



Northern  
Ireland  
Office

# Draft Protocol for Community-based Restorative Justice Schemes

July 2006

# COMMUNITY-BASED RESTORATIVE JUSTICE SCHEMES: PROTOCOL

## Introduction

This paper recognises the finding of the Review of Criminal Justice that community-based restorative justice schemes (“schemes”) can have a role to play in dealing with the types of low-level crime that most commonly concern local communities. It seeks to establish a framework for relations between the criminal justice system and the community-based schemes by setting in place a Protocol for the operation of the schemes in line with the Review’s recommendations. That framework is based on schemes’ compliance with the rule of law and full cooperation with statutory agencies, including the police, in implementing this Protocol.

2. This Protocol applies to all cases where schemes deal or seek to deal with criminal offences. All such cases must be passed via the police to the Public Prosecution Service, who will refer suitable low level offences back to schemes to be dealt with in accordance with the Protocol. Schemes should not deal with more serious offences, including sexual offences or cases of domestic violence. In addition, the Protocol does not relate to non-criminal matters, or to anti-social behaviour which does not reach the criminal level. It will be subject to review in the light of operational experience and to reflect developing circumstances and relationships.

3. The Review described restorative justice as:

*“a more inclusive approach to dealing with the effects of the crime, which concentrates on restoring and repairing the relationship between the offender, the victim, and the community at large, and which typically includes reparative elements towards the victim and/or the community.”<sup>1</sup>*

This should be a common vision for all involved in restorative justice, including community-based schemes.

4. In addition, the Review notes that

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<sup>1</sup> Review of the Criminal Justice System in Northern Ireland, paragraph 9.5

*“A core value and objective of the criminal justice system is that it should have the confidence of the community it serves”.<sup>2</sup>*

The Review also points to the strong divisions of opinion which exist in the community in relation to schemes<sup>3</sup>. These clearly have the capacity to damage confidence in the criminal justice system. Against this background, it should be a common aim and responsibility of all those involved in operating the Protocol, including the schemes, to promote confidence in the criminal justice system.

### Principles and Roles

5. Schemes will operate in full accordance with the Human Rights Act 1998 and all current equality legislation. It is important that crime is reported to the police. Schemes must comply with the provisions of Section 5 of the Criminal Law Act (Northern Ireland) 1967 in respect of those crimes deemed to be arrestable offences.

6. Subject to the other provisions of this Protocol, schemes will adhere to the relevant sections of the UN ‘Basic Principles on the use of Restorative Justice Programmes in Criminal Matters’, in particular the following:

- restorative processes should be used only with the free and voluntary consent of the parties (which may be withdrawn at any time);
- agreements should be arrived at voluntarily and should be reasonable and proportionate;
- disparities leading to power imbalances, and the safety of the parties, should be taken into consideration in referring a case to, and during, a restorative process;
- parties should have the right to legal advice about the process;
- before agreeing to participate, parties should be fully informed of their rights, the nature of the process, and the possible consequences of their decision;

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<sup>2</sup> Review of the Criminal Justice System in Northern Ireland, paragraph 3.31

<sup>3</sup> Review of the Criminal Justice System in Northern Ireland, paragraph 9.20

- neither victim nor offender should be coerced, or induced by unfair means, to participate in the process or to accept the outcome.

7. The general duty of police officers, as defined by section 32(1) of the Police NI Act 2000, is

- a) to protect life and property;
- b) to preserve order;
- c) to prevent the commission of offences;
- d) where an offence has been committed, to take measures to bring the offender to justice.

The Police Service of Northern Ireland (PSNI) has responsibility for the investigation of crime, and carries out its functions with the aim of securing the support of, and acting in cooperation with, the local community. As noted above, community-based schemes share the responsibility of helping to promote confidence in the criminal justice system, including the police.

8. The Public Prosecution Service (PPS) has responsibility, following an investigation, for deciding how an offence will be dealt with in accordance with the test for prosecution, including whether it should be referred to a scheme.

