

# The Development of Restorative Practice with Adult Offenders in the Probation Board for Northern Ireland

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**Summary:** This paper charts the development of restorative practice within Northern Ireland, and more specifically within the Probation Board for Northern Ireland (PBNI) from the establishment of the PBNI Victim Information Scheme in October 2005 through to the development of the 2014 Restorative Practice Strategy and plans to develop and pilot a restorative approach to adult offenders.

Although there is no specific legislation in Northern Ireland in relation to adult offenders, the PBNI currently provides a range of restorative interventions in adult offender cases. Evidence suggests restorative interventions can help reduce reoffending and make savings across the criminal justice system in terms of reduced reoffending and victim costs. The PBNI developed a Restorative Practice Strategy 2014–2017 (PBNI, 2014) to take forward this work. To assist in the implementation of the strategy the author applied for and received a Winston Churchill scholarship in 2014 to look at international best practice on restorative practice. The paper considers the learning gained from the Winston Churchill Fellowship Project and how it will help shape restorative practices in the PBNI in the future.

**Keywords:** restorative practice, the victim/offender restorative continuum, victim, offender, community, reparation, community service, community restorative justice organisations, Winston Churchill Memorial Trust, Probation Board for Northern Ireland.

## **Restorative practice**

Restorative justice enables victims to meet or communicate with the offender to explain the impact a crime has had on them. This is part of a wider field called ‘restorative practice’. Restorative practice can be used anywhere to prevent conflict, build relationships and repair harm by

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enabling people to communicate effectively and positively. Within criminal justice, restorative practice is about repairing the harm caused by crime (Tudor and Wallis, 2008). It brings those harmed by crime and conflict, and those responsible for the harm, into dialogue, enabling everyone affected by a particular incident to play a part in repairing the harm as much as is possible. Therefore it is concerned with the human impact of crime on the victim, the offender and the community.

Victims can have a range of needs arising from the harm caused by a criminal offence. Yet western style adversarial justice normally focuses on the ‘seriousness’ of the offence and agrees a punishment. This approach often fails to resolve issues or meet all the needs of victims which may include the need for information and support at the stages of conviction, sentence and rehabilitation of the offender.

Research confirms the effectiveness of restorative interventions. Ministry of Justice research has shown that it can benefit both the victim and the offender. Evaluation of pilots found that restorative justice was associated with an estimated 14 per cent reduction in the frequency of reoffending. The evaluation also found that 85 per cent of victims that participated were satisfied with the experience (Ministry of Justice, 2012).

It is postulated that restorative interventions can result in savings across the criminal justice system in terms of reduced reoffending and victim costs. There is however no definitive research in this respect. The Smith Institute (Sherman and Strong, 2007) noted that restorative interventions appear more successful for more serious offending rather than less serious, in particular for violent / property offences. It also reduced victims’ post traumatic symptoms and related costs. Ian Marder (2013) notes that ‘Depending on the offender, Restorative Justice might either instigate the desistance process or provide additional motivation for those who have already chosen or begun to desist.’

### **Development of restorative practice in Northern Ireland**

In Northern Ireland the development of restorative options has been shaped by the political backdrop. The Good Friday Agreement which was published in 1998 made a number of recommendations regarding wide ranging reform of policing and criminal justice. That accord led to the Review of the Criminal Justice System in Northern Ireland Report (Criminal Justice Review, 2000) which made a series of recommen-

dations on the development of restorative justice initiatives which the authors felt might complement the conventional criminal justice approach and provide a more constructive and flexible way of dealing with certain types of low level crime through community rather than court-led disposals. The Review recommended the establishment of the Youth Justice Agency to help children address their offending behaviour and also recommended that a restorative justice approach should be developed for juvenile offenders. This was achieved with the implementation of a statutory Youth Conference Service which receives referrals from the Youth Court and the Public Prosecution Service and manages conferences between the victim, juvenile offender and the police to agree a plan which details what the offender will do to both repair the harm they have caused to the victim and to stop reoffending.

In tandem with the reforms in policing and criminal justice there were also developments being made in relation to community based restorative justice programmes. Initially there were some concerns expressed about how the schemes would operate. Recommendation 168 of the Criminal Justice Review (2000) stated:

We believe that community restorative justice schemes can have a role to play in dealing with the types of low level crime that commonly concerns local communities. However we recommend that community restorative justice schemes should: (i) receive referrals from a statutory criminal justice agency rather than from within the community, with the police being informed of all such referrals; (ii) 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; (iii) be subject to regular inspection by the Criminal Justice Inspectorate which we recommend in chapter 15; and (iv) have no role in determining 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 facia* evidence of guilt.

