

NIACRO's response to the NIO Consultation on Community Based Restorative Justice Schemes

1. INTRODUCTION

- 1.1 The Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO), is a voluntary organisation, which has been working for almost 35 years to reduce crime and its impact on people and communities. NIACRO provides services which promote safer communities; work with children and young people who offend; provide services to families and children of offenders; support offenders and ex-prisoners in the community and work with prisoners.
- 1.2 NIACRO has links with all key criminal justice agencies in Northern Ireland and also relates to other bodies/organisations in the voluntary, community and private sectors.
- 1.3 NIACRO welcomes the opportunity to comment on the community based restorative justice consultation having being engaged in the community restorative justice debate for many years.

2. BACKGROUND

- 2.1 During the 1970/80s the phenomenon of punishment beatings and shootings was evidence of the level of damage which the ongoing conflict was inflicting on the social fabric of Northern Ireland. Essentially, Republican and Loyalist paramilitary groups intervened when individuals were reported as acting lawlessly in the community. This was occurring without significant or appropriate intervention by government and statutory, voluntary or community organisations.
- 2.2 In the late 1980s an interagency group (INTERACT) focusing on issues relating to North/West Belfast secured private funding to develop a response to the issue. NIACRO (in the absence of any interest from other organisations) agreed to host and subsequently manage what became known as the BASE 2 programme. Central to NIACRO's commitment to this programme was its value of non-violence and its commitment to humanitarian responses to crime and offending. While NIACRO opposes without equivocation all forms of beating/shootings and threatening behaviour, it has no strategic interest in continuing to manage such a service. However it will continue to provide the service as long as it is needed.
- 2.3 As the experience of BASE 2 developed it became clear that in addition to the crisis response, NIACRO needed to develop related services and link them to address the needs of those under threat i.e. the need for finance, accommodation, employment/training, medical and behaviour modification supported services. It was also understood that relationships between the individuals and their local communities

needed to be rebuilt as many of those exiled did not have the social or economic skills required to survive in other settings.

- 2.4 In related developments, community groups and activists in some of the areas that were experiencing the highest levels of threats, beatings and shootings were examining how to engage and change the prevalent response and empower communities to engage constructively with those who were offending against them.
- 2.5 The emerging focus on restorative justice in the wider criminal justice environment generated interest in Northern Ireland in both statutory and voluntary sector organisations. In the statutory sector the Criminal Justice Review gave life to the Youth Conferencing Service and developments into the future will or are likely to provide a similar service for adults. In the Republican and Loyalist groups, activists who had publicly stated their opposition to the carrying out of beatings/shootings/threats began a process of engagement to consider how to develop a model that fitted their communities and it was from this process that Community Restorative Justice Ireland and Alternatives Northern Ireland emerged.
- 2.6 NIACRO supported the early discussion process and helped, as it was asked, in the initial phase of development providing a fiduciary role in funding and sitting on the Boards of Management of both organisations.
- 2.7 It was NIACRO's view then and it remains so that the emergence of the community based restorative justice groups is an opportunity for the schemes to contribute to the building of community infrastructure which can transcend the violence of the paramilitary organisations and the inadequate responses of the statutory sector.
- 2.8 NIACRO believes that the condemnation of acts of inhumanity is inadequate if not backed up by a response which actively impacts on the issue. NIACRO's sponsorship and management of BASE 2 has been criticised by many. However, the organisation can evidence its support for thousands of individuals who have identified themselves as being under threat, who were supported by its services, and who might otherwise have been subject to beatings, shootings and/or threats. Similarly the public debate in relation to community based restorative justice groups' focuses on the existence of the schemes rather than their effectiveness. Aware of this undermining process NIACRO welcomes the fact that the groups have agreed to inspection, as recommended in the Criminal Justice Review, to evidence the outcomes of their work.
- 2.9 A central political and public concern is the fact that the community based restorative justice groups on occasion employ staff and engage volunteers who are ex-prisoners and come from Republican and Loyalist backgrounds. This has been acknowledged openly as being a

feature of these groups. As many ex-prisoners with such backgrounds have played a very significant role in political and community life in NI – this is unremarkable but remains a barrier to those who are challenged by the concept of individuals/groups embracing change and engaging in new ways of working.