## **Protocol**

*Community restorative justice schemes can have a role to play in dealing with the types of low-level crime that most commonly concern local communities.*

**[Community schemes should:]**

**receive referrals from a statutory criminal justice agency, rather than from within the community, with the police being informed of all such referrals.<sup>4</sup>**

9. If a community-based scheme becomes aware of an offence or an offender, it will communicate promptly to a dedicated police officer the details it has about the offence, the offender and the victim, including such categories of information as the PSNI may indicate it requires. It should indicate in broad terms how it would plan to deal with the offence and offender if these were referred to it. (This should be a forecast based on previous practice: it is accepted that details would not be firmed up at this stage.)

10. An advisory panel may be formed including representatives of the PSNI, PBNI, YJA and the scheme for a preliminary and without prejudice discussion of the suitability of the case(s) for disposal by community-based restorative justice.

11. The PSNI will consider the information received (including any provided through a panel discussion) and determine whether it is necessary to undertake investigations to verify and add to the information. Depending on the nature of the offence, offenders will be fingerprinted and DNA taken by the police<sup>5</sup>. On receiving a report from the police, the PPS will consider the evidence and information provided and inform police promptly of the decision reached. The police will inform the scheme of that decision. Where the PPS judges it appropriate to refer a case to the scheme, the latter may proceed to handle the case. Where the PPS does not decide to refer the case, the scheme will take no further action with regard to the disposal of the case, although it may offer support to the victim or the offender where its relationships with them are already established. However, this should not extend to involving them in restorative processes. The police and PPS will seek to fast-track the consideration of cases forwarded by schemes.

12. In determining whether it is in the public interest to refer an offender to a scheme, the PPS will take into consideration the evidence and information reported including the following:

- is there an admission of guilt, confirmed by a police investigation

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<sup>4</sup> Review of the Criminal Justice System in Northern Ireland, paragraph 9.98(i)

<sup>5</sup> The police take fingerprints and DNA from all offenders in custody at a police station. This helps to identify the offender, aids in detecting future crime, prevents further offences and therefore protects the public. In addition to these reasons, the recording of DNA and fingerprints as part of a community restorative justice process is necessary to ensure the offender has not carried out a more serious crime(s), which would make that offender's participation in the process inappropriate. It also ensures equality of treatment for those offenders in areas where community-based schemes do not exist. An offence will only be suitable to be dealt with by a community-based scheme if the offender consents to providing fingerprint and DNA samples.

- previous offending history of the offender
- the gravity of the offence
- the views of the victim
- such other information as is considered relevant.

13. When a community scheme has a case referred to it following a decision by the PPS, it may proceed to engage with the person involved in strict accordance with this Protocol. The PPS will decide whether referrals to schemes should include an informed warning or a restorative caution, and in such cases such a warning or caution will be given by a police officer. This will form part of the plan for dealing with the offender. Following delivery of an informed warning or restorative caution, the police officer will ensure that appropriate details are recorded for insertion in the criminal record of the offender.

14. In the course of any processes undertaken by a scheme when dealing with an offender, any disclosure of specific instances of offending, other than that which was the subject of the original referral, must be dealt with in accordance with this Protocol, and the offender informed accordingly (as is the case for any criminal justice agency). If this arises, the scheme should suspend dealing with the offender until further decisions are reached by the PPS.

15. Appropriate procedures will need to be agreed to assist in the implementation of the above referral arrangements.

*[Community schemes should:]*

**be accredited by, and subject to standards laid down by the Government in respect of how they deal with criminal activity, covering such issues as training of staff, human rights protections, other due process and proportionality issues, and complaints mechanisms for both victims and offenders.<sup>6</sup>**

16. Each community-based scheme will confirm to the Criminal Justice Inspectorate (CJINI) in writing its willingness to adhere to this Protocol. If the Inspectorate is satisfied, having inspected the scheme, that the standards and

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<sup>6</sup> Review of the Criminal Justice System in Northern Ireland, paragraph 9.98(ii)

requirements set out in this Protocol are being met, it will so inform the Northern Ireland Office (NIO), which will maintain a list of accredited schemes. A scheme will be removed from the list if it is no longer meeting these standards and requirements.

