

**Review of the 2007 Protocol**  
**for**  
**Community-Based Restorative Justice Schemes**  
**and**  
**Proposed draft of a Revised Protocol**

**Report**  
**by the**  
**Independent Review Panel**

**27 September 2022**

## Executive Summary

1. The Criminal Justice System in Northern Ireland continues to evolve, with restorative justice playing an ever-increasing role. This independent Review of the 2007 Protocol for Community-Based Restorative Justice Schemes, commissioned in March 2022 by the Minister of Justice, takes place in the context of the launch of the Minister's Adult Restorative Justice Strategy *Restoring Relationships, Redressing Harm 2022-27*. The Review also takes account of the recent report by Cathy Gormley-Heenan regarding Action A9 from the Fresh Start Panel Report on the Disbandment of Paramilitary Groups in NI (2016), and the development and delivery of a Centre of Restorative Excellence (CORE).
2. Our Terms of Reference asked us to undertake a comprehensive review of the existing Protocol and to draft a new Protocol for the operation of the schemes in line with our findings. We conducted 45 meetings with a wide range of stakeholders, and gathered a variety of views, identifying some recurring themes which have informed our findings.
3. In evaluating the 2007 Protocol, it is important to view it in the context of the significant, wider political and societal transition happening at that time. Notwithstanding the concerns regarding the involvement of former combatants in the process, the Protocol succeeded in establishing a framework for more formal relationships between accredited organisations and the Criminal Justice System. It provided reassurance to both criminal justice agencies and the schemes themselves to engage openly and in partnership. The Protocol established clear standards and created space for relationships of trust to be built. However, to date only two organisations have been accredited under the terms of the Protocol – Community Restorative Justice Ireland (CRJI) and Northern Ireland Alternatives (NIA). The accreditation process was suspended by the Minister of Justice in 2016. Although there have been few formal referrals as envisaged by the Protocol, CRJI and NIA are now contracted through PBNI to deliver Enhanced Combination Orders on behalf of the formal Criminal Justice System.

4. The vast majority of work undertaken by community-based restorative justice organisations falls outside the reach of the 2007 Protocol, but the value of upstream crime prevention, mediation and diversionary work by the community-based organisations cannot be overstated. It was evident that much of this upstream work also requires clear standards, and our proposed new Protocol sets out clear standards for all restorative justice work undertaken by accredited organisations, accredited independent restorative practitioners, and practitioners working for criminal justice agencies.
5. Due to the scope, scale and range of changes that we are proposing to the Protocol, we recommend that the Minister of Justice appoints an independent person to lead on the implementation of the protocol, at least in the interim. The Interim Protocol Lead (IPL) will play a critical role in promoting an understanding of restorative justice throughout the criminal justice system (and more widely across Northern Ireland), in the accreditation of organisations and independent restorative practitioners, and in monitoring and reporting on the number and outcomes of referrals to and from the Criminal Justice System. This role will necessarily require appropriate levels of support and funding if its full potential is to be realised.
6. We propose a new scheme of accreditation under which all accredited organisations and practitioners must work to a number of fundamental standards: to uphold the rule of law, adhere to human rights standards, and to work with all criminal justice agencies, including the PSNI. We make further proposals regarding adopting a victim-centred approach, and regarding potential vulnerabilities of both victims and perpetrators.
7. Our proposed new Protocol would apply to three levels of formal engagement between criminal justice agencies and accredited non-statutory restorative justice schemes and independent restorative practitioners. These include:
  - Level One accredited restorative justice work, below the criminal threshold;
  - Level Two accredited restorative justice work relating to the formal Criminal Justice System; and

- Level Three accredited restorative justice work relating to complex and sensitive crime.
8. Any organisation or independent restorative practitioner working in partnership with a criminal justice agency will require accreditation. We propose that this accreditation should comprise a two-stage process: first involving an evidence-based application to the Interim Protocol Lead and second an assessment by the Department of Justice based on the IPL's recommendation. The new Protocol proposes clear standards that must be met including on staff, training, data protection and experience of restorative practice, and their record of working with the PSNI and other criminal justice agencies.
  9. The Minister's Adult Restorative Justice Strategy seeks to extend the reach of restorative justice and restorative practice across Northern Ireland, and at all stages of the justice process. For this to succeed there will need to be more organisations and independent restorative practitioners throughout Northern Ireland accredited to deliver a fair and equitable justice system, and to meet the Minister's objectives. This in turn will also require a joined-up, strategic approach to funding across Northern Ireland Executive Departments.

## **Acknowledgements**

The members of the independent Review Panel wish to formally acknowledge the thoughtful and insightful contributions made by all those with whom we consulted. Without the generosity of time and expertise given by many organisations and individuals, and without their willingness to express their frank views, this Review would have been much the poorer. We also wish to place on record our sincere thanks to the secretariat in the Department of Justice, Noel Marsden, Janet Smith and Adam Topping, for the support, assistance, patience, and professionalism shown to the Panel in the preparation of this Review and preparation of the report.

## Introduction

1. In March 2022 a panel of three - Tim Chapman, Judith Gillespie and Neil Jarman - was appointed by the Justice Minister, Naomi Long to undertake an independent Review of the 2007 Protocol for Community-Based Restorative Justice Schemes in Northern Ireland (hereafter referred to as the Protocol). The Protocol had been in place for more than 14 years and a clear view emerged through the Adult Restorative Justice Strategy consultation process that the Protocol needed an extensive review. More information on the panel members is attached at Annex A. The full Terms of Reference for this Review are attached at Annex B. The list of consultees is attached at Annex C.
2. The Terms of Reference for the Review refer to seeking to establish a renewed relationship between the Criminal Justice System and the community-based organisations by undertaking a comprehensive review of the existing 2007 Protocol and drafting a new Protocol for the operation of the schemes in line with the review's findings. The Review takes place in the context of the Minister's recently launched Adult Restorative Justice Strategy *Restoring Relationships, Redressing Harm* which aims, inter alia, to place victims 'front and centre' in the criminal justice process. This review also takes place in the context of Cathy Gormley-Heenan's recent report *Review into the implementation of a Centre of Restorative Excellence (CORE)*.
3. There has been a considerable growth in the use of restorative practices in Northern Ireland, and recent significant reviews by Judge Gillen on Serious Sexual Offending and by Judge Marrinan on Hate Crime have also advocated restorative approaches, which informed our work. This Review also recognises the need for consonance with the Tackling Paramilitarism, Criminality and Organised Crime Programme.
4. This report is therefore in three sections, informed by the evidence received by the Panel. The first section evaluates the current Protocol; the second contains some observations and findings that inform the drafting of the revised Protocol; the third section briefly sets out a number of evidence-based considerations to assist in embedding the new Protocol

and progressing the Minister's Adult Restorative Justice Strategy. After these sections there follows a draft of a proposed new Protocol.

## **Methodology**

5. The Review of the Protocol took place between March and June 2022. During this time the Panel met with a wide range of stakeholders including victim/survivor support groups, NGOs, representatives from NI Executive Departments, academic and statutory stakeholders from across the Criminal Justice System, minority community support groups and with representatives of accredited and non-accredited community based schemes. We held 45 meetings with different groups and individuals from within and outside of Northern Ireland. We met with some organisations on their own premises, across different areas of Northern Ireland, and we are grateful for their hospitality and openness in this regard. In many cases we followed up meetings with requests for written evidence including policies, strategies, case numbers, and other relevant material, and much useful material was provided. We also sought written submissions from the Policing and Community Safety Partnerships (PCSPs).
6. We are very grateful to those who took the time to assist with this Review, and for the frank and thoughtful contributions of all those with whom we met or from whom we received written submissions. The list of stakeholders with whom we met is at Annex C. Included in the Annex is a list of organisations and individuals with whom we requested a meeting, but circumstances beyond our control prevented these from taking place in the time allocated.
7. This Review and the proposed new Protocol are informed by the evidence gathered during these meetings and from the written material submitted. Not surprisingly, not everyone who met with the Panel agreed on everything. However, there were some recurring themes, which form the basis of our findings.

## Definitions

8. **Restorative practices** refers to a range of practices based upon restorative principles which can be applied in an expanding variety of contexts and sectors including families, schools, communities, organisations and criminal justice.
9. **Restorative principles** include:
  - the voluntary inclusion of those most directly affected by the issue, conflict or harm that is being addressed;
  - active participation usually through direct dialogue; and
  - facilitation by a competent practitioner, to address and resolve or restore what matters to the participants to their satisfaction.
10. **Restorative justice** refers to the application of restorative practices with victims of crime and with people who have admitted responsibility for committing a criminal offence. Restorative justice is not an alternative to the formal Criminal Justice System. It is not designed to decide whether a person is guilty of a crime or to sentence a convicted person. It does however enhance people's personal experience of justice through a process of accountability by perpetrators for the harm that they have caused directly to their victims.
11. In this report **victim** is used to denote a person against whom a specific criminal offence has been committed.
12. Similarly, **perpetrator** is used to denote a person who has been convicted of or has admitted responsibility for committing a criminal offence.
13. An **accredited** individual or organisation is a person or body that has received formal accreditation under the 2023 Protocol. Accreditation is open to organisations from all sectors, including community, voluntary and non-statutory.

