cases where defendants tested positive and were granted bail was treated as automatic in Nottingham. As a defence solicitor explained:

'Well again – in some ways it is almost automatic now; 'Oh yes it is a positive test, therefore the ROB applies.'
(Defence solicitor, Nottingham)

Even in Salford, defence solicitors recognised that the imposition of RoB was routine:

'I think it is just a case of they have a trigger offence and there is a positive sample and then it is just assumed that the restrictions will have to be imposed.'
(Defence solicitor, Salford)

This has undoubtedly contributed to the high level of use of RoB. It also adds weight to the argument that it is unnecessary to have trained drugs workers available at courts as their expertise is required only after RoB has been imposed at the assessment.

There were some concerns raised by interviewees that the process was too automatic leaving no room for judicial discretion. For example, in cases where it could be argued that defendants' drug use was occasional and recreational rather than problematic and that treatment was therefore unnecessary and/or inappropriate. A drugs worker commented:

'[W]e see an awful lot of people for whom RoB isn't suitable ... a lot of recreational users. At one point, out of the 80 people who were on Restriction on Bail, 10 were recreational users ... If you've tested positive for something, you'll get it. You know, if the bench are giving bail, the adviser will often say because there's a positive test, then we have to impose CJIT conditions ... There's been an increase in the number of people using cocaine at weekends ... and we've seen a lot of people who have a job ... stable accommodation, stable relationships, are very much recreational users who we can't refer into treatment, but they're on RoB.'

(RoB worker, Nottingham)

In Nottingham, the level of engagement with the RoB process by criminal justice professionals was generally high. This reflected training and awareness raising activities which were undertaken at the beginning of the pilot. These were driven by a senior legal adviser who circulated guidance and organised training events. Most notably, a training event was arranged for local defence solicitors which appears to have been invaluable in ensuring that they were not only aware of the provision but could explain these to their clients. It also appeared to have contributed more generally to their support of the RoB process. While champions in any of the main criminal justice agencies involved in the RoB process have been valuable it appears that a smooth RoB process is facilitated by a strong steer from the court.

Salford

The RoB team in Salford appeared to be embedded within both the court structures and drugs services. This had a number of advantages which will be discussed in this section.

Salford was the only pilot site where the RoB team had strong formal links with the court probation team. These links were based upon the fact that two of the RoB workers were employed by the probation service during the pilot and worked for the court probation team previously. The relationship was facilitated, also, because the RoB and probation offices were located next door to each other. The teams worked cooperatively and probation staff provided cover for the RoB team and were able to deal with cases in the absence of the specialist team. Two of the three RoB workers were administrative staff who sat in court, ensured that positive tests were raised, provided the bench with appointment times and checked whether or not defendants attended treatment. The other RoB team member was a specialist drugs worker. She was based at the court in the morning and at the assessment/treatment centre in the afternoon. She undertook assessments at court when feasible but also carried them out at the assessment/treatment centre. She case-managed all RoB cases including conducting assessments, identifying appropriate treatment and, also, seeing defendants when they came in for treatment. Consequently, she was able to provide detailed information about defendants' compliance with treatment. This approach also ensured equality of treatment for all defendants subject to RoB as monitoring of attendance was not left to the drugs services providing the treatment and the decision to breach was made by the RoB team not individual drugs services.

One of the main advantages of the Salford model was that it enhanced the connections between the RoB and sentencing process. Nearly all interviewees thought that defendants' compliance with RoB should link into the sentencing process. In particular, interviewees commented that as one of the aims of RoB was to provide early intervention for drug-using offenders it should be followed ideally by community sentences with drug treatment requirements.

'If somebody engaged and addressed a problem, if you don't put that in the sentencing process, then why bother? You're not encouraging them, not supporting them and this isn't about punishment ... the idea is to get people out

of the vicious circle and if you smack them in the face metaphorically it's probably not going to help.'

(CPS, Salford)

A DAAT representative agreed:

'It's very important that if you're using the 'stick' part of RoB, there should be a payoff at the end for those who comply ... Those who comply with RoB are demonstrating that they could potentially comply with a community sentence. The courts can make an evidence-based decision.'

(DAAT, Salford)

Many interviewees explained how compliance with RoB had the capacity to affect sentencing decisions and may result in the imposition of community sentences with drug requirements. A CPS lawyer explained when asked how RoB can affect sentencing decisions:

'I think it is a big influence, especially if somebody hasn't been doing it and you are going to offer them probation and they have done absolutely nothing to go along with RoB, why would they do it for something else then? Equally, they've really tried hard on RoB that means I think they will try hard on probation, so I think it can work both ways, it shows a very recent propensity to or to not to comply with the court's decision.'

(CPS, Nottingham)

By contrast, interviewees reported that non-compliance was likely to result in custodial sentences as one District Judge explained:

'... [I]f they have not shown the right attitude, not co operated, then you are likely to get a report that is indicating that they are not suitable for certain types of community sentence ... so yes it makes a difference in whether you consider certain types of sentence.'

(District Judge, Manchester)

Generally, having evidence of compliance or non-compliance with drug treatment requirements before sentencing was perceived to be one of the main advantages of RoB as one District Judge explained:

'... actions speak much louder than words ... one of the advantages is getting them into treatment early, not just for their own benefit but to see if they will co-operate and you are not wasting time and resources putting them on an order which they either can't or won't comply with.'

(District Judge, Manchester)

In order for compliance with RoB to be taken into consideration during sentencing, the RoB process needs to link with the pre-sentence report writing process. While all interviewees thought that this is how it ought to work, some were sceptical of the links between RoB teams and the Probation Service. A legal adviser described his experience:

'[RoB] should [link with pre-sentence reports] but I'm not sure how much information probation seek from restriction on bail when they're making pre-sentence [reports] ... I think that's something that could be improved.'

(Legal adviser, Nottingham)

Another legal adviser agreed: 'I don't think I've ever seen it referred to [in a PSR]' (legal adviser, Nottingham) and a probation representative concurred: 'It doesn't happen as much as it should do [link with PSRs]. (Probation, Nottingham). By contrast, other interviewees, mostly District Judges, mentioned that they had received information about compliance with RoB in pre-sentence reports as a District Judge explained:

'When I see a pre-sentence report I am normally told in that report if there had been a RoB condition imposed initially and how the defendant has responded and it is usually very helpful to my decision.'

(District Judge, Manchester)

The position in relation to links between RoB and pre-sentence reports was summarised by one interviewee who said, 'I think to be fair it's a bit hit and miss' (legal adviser, Salford). Indeed, many interviewees were unable to provide many concrete examples of when defendants' compliance with RoB was mentioned in pre-sentence reports or during sentencing hearings. Indeed, observations of sentencing decisions following the imposition of RoB suggest that RoB was rarely mentioned during sentencing and reports on defendants' compliance were rarely available to sentencers (see Chapter 2). Significantly, evidence of this link being made explicitly was observed in Salford. Written reports on RoB compliance were made available to the court and, sometimes, oral reports were provided. This suggests that strong links between RoB workers and probation staff at court are an important way of ensuring that RoB feeds into the sentencing process. ***It is recommended that consideration should be given to how links between the RoB and sentencing processes may be improved.***

Another advantage of the Salford model was that it improved performance management as data were available to monitor performance and outcomes. Salford was the only pilot site able to provide data on treatment outcomes for defendants on RoB. Other pilot and comparison sites said they were unable to provide these data mainly because they themselves did not have access to them. It is difficult to see how performance in relation to treatment outcomes can be effectively assessed without such individual-level data.

Salford normally conducted RoB assessments away from court usually a week after RoB was imposed. In an attempt to ensure attendance defendants were given bus fares⁹⁸. However, nearly three-fifths (n=10, 59%) of RoB-related breaches were for non-attendance at assessment which is higher than the other pilot sites. When this is coupled with the experiences in Nottingham at the start of the pilots when assessments were carried out away from the court and breach rates were high (see Hucklesby *et al.*, 2005), it appears that it is important that initial assessments are undertaken in buildings located in easily accessible areas. ***It is recommended that the location for assessments is easily accessible which is most likely to be in city centre locations with good public transport links.***

Proposals for the implementation of RoB

The above section has highlighted some of the features of the RoB process in the pilot sites. In this section, the key features of an effective RoB process will be outlined in order to inform the national roll-out of RoB.