17. Schemes will need to operate to high standards in order to comply with human rights requirements and promote confidence in the criminal justice system, and they must assess the suitability of their staff in the light of this. It would clearly be unacceptable for anyone involved in paramilitary activity or criminality to be involved in this work. An important method of determining if an individual is unsuitable will be through use of the Protection of Children and Vulnerable Adults (POCVA) machinery which became operational in 2005, and schemes must become accredited to POCVA for this purpose. This is required practice for all organisations which work with children and/or vulnerable adults. The POCVA check will indicate the existence of a criminal record or other information which might show an individual to be unsuitable for the post. To help determine suitability a Panel, comprising representatives of statutory bodies, will be established. The Panel will have access to relevant information (including criminal records). The procedures to be followed by the Panel are detailed in the Annex. Schemes will be required to accept the determination of the Panel as a condition of their accreditation.

18. Schemes will arrange for their staff to receive training, on induction, on human rights and equality legislation; on their obligations under the criminal law; and on the workings of the criminal justice system, including issues of due process and proportionality. Training will be updated regularly, and will cover any relevant changes to the law. Training will be provided by accredited trainers, and by use of accredited training materials. In addition schemes will provide training in communication, conflict mediation and victims' issues. All training, trainers and training materials will be subject to regular inspection by CJINI.

19. Schemes will ensure that offenders are aware of all the information on them and their offence which has been brought to the attention of the scheme and of all allegations made against them. In addition, a written description of the scheme, its range of interventions, and the Protocol within which it operates will be given to each offender and every victim who comes into contact with the scheme.

20. Schemes will provide for both offender and victim to be supported during the process by one or more appropriate people (in the case of young offenders this might be the parents/guardians of the young person).

21. Schemes will establish a qualified independent point of contact for advice on human rights issues and legislation. This advisor will be named when the schemes sign their undertaking to abide by this Protocol.

22. An independent, external, complaints mechanism, provided by the Probation Board, will be available to every offender and every victim who comes into contact with the schemes. The schemes will ensure that information explaining clearly how a complaint can be made is provided as a matter of course to all with whom the schemes deal. The Inspectorate will inspect the schemes' processes on a regular and unannounced basis to ensure that appropriate arrangements are operating properly. The effectiveness of schemes in responding to any decisions reached by the complaints mechanism will be taken into account in deciding on their accreditation. Where a victim or offender has a complaint that amounts to a criminal offence, this should be referred to the PSNI for investigation. Any complaints against police officers should be referred to the Police Ombudsman.

*[Community schemes should:]*

*be subject to regular inspection by the independent Criminal Justice Inspectorate<sup>7</sup>.*

23. Schemes will agree to undergo an initial inspection before commencement of operation under this Protocol. Once schemes are operating, unannounced inspections will be conducted regularly. These inspections will initially take place on a pilot basis. They will include, as appropriate, examination of records of offenders and offences dealt with; systems for ensuring that agreed programmes are completed; complaints mechanisms and actual complaints; training

initiatives; compliance with the decisions of the PPS on cases appropriate and inappropriate for referral to community schemes; up-to-date awareness of human rights issues; and safeguards for ensuring that for offenders who admit the offence this is done on the basis of informed consent. Access may also be required to the records of the scheme in relation to non-criminal activity. Inspectors will have access to all published material on the scheme or the interventions it provides. Cases will only be referred to accredited schemes. Accreditation will be regularly monitored and reviewed.

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<sup>7</sup> Review of the Criminal Justice System in Northern Ireland, paragraph 9.98(iii)

24. It is recognised that some schemes will provide interventions designed to help prevent young people re-offending. These may be in the form of treatment programmes or diversionary activities. These interventions should also be open as appropriate to offenders dealt with by statutory youth conferences or through the Youth Diversion Scheme.