Therefore a set of guidelines for community-based restorative justice schemes, encapsulating the safeguards identified in the Review, were developed by a steering group comprising senior representatives of the

Criminal Justice Directorate of the Northern Ireland Office, the Youth Justice Agency, the Police Service of Northern Ireland, the Public Prosecution Service and the Probation Board for Northern Ireland. The draft guidelines were subsequently revised and renamed a ‘Protocol for Community-based Restorative Justice Schemes’, and in line with the Criminal Justice Review’s recommendations, the Criminal Justice Inspection assessed the suitability of schemes for accreditation under the protocol.

However, despite the advancements that have been made regarding young offenders and community based restorative justice, there was no legislation enacted in Northern Ireland in relation to restorative practices for adult offenders and that remains the case today.

Notwithstanding the lack of legislation in this area in relation to adult offenders the PBNI, acknowledging the benefits of restorative practice and the potential for cost saving across criminal justice, has developed policy and practice in this area.

### **Restorative practice in the PBNI**

While there were elements of restorative work in the Probation Board’s practice since its inception in 1982, direct work with victims became more explicit when the PBNI Victim Information Scheme (VIS) became operational in 2005. VIS is a statutory scheme as provided by the Criminal Justice (N.I.) Order 2005 which seeks to ensure that victims receive information about what it means when someone is sentenced to an Order which requires supervision by the Probation Board. The scheme is available to any person (or agreed representative) who has been the direct victim of a criminal offence for which the offender received a Probation Supervised Sentence.

It is a voluntary ‘opt in’ scheme and initial contact with the victim is made via the police who inform the victim of the scheme and how to apply to the scheme, although victims can also contact PBNI directly.

As part of information provision, PBNI victim liaison officers explain the sentence, how supervision works and respond to the victim’s concerns and requests.

While the provision of supportive information to victims is in itself restorative the provision of information to victims is often the first step in any direct restorative practice. Thus a discussion occurs with victims concerning if a restorative process would assist them deal with issues

resulting from the offence. That is done through a professionally trained Probation Officer explaining the process to the victims. To date the Victim Information Scheme has worked with approximately 1,240 victims, 79 per cent of whom were victims of sexual or other violence or families who have suffered a bereavement. Approximately 58 per cent of those registered already knew the offender in their case.

Since 2007 PBNI Victims Unit staff have, in response to victim requests, facilitated approximately one hundred restorative interventions including cases of death by dangerous driving, manslaughter, murder, attempted murder, rape, hijacking, robbery, intimidation and grievous bodily harm. The majority have included indirect restorative shuttle dialogue between the victim and offender. Victim offender meetings and letters of apology have also been facilitated.

In December 2011, a Criminal Justice Inspectorate inspection (CJINI, 2011) recommended the amalgamation of all post-conviction victim information schemes under the supervision of the Probation Board for Northern Ireland. The CJINI inspection report identified the need for an amalgamation as a way to avoid any confusion for victims arising from the existence of three separate information schemes and the 'victim's desire for the one stop shop seamless service' (CJINI, 2011).

In October 2012 the Prisoner Release Victim Information Scheme (PRVIS), the Probation Board for Northern Ireland Victim Information Scheme (PBNI'S VIS) and the Mentally Disordered Victim Information Scheme (MDO) operated by the Department of Justice became co-located as a first step towards amalgamation. Below is a brief synopsis of how each scheme operates:

- PRVIS is a statutory scheme which has been operational since July 2003. It is administered by the Northern Ireland Prison Service, and provides information to victims in relation to temporary and final release. It applies to adult prisoners sentenced to six months or more or permanently transferred from prisons outside Northern Ireland to serve their sentence in Northern Ireland. Participation in the scheme is voluntary on an opt-in basis. Victims can register either via an application sent to them by the PSNI, or by contacting PRVIS direct.
- PBNI's VIS is a statutory scheme and was introduced in October 2005. It is administered by the Probation Board for Northern Ireland. It provides information to victims post-conviction. It is a voluntary

'opt in' scheme and initial contact with the victim is made via the Police who inform the victim of the scheme and how to apply to the scheme. Victims can also contact the PBNI VIS directly.

- The Mentally Disordered Offenders Scheme (MDO) is a statutory scheme which came into operation in December 2008. It is administered by the Department of Justice and provides a service for victims of offences committed by mentally ill offenders who are held for treatment in hospital in Northern Ireland under a hospital order and a restriction order. Participation in the scheme is voluntary on an 'opt-in' basis. Victims receive information on how to apply to the scheme via PSNI.

