



**NIACRO Response to Hate Crime Legislation in Northern  
Ireland-Independent Review**

**15th April 2020**



### Introduction

NIACRO is a voluntary organisation that has been working for almost 50 years to reduce crime and its impact on people and communities. Our vision is of a society in which the needs and rights of all citizens, including victims of crime, adults and children who offend and those who are at risk of offending, are equally respected.

The Charity's Articles of Associations, approved in October 2015 by the Charity Commission for NI, identify NIACRO's objects which meet public benefit test, as being:

- to alleviate need and disadvantage through the provision of services, assistance, advocacy and representation to care for, resettle and rehabilitate offenders and ex-offenders, alleged offenders, persons at risk of becoming offenders and to care for the victims of crime and the families.
- to work for the prevention and reduction of crime for the benefit of the public in Northern Ireland.

Specifically, NIACRO's contributions are to:

- support the resettlement of adults leaving prison and those on community supervision.
- build skills, confidence and employability of people both in prison and in the community.
- support children, young people, families and adults who are displaying behaviour that would put them at risk of engaging with the criminal justice system, to make positive lifestyle choices.
- influence service providers in the statutory, voluntary and community sector and build their capacity to provide appropriate support to those affected by the criminal justice system.
- impact policy and practice by communicating our policy asks and engaging relevant publics at every level.

At the heart of NIACRO's work is the aim to reduce (re)offending in the belief that integrated and flexible approaches towards desistance are most effective.



### Preliminary Comments

NIACRO welcomes the opportunity to comment on the Independent Review of Hate Crime Legislation in Northern Ireland.

The re-establishment of the Assembly and Executive in January 2020 provides a basis for moving forward on recommendations emerging from this Review.

Diligent work and careful considerations went into preparing this consultation and the Review has the potential to standardise, as far as practical, sentencing and associated legislation.

NIACRO delivers Get Real, a project supported by the European Union's PEACE IV Programme, managed by the Special EU Programmes Body.

Get Real supports those who are involved in hate crime, their victims, and those vulnerable to involvement, to acknowledge the hurt and damage caused and to move forward with greater understanding and hope. Hate crime affects many, if not all our communities. Get Real helps to restore the relationships that have been broken because of *racist, homophobic, religious, transgender, sectarian or disability* hate crime. It also links with PBNI's Accepting Difference programme.

This is achieved through three strands:

- **Get Real about Justice:** one-to-one interventions based on restorative practices with those who have offended and their victims
- **Get Real about Identity:** community-based education programmes with those at risk of perpetuating hate crime
- **Get Real about Society:** diversity training delivered to criminal justice agencies across Northern Ireland and the border counties of the Republic of Ireland to equip public servants with knowledge and skills to work towards acceptance of diversity

### Strand One: Get Real about Justice

Using intensive restorative practice interventions, our skilled, supportive staff safely manages conversations with the perpetrators and/or the victims of hate crimes and hate incidents to explore what happened and the harm caused. It thereby offers:

- victims of hate crime a voice and a safe space to ask questions and share their experience of the incident(s).



## NIACRO Response to Hate Crime Legislation in Northern Ireland

- The opportunity for victims of hate crime to have a clearer understanding of the crime or incident, enabling them to regain a sense of safety and control over their lives.
- Support to perpetrators of hate crime to explore the reasons behind their actions and to move forward positively, to reintegrate and make amends appropriate for their actions.

### **Stand Two: Get Real about Identity**

Strand 2 is an 8-week community-based education programme with those at risk of perpetuating hate crimes. Each programme is delivered where hate crime is prevalent or threatened across Northern Ireland and in the border counties of the Republic of Ireland. The programme challenges prejudice and intolerance on sectarian, racial and other discriminatory grounds by creating opportunities for honest expression and cultural learning. Participants are supported to change attitudes and behaviors, to deal positively with diversity and difference and make positive contributions towards a shared and cohesive future.

### **Strand Three: Get Real about Society**

This training is delivered to criminal justice agencies' front line staff across Northern Ireland and the border counties of the Republic of Ireland, equipping public servants with knowledge and skills to move beyond ignorance or indifference and work towards acceptance of diversity through greater empathy and confidence towards people from different cultures and backgrounds.