25. Schemes will keep records, which may be accessed on request by the CJINI, of all offenders and victims who are brought to their attention, including those who do not participate further in any way, and of how they are dealt with. Records will be held securely and in compliance with the Data Protection Act, and CJINI will be consulted on the format used for record-keeping. Schemes will have regard to the provisions of the Freedom of Information Act in relation to disclosure of information.

*[Community schemes should:]*

*have no role in determining the guilt or innocence of alleged offenders, and deal only with those individuals referred by a criminal justice agency who have indicated that they do not wish to deny guilt and where there is prima facie evidence of guilt.<sup>8</sup>*

26. Schemes will have no role in determining the guilt or innocence of alleged offenders, and will deal with them only as outlined at paras 9-15 above.

27. If, at any time, an offender indicates that he wishes to deny the offence, the scheme will immediately stop any process or programme which is ongoing in respect of that offender and will inform the PSNI of this development. The case will then be referred by police to the PPS for further consideration.

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<sup>8</sup> Review of the Criminal Justice System in Northern Ireland, paragraph 9.98(iv)

## CBRJ SUITABILITY PANEL: PROPOSED MODEL

***The objective of the system set out below is to help ensure public safety and confidence in the arrangements for community-based restorative justice (CBRJ) schemes to handle cases referred by the criminal justice system.***

1. There will be a Panel to consider the suitability of individuals used by CBRJ schemes seeking accreditation under the Protocol.
2. The Panel will be comprised of representatives of relevant statutory bodies and will receive information from the police.
3. Schemes will identify to the Panel individuals they want to continue or begin to use on the basis of competence for those scheme activities governed by the Protocol.
4. The Panel will first consider if individuals should be deemed unsuitable for such work in accordance with the criteria set out in the Appendix. Schemes will be advised where an individual is deemed unsuitable because of the application of these criteria. Where this is not the case, the Panel will proceed to consider the overall suitability of the applicant using all of the available information.
5. The Panel will examine a range of information to enable them to reach a decision, in the round, as to the individual's overall suitability for such work. The sources of information are identified in the Appendix.
6. The Panel will advise schemes of individuals who appear to be unsuitable, on the basis of the available information, providing an indication of their reasons and offering the opportunity for the individual to make written representations, if they wish, before a final decision is made by the Panel.
7. The Panel will consider any written representations from the individual, and where it still determines that he or she is unsuitable for appointment the sponsoring scheme will be advised and asked to inform the individual. It will be a condition of accreditation that schemes accept the rulings of the Panel.

**FACTORS TO BE CONSIDERED BY THE PANEL**

**Criteria for Unsuitability**

1. An individual will be considered unsuitable to participate in community-based restorative justice activities governed by the Protocol in circumstances where:

- His or her name appears on the Disqualification from Working with Children List maintained by DHSSPS or Department of Education List of those unsuitable to work with children;
- He or she is the subject of a Disqualification Order imposed under provisions in the Protection of Children and Vulnerable Adults (NI) Order 2003;
- He or she has committed, after 10 April 1998, a serious arrestable offence within the meaning of Article 87 of and Schedule 5 to the Police and Criminal Evidence (Northern Ireland) Order 1989, or such equivalent offence as may be subsequently prescribed in this or another jurisdiction;
- He or she has completed a term of imprisonment for a serious arrestable offence, or such equivalent offence as may be subsequently prescribed in this or another jurisdiction, within a period of three years from the date of the individual's identification to the Panel by a Scheme.

2. Where the above criteria do not apply, the Panel will review all relevant information before determining the overall suitability of individuals to engage in scheme activities governed by the Protocols.

**Information to be considered by the Suitability Panel**

3. The information available to the Panel will include:

- Any information provided by the individual and the community-based restorative justice scheme in support of his or her application;
- Any information provided under the provisions of the Protection of Children & Vulnerable Adults legislation;
- The individual's full criminal record (if any);
- Any information provided by statutory organisations which might indicate the individual's involvement in criminal or paramilitary activity, or otherwise

indicate that he or she would be unsuitable for appointment on the grounds that this would compromise public safety or have a significant adverse impact on public confidence in the process;

- Any representations made by the individual to the Panel.