- 2.10 NIACRO is supportive of the community based restorative justice groups though its engagement with them has significantly reduced over the years. This support is provided on the basis that the groups are seeking to influence Republican and Loyalist constituencies and that their activities are rooted in internationally recognised human rights standards and principles of non-violence.
- 2.11 In NIACRO's view, effective community based restorative justice groups are concerned with mediation – they are not a policing service. They deal with the victims' concerns for a response from within their community. As a consequence community based restorative justice groups need to be recognised as making a contribution to the broader criminal justice system. Such a location provides the opportunity for constructive as opposed to competitive relationships with much to contribute to the building of public confidence at a community level.

3. RESPONSE TO INDIVIDUAL PROTOCOLS

Protocol Para 2: More clarity is required as to definitions and levels of criminality. Sometimes the area between what could be termed public nuisance and criminality can be unclear – the schemes in particular need to have a clear understanding of the distinction as they can deal in both areas.

This will have a significant impact in respect of how crime is reported to the statutory agencies.

Protocol Para 3: This definition is one that can be agreed by all parties.

Protocol Para 4: NIACRO would support the proposition that all elements of the Criminal Justice System “should have the confidence of the community it serves”. This includes the schemes.

NIACRO acknowledges the fact that there are strong divisions of opinion about the schemes which can be addressed by openness, transparency and accessibility.

Protocol Para 5: NIACRO supports this proposal.

Protocol Para 6: NIACRO fully supports this proposal.

Protocol Para 7: All parties engaged in the Criminal Justice System have a duty to promote confidence in it. Organisations should not be

expected to offer uncritical support where there is poor practice. The promotion of public confidence should be of primary concern to all.

Protocol Para 8: The Public Prosecution Service should have responsibility for deciding how an offence will be dealt with.

Protocol Para 9: PBNI and the YJA communicate information to PSNI who forward such information to PPS. For this to work in the context of these protocols requires implementation of protocol para 2.

Protocol Para 10: For this to work in the context of these protocols requires implementation of recommendation protocol para 2.

Protocol Para 11: For this to work in the context of these protocols requires implementation of protocol para 2. It should also be noted that the schemes operate at a different pace than some statutory organisations. This needs to be acknowledged and there should be discussions around harmonisation.

Protocol Para 12: This proposal focuses on process and the observations in response to protocol para 11 apply.

The issue of finger printing and DNA requires review particularly given the fact that it has just been disclosed that over 40,000 completely innocent young people in GB have had finger printing and DNA records maintained on file.

Rapidity of response, a feature of the schemes when operating at their best, should not and does not have to equate to a diminution of individual human rights and some definition of “fast track” is required.

Protocol Para 13: Public interest and public confidence are linked. Further discussion in respect of relevant information would be useful. An assumption could be made that this refers to community views. If so this should be made explicit.

Protocol Para 14: One of the dangers of mainstreaming the schemes within the context of Criminal Justice is the danger of “tariff lengthening and tariff jumping”. By tariff lengthening it is meant that the schemes are located at the bottom end of the existing criminal justice tariff. If a schemes intervention is perceived to have “failed” it may accelerate an individual’s entry into high end tariff or custodial disposal.

Protocol Para 15: This protocol reflects standard practice in respect of dealing with any criminal offence that is disclosed during process.

Protocol Para 16: NIACRO supports the view that open and transparent protocols be established in respect of accreditation, training of staff, human rights protections, other due process and

proportionality issues, and complaints mechanisms for both victims and offenders.

Protocol Para 17: NIACRO supports this proposal.

Protocol Para 18: The suggestion contained within this protocol may have repercussions in respect of Government supported resettlement and inclusion strategies. The consultation also needs to take account of the fact that this proposal would be a new departure and would impact negatively on all sectors (statutory, voluntary, community and private) engaged in recruitment and selection of ex-offenders and ex-prisoners.