**We have provided case studies from Get Real at the end of this consultation for reference.**



### NIACRO Responses

The consultation seeks views from respondents on the following:

- Definition and Justification
- Operation of Various Legislation in Northern Ireland;
- Protected Groups;
- Threshold for Proving Aggravation of Prejudice;
- Stirring Up Offences and Online Hate Speech;
- Sectarianism;
- Removing Hate Expression from Public Space
- Restorative Justice
- Victims
- Legislation Consolidation and Scrutiny

We have selected the following topics from this list on which we have based this response:

- Definition
- Expanding a Comprehensive Adult Restorative Strategy
- Sentencing Guidelines
- Criminal Records
- Supporting Those Who Have Been Victimised

### Definition of Hate Crime

In NIACRO's view the working definition offered in the Independent Review of "acts of violence, hostility and intimidation directed towards people because of their identity or perceived 'difference'", could adequately cover the act and the intended victim with sufficient flexibility to determine if the act qualifies for a hate crime charge. This definition could cover all the suggested protected classes proposed in the legislation and any other identity or perceived identity that emerges in the future. There may be merit in further identification of certain groups but there are also concerns in relation to categories such as age. Further consideration and public discussion are required.



## Developing a Comprehensive Adult Restorative Strategy

Get Real has, to date, mainly dealt with referrals relating to low-level offences. We believe that this is largely because the enhanced sentence approach has provided greater challenge in cases of more serious charges of offences motivated by hate. It is for this reason we would support a review of the enhanced sentence approach and a move towards identifying alternatives.

NIACRO is on record as supporting the role that a comprehensive restorative strategy could make - one in which victims and those who offend could be better supported through an appropriately managed restorative practice approach to hate, and indeed other crimes. The impact of harmful behaviours motivated by fear and a lack of understanding can be very effectively resolved through a range of restorative solutions.

Restorative justice specifically gives those victimised a voice in the criminal justice process and allows them to communicate the harm caused by the offender. The person who caused harm then can hear of the direct emotional, psychological and physical harm caused by their actions. It thus humanizes the process moving beyond the legalistic process (please see appendix 1 & 2 for case study examples).

NIACRO believes restorative justice interventions for adults should be formally recognised by the statutory sector, building on the experience of our Youth Justice System.

While we are supportive of moves to introduce restorative interventions into sentencing options for hate-motivated crimes, we would want to ensure recognition of:

1. The need for restorative processes to be engaged in voluntarily and to cause no further harm.
2. The body of work already being undertaken by voluntary and community groups across Northern Ireland, which are appropriately trained and have the trust of their communities

A consistent and professional process for those who have caused or suffered harm is critical. NIACRO supports a collaborative restorative approach, centralised through a statutory body with roles for voluntary and community organisations to be delivering innovative programmes. The approach will be informed by both the Sentencing Review and on-going work on the Adult Restorative Justice Strategy.

It is in our experience, delivering Get Real that we see better outcomes for those who engage during a diversion from prosecution. They are enabled to feel empowered and involved, and therefore more willing to understand the impacts of the harm they caused and to move away from this damaging thinking and behaviour. It can be used as an opportunity to educate the person who offended. This process holds the potential to be very challenging for those who have caused harm.



Selecting a restorative option at sentencing would, of course, be at the discretion of a sentencer, considered on a case-by-case basis and dependent on the severity of the offence. Our experience would indicate that, where appropriate, there is significant value in restorative approaches in addressing many of the root causes of much offending behaviour and in providing victims with the opportunity to articulate the harm that has been caused. We recognise, however, that this view must be held in tension with proportionality and fairness and that crime requires punishment, to legitimise the rule of law, maintain society's confidence in the justice system and recognise victims of crime.

### **Sentencing Guidelines**

We recognise that sentencing guidelines have the potential to contribute to increased fairness, improving consistency and reducing discrepancies. Strict adherence to guidelines may, however, mean that judges could lose the exceptionality of a case. Sentencing therefore requires a balance of fairness based on consistency and room for discretion that accounts for mitigating circumstances, for example vulnerabilities of the defendant, and person victimised.

In addition to sentencing guidelines, NIACRO supports the establishment of a Sentencing Guidelines Council that would be responsible for commissioning/undertaking research into effective sentencing, what works for particular groups, such as hate crime cases, and to make this information available to sentencers and the public.

### **Criminal Records**

The consultation asks; if the enhanced sentencing model remains as the core provision for dealing with hate crime in Northern Ireland, should it be amended to provide for the recording of convictions on the criminal records viewer?

NIACRO is not in favour of maintaining the enhanced sentencing model and would strongly encourage more dialogue and consideration be given to how records of restorative interventions would be evidenced on criminal record checks. Accepting that public safety is paramount NIACRO believes that hate crimes are serious offences; the damage caused is often immeasurable in terms of the emotional, psychological and physical harm. However, if there is positive impact as a result of addressing harm through a restorative approach, there needs to be careful consideration of how that criminal record and the work undertaken is recorded. The impact on an individual, who has modified their behaviour or attitudes as a result of a successful intervention, including their employment opportunities, must, for example, be considered if we wish to promote rehabilitation and reintegration.



NIACRO provides a disclosure service, advising individuals on how to disclose a conviction and supporting those who have faced or are facing discrimination relating to their conviction. It also provides advice to employers or other institutions for help with compliance with legislative requirements, assessment of risks, and dispelling myths. This service identifies that securing employment remains one of the biggest barriers to resettlement and rehabilitation.