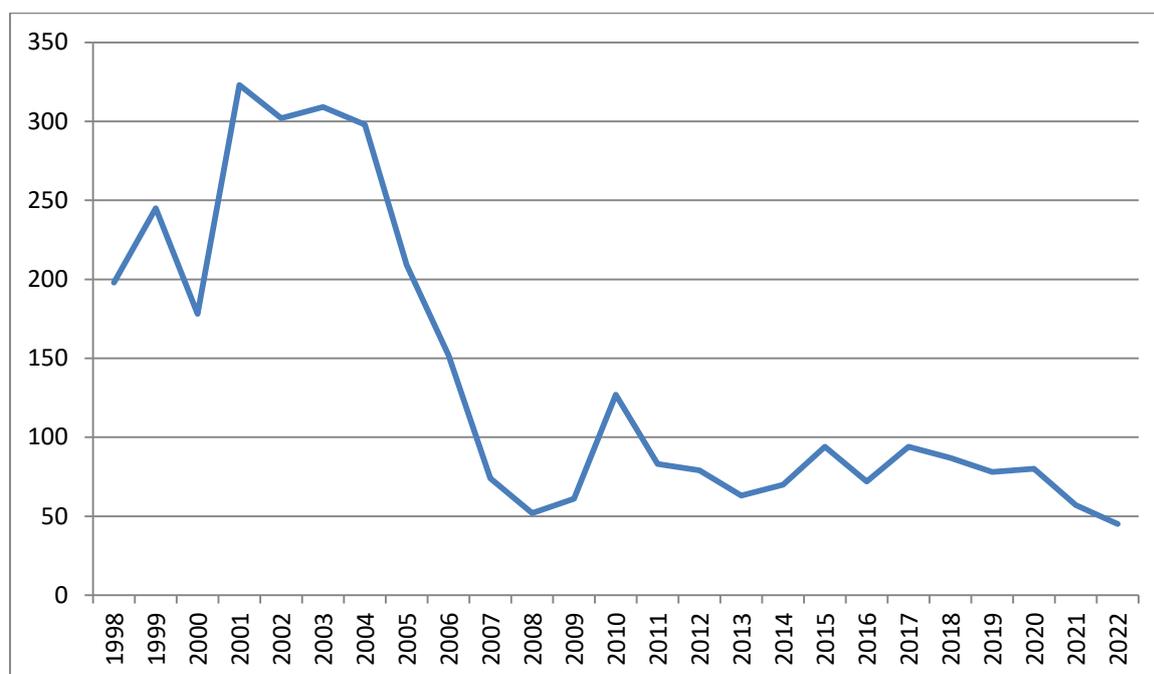
## **Section 1: Evaluation of the 2007 Protocol on Community-Based Restorative Justice organisations**

### **Context of the 2007 Protocol**

14. It is important to reflect on the historical context of the 2007 Protocol, and the significant changes which were taking place prior to, and at the time of, its introduction. Community-based restorative justice organisations in Northern Ireland were initially established in the aftermath of the Belfast (Good Friday) Agreement 1998 in both Republican and Loyalist communities. At that time, Community Restorative Justice Ireland (CRJI) and Northern Ireland Alternatives (NIA) were established and led by former prisoners and former combatants of PIRA and the UVF respectively. The involvement of these individuals was controversial, but the schemes carried out work which was valued by local communities, and were seen to be effective in addressing local concerns, intervening to prevent an escalation of anti-social behaviour and mediating neighbour disputes.
  
15. As part of the Belfast (Good Friday) Agreement, a comprehensive, independent Criminal Justice Review was established in June 1998 which published its findings in March 2000. The Review found that ‘Community-based restorative justice schemes can have a role to play in dealing with the types of low-level crime that most commonly concern local communities’. Recommendations of this Review included the introduction of the restorative youth conference process into youth justice legislation, and the accreditation and setting of standards for community-based restorative justice schemes. The Youth Justice Agency was established in 2003. Around the same time, the Independent Commission on Policing in Northern Ireland published its report in September 1999, establishing – inter alia – robust accountability structures for the new Police Service of Northern Ireland (PSNI) and focusing on policing in partnership with local communities to solve local policing problems.
  
16. During this period of change there had been a reduction in the prevalence of paramilitary style attacks across Northern Ireland, in part through the application of restorative

practices by NIA and CRJI. Paramilitary style attacks were not completely eliminated, but as Figure 1 below illustrates, they were substantially reduced after 2000 as paramilitary ceasefires became embedded and the peace process more established.

**Figure 1: Casualties as a result of paramilitary style assaults and shootings 1997/1998 – 2021/22**



Source: PSNI Statistics

17. The St Andrews Agreement in October 2006 led to a roadmap to restore devolution and for all parties to sign up to supporting the PSNI, in preparation for devolution of Policing and Justice. Simultaneously as the consultation on the Protocol progressed, concerns were expressed by political and community stakeholders that community-based restorative justice schemes would provide an alternative policing and judicial system. The Protocol was therefore drafted and published against the backdrop of these realities. In May 2007 Sinn Féin took its seats on the Policing Board for the first time, shortly after the Protocol was published. The Justice and Security Act (NI) 2007 subsequently created a two-stage accreditation process in law for the community-based schemes, involving the Criminal Justice Inspection Northern Ireland (CJINI) and the Secretary of State for Northern Ireland. Devolution of Policing and Justice took place in April 2010 and whilst the role of the Secretary of State was not transferred to the Department of Justice at the

time, arrangements were set in train to allow the Justice Minister and the Department to exercise the powers under S.43 of the Justice and Security Act (NI) 2007.

18. It is easy to look back and to criticise the Protocol in today's context of significant change and progress in the policing and justice arena. Ironically some of those who were most critical of the Protocol at first have now become its strongest advocates. This is a testament to its importance in formally recognising and developing community-based restorative justice in Northern Ireland.

### **Key constituent parts of 2007 Protocol**

19. In this context, issues of community confidence, respect for the law and human rights, and co-operation with criminal justice agencies, including the PSNI, were central to the Protocol. The Protocol was also unequivocal on the duty of schemes to report arrestable offences to the police in compliance with Section 5 Criminal Law Act (NI) 1967. The Protocol included reference to international instruments such as the UN Convention on the Rights of the Child, and UN Basic Principles on use of Restorative Justice. It set out procedures for schemes to formally refer cases to, and receive formal referrals from, PSNI and the PPS, and to the keeping of relevant records. It outlined inspection arrangements by CJINI. Finally it set out the accreditation process including vetting arrangements and a panel to assess the suitability of individuals, where necessary.

### **What the 2007 Protocol achieved**

20. To date, the only two accredited community-based restorative justice (CBRJ) organisations are Community Restorative Justice Ireland and Northern Ireland Alternatives. A third community-based scheme, Resolve, received a favourable report from CJINI in 2016, but this happened just as the Minister of Justice decided to suspend the accreditation process so the application was unable to be completed.

21. To a large extent the Protocol achieved the aim at the time of establishing a framework for more formal relationships between the accredited CBRJ organisations and the Criminal

Justice System. It recognised the reality that Northern Ireland was at that time undergoing a wider process of transition. It sought to build confidence and provided an element of reassurance to both criminal justice agencies and the organisations themselves to engage openly and in partnership. In this regard it represented a very significant and integral part of the peace process. There was a sense of integrity, pragmatism and goodwill on both sides, and a commitment to make the Protocol work, imperfect as it was. The Protocol also served to provide space for other confidence building measures between police and the organisations to be initiated.

22. The Protocol led indirectly to closer working relations and partnership between CRJI and NIA themselves, evidenced by their joint attendance at conferences, meetings, sharing of good practice, training and formal bids for contracts with criminal justice agencies. It also led to joint training between the accredited CBRJ organisations and some criminal justice agencies.
23. Whilst much preparatory work had been done in advance of the Protocol, it helped to accelerate the process of professionalisation of community-based restorative justice in Northern Ireland, setting standards, establishing an accreditation process, and leading to the accredited CBRJ organisations being recognised locally, nationally and internationally as exemplars of good practice. For example, the accredited CBRJ organisations have joined the European Forum for Restorative Justice; joined or applied to join the Restorative Justice Council; won the Department of Justice's 'Justice in the Community' Award; and both accredited schemes have included either current or retired members of the PSNI on their Management Boards.
24. In practice, accreditation became a threshold for the ability to access funding from Executive Departments other than Justice, as well as from the Housing Executive, as it was seen as establishing an approved and recognised standard - even if only a limited amount of funding had actually ever been provided to CBRJ organisations from the Department of Justice.

25. Whilst there have been few formal referrals as envisaged by the Protocol, CRJI and NIA are now contracted through PBNI to deliver on Enhanced Combination Orders (ECOs) and other programmes on behalf of the formal Criminal Justice System.

26. Finally, whilst not within the ambit of the Protocol, the value of upstream community crime prevention and anti-social behaviour diversionary work by the accredited CBRJ organisations (and indeed by the unaccredited schemes) cannot be overstated in averting the escalation of low level disputes, and freeing up police time to deal with more serious criminality. We also heard how the accredited schemes have provided a level of support to other non-accredited groups in becoming established restorative practitioners. One of these groups has applied, and others are intending to apply, for accreditation themselves.

#### **Weaknesses of the 2007 Protocol**

27. A number of stakeholders expressed the view that many aspects of the Protocol had never actually been implemented in full, e.g. secondary reviews by CJINI, Human Rights adviser, and the establishment of a formal complaints process.

28. There have been few formal referrals, which was the primary aim of the Protocol, both from the accredited CBRJ organisations to criminal justice agencies, and from the agencies to an accredited CBRJ organisation. Figures provided by the PSNI indicate that over the lifetime of the Protocol there have been just 10 cases referred to an accredited CBRJ organisation.