The protocols do not reflect or acknowledge current discussions involving OFM/DFM with respect to the barriers to employment experienced by politically motivated ex-prisoners.

Protocol Para 19: NIACRO expect any body or organisation operating within the Criminal Justice System to welcome this proposal. In respect of the schemes these will require resourcing.

Protocol Para 20: Again NIACRO would expect any organisation operating within the Criminal Justice System to welcome this proposal.

Protocol Para 21: NIACRO welcomes this proposal as it contributes to developing public confidence in the activities of an organisation. NIACRO would expect information provided to be grounded in human rights principles.

Protocol Para 22: NIACRO agrees with the proposal that (when appropriate) parents/guardians support the young person.

Protocol Para 23: NIACRO supports the establishment of a qualified independent point of contact for advice on human rights issues and legislation.

Protocol Para 24: It is expected that all organisations have a complaints mechanism with the provision for an independent external complaints mechanism which will be subject to inspection.

Protocol Para 25:

This paragraph details elements of schemes subject to inspection. This would be a standard that other organisations and bodies in the Criminal Justice System would experience.

NIACRO welcomes the fact that the schemes are willing to be subject to inspection by the Criminal Justice Inspectorate. Schemes need to be adequately financed if they are to put in place the necessary systems

of governance, finance, recruitment and selection as well as good practice, otherwise it is likely that they will fail the inspection process.

Protocol Para 26: Access to diversionary activities and/or programmes should be a matter for the Youth Justice Agency and the schemes to agree.

Protocol Para 27: NIACRO further welcomes the reference in the protocols re importance of record maintenance. No one would dispute such a process as it ultimately protects users, staff, the organisation and provides hard data for evaluations and ultimately making the case for relevance.

Protocol Para 28: While the schemes should have no role in ascertaining or determining guilt it is a fact that the schemes have dealt with people who have admitted, not under duress or coercion, their responsibility for particular actions. It might be useful to examine how models in other jurisdictions “talk to” state systems where the above may occur. It might also be useful to learn from other jurisdictions where levels of trust are in the process of being established and developed.

Protocol Para 29: NIACRO fully supports this proposal.

4. SUMMARY OF NIACRO’S OBSERVATIONS

- The schemes should be seen to be a contribution to building the public’s own confidence to deal with low level crime imaginatively and creatively in their local neighbourhood.
- Adequately resourced schemes adhering to human rights principles provide the opportunity for disempowered and abandoned communities to reconnect and re-establish relationships that work for and support their needs.
- It would be helpful to examine how community based models in other jurisdictions “talk” to state sponsored systems where levels of trust are in the process of being established and developed.
- The schemes’ location in the community is unique, as are the schemes’ ability to engage local people in their service delivery. Lay engagement of this type would be considered a prize in other jurisdictions.
- A feature of the schemes is their ability to rapidly (without reduction of individual human rights) respond in particular cases. This is to be valued by both the victim and the offender. The reduction in delay, compared to the formal system, closes the gap between the offence and the subsequent accountability to the victim.
- The concept and practice of voluntarism attached to the schemes should be acknowledged and promoted positively.

- The protocols as outlined may have the effect of speeding up the process whereby young people in particular move up tariff.
- The issue of finger printing/DNA tests for nuisance crime appears excessive.
- NIACRO is very concerned at the proposal that a third party assumes a direct role in the selection and/or vetting of staff and volunteers for an NGO. This would undermine independence and governance.
- The protocols in their current form will add to the barriers experienced by ex-offenders and ex-prisoners who are seeking to enhance their employability. (What is suggested has the potential to undermine the recently launched Prison Service led Resettlement Strategy as well as other inclusive policies under active consideration).

5. CONCLUSION

- 5.1 Northern Ireland has experienced significant difficulties in respect of criminal justice practice both formally and informally. It is clear that public confidence in the criminal justice system requires continuing attention. As part of this requirement NIACRO welcomes the opportunity to respond to this consultation and offers its comments to support a positive process. This provides for the development of a set of evolving and interconnecting relationships, which should include the contribution that community based restorative justice groups can make. The potential of this contribution should be appropriately acknowledged and supported.