

Problem-solving in Scotland: New developments

Since Glasgow Drug Court opened its doors in 2001, problem-solving has become a recognised part of the Scottish justice system. Following the Angiolini commission's 2012 backing for the approach, we have seen the development of three new projects that adapt problem-solving to their local context: Edinburgh Alcohol Court, Forfar Problem-Solving Court and Aberdeen Problem-Solving Approach.

What are problem-solving courts?

Problem-solving courts seek to use the authority of the court to enhance the rehabilitative power of community sentences. They combine the provision of multi-disciplinary treatment in the community with regular court reviews to monitor and encourage offenders' progress. They usually have a particular specialism, whether a specific need such as drug abuse, a specific crime, such as domestic abuse, or a specific group of offenders such as women or young adults.

Primarily based in adult criminal courts, but also applied in family and juvenile jurisdictions, problem-solving courts emerged in the USA and have since spread to countries such as Belgium, Brazil, Canada, Australia, New Zealand. Extensive international evidence suggests that, when delivered appropriately to the right population, problem-solving courts can reduce reoffending, improve compliance with court orders and generate savings for the state.¹

Problem-solving in Scotland

The history of problem-solving in Scotland can be dated back to the opening of the Glasgow Drug Court in 2001. The project, which is located in Glasgow Sheriff Court, oversaw the management of offenders on Drug Treatment and Testing Orders (DTTOs), offering them a dedicated multi-disciplinary treatment service and regular judicial monitoring. Today, Scotland has a small group of established problem-solving courts targeting issues like substance abuse and domestic violence.

As well as specialist sites, the principles of problem-solving have also influenced the development of mainstream sentencing. In particular, The Criminal Justice and Licensing (Scotland) Act (CJLSA) 2010 gave all courts the powers to order progress reviews for any offenders on a Community Payback Order.

Interest in problem-solving courts in Scotland was strengthened by the 2012 report of the Angiolini Commission on Women Offenders² which suggested that the approach was promising in the Scottish context, though not yet proven. It recommended a new pilot court be set up in a major Scottish conurbation.

The interest sparked by this report has led, both directly and indirectly, to a new cohort of emerging problem-solving courts. These courts draw on the powers offered by the CJLSA and existing local resources to provide sustainable problem-solving approaches which respond to specific local needs. This briefing will explore three examples of these courts, setting out their histories and how they are working in practice.

The Aberdeen Problem-Solving Approach

The Aberdeen Problem Solving Approach (PSA) seeks to reduce the use of short custodial sentences by providing new community disposals to women and young adult males with complex needs and multiple previous convictions.

Background

The Aberdeen PSA was established as part of the response to the Angiolini Commission. It followed an open call for proposals, intended to identify areas with the greatest degree of local interest in delivering a problem-solving model. The Aberdeen proposal identified two key groups who would benefit from a problem-solving approach:

- Women who are aged over 16, being prosecuted on a summary complaint, have seven or more criminal convictions, are assessed as medium to high risk in relation to needs/reoffending, and are at risk of custody.
- Young adult men (aged 16-25), being prosecuted on a summary complaint, have seven or more criminal convictions (3 or more for assault convictions), are assessed as medium to high risk in relation to needs/reoffending, and are at risk of custody.

The PSA was implemented in two phases. The women's service opened in November 2015, followed by the men's service in August 2016. The court was initially overseen by Sheriff Alison Stirling. In December 2016, Sheriff Morag McLaughlin took over the role of lead sheriff for the court.

How it works

The Aberdeen PSA runs hearings most days for women and men, with a maximum of 2 such hearings each day. Each hearing is presided over by a specially trained summary sheriff. Potential eligible cases are usually screened while on remand prior to first appearance. If they plead guilty and the presiding sheriff agrees, an expedited Criminal Justice Social Work (CJSW) report is requested, and the case adjourned for a period of around 7 days. At that stage, it is determined whether the PSA is appropriate and, if so, the offender is placed on a structured deferred sentence with a first review to call in the problem solving court 4 weeks later.

Offenders accepted into the PSA are made subject to a structured deferred sentence (SDS), with the expectation that this will last for six months. They are required to attend weekly CJSW meetings and engage with an intensive personalised treatment package. Their progress is reviewed in court every four weeks. Young men are expected to engage with the Venture Trust while support for female clients is co-ordinated via the Aberdeen Connections Women's Centre. If offenders successfully complete the SDS they can expect to receive an admonition.

The PSA is delivered in partnership with the Scottish Court and Tribunal Service (SCTS), Aberdeen City Council CJSW, the Crown Office and Procurator Fiscal Service (COPFS), Police Scotland, and the Scottish Legal Aid Board (SLAB), with additional support provided by a range of agencies.

In its first 18 months of operation, the PSA has admitted 59 clients (35 women and 24 men), of whom 40 have been sentenced to an SDS under the PSC. This is insufficient for an outcomes evaluation, but a process review will begin later this year. The approach has been well-received by local partners in Aberdeen and was praised by the Cabinet Secretary for Justice, Michael Matheson MSP at a visit late last year.