### **Supporting Those Who Have Been Victimised**

The need for greater support to those who have been victimised has been acknowledged across the criminal justice system, and campaigners are being proactive at encouraging positive policy changes. NIACRO has made comment in previous consultations that victim support of any type needs to be made available immediately after a crime has occurred, and on an on-going basis during and beyond the time of the process. An important element, to those who have been harmed, is that they have confidence that the person who caused the harm will not repeat their actions and that they themselves have had the opportunity to have their own say regarding impact etc.

### **Reporting of Hate Crime**

This Independent Review correctly identifies that hate crime incidents are widely under-reported. It would seem therefore that increased training in communities of what hate crime is and how to report it is required. Get Real's Strand two has proved effective in helping communities to understand what hate crime is, how it affects people and communities and preventative work in terms education about cultural differences but this three-year programme will come to an end towards the end of 2020 unless further sources of support are made available to enable it to continue.

One of many barriers NIACRO has identified that prevent people from reporting hate crime incidents is distrust of authority emanating from poor experiences in other jurisdictions. Under reporting within the ethnic and refugee community may also be as a result of lack of knowledge and of course language barriers.

All sectors should promote wider use of the online reporting tool and encourage third-party reporting of hate crime incidents and the Police Service of Northern Ireland should continue its work on improving confidence in communities so that those who have been victimised trust their experience will be responded to and taken seriously.



## Conclusion

NIACRO welcomes the opportunity to contribute to the consultation on the Independent Review of Hate Crime Legislation in Northern Ireland and looks forward to continuing the development of future policy framework.

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## Appendix 1: 'Alan'

Get Real worked with 'Alan', a man in his early 30s from County Antrim, over a full year. We first started working with him in August 2018, closed off his case in early 2019, then reopened him in April 2019 and closed in September 2019. Get Real received the initial referral from Probation Board for Northern Ireland. Alan had received a suspended sentence for Assaulting Police and Disorderly Behaviour. What emerged was a pattern of behaviour of aggravating and assaulting PSNI officers. The language he used against the officers was sectarian, and we felt he was targeting these individuals because of his prejudice against their police identity.

When we first worked with Alan, time was spent building a trusting relationship, trying to understand him, his dislike and disgust towards the police, and where this came from. He had over 30 offences against the police including three prison sentences. From our very first meeting, he made it very clear that he had no interest in or intention of meeting with the police. We kept this in mind as to push him into meeting with a police officer would go against two of the key restorative principles; voluntariness and safety.

The work completed during this first phase focused on the harm caused to others by his actions. As he was unable to acknowledge the harm towards the police, defending his behaviour by stating, "it is what they signed up for", we focused on his parents, especially his mother, who he identified as being impacted. We had restorative conversations with him and his mother separately, trying to understand the impact of his actions and what he could do to restore this harm and their broken relationship.

His mother acknowledged his actions "affect all of us. It doesn't just affect him." She wanted him to settle down, by working, living independently and taking care of his child and that this would repair the harm caused to her and her husband from his actions; helping to reduce their fears for him due to his behaviour. Alan was also involved in a custody case with his ex-partner over their young child. This occupied a lot of his time and thinking space, as he was extremely worried about the wellbeing of his child. At this stage he had supervised visits with his son. While we worked with him, Alan gained employment and secured more frequent and unsupervised contact with his child. These had a positive impact on his mental wellbeing and outlook. This also pleased his mother as it demonstrated his maturing and growing.

We closed Alan's case in early 2019 due to his changing priorities (with work and childcare) and him being unable to meet with us. We felt like we had achieved everything we could, given his time and energy for restorative work.

We met Alan when he was referred to us once again in March 2019. During the Christmas period, he had been involved in another serious incident against the police.



When we engaged in restorative work with Alan for a second time, we were very honest with him: if he wanted his attitudes and behaviours towards the PSNI to change, which he claimed he did, then he had to be more willing to challenge and address this which would mean meeting with police officers.

Once he had agreed to a restorative conference, we did a significant amount of preparatory work with him. Part of this focused on how he would react and respond to the police officer if he was challenged/felt his buttons were being pushed, as this was one of the biggest barriers to a successful conference. Alan assured us he would be fine and could stay calm as he had been up in court many times, however we discussed the ways in which a restorative conference is different to the traditional judicial system, and what would be different for him, including his being present and engaged in the conversation as an equal. We spent a number of sessions exploring his reactions and how to manage them appropriately.

The conference took place with two Get Real staff, Alan, his PBNI officer (whom he'd asked to attend) and a police officer (from a different District than where he committed his offences). The police officer accessed the police reports from the night in question and had spoken to officers involved to provide their feedback and was able to input appropriately for those who were harmed.