The timing of assessments

There appears to be no advantages to undertaking assessments prior to court but there are some disadvantages. The only functions that pre-court assessments appear to perform were to provide courts with the dates and time of assessments. Alternatively, dates for RoB assessments could be provided in a similar way to the setting of trial dates. Legal advisers could phone RoB offices and ask for assessment appointments before bail is granted. This would facilitate appointment times being included in the wording of the RoB condition and recorded on bail notices. It would also enable RoB workers to pace their work to avoid defendants waiting at court for assessments to take place. Assessments would be conducted after the court appearance. ***It is recommended that assessments should be undertaken after RoB has been imposed.***

Staffing

If assessments are conducted after the court hearing, most of the residual tasks linked with RoB are purely administrative such as setting appointment times, checking attendance and so on. These tasks do not have to be undertaken by qualified drugs workers who are an

⁹⁸ The CDT base is in Eccles which is a short bus, train or tram ride from the city centre.

expensive and scarce resource. Administrative staff or unqualified specially trained staff could undertake this work leaving drugs workers free to undertake assessments and so on away from the court building if necessary.

One of the important functions of RoB workers during the pilots was to provide defendants with information about what RoB entails and what was expected of them. Evidence suggests that ensuring this takes place may reduce non-attendance at assessments yet this does not necessarily require qualified drugs workers to perform this task. Instead, it could be carried out either by court staff or the RoB administrative worker.

This model could also reduce the pressure to find suitable accommodation within the court building for a drugs team. This proved to be problematic in the pilot, particularly in Manchester and Nottingham.

NOMS involvement

It is suggested that NOMS involvement in the RoB process should increase. Consideration should be given to the way in which this could be achieved either through formal integration or closer working relationships between CJIT and NOMS.

One argument for the greater involvement of NOMS is that it was generally reported that the sole responsibility for ensuring that courts were aware that defendants were eligible for RoB lay with the CPS. However, it was acknowledged that drugs workers played a significant role particularly in Nottingham. However, interviewees recognised that this could not continue because of the resources required and also because workers are unable to provide continuous cover for all courtrooms particularly in large and busy magistrates' courts. Yet, it is clear from experience during the pilots that individuals are required to be present in court to ensure that RoB is discussed.

An alternative way of ensuring this service is provided is by transferring this responsibility to probation staff who are already in court. This has a number of advantages. Firstly, courts would be staffed at weekends which is presently not the case in any of the pilot areas. Secondly, all courts would be staffed throughout the day. Thirdly, probation staff would be familiar with the court and its procedures and already known by other court personnel.

One of the aims of the Drug Interventions Programme is to provide end-to-end case management of drug-using offenders. However, evidence from this study suggests that this has proved difficult to achieve operationally pre-trial partly as a result of DIP being an add-on to the criminal justice process rather than fully integrated within it. One consequence of this is a lack of coordination between RoB and sentencing processes. The potential for links to be made between RoB and sentencing was seen by interviewees as one of the advantages of the introduction of RoB. Yet, in reality, very few links have been made currently between the pre-trial RoB process, sentencing and subsequent case management partly because of the different responsibilities of agencies. Greater probation involvement in RoB should ensure that defendants' compliance with RoB is included in pre-sentence reports and that any treatment received during bail periods is continued during subsequent sentences whether in custody or in the community. Indeed, evidence from Salford suggests that the involvement of probation staff in the RoB process facilitates this. It would also mean that defendants who were required to report for RoB and court reports would have one point of contact following court hearings.

Greater NOMS involvement in RoB should ensure that it became part of the coordinated 'end-to-end' case management of offenders where all of the needs of defendants/offenders are dealt with simultaneously. It should also avoid duplication where CJIT and probation staff are dealing with the same issues and/or needs such as housing. There could be considerable savings in the cost of RoB if NOMS took over responsibility for its day-to-day operation. Savings may include staffing and accommodation costs. However, this would have resource implications for NOMS. It is envisaged that an additional administrator or Probation Service Officer would be required in each court who would staff the office, make assessment appointments, check and collate compliance data and liaise with drugs workers.

Accommodation for this worker would be required within the court building. Assessment and drug treatment services would continue to be provided by specialist drugs services.

Transferring responsibility for RoB to Local Criminal Justice Boards

If NOMS have a greater involvement in RoB, it follows that Local Criminal Justice Boards would be the most appropriate body to take responsibility for its operation. However, even if the responsibility for RoB stays within the Drug Interventions Programme there are arguments for transferring oversight of RoB to Criminal Justice Boards.

The pilots have shown that the RoB process works most effectively when criminal justice personnel take responsibility for ensuring that RoB is used. In addition, the major blockage in the process, ensuring that positive test results are available to the court, is the responsibility of criminal justice agencies. Additionally, successful liaison and coordination between those agencies is required to ensure that effective procedures for getting test results to court are in place. Local Criminal Justice Boards would appear to be the most suitable body to carry out this function. Indeed, two out of the three DAAT coordinators recognised the problem themselves. One of them commented:

'The DAAT doesn't have the clout or power over the CPS and courts so it shouldn't really have the lead.'

(DAAT, Salford)

The second coordinator said:

'That authority I think from a DAT is quite tricky because we don't have any authority in those contexts [i.e. courts, CPS], it is very much partnership working, understanding, influencing but at the end of the day we can't say "you must"...'

(DAAT, Manchester)

Another DAAT representative agreed:

'There are major issues over accountability and co-ordination. The DAAT has no clout over many of the central criminal justice agencies.'

(DAAT, Salford)

However, DAATs are vital partners in the RoB process and the wider Drug Intervention Programme so it is important that their role, in terms of facilitating continued cooperation and access to treatment services, is preserved. One DAAT representative made the point:

'I do think it's important that DATs are involved because one of the things that would have been very difficult if it hadn't been done through DATs would have been to engage treatment.'

(DAAT, Manchester)

It is recommended that consideration should be given to the relationship between NOMS and DIP and to the appropriate agency to oversee the operation of RoB.

Summary

This chapter has demonstrated that there was overwhelming support for RoB from interviewees. They outlined a number of advantages of RoB namely:

- It plugs a gap in provision of drug treatment in the criminal justice process between arrest referral and sentence;
- It enables defendants to access treatment at an early stage of the criminal justice process;
- It facilitates rapid access to treatment;

- It has the potential to reduce offending;
- It provides additional safeguards in terms of public protection; and
- It diverts defendants from custody.

Interviewees saw few, if any drawbacks of RoB and, therefore, suggested that it should be available nationally. However, they raised concerns about the need to ensure that RoB was adequately resourced.

An examination of the operation of RoB in the pilot sites demonstrated that:

- Pre-court assessments have a number of disadvantages particularly in relation to the take-up of RoB;
- Champions are important for the successful implementation and continued success of RoB;
- Courts need to be a pro active partner in the operation of RoB thereby ensuring that decision-makers consider applying RoB in eligible cases; and
- NOMS involvement in RoB facilitates links between RoB and sentencing.

It also raised questions about the appropriate use of qualified drugs workers in the RoB process and suggested that many of the functions they presently perform could be carried out by other staff.

Finally, it was suggested that consideration should be given to the relationship between NOMS and DIP and to the appropriate agency to oversee the operation of RoB.

8. Conclusion and recommendations

Generally the pilot of Restriction on Bail has been a success in terms of its implementation. By the end of the pilot, RoB was functioning in the three pilot sites and valuable lessons had been learnt about how to implement RoB nationally. Its success in terms of channelling defendants into drug treatment and its impact on drug use and offending is less clear. The focus of this report has been to assess the effectiveness of RoB from the perspective of stakeholders, practitioners and defendants and to measure the impact of RoB in terms of offending, drug use and channelling defendants into drug treatment. In so doing its aim was to inform the national roll-out of RoB.