**Figure 2: Protocol cases per year from 2009 - 2018**

2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
1	4	1	2				1		1

Source: PSNI

29. We heard various explanations for the small number of referrals, including: that the process was slow and cumbersome between PSNI and the Public Prosecution Service (PPS); that Protocol referrals were more time consuming and bureaucratic for police officers than other criminal justice options; more value was placed on sanctioned detections than restorative outcomes; that there was a lack of corporate memory/knowledge regarding the Protocol on the part of criminal justice agencies, in particular police officers on the ground; that there was little incentive for perpetrators to participate in the process and some perpetrators prefer the familiarity and certainty of a court process rather than a restorative outcome; that parents were unsure about their children accepting restorative options; and that concerns remained regarding the legitimacy of the accredited CBRJ organisations among some in the community due to their historic links with paramilitarism.
30. Some stakeholders saw community-based restorative justice in Northern Ireland as inextricably linked with groups transitioning from paramilitarism. They perceived the focus to be on encouraging movement away from paramilitary activity rather than on a wider aim of improving the quality of restorative practice throughout the justice system.
31. A number of stakeholders expressed concern regarding a lack of transparency, for instance with regard to vetting of staff, in the accreditation process. Some suggested that a commitment to appropriate confidentiality, supporting law and order and all elements of the Criminal Justice System, including the PSNI, should be sufficient. Some expressed concern regarding the time taken for accreditation. Others proposed that accreditation should be regularly re-visited as the current Protocol only allows for a one-off process without review.
32. Notwithstanding the significant progress by, professionalisation of, and quality standards set by the accredited CBRJ organisations, we heard significant evidence of continuing community confidence concerns and remaining vestiges of paramilitary stigma. None of these concerns were supported by specific detail.

33. The accredited CBRJ organisations are limited geographically to certain, mainly urban, working class areas in Northern Ireland, potentially giving rise to inequitable treatment in the justice system. However, we also heard how the accredited CBRJ organisations are expanding their geographical capacity either through providing training to local partners, or in the case of their work with the Probation Board in relation to ECOs where they have recruited staff to work on a regional and Northern Ireland-wide basis.
34. Whilst the Protocol had facilitated more regular engagement with criminal justice agencies, there were also clear inconsistencies of practice more locally, in particular when it came to visible engagement with PSNI, and which was largely associated with negative attitudes to policing within the local community.
35. The reach of the Protocol was restricted to 'low level offences' which were not defined. Whilst there was broad agreement regarding anti-social behaviour, under-age drinking, disorderly behaviour and minor theft or criminal damage, there were different interpretations of what might constitute a 'low level offence' in particular when it came to consideration of victim impact. The Protocol also missed opportunities to consider victim-led restorative practice in more serious offences.
36. The whole Protocol process was viewed as disproportionately bureaucratic and, somewhat perversely in many cases, was more labour intensive than preparing a prosecution file. We also heard that in terms of PSNI performance monitoring and measurement, more value was placed on charges/summons than for restorative outcomes.
37. Some stakeholders referred to the commitment to pass information on arrestable offences to PSNI as causing community confidence issues in itself. However, the schemes stuck to the spirit of the Protocol, regardless of the cost to their own local credibility in some areas and in some cases.

38. The Protocol focused on the point of potential entry into the Criminal Justice System, i.e. when an offence had occurred and a perpetrator had been identified. It has therefore missed significant opportunities to apply restorative practice at all other stages of the justice process from prosecution and sentencing right through to release from prison. This may well have been due to the role in the Protocol in building trust between the Criminal Justice System and the accredited CBRJ organisations, but practice on the ground has moved on considerably in the past fifteen years.
39. We heard evidence of a perceived ‘offender focus’ in the Protocol, with victims feeling somewhat invisible and disempowered. The Protocol did not recognise vulnerabilities in relation to minority communities, nor did it refer to the importance of fully informed consent from victims and perpetrators who were vulnerable in any way.
40. The Protocol focused on the accreditation of ‘organisations’, and did not consider the possibility of individual experts or advisors, often with considerable restorative practice experience, becoming accredited to work in this field. This is particularly relevant in cases of vulnerability or more serious crime, and if restorative justice is to be more fully mainstreamed as part of the Criminal Justice System.
41. The Protocol did not capture the other important, upstream, preventative work by both accredited and unaccredited schemes, which included literally thousands of cases defined by CJINI as ‘community work with a restorative ethos’. This work covered issues such as bonfires, suicide awareness, threats and expulsions, neighbour disputes, antisocial behaviour, handing in of controlled drugs, and education programmes regarding hate incidents. This type of preventative work forms the basis of the work of most community-based schemes and also the main extent of their work with the PSNI, other criminal justice agencies and other statutory bodies, but yet does not inform crime or crime prevention statistics, or the scale and extent of community-based restorative justice work across Northern Ireland.

## **Section 2: Moving Forward: Observations Based on Evidence Received**

42. The following section draws on the findings from the Protocol Review to outline a number of issues that the Panel believes need to be considered in taking forward restorative justice work and the implementation of a future updated Restorative Justice Protocol.

### **Community-based Restorative Justice or Restorative Justice?**

43. The 2007 Protocol was developed in part to legitimise the CBRJ groups in the eyes of the criminal justice agencies, in part to improve and formalise partnership working with the PSNI in particular, and in part to incorporate the CBRJ organisations into the Criminal Justice System. The focus within this in practice however was on the community-based component rather than the formal restorative justice elements.

44. Since then, community-based forms of restorative practices have developed as a diverse body of activities, which draw to different degrees on theories of restorative justice to deal with a discrete range of issues that exist in a limited range of working class communities across Northern Ireland.

45. Over the same period, the Criminal Justice System has increasingly supported the use of restorative approaches by criminal justice agencies as part of their work, in particular through the work of the Youth Justice Agency, the Probation Board and the Adult Restorative Justice Strategy. A range of non-statutory organisations (including Extern, NIACRO and Victim Support NI) have also increasingly begun to adopt a restorative approach to areas of their work.

46. The two fields of work, those undertaken in working-class communities and those within the Criminal Justice System, are distinctive, albeit with a degree of overlap. The challenge in taking forward and implementing any amended Protocol is to determine whether to prioritise the future development of community-based restorative work, to focus more on the development of restorative justice *per se* as a component of criminal justice work, or to try to do both.

47. The Panel believes that it is important to acknowledge the diverse nature of community-based restorative practices (which we outline next) and to support its future development. However, we also feel that moving forward the focus of the revised Protocol should be to develop the range, quality and standards of restorative justice work and restorative practices *per se* more widely in Northern Ireland.
48. **Existing CBRJ Work:** The two accredited CBRJ organisations have largely focused on three interlinked but distinct areas of work:
- (i) responding to the changing nature of paramilitary threats, and supporting the work of the Tackling Paramilitarism Programme through capacity building work, e.g. the STARS programme;
  - (ii) forms of restorative community safety work including responding to neighbourhood and intra-communal tensions, ASB, low level criminality; hate incidents/crime; and participating in Policing and Community Safety Partnerships and similar networks; and
  - (iii) Criminal justice work including work with the PSNI (including work relating to CRNs) and the Probation Board (relating to ECOs).
49. Most of the community-based work is preventative and involves activities beneath or close to the threshold of criminal activity. We were informed by everyone that the preventative work in particular is very important in maintaining order and social cohesion in the areas where the groups are based. It was also vital in preventing situations escalating to more serious crimes or disorder and requiring greater input from the police.
50. A number of non-accredited groups have also developed and are involved in a range of similar activities. Since they have not been formally accredited, while they work with the PSNI in a less formal manner, they are not permitted to get involved in formal criminal justice work. The PSNI routinely receive information from these groups, but are less willing to share information in return.

51. Most CBRJ work does not actually involve restorative justice, as it is formally recognised. Rather the work utilises techniques of mediation, conciliation, negotiation and dialogue, albeit while informed by restorative practices and principles.
52. **‘A Foot in Two Camps’:** Many of those we spoke to commented that there remained a public perception that the accredited CBRJ organisations were close to or retained links with existing paramilitary or armed groups. No firm evidence was provided to substantiate this view, although the perception persists for some. The CBRJ groups insist they have no formal links to any of the paramilitary or armed groups and that they remain committed to the rule of law, human rights and purely peaceful means of working.
53. Nevertheless, some of the work undertaken by the organisations, such as responding to paramilitary threats, dealing with local tensions and disorder, can be dependent on the CBRJ groups retaining some connections to the armed groups. This in turn may serve to reinforce perceptions among some sections of society that restorative justice is something that is specifically linked to paramilitarism.
54. **Demand for Accreditation:** There appears to be limited evidence of a demand for accreditation among non-accredited community-based organisations. We met with five non-accredited groups working in the broad field of CBRJ. Of these, one had applied for accreditation; two were interested in doing so; while two had no interest in doing so. In addition, two other independent organisations were interested in the possibility of accreditation.
55. All of the community-based restorative groups have been established for some years now, and while the accredited groups have been providing training in restorative practices in a number of areas across Northern Ireland, there is no clear evidence that this might lead to the creation of new groups.
56. Most of the work of the different community-based organisations is focused on working on issues generally associated with community safety rather than more formal criminal justice work. As such, accreditation is primarily seen as an opportunity to secure funding

from a wider range of statutory bodies rather than increasing opportunities to work as part of the Criminal Justice System.