Edinburgh Alcohol Problem Solving Court

The Edinburgh Alcohol Problem Solving Court (APSC) seeks to provide alcohol-dependent offenders with quicker assessment, speedier access to interventions, and regular oversight by the Sheriff through progress reviews.³

Background

The APSC has its roots in a 2013 study grant which funded NHS Lothian to look at how to improve the response to people who are concurrently in contact with criminal justice, addiction support and mental health agencies.

The study team collaborated with Sheriff Frank Crowe to develop a proposal for the Scottish Government funding bid which resulted in the Aberdeen PSA. When the Edinburgh bid was unsuccessful, local partners re-designed the model to be based on existing local resources and in particular, NHS-funded alcohol treatment services delivered by Lifeline. Development of the project was overseen by the Edinburgh Prolific Offenders Subgroup.

How it works

The APSC is targeted at adult men who have a pattern of alcohol related offending resulting in frequent appearances in Court. A number of groups are, however, out of scope, including most domestic abuse perpetrators and offenders with multiple and complex needs for whom a more holistic set of interventions is seen as appropriate.

Potential APSC clients are identified either by a sheriff or by the CJSW and then have sentencing deferred for one week while they are provided with an expedited CJSW report which assesses their eligibility for the service.

Offenders admitted to the APSC receive a Community Payback Order, which incorporates alcohol addiction treatment from Lifeline. As well as treatment, the service can also help them access housing (many are homeless) and other forms of support. Treatment services are delivered at hubs across the catchment area.

Lifeline addiction workers are the key point of contact for the offender, reporting progress and compliance to CJSW's who then prepare reports for six-weekly court reviews. All reviews are conducted by Sheriff Crowe, and defendants are represented by a lawyer.

The pilot was expected to admit 20 cases in the first year. In the first nine months of the pilot, 56 cases were considered for the APSC and 23 were admitted. Offenders were sentenced for a range of offenses with the most common being theft and threatening/abusive behaviour. While the majority of offenders had many previous convictions, a number of first time offenders have been included in the programme where it was felt that they would benefit from speedy access to treatment.

A process evaluation of the pilot is being readied for publication. Local partners report that they are pleased with the performance to date and intend to continue funding the court. Although Lifeline is ceasing operation, partners are expecting a smooth transition of the delivery of addiction services to the new provider CLG.

Forfar Problem-Solving Court

Forfar Problem-Solving Court, which opened in January 2017, provides support and supervision to persistent offenders through a specialist court hearing and tailored support services. The project, which was transferred to Forfar from another court, represents an interesting example of how an innovative model needs to be adjusted as it moves to a different context.

Background

The Forfar project has its origins in a partnership between sheriffs sitting in Arbroath Sheriff Court and the Glen Isla Project, a women's community justice centre run by Criminal Justice Social Workers from Angus Council. This partnership enabled Sheriffs to sentence female offenders to complete an SDS which included a requirement to obtain support from the project, as well as to attend regular reviews.

The partnership was transferred to Forfar Sheriff Court in 2016. However, the busy court schedule in Forfar meant that problem-solving reviews were being scheduled in the court's normal sitting times, meaning that vulnerable defendants were being asked to disclose personal details in busy, open court rooms. In order to make it easier to engage with vulnerable women and widen the project to include male offenders too, the decision was taken to hold dedicated problem-solving court sittings.

How it works

Since January 2017, problem-solving sittings have taken place fortnightly on a Wednesday morning, in a small, relatively intimate court room. Potential problem-solving clients are identified at or before court by either police, CJSWs or Sheriffs themselves. Because the court serves a relatively small rural community, most clients are well-known to the justice agencies before they start the process.

Hearings are presided over by two sheriffs who each sit fortnightly, creating a regular four-week schedule in which clients can be scheduled to return and be reviewed by their original sentencer. Clients are usually sentenced to the court on a short high-tariff SDS which expires at each review date. This offers the sheriff the option to either resentence or admonish the client at each hearing, as well as continuing the programme by extending the SDS. Reviews are attended by the offender and their lawyer, as well as a CJSW who provides feedback on the offender's progress.

The Glen Isla project is staffed by both CJSWs and health workers and offers women a range of support including the Good Choices Project which uses creative arts to help women open up about their experiences and peer mentoring. Male offenders receive similar support through other services.

Only a limited number of offenders have completed the new Forfar programme since it began earlier this year, meaning that no conclusions on outcomes can yet be drawn. However, the project is well-regarded by local stakeholders. The Courts Service has committed their continued support for dedicated sittings but there is currently no long-term funding plan in place for the Glen Isla project.

Endnotes

1. Phil Bowen and Stephen Whitehead. 2015 *Problem-Solving Courts: An Evidence Review*. London: Centre for Justice Innovation. Available online at <http://justiceinnovation.org/portfolio/problem-solving-courts-an-evidence-review>
2. Commission on Women Offenders. 2012 *Final Report* Edinburgh: Scottish Government <http://www.gov.scot/Resource/0039/00391828.pdf>
3. For a fuller account of the project see Irvine, L., Bowyer, D., and Kiely, S. (2017). Alcohol Problem Solving Court: Preliminary findings from an Evaluation of a Service Development. Report prepared for collaborating partners City of Edinburgh Council and NHS Lothian. (publication forthcoming)

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