



**NIACRO'S RESPONSE TO THE NORTHERN
IRELAND OFFICE CONSULTATION:
ARRANGEMENTS FOR NOTIFICATION OF
SEX OFFENDERS FROM OUTSIDE THE UK**

DATE: 13TH MAY 2010

CRU Ref: 2010/51

NIACRO Ref: HAR24899

1. Introduction:

NIACRO, the Northern Ireland Association for the care and resettlement of offenders, is a voluntary organisation, working for almost 40 years to reduce crime and its impact on people and communities. NIACRO provides services under the headings of: promoting safer communities; working with children and young people who offend; providing services to families and children of offenders; supporting offenders and ex-prisoners in the community; working with prisoners.

NIACRO works in partnership with all the main criminal justice agencies in Northern Ireland.

NIACRO has over 30 years experience in working with adult and youth offenders, prisoners, their families and local communities. Our services are available to individuals, irrespective of their offence.

1.1 Previous consultations on managing sex offenders:

In October 2006 NIACRO provided a written response to the consultation document "Reforming the Law on Sexual Offences in Northern Ireland." We stated our support for reform of the existing and outdated legislation as crucial, in order to create "a fair and non - discriminatory body of law." NIACRO believed reform would assist in developing trust and confidence of the public in the criminal justice system as a whole.

In 2007, NIACRO submitted written response to an NIO consultation on the "Proposed Draft Sexual Offences (NI) Order 2007". Acknowledgement was given to the focus of this Order i.e. that it is primarily concerned with the sexual offences themselves and the defining of law that applies to sexual offences in Northern Ireland.

NIACRO now welcomes the opportunity to make comment on proposals that seek to change and improve notification arrangements of sex offenders from jurisdictions outside of the UK.

1.2 Families:

When considering future proposals, NIACRO believes it is necessary that Government also look at the families of offenders. Our experience in working with this group clearly demonstrates the far reaching impact and consequences of an offender's actions on the family unit.

This is of particular concern when the offence is a sexual one, often resulting in significant pressure on the offender and their families by local communities and the media. Many families are ostracised by their community and are without clear support, leaving them vulnerable. Their needs must also be considered, when implementing change.

1.3 General thoughts:

NIACRO recognises the particular difficulties associated with working and supporting individuals who have sexual offences. As an organisation with expertise in this area, we have made every effort to develop appropriate links with relevant statutory agencies, as part of our contribution towards a multi-agency risk management process.

This consultation outlines 4 options. However, whilst these are worth some consideration, NIACRO has found it difficult to come to any agreed conclusions. This is because we believe a number of issues pertaining to this subject are not addressed. Specifically there is a lack of clarity regarding the overall reason for introducing the change.

2. Arrangements for the notification of sex offenders from jurisdictions outside the UK:

NIACRO understands that the principal underpinning this proposal is to increase public protection by taking a proactive approach to reduce the risk posed by sex offenders.

NIACRO supports this. However, action must be proportionate, accountable and effective. It must provide mechanisms that work to increase public protection and public confidence.

This means the requirements placed on the offender are realistic and make compliance possible.

2.1 Option A:

As the document clearly states that “there is no evidence to suggest that the current procedures are not working in respect of those offenders who are known to the police,” therefore, we are interested in the reasoning behind the decision to introduce new systems.

If the issue is one of expediency, NIACRO recommends Government focus on improving the effectiveness levels between the courts and PSNI, in order to ensure the courts react more quickly to police requests for a notification order. A more efficient partnership will make sure offenders enter the system quickly and are not in a limbo that does not suit them, nor the agencies charged with monitoring them.

2.2 Option B:

If the Government’s purpose is to harmonise the notification requirements for sex offenders into line with the Irish system, NIACRO recognises that this option is reasonable. NIACRO believes Option B would create a consistent approach in risk management and overcome any inequality issues by including sex offenders from **all** jurisdictions.

However there are still a number of difficulties associated with this option:

- By giving the responsibility of registration to the offender, NIACRO questions how successful the process will be. This “group” of offenders are known for demonstrating secretive and manipulative behavioural patterns and are unlikely to comply with this level of responsibility. NIACRO views the current process where individuals are made known to police and required to register as a much more effective means of compliance.
- The issue of “automatic registration acting as a deterrent” is questionable in relation to those individuals who are travelling to Northern Ireland from jurisdictions that do not have similar legislation relating to sex offenders and requirements for notification. This group is less likely to:
 - Be aware of and understand registration requirements in NI.
 - Have English as their first language and may consequently experience difficulties in understanding the requirements.
 - Know where to get information in order to meet the requirements.
- NIACRO also questions how the police will take account of these issues. Will there be an onus on the offender to demonstrate why he/she wasn’t aware of requirements. How would this process work?
- This leads to a discussion on which agency has the responsibility to inform the individual before they travel, or on arrival. Will it be the police or customs?

Unless this process is clear, transparent and consistent across all jurisdictions it will not overcome the very real possibility of an individual being unaware of the requirement to register. NIACRO recommends the Government provide a clear definition of what constitutes a ‘reasonable excuse,’ in order to take foreign nationals into account.

NIACRO also recommends Government identify the cost implications of introducing change. Option B requires agencies to inform systems in the Republic of Ireland, Great Britain and Europe where varying degrees of partnerships already exist and it is still difficult to achieve fail - proof systems. Should the catchment pool widen on a global basis, the task becomes much more difficult.

2.3 Options C and D:

NIACRO believes in the equality of treatment of sex offenders irrespective of where they are coming from. Once an individual is in the island of Ireland, a consistent and systematic approach should be maintained.

It is crucial the management of risk and treatment of an individual offender is relevant to and commensurate with the level of risk they pose or have been assessed at. For instance, if an individual offender is classed as the equivalent of a Level 1 in another jurisdiction, they should receive the same treatment and level of monitoring in this one.

It is therefore necessary that Government consider how risk management decisions are consistently transferred across jurisdictions and until this is the case, options C and D do not provide for equality of treatment. NIACRO does not support these options.

3. NIACRO Recommendations:

NIACRO does not believe there has been a strong enough case made regarding the need for change. Therefore, we find it difficult to identify one option in preference to others.

NIACRO instead makes the following suggestions, in order to encourage Government to broaden their thinking on this issue.

The proposed “net widening“ approach favoured in Option B is flawed and not capable of contributing to an increased level of public protection.

Instead, NIACRO recommends that a targeted approach to change is adopted by making the harmonisation of systems in Ireland and Great Britain a priority. This will also be more cost effective.

Should this succeed, any agreed protocols and agreements between police force(s) should be extended to include all jurisdictions with established processes in the management of sex offenders, allowing Government the opportunity to test what constitutes a ‘reasonable excuse.’ It could then, potentially, extend to incorporate offenders from wider geographical areas.

The issue of managing offenders from countries where no similar legislation or risk management processes exist remains a challenge. It is for this reason that NIACRO recommends the responsibility for notification of registration remains with the police.

NIACRO also supports the development of a more expedient and flexible response by the courts through appropriate resourcing and partnership.

4. Conclusion:

NIACRO supports the need to provide appropriate and effective solutions in the risk management process of sex offenders. We also recognise the need to reduce the potential for individual sex offenders to move unnoticed from one jurisdiction to the other.

However, NIACRO believes current proposals do not fully address the issues of risk and do not add to the present level of public protection arrangements.

Fundamentally, NIACRO does not believe that there is sufficient case made for significant change.

Prior to introducing more change, we recommend the Government examine the need for new systems, their costs and potential impact.

NIACRO is keen to work with Government to develop a working solution, which will offer effective public protection.