## **SUMMARY OF RESPONSES TO THE CONSULTATION ON THE DRAFT PROTOCOL FOR COMMUNITY-BASED RESTORATIVE JUSTICE SCHEMES**

There were **32** responses to the public consultation on the draft Protocol for Community-based Restorative Justice Schemes which ran from 20 September 2006 to 13 December 2006. A list of respondents providing written responses is included at Appendix 1.

There follows a quantitative<sup>9</sup> summary of the key views expressed by respondents on the main themes of the draft Protocol. This summary includes the views of the Northern Ireland Affairs Committee, whose detailed conclusions and recommendations following their Inquiry on the draft Protocol for Community-based Restorative Justice Schemes are also set out separately at Appendix 2.

### **Lines of communication between CBRJ schemes and PSNI**

21 respondents (66%) commented on the proposed relationship between CBRJ and the PSNI.

Of these 21 respondents;

15 respondents were clear that schemes should have a direct reporting relationship with the police.

3 respondents advocated third party reporting arrangements.

3 respondents who commented did not express a preference.

### **Clarifying the criminal threshold**

12 (38%) respondents commented on the criminal threshold.

Of these 12 respondents;

8 respondents commented that “low level” offences should be defined, either by example or by definitive list.

2 respondents thought that the Protocol should apply to all scheme activities, not just those matters crossing the criminal threshold.

2 respondents were content with the proposed arrangements.

### **Funding**

9 respondents (28%) commented on funding.

Of these 9 respondents;

1 respondent stated that meeting the Protocol standards should be a prerequisite of funding.

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<sup>9</sup> Please note that the numbers of views expressed on a theme may not necessarily correspond to the number of respondents, as respondents may have given more than one response on a particular theme.

3 respondents advocate providing funding for Community-based Restorative Justice schemes now.

1 respondent advocated that Community-based Restorative Justice schemes should be funded only by Government.

1 respondent advocated that those schemes who would qualify under the draft Protocol, and who work with the Police Service of Northern Ireland, should be provided with gap funding.

3 respondents commented generally on the financial implications of implementing the Protocol.

### **Vetting of individuals working in schemes**

19 respondents (59%) commented on vetting. There were no objections to the principle of vetting.

Of these 19 respondents;

4 respondents suggested that the panel should have an appeal mechanism.

4 respondents suggested that vetting arrangements were not stringent enough.

3 respondents suggested that the workings of the suitability panel should be described in more detail.

3 respondents specifically stated that individuals with previous criminal convictions should not be automatically disbarred from schemes.

Remaining comments generally welcomed the proposal.

### **Referral arrangements**

16 respondents (50%) commented on referral arrangements.

Of these 16 respondents;

7 respondents stated that the precise mechanisms for referral should be set out in more detail.

7 respondents highlighted the need for a referral process which didn't create undue delay.

1 respondent welcomed the proposal.

1 respondent commented that decisions on referral must rest with the Public Prosecution Service.

### **Inspection and oversight of schemes' operations**

14 respondents (44%) commented on inspection and oversight.

Of these 14 respondents;

All respondents welcomed or accepted the proposals for inspection of schemes.

1 respondent advocated that there should be dedicated bodies responsible for inspection and oversight of schemes and a Code of Practice covering all aspects of schemes' activities.

### **Adequacy and independence of proposed complaints mechanism**

13 respondents (41%) commented on the adequacy and independence of proposed complaints mechanism.

Of these 13 respondents;

All respondents welcomed or accepted the proposals.

7 respondents thought that Probation Board Northern Ireland may not necessarily be best placed to undertake the function.

1 respondent advocated setting up a dedicated body to deal with complaints.

### **Children's interests**

5 respondents (16%) commented on children's interests.

