



Department of the Environment  
for Northern Ireland

*Mr. J. Jordan*

*HMB/1/49/97*

*J 20/3*

*file*

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Mr V Blease  
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20 March 1998

Dear *Vistor*,

**RESTORATIVE JUSTICE AND PARTNERSHIP IN THE COMMUNITY**

Please find enclosed a document containing two papers, based on Government submissions tabled at the multi-party talks on 10 March 1998. This document was also placed in the Library of the House of Commons on 19 March 1998. It is forwarded to the Executive for information.

The first paper outlines the concept and applicability of restorative justice, while the second affirms the Government's commitment to a partnership approach in addressing the problems of crime and ant-social behaviour in the community.

As the first paper explains, restorative justice is a concept which, in certain types of case and where offenders and victims consent, can operate at various stages in the criminal justice process. It is about repairing and restoring relationships between offender, victim and the community and can involve techniques such as mediation, meetings between victim and offender, counselling and family or community conferencing. It focuses in particular on the needs of the victim and the process needs to be handled with care and sensitivity.

The second paper focuses on partnerships in addressing problems associated with crime-partnerships within the statutory sector and between the public, voluntary and community sectors. It commits the Government to this approach, but makes clear that community based initiatives have to be pursued in a way that is complementary to the criminal justice system, not as an alternative to it.

The document is being sent to party leaders, leading churchmen and statutory and voluntary agencies in the criminal justice field. Dolores Ferran, one of your Assistant Directors, will receive a copy by virtue of her membership of the Management Board of the Community Safety Centre.

Yours sincerely

**Jim McCormick**  
Director of Housing

CLAR/CORE/DHD/98/009768  
/JBL



# **RESTORATIVE JUSTICE AND A PARTNERSHIP AGAINST CRIME**

**Northern Ireland Office  
March 1998**

## RESTORATIVE JUSTICE AND A PARTNERSHIP AGAINST CRIME

Attached are two short papers, based on Government submissions tabled at the multi-party talks on 10 March 1998.

The first paper outlines the concept of restorative justice and details action being taken to develop the idea within the criminal justice system in Northern Ireland. Restorative justice focuses on repairing and restoring relationships between offenders, victims and the community at large. It is an innovative approach, though well tested in other jurisdictions. In certain types of case, and where offenders and victims consent to the process, it can bring an important new dimension to the criminal justice system.

The second paper affirms the Government's commitment to a partnership approach in addressing the problems of crime and anti-social behaviour in the community. So-called punishment attacks are criminal acts which must be condemned outright; and there can be no place for what some describe as "alternative justice" where the individual does not have the protection of due process regulated by a legal framework. However, as many good things that are already happening demonstrate, Northern Ireland has well developed community and voluntary sectors which can work effectively in partnership with the criminal justice system and other statutory agencies in helping to tackle the problems of crime and anti-social behaviour. That is what these papers are about.

ADAM INGRAM

## RESTORATIVE JUSTICE

This paper gives a brief description of the restorative justice concept and considers its applicability in the circumstances of Northern Ireland.

2. Crime harms individual victims, their families, the community and quality of life generally. It is a Government priority to ensure that the interests of victims are properly taken into account by the criminal justice system; on 23 February this year it published a Code of Practice for victims and committed itself to developing an agenda for further action. However, while the criminal justice system is designed to secure outcomes that are fair and proportionate in relation to the crime, the victim and community may still be left with a feeling that underlying problems relating to the offence have not been satisfactorily resolved.

3. In certain circumstances, restorative justice can offer a more inclusive approach to dealing with the effects of crime. It concentrates on restoring and repairing the relationship between the offender, the victim and the community at large. It can operate in a number of contexts, both within the formal prosecution process and outside it. It depends crucially on the offender admitting the wrong and showing some signs of wanting to put it right. In restorative schemes, where all parties consent, some form of victim-offender mediation may take place. This can be done directly, in a conference, or indirectly, through intermediaries. In recognition of the fact that the effect of crime goes beyond those initially involved, there is also scope to include family members and representatives of the wider community.

4. The aim is to repair the damaged relationship which may be at the root of criminal behaviour and which will have been further damaged by that behaviour. In this process:-

- victims are given the chance to say how the crime has affected them, and their needs and fears are addressed;

- the offender is confronted with the distress that he has caused and has the opportunity to make amends. This may involve a range of outcomes from an apology, through counselling to improve relationships, to forms of reparation and community service. The opportunity for offenders to participate in diversionary programmes may also be available;
- by involving victims and families, restorative justice gives more people a stake in dealing with crime. This in turn helps to build public confidence that justice is being done, and is seen to be done.

5. Schemes and practices involving a restorative element are being developed in many parts of the world, including the United Kingdom. Many are at the experimental stage, but some have been in existence for a considerable time and in one area of England at least (Thames Valley) the concept is built into police processes.

6. The Government has work in hand in Northern Ireland in a number of areas of the criminal justice system. The Government has set up a multi-agency steering group to look at ways of incorporating restorative justice into the formal justice system. Some examples of work in hand are outlined below:

- We are looking at ways of enabling the courts to make use of the power to defer sentence to allow a convicted offender to make good the damage he has caused and to turn over a new leaf.
- Probation schemes can incorporate a restorative element. An example of this is the Watershed programme, which is a court-imposed condition of a probation order. In carefully controlled circumstances participants are brought to confront offending behaviour and to acknowledge the reality of the harm they have done - family group conferences and meetings with victims can have a role to play in this.
- The RUC are examining proposals, similar to the Thames Valley scheme, for administering "restorative cautions" to juvenile offenders within a particular area.