Other elements of PBNI work however have developed to include restorative practices. The PBNI community service strategy published in 2010 (PBNI, 2010) has a clear reparative element. The strategy encompasses restorative practices by making provision for the views of victims registered with the Victim information Scheme to be taken into account in deciding the type of work offenders undertake. This has had positive outcomes for both victims and offenders. For example some victims have chosen that the hours benefit cancer organisations whilst others have requested the offender works to benefit disabled people. Victim organisations and members of the public can also recommend types of community service projects for the PBNI to develop. Approximately 175,000 hours of unpaid work are completed by offenders through community service orders in Northern Ireland each year, equating to a reparative value of over £1 million to the community.

Individual and programme work has also evolved to address offender victim awareness and victim needs. In order to develop this work the PBNI has made available restorative awareness training to approximately 140 staff.

The PBNI has worked closely with community based restorative groups in Northern Ireland. It has provided community grants to both 'Alternatives' and 'Community Restorative Justice Ireland' to assist with staff training.

In addition restorative guidelines were developed in 2012 covering the range of restorative interventions available. In particular these provide direction in relation to the PBNI's work with those offenders who have caused more serious harm. Good practice guidelines emphasise that in

sexual or domestic violence cases restorative practitioners require specialist knowledge which the PBNI has developed through client assessment, supervision, programme provision and multi-agency working.

However in the last year progress on developing restorative practices within the PBNI has gathered momentum. The PBNI's Restorative Practice Strategy (PBNI, 2014) was approved in March 2014 and the PBNI had an opportunity to research and explore international practice on restorative practices through the Winston Churchill Memorial Trust with a view to incorporating the learning into NI practice. The Scholarship has assisted in the implementation of the strategy within the PBNI.

### **PBNI Restorative Practice Strategy 2014**

The purpose of the PBNI Restorative Practice Strategy (PBNI, 2014) is to develop the restorative nature of probation work by supporting a restorative ethos in generic practice and promote innovative restorative interventions in order to lessen the adverse consequences of crime for victims, offenders and communities.

The PBNI outlines in its strategy that restorative interventions are based on the following best practice restorative principles:

1. The primary aim of a restorative intervention is the repair of harm.
2. In a restorative intervention there will be acknowledgement of the harm or loss experienced by the person harmed, respect for the feelings of participants and an opportunity for the resulting needs to be considered and, where possible, met.
3. The person(s) who has harmed and the person(s) harmed (including the community), are the primary participants in any restorative intervention. Involvement will be based on informed consent.
4. Opportunities to participate in a range of appropriate restorative interventions will be made available except where there is a significant risk of further harm or there is significant disagreement about the critical facts. The PBNI will ensure that appropriate risk assessments are completed.
5. The safety of participants before, during and after participation in a restorative intervention will be prioritised.
6. The PBNI is committed to quality restorative practice through appropriate training and support for practitioners, complying with the best practice guidance and resources available at the time.

7. The PBNI will ensure that appropriate evaluations of its practice in respect of restorative interventions are completed and inform future practice/participation in this process.

The outcomes of the strategy include the establishment of a PBNI delivery group to oversee the Restorative Practice Strategy Implementation Plan; the piloting and evaluation of restorative interventions at various stages of the criminal justice system; the delivery of restorative interventions in partnership with community and voluntary organisations and statutory partners; and securing additional funding to promote the development of restorative practice.

Restorative interventions will continue to be offered to victims through the PBNI Victims Unit and operational staff will receive victim and restorative interventions awareness or skills training appropriate to their role to complement the social work training of Probation Officers.

In the coming year the PBNI will pilot a restorative practice project with adult offenders and their victims in a rural community and explore the feasibility of a pre-sentence diversionary restorative intervention pilot in partnership with the PPS and courts for first-time adult offenders.

As well as developing the Restorative Practice Strategy, PBNI practice has been assisted through the research and experience provided through the Winston Church scholarship.

### **The Winston Churchill Memorial Trust Research**

Following the development of the strategy in 2014 the author successfully applied for and received a Winston Churchill Memorial Trust scholarship.<sup>2</sup> The purpose of the scholarship is to fund British citizens to travel overseas to study areas of topical and personal interest, to gain knowledge and bring back best practice for the benefit of others, their profession and community. Therefore the aim of the study was to explore restorative practices internationally with a view of building on and developing the PBNI's Restorative Practice Strategy.

The aims of the Winston Churchill Fellowship project on Restorative Practice with Adult Offenders (Hunter, 2015) were:

<sup>2</sup> Further information at <http://www.wcmt.org.uk/>

- To inform the development of the Probation Board for Northern Ireland (PBNI) Restorative Practices Strategy.
- To inform the development and operation of at least one new pilot restorative practice project based on what has worked well in other countries.
- To learn from the experiences of other practitioners in countries with different cultures, justice systems and approaches.
- To use the time and space provided through the Fellowship to learn more about restorative practice, to reflect on this and contribute to improvements in the justice system in Northern Ireland and the work of the PBNI.
- To provide a summary of the learning from the Fellowship to benefit a wide audience including the PBNI and other criminal justice, victim and restorative justice organisations.