Of these 5 respondents;

4 respondents advocated that the Protocol should specifically make reference to obligations under the United Nations Convention on the Rights of the Child.

1 respondent stated that all CBRJ schemes should have Child Protection Policies in place.

### **Equality considerations**

9 respondents (28%) commented on equality considerations. The equality considerations will be more fully explored in the published final report on the Equality Impact Assessment of the draft Protocol for Community-based Restorative Justice Schemes.

Of these 9 respondents;

6 respondents expressed the opinion that there should be equal access to Community-based Restorative Justice schemes across NI as far as possible.

1 respondent commented that the inequality across areas must be addressed by political parties.

1 respondent expressed concern about the equality implications of taking of fingerprints and DNA from offenders.

1 respondent suggested that “fast-tracking” a Community-based Restorative Justice process may result in a breach of Section 75 of the Northern Ireland Act in regard to areas where there are no schemes.

1 respondent stated that it is essential that involvement with Community-based Restorative Justice be not only “free and voluntary”, but also fully informed.

### **Advisory panel**

6 respondents (19%) commented on the proposal for an advisory panel.

Of these 6 respondents;

3 respondents expressed concern that an advisory panel would lead to an undesirable extension of timescales in dealing with Community-based Restorative Justice cases.

1 respondent did not support the creation of an advisory panel.

2 respondents felt an advisory panel would be beneficial.

### **Training**

7 respondents (22%) commented on training.

All respondents supported the proposals on training but variously commented that the training should include elements of Human Rights training, Good Relations training, and Children’s Rights training.

### **Human Rights**

6 respondents (19%) commented on Human Rights.

Of these 6 respondents;

All 6 respondents welcomed or accepted the proposals on Human Rights.

2 respondents sought clarification of the role of a Human Rights advisor.

1 respondent drew attention to the body of international Human Rights standards and conventions.

**Organisations and individuals providing written responses to the CBRJ Protocol consultation**

Alliance Party  
Ards Borough Council  
Ballymena Borough Council  
British Irish Rights Watch  
Children's Law Centre  
Committee on the Administration of Justice  
Community Relations Council  
Community Restorative Justice (Ireland)  
Criminal Justice Inspection NI  
Democratic Unionist Party  
DPP Coleraine  
DPP Craigavon  
DPP Newtownabbey  
Equality Commission  
Help The Aged NI  
Include Youth  
National Society for the prevention of Cruelty to Children  
North Down Borough Council  
Northern Ireland Affairs Committee  
Northern Ireland Alternatives  
Northern Ireland Association for the Care and Resettlement of Offenders  
Northern Ireland Commission for Children and Young People  
Northern Ireland Court Service  
Northern Ireland Human Rights Commission  
Police Federation NI  
Police Ombudsman  
Police Service of Northern Ireland  
Policing Board Northern Ireland  
Probation Board NI  
Sinn Fein  
Superintendents' Association NI  
Thomas McCullough

### **NORTHERN IRELAND AFFAIRS COMMITTEE INQUIRY INTO THE DRAFT PROTOCOL FOR COMMUNITY-BASED RESTORATIVE JUSTICE: CONCLUSIONS AND RECOMMENDATIONS<sup>10</sup>**