57. A number of community-based restorative projects have emerged and been funded by the International Committee of the Red Cross (ICRC) over recent years, but most have also stopped working once such funding was ceased, in part at least due to the limited alternative options for sustaining funding. The ICRC informed the Panel that they intend to cease all funding of community-based restorative projects in Northern Ireland by the end of the year.

58. **The Value of CBRJ:** Community-based restorative work (undertaken by both accredited and non-accredited groups) plays a valuable role in some communities. In undertaking a diverse range of preventative work, mostly below the criminal justice threshold, the groups often work closely with the PSNI and other statutory agencies to improve community safety and help build trust and provide lines of communication between the communities and the police.

59. The existing CBRJ work has largely been developed from the bottom-up through the aspirations and work of people living and working in specific communities where they have credibility and are accessible to local people. This is both a strength and a limitation of the existing work. The strengths derive from the local knowledge, understanding of the context, and relations the groups and workers have with local people. However the bottom-up emphasis means that such work only takes place within a limited range of communities and geographical areas across Northern Ireland, and in the case of some groups there does not appear to be the capacity, or necessarily the desire, to expand into undertaking more formal restorative work as part of the Criminal Justice System.

60. **Restorative Justice work as a Pathway to Paramilitary Transition:** It has been suggested that CBRJ work, and the funding that might come with it, might be used as a 'carrot' in the process of encouraging the transition of the existing armed groups towards peaceful and legal activities. However, this appears to us as putting the cart before the horse. The Panel believes that accreditation should require a clear and sustained commitment to

international human rights standards, working within the rule of law and with all the relevant criminal justice agencies as a bare minimum and this should be evidenced through sustained practical work over a period of time.

- 61. Building Adequate Restorative Justice Capacity:** If restorative justice is to be adopted as mainstream practice by the Criminal Justice System in Northern Ireland, as outlined for example in the Adult Restorative Justice Strategy, then it should be accessible and available to people living in all areas of Northern Ireland. This will require a significant increase in the number of accredited restorative justice practitioners who have been trained to an appropriate level, regardless of whether such practitioners are employed by statutory agencies, non-statutory bodies, and CBRJ organisations or are independent consultants.
- 62.** Building this capacity will require resourcing, planning and leadership. This will include setting standards for training and practices; overseeing, monitoring and reviewing the work; dealing with complaints and problems; as well as working to increase awareness of restorative approaches so that people feel comfortable and confident in it. This will include having a clearer framework for involvement with and support for victims of criminal activities, to ensure that they are ‘front and centre’ of any future approach. This work will require at least a medium-term perspective and will require giving leadership within the political sphere, across the various ministries who will be involved and among the criminal justice agencies.
- 63. Funding Future Restorative Work:** One of the major issues raised with the Panel was related to the availability of appropriate levels of funding to sustain, develop, plan, expand and extend the use of high quality restorative justice services throughout Northern Ireland, both as community-based activities and as part of the Criminal Justice System. It was noted that the proposal for the provision of a fund for restorative justice work that was set in recommendation A9 of the Fresh Start Panel report in 2016, has yet to be implemented.

64. While funding may be a particularly sensitive matter at a time of increasing budgetary constraints, it was made clear to the Panel that restorative justice and restorative approaches are especially cost effective, through their focus on preventative work. Such activity can help reduce financial costs to the Criminal Justice System and government in general, and also to reduce the often negative social, health and financial impacts for individuals who once introduced into the criminal justice process and are often found to return to it in subsequent years.

### **Moving Forward**

65. Moving forward, we anticipate an expanded and more diverse range of restorative justice organisations and independent restorative practitioners working in Northern Ireland. These may include community-based organisations; restorative justice services provided by NGOs and other non-statutory organisations; independent restorative justice providers; restorative justice practitioners working with the Criminal Justice System; and staff within statutory organisations.

66. This expanded restorative justice environment will include a mixture of accredited and non-accredited organisations and independent restorative practitioners and they may be thought of as working at four distinct but interconnecting levels, as set out below:

(i) Work at the base will involve groups and organisations working at community level and with informal working relations with the PSNI and other statutory agencies. This may include for example, providing diversionary activities for young people and forms of community mediation. Additionally restorative practices are also being used in other areas most notably to date in education, social welfare and family work. Such work does not require any form of formal accreditation by the Department of Justice, but practitioners may choose to work within the same overarching principles, standards and levels of training as accredited organisations.

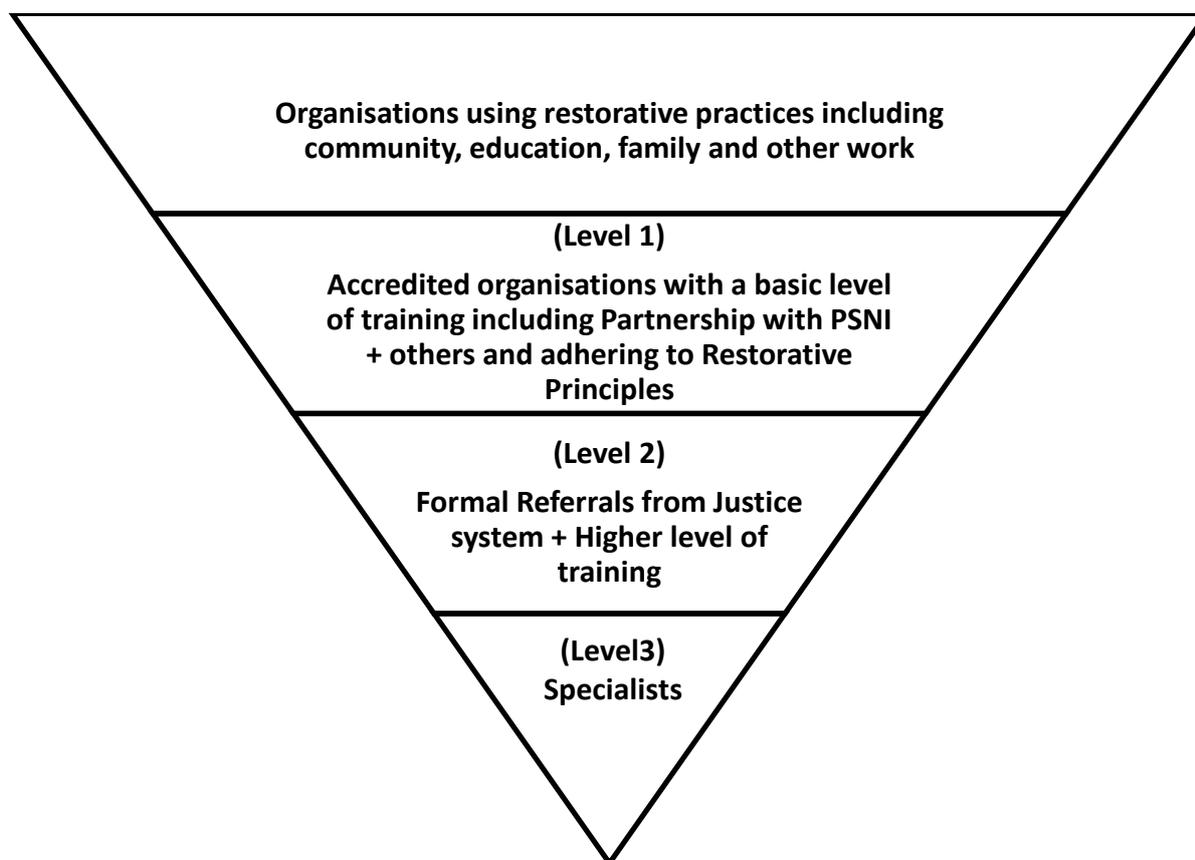
(ii) Level One will involve accredited restorative justice organisations and accredited independent restorative practitioners working more formally in partnership with the

PSNI and other criminal justice agencies. Most of the work at Level One will involve forms of community mediation and problem solving (this will include the majority of the work currently undertaken by accredited restorative justice organisations), for example, resolving neighbourhood disputes or reducing community tensions. Staff will be required to have at least a foundation level of formal training and experience in restorative justice.

(iii) Level Two will involve accredited restorative justice organisations and individuals undertaking formal referrals from a criminal justice agency (the types of work envisioned by the 2007 Protocol) and will require staff to have an enhanced level of training and practical experience. It will include, for example, the use of ECOs or referrals from PSNI, PPS and Problem Solving Courts, as well as work resulting from the implementation of the Adult Restorative Justice Strategy.

(iv) Level Three will involve specialist restorative justice work within the Criminal Justice System, for example, cases involving gender-based violence or where the practitioner may be dealing with particularly sensitive situations, and will require practitioners to have specialist levels of training and practical experience.

**Figure 3: Diagram representing the different Levels of Accreditation**



67. This expanded framing of the Protocol is designed to reflect the existing context in which most of the work undertaken by accredited restorative justice organisations involves activity at a community level and just below the criminal justice threshold. This work is considered to be extremely valuable by the PSNI officers we spoke to, and vital in a preventative approach to neighbourhood or community-based policing. Although such community based work is a distinctive (and perhaps unique) form of restorative justice work, it largely remains unacknowledged (and perhaps undervalued) by the wider Criminal Justice System and political structures in Northern Ireland, and publicly invisible.