Research and practice observations were conducted in the states of New York and Vermont.

In New York observation was carried out at the Red Hook Community Justice Centre, which was launched in 2000 as the United States' first multi-jurisdictional community court, as well as the Justice Centre in Harlem. The Centres seek to solve neighbourhood problems and judges have an array of sanctions and services at their disposal. Created to improve public safety, reduce the use of incarceration, and improve relations between the justice system and the local community their results have been impressive. The approach in the community justice centres is about providing a new vision of the relationship between crime and society, and between the courts and the justice system. The model is restorative, community-based, and sees crime as both an individual responsibility and the result of social conditions. Results include a reduction in the use of prison by 50 per cent, compliance rates with court orders of, on average, 75 per cent and 94 per cent of local residents support the community court.<sup>3</sup>

Similarly in Vermont there are fifteen community justice centres. The community justice centres there are charged with delivering restorative responses to conflict and crime, and a restorative response may include having the people involved, with the support of community, come up with the best and the most positive resolution to a negative situation.

<sup>3</sup> <http://www.courtinnovation.org/project/red-hook-community-justice-center>

Reparative panels are in place which are volunteer-driven and volunteer-led, where work is carried out to identify what happened, who was affected by what happened, how they were affected, what they need for the harm to be repaired, and whose responsibility it is to repair this harm, as well as what this person is going to do so that something like this doesn't happen again. They collectively, and in a consensus fashion, develop a reparative contract which sets out specific activities that the offender is going to go through, is going to complete, in order to fulfil their contract agreement. Those involved typically have about 90 days to complete that work, at which time they come back, meet again with the group, and talk about what they've learned from the process and what they have achieved.

In Vermont a range of other victim services were observed. One service was the 'Apology Letter Back'. An apology letter is one tool that an offender can use to show the victim that he/she understands the harm that has been caused by the crime and is taking responsibility for it. An apology letter might be written as part of an offender's case plan, as part of a treatment exercise or at the victim's request. Every apology letter will be reviewed by the case worker or treatment provider and a member of the Victim Services Program staff before being filed in the Apology Letter Bank.

An apology letter should never be used to ask for forgiveness or a pardon, or to make excuses for the crime. Such letters will be returned to the offender and may be re-submitted and filed in the Apology Letter Bank, after changes have been made. Once a letter has been reviewed it is filed in the bank. An offender's apology letter is forwarded to the victim only if there is an Apology Letter Notification Request Form on file with the Victim Services Program or if the victim makes a verbal request.

Based on the visits a number of recommendations have been made to the PBNI. The recommendations include:

- The development of a Victim Apology Letter Bank within the PBNI whereby apology letters which offenders write to victims would be held in a 'bank' by the PBNI Victim Information Unit and made available if a victim wants to access their letter.
- That the PBNI incorporate restorative practice in a pilot resettlement and rehabilitation project for released prisoners and that an internal restorative practitioners' forum be established.

- That the PBNI evaluate the possibility of redesigning Community Service Orders (CSOs) to allow at least two hours of each order for restorative conversations with PBNI staff, community members or victims (as appropriate). In addition, CSOs should normally be a maximum of one hundred hours. In the USA such reparative hours were often a maximum of 40 hours. Victims and community members normally felt that this was most appropriate and enabled offenders to maintain other important responsibilities (e.g. employment and family). In adult offender cases, the DOJ and relevant justice organisations should examine the potential to pilot a Rapid Interventions Court as a means of speedy justice and the diversion of relevant cases.
- The establishment of reparation panels within the PBNI.
- The DOJ, PBNI and other justice / victim services should ensure that victims have the choice to be involved in safe and supportive restorative practice if this would help them deal with the aftermath of the harm they experienced.

## **Conclusion**

The PBNI has developed the capacity to facilitate a range of restorative interventions with victims, adult offenders and communities. Whilst there is no legislative onus on the PBNI to undertake restorative practices, in January 2015 the Justice Minister David Ford MLA launched the Charter for Victims of Crime (DOJNI, 2015). It advises victims of crime about their entitlements and the standards of service that they can expect to receive when they come in contact with the criminal justice system.

The Charter transposes the EU Directive on establishing minimum standards on the rights, support and protection of victims of crime, which was published on 25 October 2012. Within the Charter it spells out the process protections for those who participate in restorative justice with adult offenders thereby reinforcing the importance of restorative practices within the PBNI. The PBNI is committed to further developing restorative practice as outlined in the Restorative Practice Strategy. The learning about restorative practice gained through the Winston Churchill study has further enhanced this commitment. Additionally, sharing this knowledge with a range of criminal justice colleagues has contributed to the on-going debate about the effective application of restorative practice in the wider justice system.

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