1. The requirement in the draft Protocol for CRJ schemes to refer offences directly to the PSNI is critical to building public confidence in the work of the schemes and the wider criminal justice system in Northern Ireland. We welcome the Minister's commitment to ensuring that the requirement for cooperation with the police is non negotiable and will be fully enforced. While we recognise that a political resolution to the issue of policing has not yet been achieved, we are disappointed that CRJ Ireland has decided not to formalise its relationship with the police by signing up to the draft Protocol, particularly since it expressed to us in public session an unambiguous wish to cooperate more fully with the police. Securing and sustaining confidence in CRJ schemes requires them to communicate fully and directly with the PSNI.
2. The draft Protocol proposes that the advisory panel may be established so that the suitability of cases can be discussed in detail. We received evidence from the Public Prosecution Service, the PSNI and others that this would introduce an additional layer to an already complex referrals process. We recognise the importance of the work that the advisory panel would do, but are persuaded by this evidence, because we believe that inordinate delay would mitigate the effectiveness of the schemes. However, we believe that there should be a formal consultative process involving the police.
3. We heard strong evidence that the Public Prosecution Service requires discretion when weighing the individual circumstances of each case referred to it, and that having a definition would impede this. We also acknowledge that in coming to a decision on any particular instance, the prosecutor would necessarily have to take into account not merely the crime itself but the record of the perpetrator. We welcome the Minister's assurance that the non-criminal aspects of CRJ schemes, which make up the majority of their workloads, will be subject to proper inspection by the Chief Inspector of Criminal Justice.
4. If the Protocol is to have the desired effect, it is essential that the Government monitor its workings very closely, conducting regular periodic reviews (at least once a year) of the type of offences that are being dealt with by CRJ schemes.
5. We recognise the extremely valuable work being carried out by CRJ schemes in local communities in Northern Ireland and the cost-effectiveness of that work. We regret that the debate on the schemes' work and their funding has become so heavily politicised. NIA has demonstrated its commitment to engaging with the police and has been successfully, although inadvertently, granted funding by the Department of Social Development (DSD). We recommend that the Government provide gap funding to those schemes that would qualify under the draft Protocol and that involve the PSNI. We believe that public funding should be made available for all restorative justice schemes which meet the standards of the draft Protocol through a dedicated DSD budget line, and not through seemingly haphazard allocations of different DSD budgets.

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<sup>10</sup> Full report is available at <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmniaf/87/87.pdf>

6. We note that those schemes that sign up to the draft Protocol will receive formal recognition from the Government which will help them to obtain Government funding, but also funding from charities and businesses. Until the draft Protocol is finalised, we call on the Government to provide support and encouragement to schemes to seek out funding from other sources.

7. Both our witnesses from the schemes and also the Chief Constable pointed out that those living in parts of Northern Ireland not covered by the schemes were at something of a disadvantage. The general impression that we received from those whom we met was that depoliticised schemes should cover the whole of Northern Ireland. This is a judgment with which we concur.

8. It is vital that the independent external complaints mechanism commands widespread support and confidence. The evidence we received reveals concerns about the independence of the Probation Board given their role within the management committees of Northern Ireland Alternatives and the fact that they could potentially fund CRJ schemes in the future. We urge the Government to acknowledge these misgivings and ensure that any committee of the Probation Board asked to tackle this task be reinforced with representatives from the wider community and the voluntary sector.

9. Like the Chief Constable, we recognise that there can be constructive opportunities within these schemes for individuals with previous criminal convictions to serve their communities, but there has to be a sensitive mechanism to ensure that those who have repudiated their past have indeed done so. Ensuring that CRJ schemes are staffed by suitable individuals with no current paramilitary connections and or involvement in paramilitary organisations is crucial to building confidence in the schemes and to removing suspicion that they are a front for paramilitary organisations. We were told that the POCVA framework will be used by schemes to determine whether a person has previous criminal convictions or been charged with an offence. We believe that this framework, backed up by the Suitability Panel, could be an appropriate and suitably rigorous means of determining suitability so long as the panel is able to take fully into account intelligence received from the police and the local community.

10. Many witnesses expressed deep concern about the potential for the various processes of the draft Protocol to create delay in the delivery of justice to those engaged in CRJ schemes and to undermine the informality of approach which has worked so successfully and has meant that the schemes are able to deal with cases quickly. While there is a commitment in the draft Protocol that the police and PPS will seek to fast track cases referred to them from schemes, no discussions have taken place between the Government, the PSNI and the PPS on how fast tracking will work in practice and the potential for the referrals process to give rise to debilitating delays. This is wholly unacceptable and has the potential to undermine the effectiveness of CRJ schemes and their key benefit of delivering swift, efficient and fair outcomes for victims and offenders. We recommend the Government hold discussions immediately with the PSNI and the PPS on the practical operation of all aspects of the referral process, and to keep this issue under regular review.