68. We envisage a decreasing number of practitioners through the various levels of work, as per the figure above. The draft Protocol set out in this report is based on the approach outlined here and has been designed to set out a clear and transparent framework and to

ensure that all practitioners are expected to work to the same standards regardless of whether they are based in a criminal justice agency or a non-statutory organisation.

### **Section 3: Future Considerations**

69. During our meetings and visits, a number of important themes emerged which impact directly on the future success of Restorative Justice in Northern Ireland and which we wish to highlight for careful consideration.

70. In her report relating to the establishment of a Centre for Restorative Excellence, Cathy Gormley-Heenan recommended the appointment of a Restorative Practice Champion as a means of taking forward a range of restorative work on a cross-departmental basis, at least in the short- to medium-term. The Panel views this recommendation as a positive suggestion for the consolidation and expansion of restorative practices and standards both within the criminal justice sphere and as well as across other sectors of work.

71. However, the Panel also believes that it is important for the Department of Justice to begin the work of implementing the revised Protocol as soon as possible and to ensure that it meets the specific needs of the Criminal Justice System. Therefore, we recommend that the Minister appoints an independent person, initially on an interim basis, to lead on that work. The role of the independent Interim Protocol Lead will be central in overseeing and moving forward the implementation of the revised Protocol work and the expansion of a network of accredited restorative justice organisations and independent restorative practitioners. As and when a Restorative Practice Champion is appointed, the Minister will determine how the two roles may intersect and whether the role of the Interim Protocol Lead is still required.

72. The Interim Protocol Lead should have a role in establishing standards and monitoring practice as well as promoting awareness of restorative justice both within the Criminal Justice System and in the wider community, including in the victims/survivors sector. To do so, the Interim Protocol Lead should be appropriately funded in terms of financial and human resources.

73. The Department of Justice should monitor the use of restorative interventions and practice across the formal Criminal Justice System, and receive regular reports from the Interim Protocol Lead in this regard.
74. Appropriate, longer-term funding needs to be identified to sustain and build on the momentum of the work undertaken by community-based restorative justice organisations in local communities and which has helped to improve community safety and relationships with, and understanding of, the work of the various criminal justice agencies.
75. Thought, planning and funding also needs to be given to developing an appropriate range and different levels of training resources, including the provision of accredited training courses. Until now there have been a variety of training providers, but the continuance of these cannot be guaranteed without some degree of commitment from the Department of Justice or the Executive.
76. We recommend that a training needs analysis should be commissioned to determine competences required to accredit practitioners at various levels and applications of restorative justice practice, to define the training requirements and to identify appropriate training providers.
77. Despite the relative success of community-based restorative justice organisations over the past 20 years, the existing accredited groups are only able to provide services in a small number of areas across Northern Ireland. If restorative justice is to be expanded and mainstreamed as a part of the Criminal Justice System, thought will have to be given as to how the diversity, range and number of practitioners and service deliverers can be increased.

## **Protocol for Community-Based and non-Statutory Restorative Justice Organisations and Independent Restorative Practitioners**

### **Background and Context**

1. In 2007, the Northern Ireland Office put in place a Protocol to govern relations between the Northern Ireland Criminal Justice System and community-based restorative justice (CBRJ) organisations in recognition of the role that such organisations can play in dealing with the types of low-level crimes that most commonly concern local communities.
2. The 2007 Protocol set out the core principles, identified by the United Nations, that serve to underpin restorative justice work; identified ways in which the community-based restorative justice organisations might work in partnership with the Criminal Justice System; and outlined basic standards expected of the CBRJ organisations that might be accredited to undertake such work.
3. A Review of the 2007 Protocol was commissioned by the Minister of Justice in February 2022, in part to reflect on the work undertaken under the auspices of the 2007 Protocol, and in part to reflect the changed criminal justice landscape where restorative justice has developed a much higher profile through the sustained use of restorative approaches and in a wider variety of contexts. These include use of restorative approaches by the Youth Justice Agency since 2003, restorative work undertaken by the PSNI, the Northern Ireland Prison Service, and the Probation Board NI, both through the work of staff and through work carried out in partnership with other organisations.
4. The Department of Justice is also aiming to expand the scope of utilising restorative justice within the Criminal Justice System in Northern Ireland through the implementation of the Adult Restorative Justice Strategy. This development will probably provide further opportunities for criminal justice agencies to work in partnership with community-based and non-statutory organisations, as well as with individual restorative practitioners, and will require greater numbers of people to be trained in restorative justice in order to ensure that restorative approaches to criminal justice work are available equitably to people in all parts of Northern Ireland.

5. This revised Protocol will apply to community-based restorative justice schemes as well as any other non-statutory organisation or independent restorative practitioner that may provide restorative justice services to the Criminal Justice System. Aspects of the Protocol will also apply to statutory sector organisations and their staff engaged in delivering restorative justice. These are highlighted where applicable.
6. The Protocol has been designed to outline the processes to be followed and thus to provide the guarantees and assurances that any non-statutory organisation working in partnership with the Criminal Justice System will be of an appropriate quality and standard. It also aims to ensure that the work of the non-statutory restorative justice providers promotes confidence in the Criminal Justice System and the rule of law within the wider community.

### **Statement of Purpose**

7. People who choose to participate in restorative justice will be confident that they will be safe from further harm, will be treated ethically, and will experience a high-quality service.

### **Fundamental Principles and Roles Underpinning Restorative Justice**

#### ***Rule of Law***

8. It is a fundamental condition of achieving and sustaining accreditation that organisations and independent restorative practitioners must have a proven track record of working with all criminal justice agencies in Northern Ireland and within the rule of law. Organisations and independent restorative practitioners accredited under the Protocol will work to uphold the rule of law and promote confidence in the Criminal Justice System among the wider community.
9. If any of the criminal justice agencies have evidence-based concerns about the commitment, actual or perceived, to the rule of law by an accredited restorative justice organisation or practitioner, they shall report the matter to the Interim Protocol Lead,

who shall review the situation and make recommendations where appropriate to the Minister of Justice. This is further dealt with in paragraphs 70 and 71.

### ***Human Rights***

10. All accredited restorative justice organisations and practitioners shall work to international human rights standards, including the European Convention on Human Rights, the International Covenant on Civil and Political Rights and the United Nations Convention on the Rights of the Child.
11. It will be necessary for guidance to be prepared by the Department, in consultation with the NIHRC, setting out relevant human rights standards pertaining to the work of accredited restorative justice organisations and independent restorative practitioners.

### ***Restorative Justice***

12. Restorative justice has been described as: ‘any process which enables those harmed by crime, and those responsible for that harm, if they freely consent, to participate actively in the resolution of matters arising from the offence, through the help of a trained and impartial third party (hereinafter the ‘facilitator’)<sup>1</sup>.
13. This should be a common vision for all statutory and non-statutory organisations and independent restorative practitioners involved in restorative justice.
14. Subject to the other provisions of this Protocol, statutory organisations and accredited restorative justice organisations and practitioners 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);

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<sup>1</sup> Recommendation CM/Rec (2018) 8 of the Committee of Ministers to member States concerning restorative justice in criminal matters”, Council of Europe (October 2018);

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

### ***Restorative Justice and the Criminal Justice System***

15. The Police Service of Northern Ireland 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. Organisations and independent restorative practitioners accredited under the Protocol share the responsibility of helping to promote confidence in the Criminal Justice System, including the police.
16. It is important that crime is reported to the police. Non-statutory accredited restorative justice organisations and individuals must not only 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, but they should report **any** offence to the police where they are aware of such information, for further investigation where necessary.

### **Interim Protocol Lead**

17. To facilitate the implementation of the revised Protocol and the effective expansion of restorative justice within the Criminal Justice System, the Minister of Justice should appoint an independent individual who can lead on all aspects of the work pertaining to the revised Protocol, on an interim basis.

18. The Interim Protocol Lead will be responsible for promoting and overseeing work relating to restorative justice within the Department; within the criminal justice agencies; with non-statutory restorative justice providers and with the wider public.
19. The Interim Protocol Lead should have responsibility for overseeing the implementation of the Protocol, the work of the accredited restorative justice organisations, independent restorative practitioners and of departmental restorative justice initiatives. This will include: responsibility for undertaking formal accreditation work of non-statutory restorative justice organisations and independent restorative practitioners (perhaps assisted by an advisory expert panel); helping to determine standards of training and practice and ensure they are met; responsibility for dealing with any complaints about restorative justice work; work to raise awareness of restorative justice among the wider public; and promoting departmental work on restorative justice.

### **A Victim-Centred Approach**

20. The Protocol should promote a victim-centred approach, as outlined in the Adult Restorative Justice Strategy, and should work with the principles and framework set out in the Victim Charter. As such, it should provide opportunities for victims and communities affected by anti-social or criminal behaviour to play a role in the process, whether direct or indirect, in a safe, structured and supported environment.
21. Restorative justice should provide victims with a voice to express the harm felt and to help shape the redress an individual should make as a result. In doing so, restorative approaches should increase victims' confidence in the justice system. Wherever possible, victims should be proactively engaged in restorative justice, rather than being asked to take part in a justice-driven process
22. There should be a supportive system for victims to refer themselves for a restorative intervention at any stage of the criminal justice process and regardless of when the offence occurred. All victims should be informed about what restorative justice is, its availability and how to gain access to support to consider whether it would be appropriate

for their circumstances. Victims should be provided with a description of the restorative justice organisation or practitioner; their standards of practice; their range of experience and interventions; the restorative process that they will be participating in; and a summary of the Protocol in order that their agreement to participate is an informed choice.