A total of 1315 defendants were bailed with RoB during the pilots. This represents nearly two-thirds of eligible defendants. A third (33%) of eligible defendants were remanded on bail without RoB. RoB operated differently in each pilot site and the take-up of RoB varied between them. Key ingredients of high take-up were identified during the pilot. Firstly, effective mechanisms need to be in place to ensure positive drugs test results are available to the CPS and the court. The most effective way of doing this appears to be an integrated IT system which is available for use by the police, the CPS and the court. Secondly, a high level of awareness is necessary amongst participants in the remand process. Of particular importance are legal advisers whose role in advising magistrates of their legal obligations is crucial. Thirdly, procedures need to be put in place to ensure that RoB is embedded into the routine of the remand process so that it is considered in all eligible cases. This may be facilitated by ensuring that RoB is pre-printed on bail notices. ***It is recommended that RoB is pre-printed on bail notices.*** Fourthly, managers need to be identified to champion the implementation and operation of RoB in each agency. A procedure to be avoided is undertaking pre-court assessments which result in reports being prepared for the courts. This method of identification of eligible cases means inevitably that some cases are missed because of resource constraints.

The introduction of RoB appears not to have changed significantly the operation of the remand process. In fact, in Nottingham interviewees reported that remand decisions were taken and if conditional bail was granted RoB would automatically be applied. While this is an efficient way of ensuring that RoB is applied in all eligible cases, there was some concern that it was too mechanical and did not allow any enquiry into whether or not it was appropriate to apply RoB in all cases. In particular concerns were voiced about recreational/controlled users of cocaine who may not be in need of treatment.

The impact of RoB on remand decisions was relatively small. There was some evidence that a small number of defendants were diverted from custodial remands as a result of RoB. By contrast, evidence was presented that RoB, or more correctly the availability of positive test results to courts, had increased the likelihood that some offenders would be remanded in custody. As expected, RoB increased the number of defendants remanded on conditional bail and this increase was largely accounted for by cases in which defendants would otherwise have been granted unconditional bail. Consequently, the introduction of RoB up-tariffed some defendants and meant that a higher proportion of defendants have additional bail conditions imposed particularly as RoB was often used in conjunction with other bail conditions.

Evidence of the effect of the introduction of RoB on sentencing decisions was mixed. Defendants who were bailed with RoB were more likely to receive community sentences with drug treatment requirements. It appeared that they received these sentences instead of other community sentences rather than instead of custodial sentences. In short, there was only limited evidence that defendants who were granted bail with RoB were less likely to receive custodial sentences. This is unsurprising when the links between the RoB and sentencing processes appeared to be limited.

As a consequence of the limited impact of RoB on remand and sentencing decisions coupled with the relatively low breach rate and low use of custody as a result of breach, the effect on the prison remand population was limited.

Compliance rates were better than stakeholders and practitioners had expected with around a third of cases resulting in defendants being breached. Of some concern, was the steady rise in the breach rate which had occurred during the pilot period. Breach rates varied between the pilot sites. The variations were largely explained by different practices within the pilot sites. Different breach practices raise issues of fairness and equity which need to be considered. Most breaches appeared to result from the chaotic lives of defendants rather than from deliberate actions.

Towards the end of the pilot period a 'one strike' breach policy was implemented across the pilot sites. This was broadly welcomed although some interviewees expressed concerns about the lack of flexibility and that in some cases defendants should be given a further opportunity to comply before formal breach proceedings were instigated. Stakeholders and staff were generally critical of the policy of reimposing RoB after breach but this was tempered by the need to balance, on the one hand, the requirement to be seen to be dealing with breaches and on the other, an awareness of the chaotic lives of defendants.

One of the ways in which the success of RoB may be measured is its effect on the incidence of offending on bail. The evidence is contradictory. Official data collected from PNC suggest that defendants granted bail with RoB were more likely to offend on bail than defendants who were bailed without RoB. Yet, this appeared to be the case in Manchester only. By contrast, defendants bailed with RoB in Nottingham were as likely to offend on bail than defendants bailed without RoB. The explanation for these contradictory findings is probably the nature of the population. There was some evidence, for example, that defendants who appeared in Manchester were more persistent offenders and posed higher bail risks. It is possible, also, that defendants bailed with RoB were more likely to be caught as they were specialist shoplifters who would be well known to both retail stores and the police.

In terms of the effect of RoB on offending on bail, it can be concluded that while there is no evidence that offending on bail had reduced, it has not increased substantially. Other evidence supports this conclusion. First, defendants' own accounts of their offending on bail suggests that some defendants had reduced their offending while others reported no change. However, no defendants said that their offending had increased. Defendants who claimed to have reduced their offending linked this directly to the drug treatment they had received while others were linked to factors such as simply being on bail or additional bail conditions such as curfews. Secondly, it is possible that any changes in patterns of offending, particularly in relation to frequency may be hidden as official data under-reports actual offending. Thirdly, official data and defendants' accounts suggest that there was no change in the type of offences which were committed. Most defendants in the sample specialised in shop theft and continued to do so while on RoB. Indeed, there was no evidence that more serious offences were committed by defendants while on bail with RoB. Fourthly, there was no evidence of changes in the frequency or timing of offending.

The lack of evidence relating to any reduction in offending by defendants on bail as a result of the introduction of RoB is not unexpected as the population dealt with were long-term offenders with entrenched criminal careers which involved the frequent commission of offences. It may be unrealistic to expect a relatively short intervention such as RoB to reduce levels of offending in the short term. The average length of time on RoB was eight weeks and it is not feasible to expect drug use and offending to cease immediately.

A second measure of success of RoB is its effectiveness at channelling defendants into drugs treatment. RoB has the potential to be an effective mechanism for ensuring that defendants access or continue in drugs treatment during their remand period. A significant number of defendants who were bailed with RoB had their needs assessed in relation to their drug use and entered treatment as a result. A significant minority of defendants were not in treatment at the time RoB was imposed. Evidence suggests, also, that RoB appeared to channel some defendants into treatment who would not otherwise access it. However, a relatively high proportion of defendants who were bailed with RoB were already in treatment.

The majority of defendants bailed with RoB were recorded as being retained in drugs treatment for 12 weeks or more. Defendants who were already in treatment or who entered treatment by another route were more likely to be retained in treatment for a period of 12 weeks or more and to comply with the treatment regime. Treatment retention rates were lower

for defendants granted bail with RoB than for defendants granted bail without RoB. Retention rates for defendants bailed with RoB who were already receiving treatment when they were remanded were higher than those who were 'new' to treatment.

Interviewees raised a number of issues in relation to drugs treatment. Firstly, interviewees wanted further guidance on how to deal with defendants bailed with RoB who did not require or want drugs treatment. Concerns were also raised about the capacity of treatment services to work with defendants bailed with RoB and the resourcing issues which may arise. In general court users had limited knowledge of what treatment was provided to defendants as part of the RoB process and wanted more feedback about treatment provision.

Defendants were generally positive about the introduction of RoB. They usually saw RoB as an opportunity to engage with drugs treatment and deal with their offending. Defendants were on the whole satisfied with the RoB process and found that it was an effective way into drug treatment. The majority of defendants were content, also, with the treatment and help they had received as a result of RoB. Defendants were particularly positive about the speed at which treatment was made available. However, some interviewees were critical of the narrow range of treatment which was available and wanted a more holistic approach to treatment to be adopted.

Self-reported compliance with RoB was quite high. Breaches were usually reported to result from the chaotic lives drug users lead rather than deliberate breaches. Defendants reported complying because of the risk of custodial remands; because they wanted to deal with their drug use or change their lifestyle; because they wanted medication and because of the compulsory nature of RoB. A small proportion of defendants reported playing along with the system rather than actively engaging with it. Ease of access and transport to treatment were key determinants of attendance at appointments.