11. The Chief Constable felt that expedition in dealing with cases would be materially assisted if there were, as in other parts of the UK, a prosecutor attached to every major police station in Northern Ireland. We believe that this suggestion is an eminently sensible one.

12. Inspection of schemes is key to maintaining public confidence in the schemes by demonstrating that they adhere to the standards laid down in the draft Protocol. We welcome the fact that the inspections to be carried out by Criminal Justice Inspection Northern Ireland will cover both the criminal and non criminal aspects of the schemes' work, particularly since the latter activities are outside the scope of the draft Protocol. This will provide a more comprehensive and complete insight into the schemes' work. Mr Kit Chivers, Chief Inspector of Criminal Justice, argued that inspections should be carried out annually and on an unannounced basis. We agree with this proposal.

13. We have just one concern in this regard. Mr Chivers did point out to us that in order to mount regular inspections he would have to divert resources from other tasks, and whilst he made no specific request for an increase in the size of the Inspectorate, we think this is a matter which ministers should monitor and be prepared to address.

14. In his paper, Dr Fitzgerald stresses the importance of making provision for adequate independent training for CRJ staff to be undertaken by an independent body such as Criminal Justice Inspection Northern Ireland (CJINI). We believe that this suggestion should be implemented.

15. We are deeply concerned by any evidence of paramilitary involvement in CRJ schemes and the opportunities that this creates to perpetuate paramilitary control of communities. No support should be given to any organisation that purports to be a separate system of justice or serves as a front for paramilitaries.

16. However, we were impressed by the work done by the community restorative justice schemes that we visited. There are a number of schemes that successfully work in close cooperation with the police. We believe that community restorative justice has an important role to play in the criminal justice system in Northern Ireland, and provides a very cost-effective means of dealing with low-level criminal activities and anti-social behaviour. However this role must be complementary to and not parallel to the work of the police, the PPS and the courts.

17. We fully endorse the requirement proposed in the draft Protocol for schemes to communicate knowledge of offences directly to the police. However, we conclude that the proposed panel to advise on the suitability of an offence to be dealt with through a community restorative justice system would be an unnecessary bureaucratic burden. We also conclude that attempts to define in precise terms the scope of "low level crime" appropriate for the schemes to deal with would be counterproductive.

18. We are particularly concerned that IMPACT and other NIA schemes, which claim that they are willing to sign up to the draft Protocol without delay, are concerned that an interruption in their funding will jeopardise their work. We call on the Government to ensure that these schemes do not become victims of the "political" negotiations over policing. We also recommend the setting aside of earmarked government funds for the support of these schemes in the future.

19. While we endorse the need for an independent complaints system to be available to those who are affected by these schemes, we are unconvinced that the Probation Board is the body likely to command the greatest degree of confidence.

20. We endorse the case for vetting of those working on the schemes by a Panel to ensure that the public can be confident that they are not staffed by people with any

serious criminal convictions since Good Friday 1998 or any paramilitary involvement since then.

21. Any restorative justice scheme must be transparent and open to inspection. It is essential that schemes sign up to the fundamental standards of the draft Protocol and develop close associations with the agencies of the formal criminal justice system. If they do not, they can have no claim on public confidence in their operations and will continue to arouse suspicion that they are a front for paramilitaries.

22. However, any system of regulation must balance the need to maintain public confidence in these schemes with a recognition that their effectiveness depends, at least in part, on their informal and community-based nature, and the speed with which they can operate. The Department needs to take urgent steps to ensure that the more formal approach enshrined in the draft Protocols does not compromise this efficiency.

23. With the reservations outlined above, we endorse the draft Protocol as the basis for encouraging the development of community restorative justice schemes and building confidence in them. We are bound to agree with those of our witnesses who felt that the Government had taken an inordinately long time to address this issue and produce the draft Protocol. We therefore urge the Government to respond to this Report before 7 March 2007.