23. All Protocol work should be mindful of a number of issues to ensure the safety and satisfaction of victims:

- victim involvement, and indeed that of any party, in restorative practices must be voluntary in nature;
- there should be no compunction to take part in a process, nor should victims ever be pressurised to do so; and there should be no adverse consequence should they decide not to do so;
- where victims are engaged, they should be given the opportunity to withdraw their consent at any stage;
- the process should aim to address their needs as victims of crime in addition to any rehabilitative effects it may be seeking to deliver for the offender;
- victims should be informed of any potential impact a restorative engagement may have for the perpetrator, in terms of court, parole or other formal decision-making in the case;
- victims may request a restorative engagement with the perpetrator at any time and at any stage of the perpetrator's involvement with the Criminal Justice System; and
- the capacity (linguistic competence, disability, neurodiversity) of the victim to participate in the process and the availability of support to address such problems.

24. Due to the imbalance of power and the impact of trauma, some victims will be especially vulnerable and greater care and sensitivity will be required in enabling them to engage and participate in restorative justice practices. To work in these cases, facilitators will need to receive specialist training including trauma informed practice.

25. There will be a need for risk assessment and management in each case, to ensure appropriate safeguards are applied where necessary. Dependent on the specific nature or

dynamics of the case, there may even be examples where a restorative approach is considered to be unsuitable, despite the willingness of all parties to engage. This highlights the importance of professionally trained individuals working to agreed standards of practice, to ensure the safety of all involved.

## **Perpetrators**

26. Perpetrators must admit responsibility for the commission of a criminal offence and must give their free and informed consent to participate in a restorative process.

27. When making a referral of a perpetrator for restorative justice, the following factors should be taken into consideration:

- the risks that participation in a restorative justice process presents to the victim and the public and whether these risks can be managed;
- the vulnerability of the perpetrator which may be associated with the impact of trauma or mental illness in their life;
- power imbalances between the victim and the perpetrator; and
- the capacity (linguistic competence, disability, neurodiversity) of the perpetrator to participate in the process and the availability of support to address such problems.

As already stated in paragraph 23, the process can only proceed if the victim agrees.

28. The perpetrator not consenting to participate or being assessed as unsuitable should not disadvantage him or her in any decision that a court or parole commissioner shall make.

29. The accredited restorative justice organisation or practitioner must make a perpetrator aware of all information on them and their offence that has been brought to their attention and all allegations made against them. Perpetrators must also be provided with appropriate levels of support during the restorative justice process.

30. Perpetrators will be provided with a description of the restorative justice organisation or practitioner; their standards of practice; their range of experience and interventions; the

restorative process that they will be participating in; and a summary of the Protocol in order that their agreement to participate is an informed choice.

31. If, at any time, a perpetrator indicates that he or she wishes to withdraw from engagement with the restorative justice process the accredited restorative justice organisation or practitioner will immediately stop any formal engagement and will inform the referring criminal justice agency of this development, which will then take over responsibility for the case.

### **Raising Awareness of Restorative Justice**

32. In aiming to increase the use of restorative justice within the Criminal Justice System it will be important to undertake work to promote awareness of the aims, scope and extent of restorative justice, as well as to acknowledge its limitations. This work should be led by the Interim Protocol Lead and will involve engaging with all sectors which may be impacted by the use of restorative approaches.

33. Particular work may need to be done in raising awareness of restorative approaches within the wider public and particularly within minority ethnic and migrant communities and other sectors which might have limited prior engagement with the Criminal Justice System or understanding of restorative justice and restorative approaches.

### **Scope of the 2023 Restorative Justice Protocol**

34. This Protocol applies to all types of formal engagements between criminal justice agencies and accredited non-statutory restorative justice schemes and accredited independent restorative practitioners.

These may include:

- Level One accredited restorative justice work below the criminal justice threshold;
  - Level Two accredited restorative justice work relating to formal criminal justice cases;
- and

- Level Three accredited restorative justice work relating to gender-based violence and other complex and sensitive crimes.

35. Activities below these levels (Base level) will involve individuals and organisations working at community level and informally with PSNI and other statutory agencies. This may include, for example, preventative and diversionary activities; work in education or social welfare settings; and family or community mediation. There is no requirement for formal accreditation to undertake this work, although practitioners may choose to work within the same principles, standards and training as accredited organisations.

36. Level One activities are those undertaken in response to incidents that fall beneath the criminal justice threshold and which have the potential to cause significant impact on the local community or to escalate to criminal activities without the intervention of the PSNI and an accredited restorative justice organisation or individual, working together in partnership. These include cases relating to community tensions, community and neighbour-neighbour mediation and similar. Where there is potential for a case to fall within either the Base level or Level One, a decision on whether a referral is made under the Protocol, and to whom, will be a matter of discretion for the referring statutory agency.

37. Level Two work involves any work relating to formal criminal justice cases. These may include:

- criminal cases where the perpetrator has admitted their guilt and the case is referred by the PSNI with the agreement of the Public Prosecution Service to be dealt with by an accredited restorative justice organisation;
- cases referred by the PSNI that have been subject to a Community Resolution Notice (CRN) or other diversionary procedure;
- cases referred by the PSNI that involve expressions of prejudice or hatred, as outlined in the Marrinan Report 2020;
- cases referred by the Probation Board NI as part of an Enhanced Combination Order (ECO);

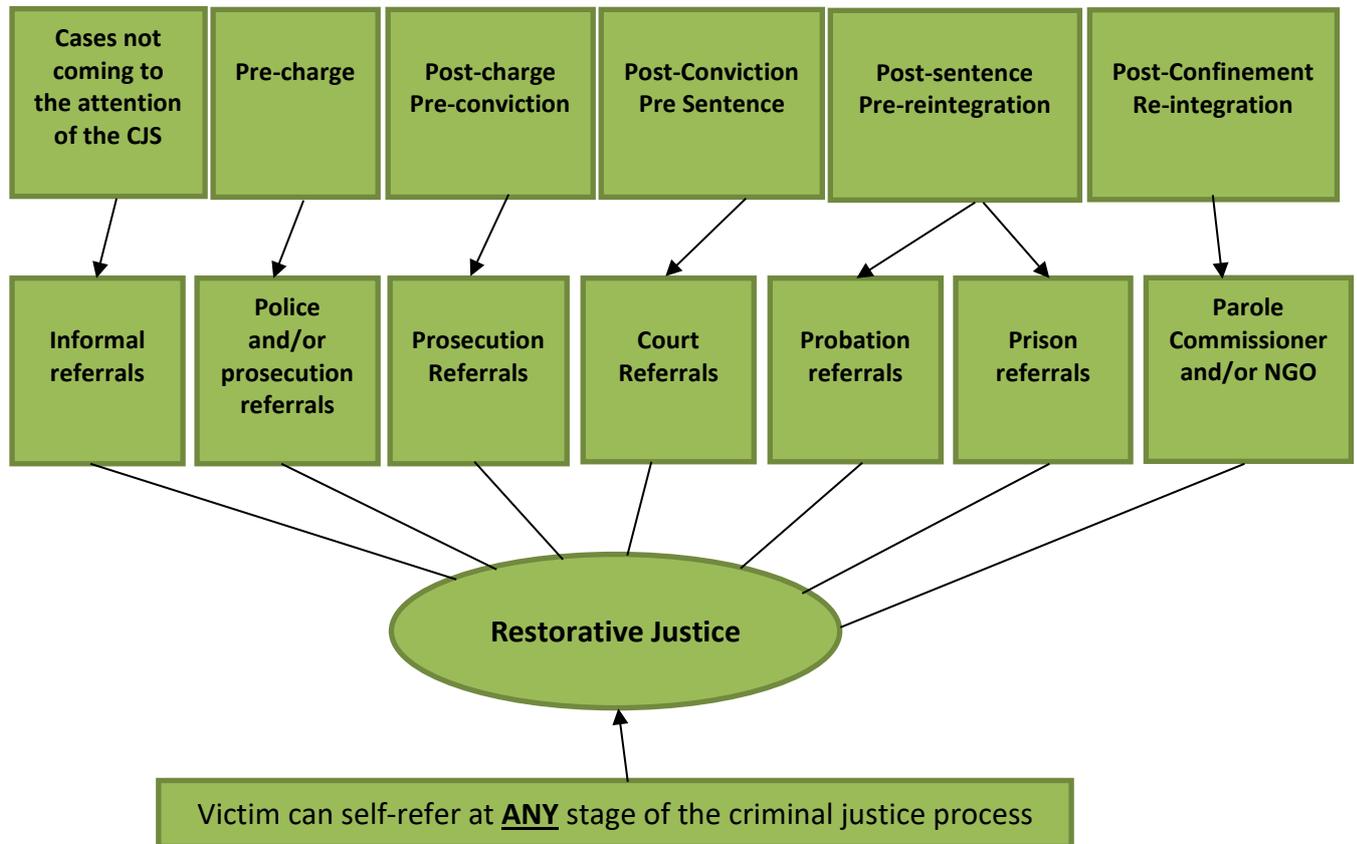
- cases referred as part of a court process;
- cases referred by the Youth Justice Agency as part of a restorative Youth Conference;  
and
- any other offences or processes as outlined in, or developed through the Adult Restorative Justice Strategy.