In terms of the impact of RoB, defendants reported that it had steered them into drug treatment which had resulted in reductions in drug use. Nearly half of the interviewees reported reducing or ceasing their drug use during their time on RoB.

Defendants mentioned consistently that an important determinant of success for both themselves and others was that people must be motivated to change in order for drug treatment to be effective. Without this, they argued, drug treatment would have little, if any, impact. Consequently, some interviewees suggested that the compulsion inherent in RoB was misguided. Other interviewees suggested, however, that RoB itself was a motivator which provided a crucial step into treatment. Some interviewees reported that they have been motivated to comply with RoB because of the risk of custodial remands.

There was overwhelming support for RoB amongst stakeholders and practitioners involved in the pilots. They identified a number of advantages of RoB. One, it plugs a gap in provision of drug treatment in the criminal justice process between arrest referral and sentence. Two, it enables defendants to access treatment at an early stage of the criminal justice process. Three, it facilitates rapid access to treatment. Four, it has the potential to reduce offending. Five, it provides additional safeguards in terms of public protection and finally, it diverts defendants from custody.

The support from defence solicitors was particularly notable as this had enabled the RoB process to operate efficiently as they rarely opposed the imposition of RoB conditions and often ensured that defendants were aware of the provisions and what would be expected of them. However, their lack of opposition meant that there was rarely any resistance to RoB being imposed nor to a link being made between drug use and offending which in some cases may result in RoB being imposed unnecessarily.

Stakeholders saw few, if any drawbacks of RoB and, therefore, suggested that it should be available nationally. However, they raised concerns about the need to ensure that RoB was adequately resourced.

RoB is one of the interventions which comprise the DIP. One of its aims, therefore, was to provide an additional mechanism, and the only one available while defendants are awaiting

trial, by which drug-using offenders may be channelled into treatment. The pilot has demonstrated that RoB is feasible and that conditions of bail can ensure that defendants come into contact with drugs services even if only for an assessment to take place. The pilots have demonstrated, also, that a relatively small number of defendants accessed drugs treatment solely as a result of RoB. However, a reasonably high number of defendants were already receiving treatment when RoB was applied. This implies a degree of overlap with other DIP interventions such as arrest referral and community orders with drug treatment requirements. This raises questions about the extent to which overlapping and/or duplicating service provision is of concern. There appears to be a clear choice in terms of coverage and resources. RoB captures some defendants who are already in contact with DIP but also a minority of defendants who are not in contact with drug treatment services whereas without RoB some defendants, albeit a relatively small number, may not be captured by other DIP interventions. Another consideration is the extent to which RoB improves the chances of defendants, who are already receiving treatment when it is imposed, being retained in treatment at all or for longer, thereby being a valuable intervention even for this group of defendants. Further research would be necessary to delve into this issue and assess the relative effectiveness of RoB in terms of other DIP interventions measures and its contribution to the DIP.

An Earlier report which examined the implementation of RoB considered the implications of the findings for national roll-out and the agencies involved in implementing it (Hucklesby *et al.*, 2005). It is useful, however, to reinforce and reiterate some of the points made as they remain vital to the effective operation of RoB.

- The RoB process involves all of the major criminal justice agencies so its operation must include effective multi-agency working. This is facilitated by local steering groups.
- The implementation and operation of RoB runs more smoothly if each agency has an identified individual to champion the initiative.
- Courts need to be a pro active partner.
- Clear procedures and protocols need to be established between agencies.
- A clear procedure needs to be in place to transfer drugs test results from the police to the CPS.
- All staff and sentencers must receive clear guidance and, where necessary, training on the RoB process.
- A system must be put in place to monitor performance and to identify any weaknesses.
- Negotiations need to take place with treatment agencies to ensure access and effective feedback on compliance.
- Rapid access to treatment services is one of the key determinants of success.

Recommendations

Valuable lessons have been learnt during the pilot and the following recommendations draw upon these. It is recommended that:

- an IT system similar to that used in Manchester is implemented to ensure that positive test results are transmitted efficiently from the police to the CPS and the courts (page 13);
- monitoring of decisions in relation to Black defendants and those from minority ethnic groups is put in place (page 15);
- guidance and training is provided to all personnel involved in the RoB process but particularly CPS, legal advisers and defence solicitors (page 17);
- arrangements are put in place to cover Saturday courts (page 17);
- a system is implemented to continually monitor the RoB process (page 85);
- the date and time of assessment appointments should be included in the wording of bail conditions during remand hearings (page 90);
- the location of assessments is easily accessible which is most likely to be in a city centre location with good public transport links (page 93);
- assessments should be undertaken after RoB has been imposed (page 93); and
- RoB should be pre-printed on bail notices (page 97).

It is recommended that consideration should be given to:

- how to deal with defendants who are controlled/recreational users (page 60);
- how treatment outcomes may be monitored (page 62);
- how to provide feedback about the operation of the RoB process to criminal justice professionals (page 62);
- how the range of treatment offered may be increased (page 69);
- providing financial assistance to defendants in order to attend assessment and treatment appointments (page 70);
- how links between the RoB and sentencing processes may be improved (page 93); and
- the relationship between NOMS and DIP and to the appropriate agency to oversee the operation of RoB (page 95).

Glossary

BME	Black and minority ethnic groups
CB	Conditional Bail
CJIP/DIP	Criminal Justice Interventions Programme/Drug Interventions Programme
CJIT	Criminal Justice Intervention Team
CPS	Crown Prosecution Service
DAR	Drug Abstinence Requirement
DAAT	Drug and Alcohol Action Team
DAT	Drug Action Team
DCA	Department of Constitutional Affairs
DRR	Drug Rehabilitation Requirement
DTTO	Drugs Treatment and Testing Order
NTA	National Treatment Agency
NOMS	National Offender Management Service
PSR	Pre Sentence Report
RIC	Remand in Custody
RoB	Restriction on Bail
TWOC	Taking a vehicle with the owners consent
UCB	Unconditional Bail