This would involve their being confronted with the distress caused and brought to acknowledge the effects of their offences.

7. It is of course important to recognise that there are types of crime where a restorative approach would not be appropriate. In all cases the rights of victims must be respected; if they are to be involved in restorative activity it must be on the basis of genuine consent on their part.

8. Local communities, in partnership with appropriate statutory agencies, including the police, may want to develop locally based schemes for addressing problems associated with petty crime and anti-social behaviour, some of which might incorporate a restorative element. The Community Safety Centre, managed by a Board comprising representatives of key statutory and voluntary agencies in the criminal justice sector, has a role to play in enabling such activity. Community empowerment must however be subject to certain ground rules. These are outlined in the paper "Crime and Community - a Local Partnership Approach" and are important; no proposal can be tolerated which is based on violence or the threat of violence and appropriate statutory agencies must have an input. It is important to find means of enabling schemes to be "owned" by the whole community in which they operate, and not to become the prerogative of one particular party or grouping.

9. There is considerable scope for building on good work already done to develop community involvement in community safety, crime prevention, diversionary schemes and restorative justice but it must be in partnership with, rather than as an alternative to, the official systems. It is necessary to find a means of mobilising local opinion against vigilantes and violence while simultaneously securing the commitment of the deliverers of statutory services, who have to operate within finite resources. This takes time, and effort. There is no single template for developing schemes; much will depend on local circumstances. Ideas are at different stages of progression in various parts of Northern Ireland.

## CRIME AND COMMUNITY - A LOCAL PARTNERSHIP APPROACH

1. The Government is committed to working in partnership with the community. To that end, this paper addresses the desire of communities and groups to develop appropriate locally based arrangements for dealing with criminal activity, anti-social behaviour and other social problems. There is the opportunity to build on the positive and constructive developments that are taking place in the areas of self-help and community participation, in partnership with the public agencies. What cannot be accepted in any form however are so-called punishment attacks, threats, expulsions, intimidation and boycotts, organised and manipulated by paramilitary groups or under any other auspices.

2. Most people from the areas concerned want to prevent criminal and anti-social behaviour and the unacceptable and criminal response of "punishment" beatings and other forms of coercion. This can only be achieved successfully through the co-operation of the public agencies, including the police, and the voluntary and community sectors in providing programmes and interventions for those identified as being at risk or responsible for anti-social behaviour. Much is already happening along these lines. The involvement of communities and public representatives, working with public and voluntary agencies, in the management of the response to crime and anti-social behaviour is to be encouraged, so long as this is consistent with the rule of law does not lend support to the concept of "alternative justice".

3. Throughout the troubles the public agencies have been in the front line of service delivery to all parts of the community, often in the most difficult circumstances. Schools, the Youth Service, Social Services, the Housing Executive, Probation and the RUC are amongst the agencies in the forefront of social provision and the creation of a safer and better environment. They operate in partnership with each other, with the voluntary sector and with a well developed community sector. There has been much innovation and a great deal has been achieved thanks to the commitment of people from

all of the agencies and the community. At the same time it has to be recognised that the political and security background has made it more difficult for the police to operate in certain areas as effectively with the community as they would wish.

4. In addressing these issues and delivering community based services, the Government is committed to:

- i. upholding the rule of law;
- ii. promoting and safeguarding human rights;
- iii. protecting individuals against arbitrary decisions and procedures operating outside the rule of law;
- iv. the provision of services to communities and individuals based on consultation and objective assessment of need;
- v. partnership and consultation with and between the public, voluntary, community and private sectors.

5. The Government welcomes innovative ideas aimed at empowering communities, in partnership with the public agencies, to improve social cohesion, promote social inclusion, resolve disputes and address the problem of crime and the fear of crime. Subject to the availability of resources and to the parameters set out in paras 7 and 8 below, the public and voluntary agencies are encouraged to support communities which wish, within the law, and in partnership, to embark on initiatives to promote such concepts as community safety, crime prevention, restorative arrangements and mediation. This approach can also help in identifying related social issues such as the availability of training and support services and youth and social facilities.

6. The public organisations meet with and take account of the views of public representatives on these issues. However, decisions on the provision of services for

which they are accountable and on the referral and treatment of individuals are matters for the agencies with the relevant statutory responsibilities. Thus an individual case appearing to require intervention might be drawn to the attention of Social Services as a result of a community-based initiative; but it will be for Social Services, in consultation as appropriate with other agencies, to determine whether, and if so how, to intervene.

7. In the context of preventing offending behaviour or resolving problems arising out of minor disputes or anti-social behaviour, the public agencies will encourage mediation, restorative and other schemes of the kind outlined in para 5 above - provided that they are based on the genuine consent of all parties involved. Such initiatives should not be the preserve of any particular political party or interest group, but rather should involve the community as a whole. There can be no question of assisting, or taking referrals from, any scheme based on coercion or threat, real or implied, or which is predicated on the exclusion of the police or any other public agency from carrying out its functions as prescribed by law. Moreover, the formal processes of investigation, prosecution, adjudication and compulsory intervention or referral must remain the preserve of the appropriate statutory bodies, operating within the legal framework which protects and balances the interests of individuals and the community.

8. The Government welcomes and encourages community based initiatives, rooted in a partnership approach. Any arrangements however must be complementary to statutory procedures, not an alternative to them.