38. Level Three work relates to gender-based violence and other complex and sensitive crimes. Should any cases be considered for referral to an accredited restorative justice organisation or practitioner by a criminal justice agency that involves dealing with serious sexual offences, as specified in the Gillen Review 2019, then it may only be dealt with by a practitioner who has specialised training and the appropriate levels of experience. We acknowledge that there are multifaceted risks in the area of complex and sensitive crimes and the selection of practitioners who deal with these types of offences requires the utmost care.

39. In addition, the Protocol covers any other work or situations where a criminal justice agency might wish to employ a non-statutory restorative justice provider for any other form of service.

40. Figure 1, which is adapted from the UNODC Handbook of Restorative Justice, illustrates the opportunities to apply restorative justice at every stage of the criminal justice processes. It includes the opportunity for victims to refer themselves at any stage of the criminal justice process.

**Figure 1: Opportunities to apply restorative justice**



41. In any formal criminal justice case referred to an accredited restorative justice organisation or individual, the organisation or practitioner will agree at the outset with the referring criminal justice agency a written outline of the proposed programme of work to be undertaken with the perpetrator. This should be proportionate to the case referred, and include an indicative timeline. When the programme of work has been completed the organisation or practitioner will provide a written record of the activities undertaken to the referring criminal justice agency and indicate whether the agreed programme has been successfully completed. If the participant fails to complete the agreed programme of work, the organisation or practitioner shall report this to the referring criminal justice agency.

### **Accreditation Process and Requirements<sup>2</sup>**

42. To be eligible to undertake work with and for the Department of Justice and any criminal justice agency in Northern Ireland, organisations and individuals will be subject to a process of accreditation to ensure that they meet and are able to maintain the required standards of practice<sup>3</sup>.
43. Organisations, their staff members and independent restorative practitioners that wish to undertake restorative justice work with, or on behalf of, a statutory criminal justice organisation must be formally approved and accredited by the Department of Justice. The following paragraphs outline the requirements for each of the three categories.
44. To apply for accreditation an **organisation** must be:
- registered as a legal entity with / by the Charity Commission for Northern Ireland;
  - able to evidence that all staff have been subject to appropriate screening (see paragraph 53);
  - able to evidence that relevant staff have received appropriate levels of training and experience;
  - able to evidence their implementation of documentation, reporting and recording procedures and Data Protection standards as defined by the Department of Justice;
  - able to evidence 3 years' experience of restorative practice work; and
  - able to evidence 3 years' experience of working with the PSNI and criminal justice agencies, or if based outside of NI, an equivalent police organisation. Evidence may include a written reference from a senior PSNI officer, or equivalent.

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<sup>2</sup> In her report Cathy Gormley-Heenan recommends using the term 'approved provider' in place of the current term 'accredited organisation' in relation to organisations determined by the Department of Justice to meet the required standards, with the term accreditation only being used to refer to training qualifications. The Panel was not convinced by this argument and believe that the term 'accredited organisation' is widely used and understood and there would be no great benefit from making a change.

<sup>3</sup> This broadly follows the Restorative Justice Council's system for having separate processes for accrediting organisations and practitioners. Organisations can be accredited as registered restorative organisation, e.g. a school which uses restorative practices internally but does not provide services externally, or as registered service providers which can be statutory, charitable or private agencies that offer services externally. For practitioners, there are three levels of accreditation, Foundation, Intermediate and Advanced corresponding to the competence required for cases of different levels of sensitivity and complexity.

45. To apply for accreditation a **restorative justice practitioner** must be:

- an employee or sub-contractor of an accredited restorative justice organisation; and
- able to evidence that they have received appropriate levels of training and experience.

46. To apply for accreditation an **independent restorative justice practitioner** must be:

- a sole trader fully compliant with all relevant UK legal requirements;<sup>4</sup>
- able to evidence that they have been subject to appropriate screening;
- able to evidence that they have received appropriate levels of training;
- able to evidence their implementation of documentation, reporting and recording procedures and Data Protection standards as defined by the Department of Justice;
- able to evidence 3 years' experience of restorative practice work; and
- able to evidence 3 years' experience of working with the PSNI and criminal justice agencies, or if based outside of NI, an equivalent police organisation. Evidence may include a written reference from a senior PSNI officer, or equivalent.

47. Organisations and independent restorative practitioners wishing to seek accreditation shall submit the relevant information to the Interim Protocol Lead. The Interim Protocol Lead may engage with the applicant to clarify that data that has been submitted and/or to request further information.

48. The Interim Protocol Lead, who may be assisted by a panel with relevant expertise and experience, will review the documentation and make a recommendation of approval or rejection to the Minister of Justice. Recommendations shall be made to the Minister of Justice within 13 weeks of receipt of the application.

49. The Minister of Justice will make her or his decision to accept or reject the recommendation of the Interim Protocol Lead within 13 weeks of its receipt and will inform the applicant body of the decision with reasons.

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<sup>4</sup> <https://www.gov.uk/set-up-sole-trader>

50. If an application for accreditation is rejected by the Minister of Justice, the applicant has a right to appeal. An appeal should be made to the Minister of Justice within 13 weeks of the original decision. Appeals should be made in writing, to allow the applicant to provide any further information they deem relevant. The Minister shall publish her or his decision on the appeal outlining the reasons within 13 weeks of receipt of the appeal. An applicant will not be precluded from reapplying for accreditation if they can demonstrate that they have addressed the issues set out in the Minister's decision.

### **Renewal of Accreditation**

51. All accredited organisations, their staff members and accredited independent restorative practitioners will be required to reapply for accreditation every three years.

### **Staffing Standards**

52. All accredited restorative practice organisations and practitioners wishing to undertake work for the Department of Justice or any criminal justice agency will be required to operate to high standards to promote confidence in the Criminal Justice System and comply with all legal requirements.

53. All staff working for an accredited organisation and all accredited independent restorative practitioners will be required to undertake an Enhanced Access NI check and undertake repeat checks every three years thereafter. This is in accordance with similar standards already in place for comparable statutory bodies or agencies within the Criminal Justice System.

### **Training Standards**

54. The Department of Justice, drawing on the advice of the Interim Protocol Lead, shall determine the appropriate standards of training required of staff working for accredited restorative justice organisations and independent restorative practitioners, as well as those staff within criminal justice agencies who are delivering restorative interventions. It

is expected that training standards will be in line with those set by the Restorative Justice Council or similar advisory body.

55. Criminal justice agencies and those who are accredited under the Protocol shall be responsible for ensuring that all practitioners are appropriately trained, supervised and mentored and receive regular refresher training and opportunities for professional development.

56. The agreed restorative justice training standards will be applicable to all those undertaking work for the Department of Justice or a criminal justice agency in Northern Ireland, including staff employed by a criminal justice agency, a non-statutory restorative justice provider or an independent restorative justice practitioner.

57. The Interim Protocol Lead shall be responsible for monitoring and reviewing training and practice standards of all restorative justice providers and independent restorative practitioners.

### **Specialised Training**

58. Criminal justice agency staff, and restorative justice organisations and practitioners accredited under the Protocol who might wish to work on complex and sensitive issues will be required to evidence additional skills and experience appropriate to the nature of the area of work. This may include having:

- recognised training for serious and complex cases and supervised delivery;
- appropriate levels of cultural awareness and competences;
- understanding of trauma informed practice;
- relevant linguistic skills or access to appropriate translation services;
- appropriate understanding of issues relating to working with people with disabilities;
- and
- appropriate understanding of issues relating to relationships of power, coercion and control.

### **Organisational Standards**

59. The Charity Commission for Northern Ireland shall be responsible for ensuring that accredited restorative justice organisations adhere to all appropriate standards relating to organisational and financial management and fulfilling all obligations required by their legal status.
60. The Charity Commission for Northern Ireland shall inform the Interim Protocol Lead of any concerns that might be raised in relation to organisational and/or financial management of an accredited restorative justice organisation.

### **Annual Reports**

61. All restorative justice organisations and independent restorative practitioners accredited under the Protocol will submit an annual report of work undertaken under the accreditation procedure. This report will include information on the outcomes of all referrals and partnership work undertaken with criminal justice agencies, to the Interim Protocol Lead.
62. It shall be the responsibility of the Interim Protocol Lead to maintain records of restorative practice work and referrals, and their outcome, and to consider the effectiveness of specific interventions for particular categories of offences. Criminal Justice Inspection Northern Ireland may seek the views of the Interim Protocol Lead when undertaking inspections of individual schemes.
63. The Interim Protocol Lead will provide an annual report on the implementation of the revised Protocol to the Minister of Justice and which will include details of the number of referrals, the effectiveness of restorative interventions, and any other relevant issues.

### **Record Keeping and Data Protection**

64. The Department of Justice will issue guidance in relation to required records of activities by accredited schemes. All restorative justice organisations and independent restorative

practitioners accredited under the Protocol should maintain records of all their criminal justice referrals in accordance with standards and guidance determined by the Department of Justice. Such records may be accessed on request by Criminal Justice Inspection Northern Ireland. Records will be held securely and in compliance with the Data Protection Act 2018 and GDPR. Schemes will have regard to the provisions of the Freedom of Information Act in relation to disclosure of information.

65. Data protection regulations present particular difficulties to restorative services which need to gain access to victims' details. This poses a significant obstacle to making victims front and centre in restorative justice. The problem may be solved by working in close collaboration with victims' organisations such as Victim Support Northern Ireland.

### **Inspection**

66. Restorative justice organisations and independent restorative practitioners accredited under the Protocol shall be subject to inspection and review of their working practices by the Criminal Justice Inspection Northern Ireland. CJINI will undertake inspections as appropriate using its statutory functions.