Appendix One: Flow charts of RoB process

Figure A1.1: Flow chart of RoB process in all pilot sites

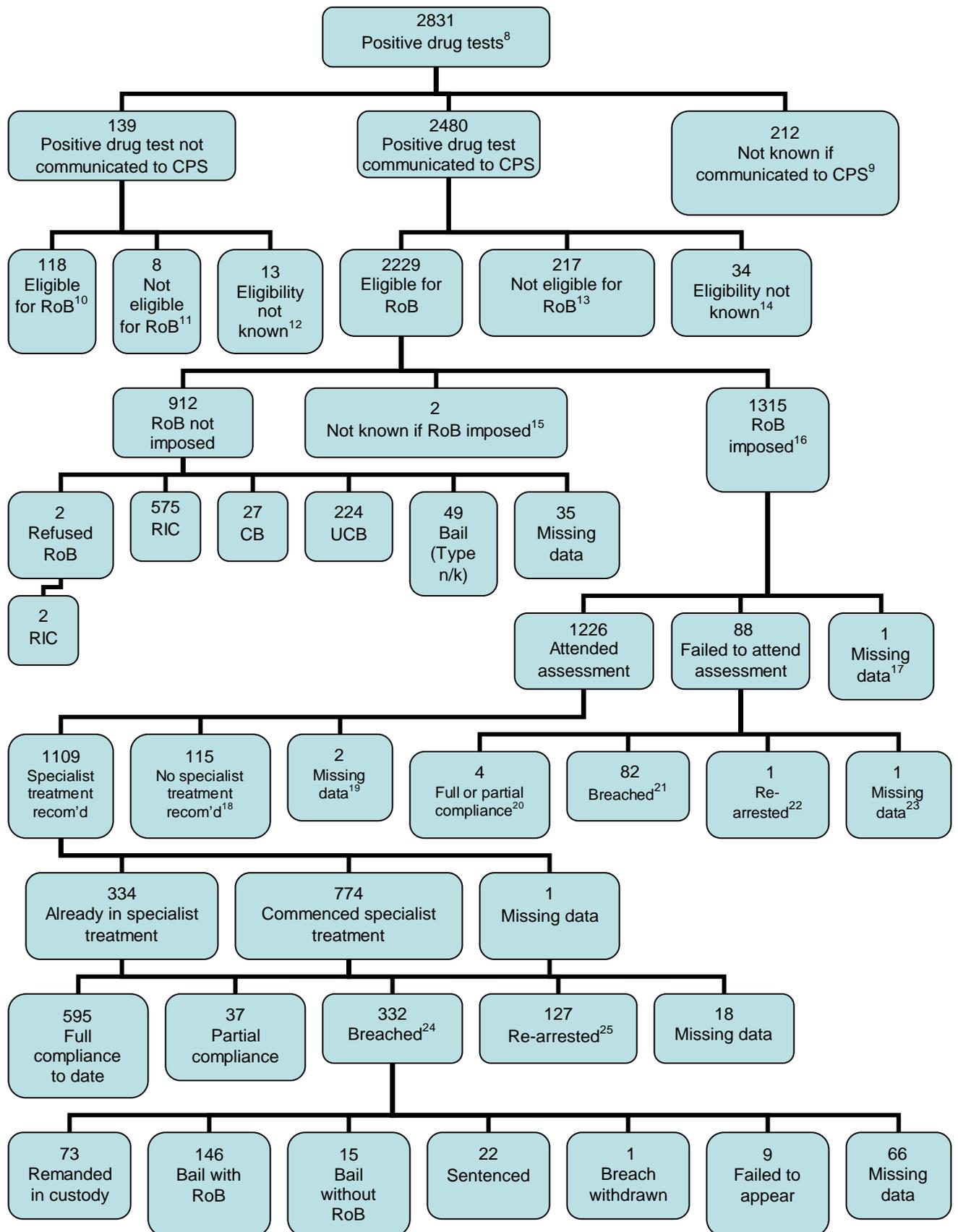


Figure A1.2: Flow chart of RoB process in Manchester

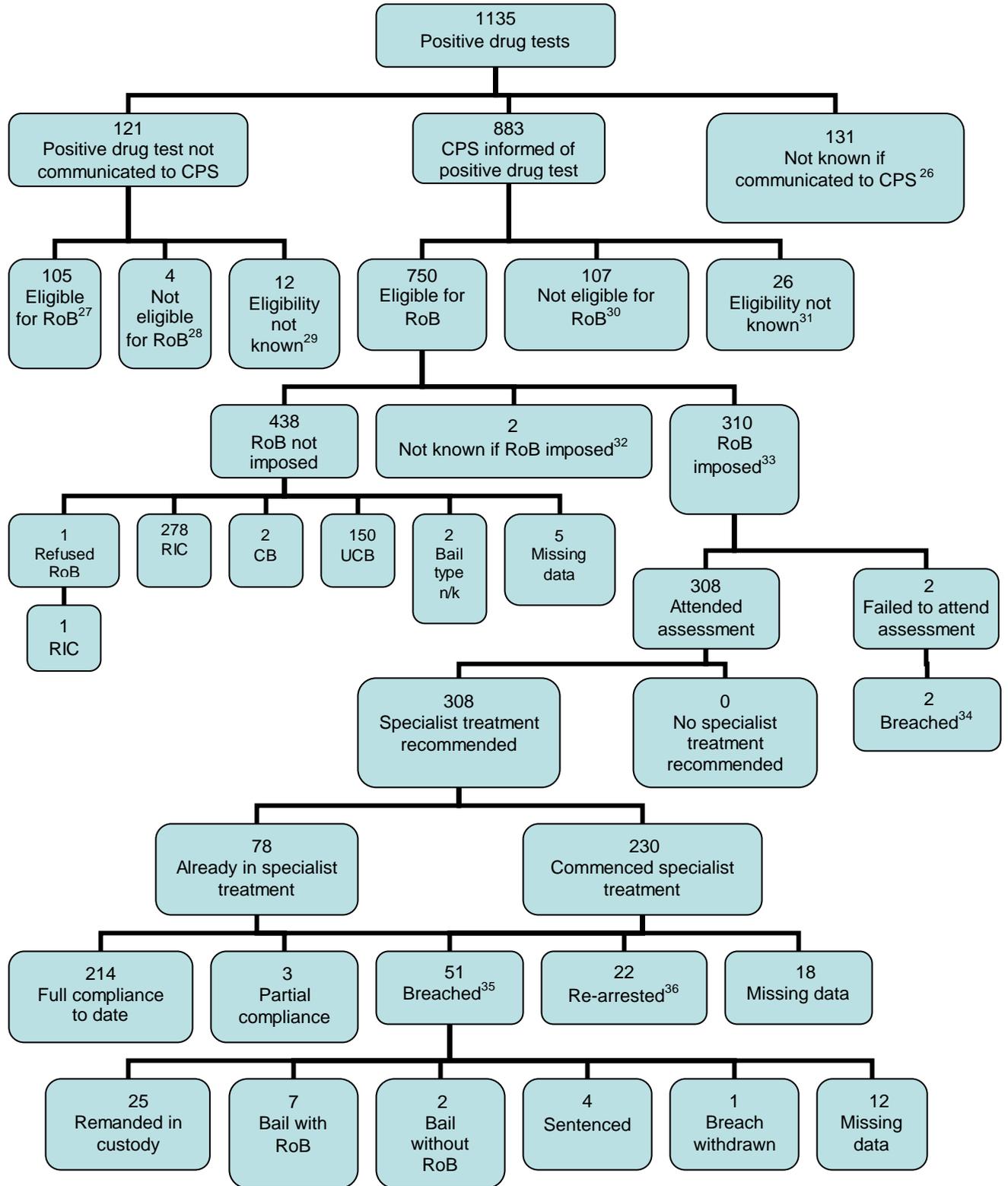


Figure A1.3: Flow chart of RoB process in Nottingham

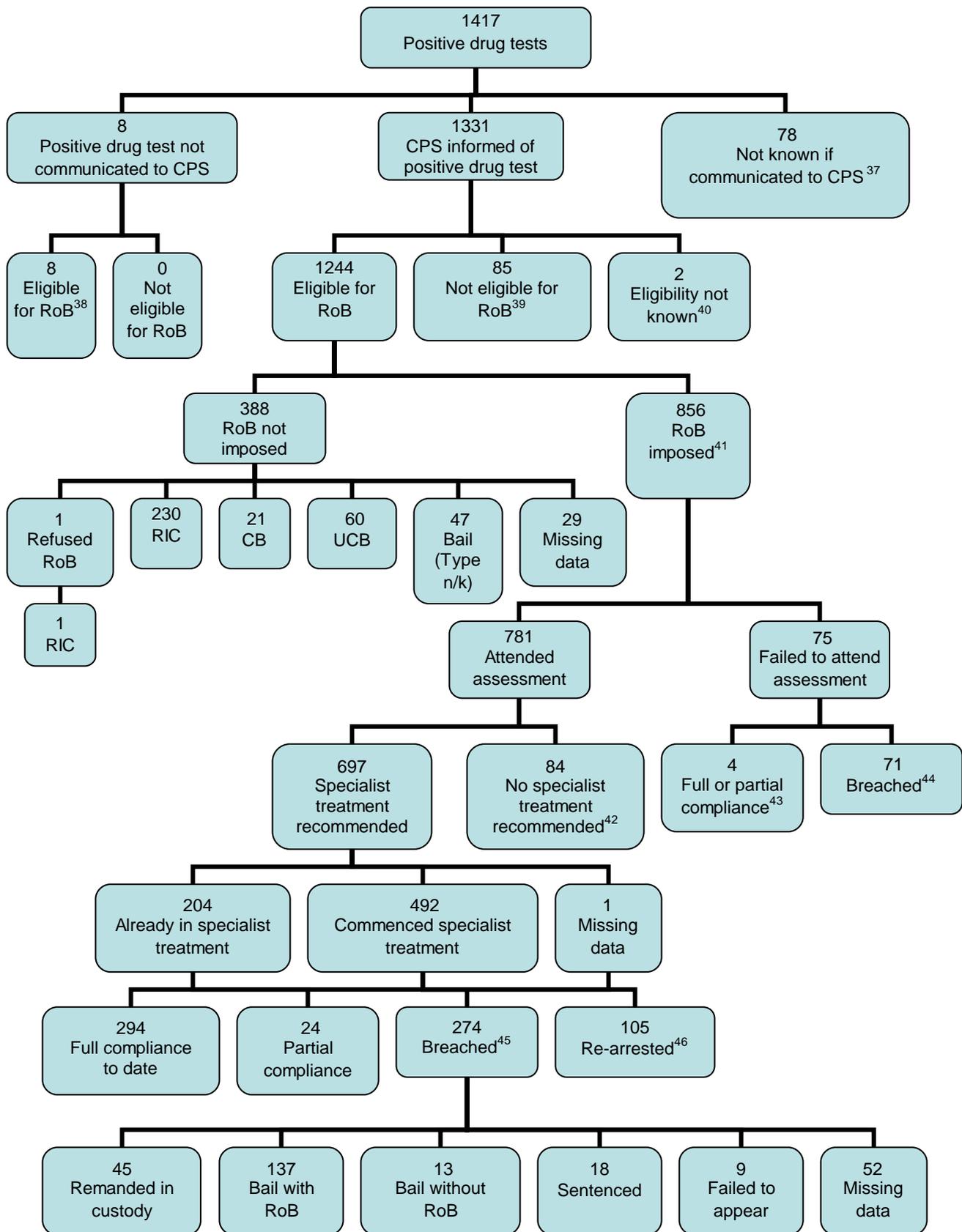
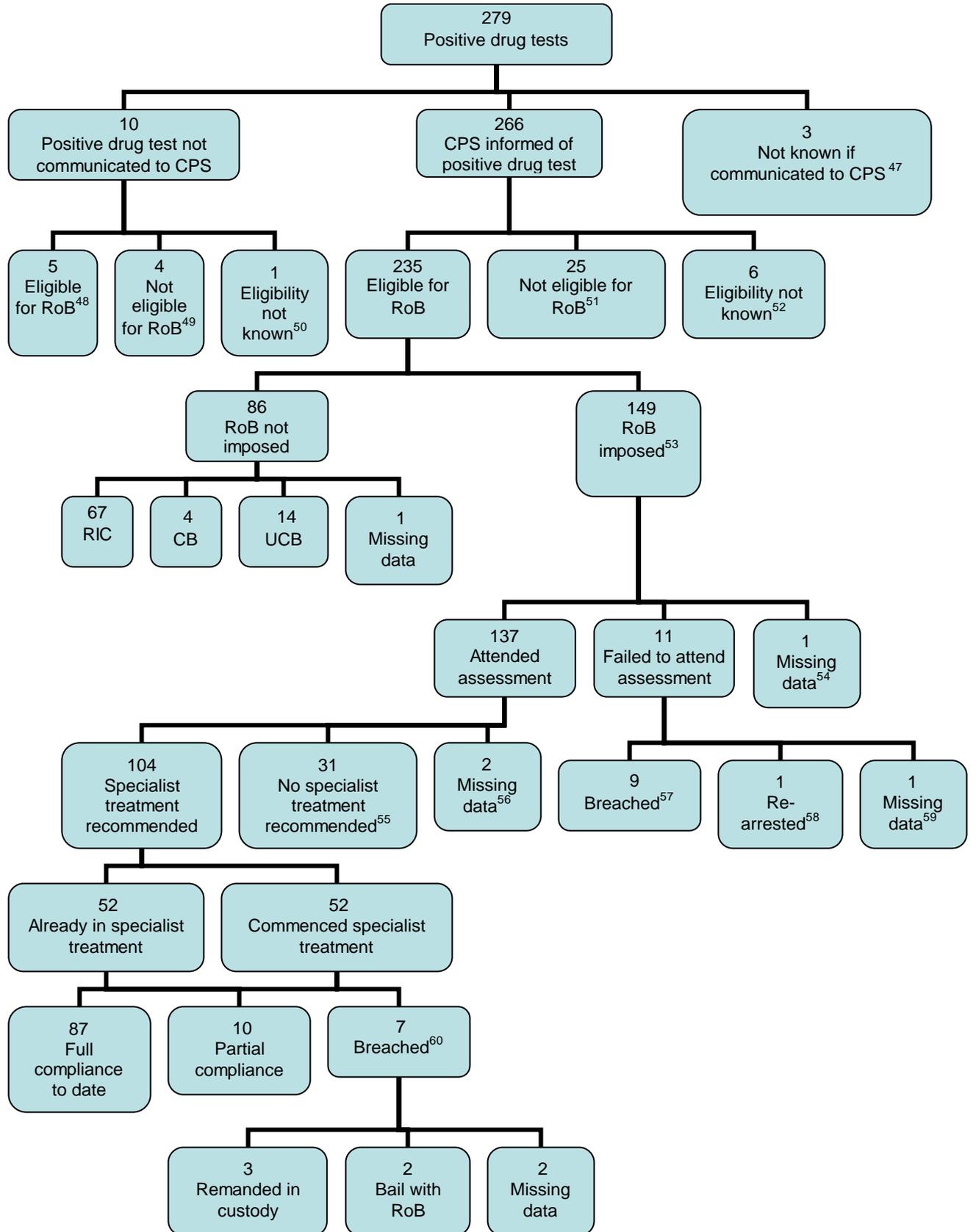


Figure A1.4: Flow chart of RoB process in Salford



⁸ Although 4042 cases were presented at court with a positive test between May 2004 and October 2005, 926 of these cases were dealt with on that day, and in 285 cases the defendant failed to appear. These cases have not been included in the RoB data.

⁹ Of these defendants 118 were recorded as eligible for RoB; 46 were remanded in custody, two were granted conditional bail, 29 unconditional bail, and 15 bail where the type was not specified. For the remaining 26 defendants the remand decision is not known. Twenty-three defendants were deemed not eligible for RoB, six of these were remanded in custody, one was granted conditional bail, 11 unconditional bail, one bail with the type not specified, and for four defendants the remand decision is not known. For 71 defendants eligibility for RoB was not recorded, one was remanded in custody, three of these defendants were granted unconditional bail, and for the remaining 67 defendants the remand decision is not known.

¹⁰ Ten defendants were remanded in custody, 11 were granted conditional bail, 86 unconditional bail, and two were granted bail where the type of bail was not known. For the remaining 9 defendants the remand decision data are missing.