During the conference, the police officer described what had happened that night, from their perspective. A lot of this information came as a shock to Alan, so hearing the reality of the events seemed to cause some embarrassment. This was partly due to the number of PSNI teams and officers involved throughout the night.

At one point this may have made Alan proud to know he had caused such a disturbance. However, due to the work with Get Real, he was able to see the wider community and personal impact of his actions.

During the preparation work, we spoke about how he would feel if his child needed an emergency service that was unable to respond because it was dealing with someone like him. When this idea was raised again during the conference, it helped Alan to recognise and acknowledge how he wasted the time and resources of over 10 PSNI officers and multiple Ambulance and hospital workers.

During the conference Alan described himself as "disgusted at his behaviour". One of the key moments of learning for Alan was when the police officer explained that one of the responding officers he had assaulted had left the PSNI very soon after the incident.

Alan said he was extremely surprised to hear this and asked, "Was that because of me?" During this conversation, the de-briefing after the conference, and when we met up a month later, he was still wondering if this was a direct impact of his actions.



## NIACRO Response to Hate Crime Legislation in Northern Ireland

When discussing the conference, a month later, Alan said he felt the police officer he met didn't try and belittle him, which was an extremely different type of interaction than his previously experiences with the PSNI. He also said that having his PBNI officer there helped him pause and think, as he was around people he trusted. He said he was proud of himself that he sat for a long period of time and stayed focused. When asked how this was possible, he reflected that "I've got to take responsibility, I did it, and so I need to listen."

Before the conference, Alan did not accept responsibility for his actions and he didn't think he'd see the day when he'd be in a room with the police and be able to cope with it; evidencing Get Real was worth doing and getting involved in.

Since then Alan has gained full custody of his son and we have not heard of any re-offending.

He was contacted by the Get Real independent evaluators and told them:

*"I see the bigger picture now. Have learned to be responsible for my own actions and not blaming others. If I hadn't, my son would be in care."*

Get Real also referred Alan to two other NIACRO services; Family and Money Matters, to get support for receiving child benefit and the correct Universal Credit payments and Working Well which supported him in writing a disclosure letter for future employers.



## Appendix 2: 'Cathy'

We have been working with Cathy who was referred to us from PBNI for a racial hate crime, whereby she directed racist language toward a black doorman of a club.

We had no identified victim to work with, and Cathy was clear from the beginning that she did not want any contact with the victim. She was too embarrassed about what she had done, and she felt her mental health was not stable enough to allow her to engage with her victim. We accepted this and were still able to work with her.

Cathy worked hard with us to look at her offence, and the harm that she had caused both to her victim as well as to herself. As is often the case, it was easier for Cathy to first see the harm that she had caused herself. She recognised that she had fallen into bad company, bad habits and that she needed to make changes.

What stood out most with Cathy was the shame she carried as a result of her offence. At the beginning, she struggled to talk about her offence and could not bring herself to repeat the racist words that she had used that night. The shame along with her own poor mental health meant that the process and learning was slow, but she needed time, and it was worth the wait.

Over time, Cathy was able to begin to look at the harm that she might have caused her victim. Despite her initial reluctance, we slowly facilitated a process where she moved to a place of accepting the harm she had caused to others.

She agreed that she would write a restorative letter of explanation, but she was still clear that she did not want the victim to get a copy. We worked on this letter over a few sessions and it covered what she might like to say to her victim.

When Cathy finished her letter and was happy with it, we arranged one final meeting with her and her Probation Officer to finish our work with her. During this meeting, we reviewed her letter and gave her one last opportunity to make contact with her victim, as we felt it would be a shame if they did not get the opportunity or even the choice to read the restorative letter.

Cathy agreed for her Probation Officer to check if there was a named victim registered with the PBNI Victim's Unit. When she discovered that there was no named victim, to our great surprise, she was devastated.

She could not believe that no victim had been named, and that they likely had received no support following the offence. She had moved from not wanting to talk about the offence or accepting how her actions would cause harm, to a new position of displaying real, genuine empathy for the victim.



## NIACRO Response to Hate Crime Legislation in Northern Ireland

We are currently in the process of trying to contact the victim, to see if they would like to engage in a restorative process. Cathy is aware that it is a possibility they will not want to engage, but she will have tried, and she has learned a lot along the way.

Cathy had some brilliant learning moments throughout her time with us. Towards the start of the process she often dismissed and excused her racial language, and she would say things like, "that's how I was brought up, people talk like that where I live". She told us how she hadn't told her friends the reason she was on Probation because she was so ashamed.

We got to watch her move through the process and come to a place where she is now even challenging her friends and colleagues about their racist language, telling them that it's not okay to say things like that and that she ended up on Probation because of it.