67. Inspections by CJINI will include, as appropriate:

- examination of records of offenders and offences dealt with;
- examination of digital and written evidence held by the Interim Protocol Lead;
- all work that has been undertaken in partnership with a criminal justice agency;
- systems for ensuring that agreed programmes are completed and reported on;
- complaints mechanisms and actual complaints received;
- training and mentoring programmes and initiatives;
- compliance with the decisions of the PSNI and PPS on appropriate cases;
- up-to-date awareness of human rights issues;
- procedures for ensuring compliance with standard pertaining to the rights of victims and offenders; and
- any other matters or practices deemed appropriate by the Criminal Justice Inspector.

## **Complaints**

68. The Interim Protocol Lead will be responsible for responding to any complaints made regarding any of the accredited restorative justice organisations and individuals. All complaints shall be addressed through a restorative approach wherever possible and dealt with within a reasonable timeframe.

69. The Interim Protocol Lead will report the findings of any complaints made regarding accredited restorative justice organisations and independent restorative practitioners to the Minister of Justice.

## **Removing Accreditation**

70. If any restorative justice organisation or independent restorative practitioner accredited under the Protocol is found to have failed to maintain the standards required of them in relation to organisational professionalism, quality of practice, adherence to the rule of law, or has failed to address concerns raised by the Interim Protocol Lead, the Minister of Justice may remove their accreditation.

71. In such cases, the applicant has a right to appeal using the same process as set out in paragraph 50. Where accreditation has been removed, an organisation or individual can reapply for accreditation no sooner than 1 year after the decision has been made to remove their accreditation.

## **Annex A**

### **Members of the Independent Review Panel**

#### **Tim Chapman**

Tim Chapman spent 25 years working in the Probation Service in Northern Ireland. He lectured for 10 years at Ulster University in Northern Ireland developing and directing the Masters programme in Restorative Practices. During that time, he has trained hundreds of people to become restorative practitioners including those working in community based restorative justice projects. He has published widely on restorative justice and has conducted significant research into community based restorative justice and intercultural conflict in Northern Ireland. He is currently researching the experiences of victims who have participated in restorative processes addressing serious harm. He is chair of the Board of the European Forum for Restorative Justice and Visiting Professor at the University of Strathclyde and at the University of Sassari.

#### **Judith Gillespie**

Judith Gillespie grew up in North Belfast. She joined the RUC GC in 1982, and was the first woman in the history of the RUC/PSNI to become an Assistant Chief Constable in May 2004.

A graduate of the FBI National Executive Institute, she became Deputy Chief Constable in 2009, was awarded an OBE in the Birthday Honours in June of the same year, an Honorary Doctorate from Queen's University Belfast in July 2012, and a CBE in the Birthday Honours in June 2014. She was a Chief Officer in PSNI for 11 years, helping to lead the organisation through significant change.

On leaving PSNI in March 2014 she became an independent leadership advisor, championing the cause of vulnerable victims and survivors. She served on the Equality Commission from 2015-2020, the Probation Board for Northern Ireland from 2015-2022, and from 2016-20 on the Garda Policing Authority in Dublin. She chairs the Inter Departmental Working Group on Mother and Baby Homes, Magdalene Laundries and Historical Clerical Child Abuse, and is a member of the Prison Service Pay Review Body.

**Neil Jarman**

Neil Jarman is an anthropologist by training with a PhD from University College London. He was previously the director of the Institute for Conflict Research and a Research Fellow at the Senator George J Mitchell Institute for Global Peace Security and Justice at Queen's University Belfast. He has undertaken research and policy work in Northern Ireland on such issues as parades; inter-communal violence; policing and police reform; restorative justice; hate crime; human trafficking and forced labour.

## **Annex B**

### **TERMS OF REFERENCE FOR THE REVIEW OF THE 2007 PROTOCOL FOR COMMUNITY BASED RESTORATIVE JUSTICE SCHEMES**

#### **Introduction**

1. In 2007, prior to the devolution of justice, the Northern Ireland Office put in place a Protocol to govern relations between the NI Criminal Justice System and the community-based restorative justice schemes. This action stemmed from an earlier Review of Criminal Justice in Northern Ireland (2000) which pointed out that community-based restorative justice schemes can have a role to play in dealing with the types of low-level crime that most commonly concern local communities.
2. As the scheme had been in place for over 14 years views were sought on the adequacy of the Protocol within the consultation on the development of an Adult Restorative Justice Strategy for Northern Ireland. A clear view emerged that a review of the Protocol and its operation should be carried out with the aim of increasing appropriate referrals from statutory bodies and expanding the work of restorative practice generally.
3. The Department of Justice has therefore commissioned a review of the Protocol. The Review will be taken forward by an independent three person panel all of whom have an understanding at a senior level (whether in academia or at an operational level) of the current accredited Community Based Restorative Justice Schemes operating in Northern Ireland.

#### **Terms of Reference**

4. The Review will seek to establish a fresh relationship between the Criminal Justice System and the community-based schemes by undertaking a comprehensive review of the existing Protocol and drafting a new Protocol for the operation of the schemes in line with the Review's findings. The Protocol will be based on the fundamental principle of

compliance with the rule of law and full cooperation with statutory agencies, including the police.

5. The purpose of the Review is to evaluate the operation of the 2007 Protocol and draft a new revised Protocol that will help achieve the best outcomes for victims, communities, defendants and justice, by increasing appropriate referrals from statutory bodies and expanding the work of restorative practice generally.

### Scope

6. The Review will take into account, but is not limited to:
  - building on and incorporating the existing good practice already in place in the existing Protocol;
  - the need to accommodate the introduction of restorative justice to adults;
  - the experience gained from the restorative practices operated by the Youth Justice Agency, and any lessons learned;
  - an acknowledgement that current accreditation arrangements, in terms of compliance with the rule of law and full cooperation with statutory agencies, including the police should be the minimum requirement for any CBRJ group;
  - the need to increase the number of cases being referred to the schemes for formal disposal from criminal justice organisations;
  - Striving to ensure that minimum standards are put in place to help prevent any non-accredited groups from taking referrals from the community or an individual. Consideration should also be given as to whether this would need to be enshrined within legislation;
  - the need to have a good fit between the Protocol and the longer-term outcomes sought through the Tackling Paramilitarism Programme, particularly in terms of building community capacity to support transition away from coercive control and paramilitary influence; and

- on the back of the relevant recommendations in the Gillen and Marrinan Reports the need to get buy in from victims of hate crime or serious sexual offences to a restorative justice process through accredited organisations.

### **Consultation**

7. The Review will also seek input from key stakeholder groups including the Police Service of Northern Ireland, the Public Prosecution Service, Criminal Justice Inspection Northern Ireland, the Department of Justice, the Youth Justice Agency, the Probation Board for Northern Ireland, The Northern Ireland Housing Executive, the Department for Communities, Victim Support Northern Ireland, The Executive Office, the International Committee of the Red Cross, and the two current accredited restorative justice organisations, Northern Ireland Alternatives and Community Restorative Justice Ireland. This list is not exhaustive; there may be other organisations or individuals that the Review will wish to consult with.

### **Timing**

8. The Review will commence at the end of February 2022 and will report at the end of May 2022.

## **Annex C**

### **Groups met by the Panel and Groups contacted but not met**

#### **Groups met by the Panel**

AIMS Project, Ballymoney

Criminal Justice Inspection Northern Ireland

Commission for Victims and Survivors

Community Restorative Justice Ireland, Belfast

Community Restorative Justice Ireland, Derry

Consensus Restorative Justice, Belfast

Co-operation Ireland

Department of Justice Community Safety - Cross Executive Strategy on Violence against Women and Girls

Department of Justice - Gillen Review Implementation Team

Department of Justice - Reducing Offending Directorate, including Northern Ireland Prison Service

Department of Justice - Tackling Paramilitarism Programme

Department of Justice in Ireland

Extern

Cathy Gormley-Heenan

Independent Reporting Commission

International Committee for the Red Cross

Judge McElholm

Judge McGarrity

Migrant Centre NI

National Society Prevention of Cruelty to Children

NetCare, Newry

Northern Ireland Alternatives

## Review of the 2007 Restorative Justice Protocol and Draft 2023 Restorative Justice Protocol

Northern Ireland Association for the Care and Resettlement of Offenders

Northern Ireland Housing Executive

Northern Ireland Human Rights Commission

Probation Board for Northern Ireland

Public Prosecution Service Northern Ireland

PSNI, Bangor

PSNI, Belfast

PSNI Carrickfergus

PSNI, Derry/Londonderry

PSNI, Headquarters

Rainbow Project, Belfast

Resolution North West

Resolve NI, Belfast

Restorative Justice Council

Strabane Access Youth Engagement (AYE)

The Executive Office

The Executive Office - Racial Equality Subgroup

Tides Training and Consultancy

Trans Pride NI

University of Ulster

Victim Support NI

Youth Justice Agency

**Groups contacted but not met**

Belfast Islamic Centre

Belfast Jewish Community

Barnardos

CaraFriend

Church of Ireland

Church Society Commission

Commissioner for Older People for NI

Department for Communities

Evangelical Alliance

HEReNI

Kieran McEvoy, QUB

Leonard Cheshire

Nexus

Presbyterian Church in Ireland

Prison Fellowship

Quakers

Rape Crisis Centre

Transgender NI