¹¹ Three defendants were remanded in custody, one granted conditional bail, and four granted unconditional bail.

¹² One defendant was remanded in custody, eight were granted unconditional bail, and the remand decision is missing for the remaining four defendants.

¹³ Of the defendants not eligible for RoB, 77 were remanded in custody, 39 were granted conditional bail, 88 unconditional bail, and five bail where the type was not specified. For the remaining eight defendants the remand decision is not known.

¹⁴ Three defendants were remanded in custody, two were granted conditional bail and four unconditional bail, one was granted bail but the bail type was not specified. For the remaining 24 defendants the remand decision is not known.

¹⁵ There are no further data for these cases.

¹⁶ Of the 1315 defendants granted RoB, 144 were not granted RoB at their first hearing, but went on to be granted RoB at a later hearing.

¹⁷ This defendant is recorded as fully compliant.

¹⁸ Although 115 defendants were not recommended specialist treatment 89 are recorded as fully compliant, and nine partially compliant. Five of the defendants went on to be re-arrested and 12 defendants were breached, Of these defendants two were subsequently remanded in custody, six re-bailed with RoB, one re-bailed without RoB, and the breach outcome data are missing for the remaining eight cases.

¹⁹ Although data are missing regarding recommendation for specialist treatment, one defendant is recorded as fully compliant, the other partially compliant.

²⁰ Although all four defendants did not attend their first assessment they were deemed as not eligible for a second assessment or specialised treatment, and are recorded as fully or partially compliant.

²¹ At the breach hearing four defendants were sentenced. Nineteen defendants were remanded in custody, 49 defendants were re-bailed with RoB attached, two defendants were re-bailed without RoB, three failed to appear. For the remaining five defendants the outcome of the breach hearing is not known.

²² This defendant was remanded in custody.

²³ The outcome is missing for this defendant.

²⁴ Of those breached 239 were breached for failing to attend treatment appointments, 39 for failing to comply with other drug treatment interventions, 54 were breached for other non-drug treatment conditions.

²⁵ Once re-arrested two defendants were sentenced, 36 were remanded in custody, 54 defendants were re-bailed with the RoB condition, and for the remaining 35 defendants the outcome is not known.

²⁶ Of these defendants 53 were eligible for RoB, nine were not eligible and eligibility for RoB is missing for the remaining 69 cases. Twenty-one of these defendants were remanded in custody, two were granted conditional bail, 26 unconditional bail, the remand decision is missing for the remaining 82 defendants.

²⁷ Five defendants were remanded in custody, seven were granted conditional bail, 83 unconditional bail, and one was granted bail where the bail type was not specified. For the remaining nine defendants the remand decision is not known.

²⁸ One defendant was remanded in custody, the remaining three defendants were granted unconditional bail.

²⁹ Eight defendants were granted unconditional bail and for the remaining four the remand decision is not known.

³⁰ Of the defendants not eligible for RoB 36 were remanded in custody, 22 were granted conditional bail, 45 unconditional bail, and one was granted bail where the type was not specified. Remand decision data are missing for three cases.

³¹ One defendant was granted conditional bail, one unconditional bail, and one bail where the type was not specified. For the remaining 23 defendants the remand decision is not known.

³² There are no further data for these cases.

³³ Of the 265 defendants granted RoB, 11 were not granted RoB at their first hearing, but went on to be granted RoB at a subsequent hearing.

³⁴ Both defendants were breached for failing to attend their assessment, both were sentenced at the breach hearing.

³⁵ Of the defendants who breached, 48 failed to attend treatment appointments, three breached other non-drug treatment conditions.

³⁶ Once re-arrested two defendants were sentenced at the breach hearing, 17 were remanded in custody, two defendants were re-bailed with the RoB condition, and for the remaining defendant the outcome data are missing.

³⁷ Of the defendants where it is not known if the positive test result was communicated to CPS, 65 were eligible for RoB, and 13 defendants were not eligible. The remand decision for these defendants shows that 32 were remanded in custody, one defendant was granted conditional bail, 16 unconditional bail and 16 bail where the type is not specified. For the remaining 13 defendants the remand decision is not known.

³⁸ One defendant was remanded in custody, four were granted conditional bail, two unconditional bail, and one defendant was granted bail where the type was not specified.

³⁹ The remand decision for 33 defendants was for them to be remanded in custody, nine were granted conditional bail, 36 unconditional bail, three were granted bail where the type has not been specified, and for four defendants the remand decision is not known.

⁴⁰ One defendant was remanded in custody the second was granted conditional bail.

⁴¹ Of the 856 defendants granted RoB, 132 were not granted RoB at their first hearing, but went on to be granted RoB at a subsequent hearing.

⁴² Although no specialist treatment was recommended, 68 of these defendants are recorded as fully compliant with the RoB condition, 11 breached and five were re-arrested. For these defendants one was remanded in custody , six

were re-bailed with RoB imposed, one was re-bailed without RoB, and for the remaining eight defendants the breach outcome is not known.

⁴³Although all four defendants did not attend their first assessment they were deemed as not eligible for a second assessment or specialised treatment, and are recorded as fully or partially compliant.

⁴⁴One defendant was breached for another non-drug treatment condition, one for failing to comply with other drug treatment interventions, the remaining 69 were breached for failing to attend their assessment appointments. Two defendants were sentenced at the breach hearing. The outcome for the breach for 16 defendants was to be remanded in custody, 43 defendants were re-bailed with RoB re-applied, two defendants were re-bailed without RoB. Three defendants failed to appear in court for the breach hearing, and the outcome is missing for five defendants.

⁴⁵Reason for breach for 185 defendants was failing to attend treatment appointments, 39 failed to comply with drug treatment, and 50 breached other non-drug treatment conditions.

⁴⁶Once re-arrested 19 defendants were remanded in custody, 52 were re-bailed with the RoB condition, for the remaining 34 defendants the outcome data are missing.

⁴⁷One defendant was not eligible for RoB, and eligibility is not known for the other two defendants. One defendant was granted unconditional bail, and the remand decision is missing for the remaining two defendants.

⁴⁸Four defendants were remanded in custody, and one was granted unconditional bail.

⁴⁹Two defendants were remanded in custody, one was granted conditional bail, and one was granted unconditional bail.

⁵⁰This defendant was remanded in custody.

⁵¹Eight defendants were remanded in custody, eight were granted conditional bail, seven unconditional bail, one was granted bail where the type was not specified, and for one defendant the remand decision is not known.

⁵²Two defendants were remanded in custody, three were granted unconditional bail and for the remaining defendant the remand decision is not known.

⁵³Of the 149 defendants granted RoB, one defendant was not granted RoB at their first hearing, but went on to be granted RoB at a subsequent hearing.

⁵⁴This defendant is recorded as fully compliant.

⁵⁵Although no specialist treatment was recommended 21 defendants were recorded as fully compliant, nine as partially compliant. One defendant breached a non-drug treatment condition and was subsequently remanded in custody.

⁵⁶One defendant is recorded as partially compliant, the second as fully compliant.

⁵⁷Three defendants were remanded in custody, six were re-bailed with the RoB condition imposed.

⁵⁸This defendant was remanded in custody.

⁵⁹The outcome is missing for this defendant.

⁶⁰Six defendants breached for failing to attend treatment, one for breaching other non-drug treatment conditions.

Appendix Two: Positive drug tests, RoB eligibility and application

Figure A2.1: Positive drug tests, RoB eligibility and applications in Manchester

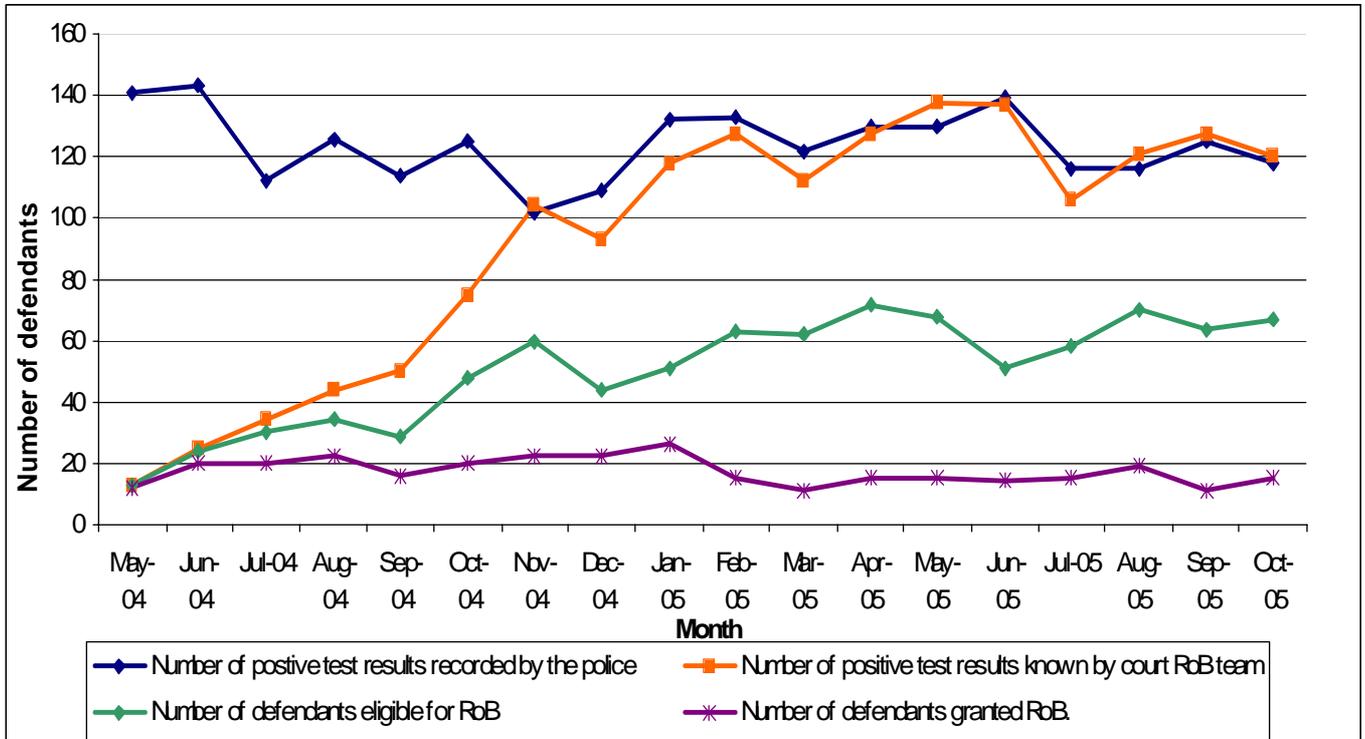


Figure A.2.2: Positive drug tests, RoB eligibility and applications in Nottingham

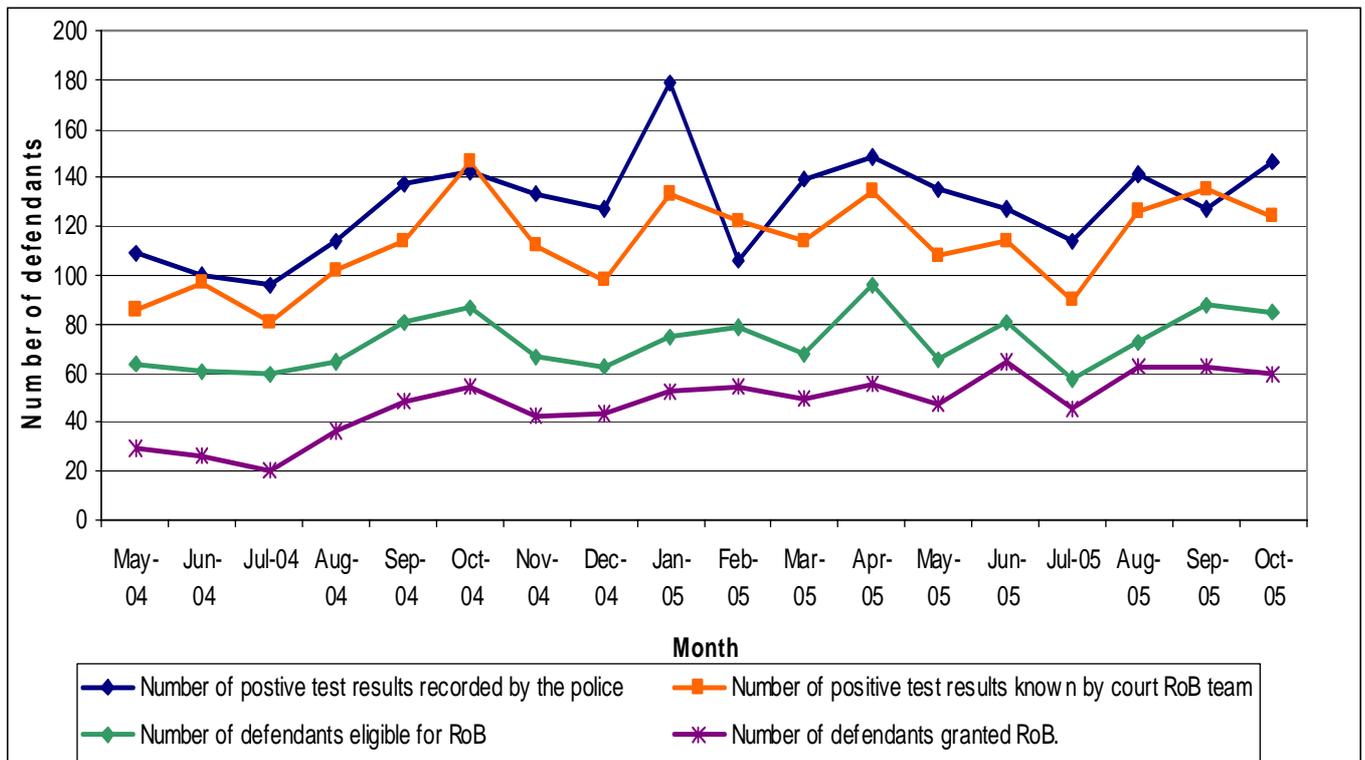
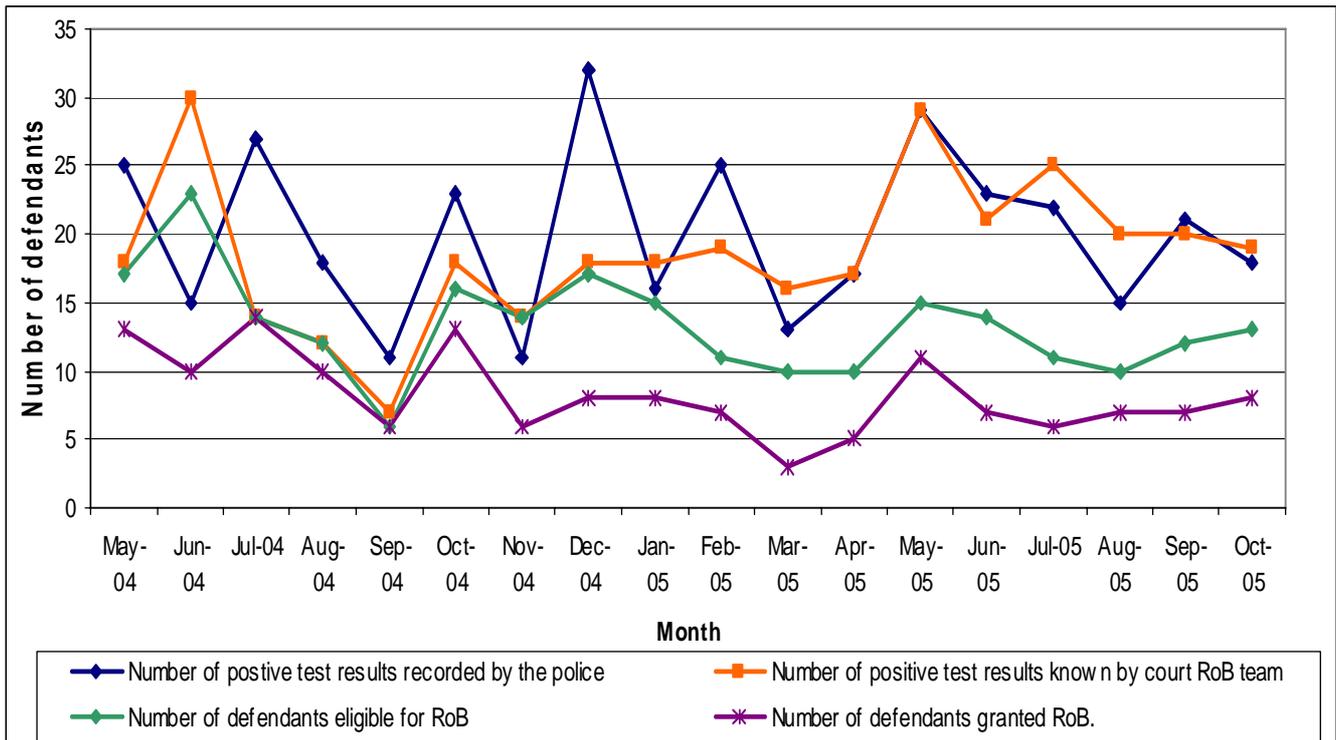


Figure A2.3: Positive drug tests, RoB eligibility and applications in Salford



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