



Department of
Justice
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CONSULTATION ON A REVIEW OF COMMUNITY SENTENCES

Comments are invited and should be made to the following address by 26 April 2011

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Foreword



The devolution of policing and justice has provided an unprecedented opportunity for locally elected representatives to contribute to reshaping the justice system. A challenging programme of work is already underway to address some well documented deficits and build on innovative and dynamic practice to deliver a justice system in which the public can have confidence and which fits the needs of Northern Ireland in the 21st century.

The Hillsborough Castle Agreement set out a series of key goals for the addendum to the Programme for Government. Amongst these was a commitment to review community sentencing disposals, to ensure there was a sufficiently wide range available to deal effectively with offenders and, where appropriate, to offer alternatives to short-term custodial sentences for lower risk offenders. This consultation paper seeks to deliver on that commitment.

Crime and our response to it have an obvious impact not only on the offender and the victim, but on public confidence in the justice system as a whole. No-one disputes that imprisonment remains the most appropriate sentence for those committing serious offences or who pose a substantial risk of harm to society. The introduction of new robust public protection sentences in 2008 for those committing serious sexual and violent crime clearly demonstrates that Government is responsive to concerns about those who pose the greatest risk.

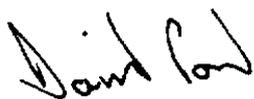
Many offenders do not however fall into this category. For them, engagement, and supervision, in the community may be the most effective response.

I believe community sentences are not well understood, and there is often a public perception that they are somehow soft options. In reality, they can be more personally challenging than a short prison sentence, often requiring individuals to engage in programmes aimed at challenging their attitudes and changing their behaviour, to acknowledge the impact of their actions on victims, and to give something back to society through unpaid community work.

This consultation paper explores the role and scope of current community sentences, drawing comparisons with experience nationally and internationally, and examines whether there is the potential to make more effective use of such disposals. It is not about making change for change's sake or seeking to replicate specific proposals based on experience elsewhere – indeed data suggest that community disposals in Northern Ireland already provide lower reoffending rates than in many other jurisdictions.

There is now an opportunity to take a fresh look at what we do, to assess if there is room for further improvement, and to think about how best this can contribute to improved prospects for offender rehabilitation, increased victim satisfaction, and higher levels of public confidence in the justice system.

This is an important conversation that we need to have as a society. I am ready and willing to listen and would encourage everyone to join the debate by contributing to the consultation.

A handwritten signature in black ink, appearing to read 'David Ford', written in a cursive style.

David Ford
Minister of Justice

SECTION 1: INTRODUCTION

1.1 In the Addendum to the Programme for Government, the Justice Minister has set out his agenda for reshaping the justice system. This ambitious programme is about delivering a justice system specific for the needs of Northern Ireland, by working in partnership with others to reduce reoffending, by diverting people away from crime and by helping to build a shared future.

1.2 **There are a number of inter-related strands to the programme which address justice issues at all levels, from the individual at risk of offending to the offender whose offence is so serious that a prison sentence is warranted.**

1.3 Central to the reforms is the development of a **Reducing Offending Strategy**, which aims to reshape fundamentally our approach to tackling the factors leading people into the criminal justice system and the obstacles which hinder them from getting back out of it. This will require a joined-up and co-ordinated approach – across Departments, across the justice system and across the voluntary and community sector.

1.4 The work of this strategy will link in with the recently published **Women's Strategy** which is specifically aimed at assisting women offenders, by tackling the underlying problems that can result in offending behaviour amongst women and deal with them, where possible, in the community.

1.5 Bolstering the development of the Reducing Offending Strategy are **diversionary measures proposed in the Justice (NI) Bill 2011**. These provisions include the diversion of first time or non-habitual offenders from court through the use of police issued fixed penalty notices and the introduction of conditional cautions where prosecutors could attach reparative or rehabilitative conditions to a caution.

1.6 Diversion from the justice system is already operating in many areas. Community-based Restorative Justice (CBRJ) Schemes enable the Public Prosecution Service, with the consent of victims and offenders, to divert low level offences to CBRJ schemes by delivering a community restorative disposal as an alternative to prosecution through the courts. The PSNI led pilot of Integrated Offender Management aims to prevent and deter further offending by problem individuals in local communities, through the provision of timely support and intervention.

1.7 In tandem with these developments, a **comprehensive review of the Youth Justice System** is also being undertaken which will cover all aspects of youth justice, from the age of criminal responsibility through to the measures aimed at preventing or addressing offending by young people. Northern Ireland already has a proportionate, progressive and restorative approach to youth justice which is recognised both nationally and internationally. The review will provide the opportunity to re-shape and further develop these systems.

1.8 The needs of victims are also an important consideration. The Justice (NI) Bill 2011 provides for the **introduction of an Offender Levy**, which will resource a Victims of Crime Fund to be used exclusively for funding victims' services. A consultation on a **Code of Practice for Victims of Crime** was recently launched, and is part of an extensive programme of work to improve the way in which the criminal justice system engages with victims.

1.9 But if we can reduce the potential to offend and reoffend, then there will be fewer victims in the future. The potential benefits of reform to society and the economy are considerable, both in terms of reducing the estimated £2.9bn cost of crime in Northern Ireland and in making a real and positive contribution to community safety and long-term well being.

1.10 **It is within this agenda of reform that the review of community penalties is set. Given that the Youth Justice Review will encompass how young people who have offended are dealt with in detention and in**

the community, this review focuses on adult offenders only. The aim of this consultation is to ensure that an effective and appropriate range of disposals are available to the judiciary to provide for the effective management of low level adult offenders. While not posing a risk of serious harm to the public, many of these offenders, through the high volume of crime they commit, have a significant impact on their communities and the quality of life of the people who live in them.

SECTION 2: IS EFFECTIVE USE MADE OF COMMUNITY SENTENCES?

2.1 For the offender convicted of a serious offence who poses a danger to the public, custody is the right and appropriate disposal. The reform of the custodial sentencing framework legislated for in the Criminal Justice (NI) Order 2008, had public protection at its core, with the introduction of public protection sentences that ensure that dangerous violent and sexual offenders can, if necessary, be held in prison while they are considered to pose a danger to the public. **The aim of this review is to seek views on the management of adult offenders sentenced for less serious, lower level offending who are attracting short prison sentences or community sentences.**

Purposes of Sentencing

2.2 In consideration of these sentences it is worth setting out the purposes of sentencing. It is widely accepted that sentencing within the criminal justice system serves a number of related purposes. **First it serves to punish offenders.** It does this by depriving offenders of:

- liberty (for example through imprisonment);
- property (for example through fines or compensation orders); or
- other rights and freedoms (for example through a requirement to undertake certain actions while in the community).

2.3 **Secondly, sentencing serves to reduce crime.** It does this through:

- deterrence – either the specific deterrence of the individual sentenced for a crime, or the general deterrence of others who are discouraged from crime by what they see happening to offenders;
- incapacitation – while in prison or in the community under restrictions there will be less opportunity to commit further offences;
- reform and rehabilitation – measures forming part of a sentence may help to change the way offenders behave and to reduce the risk of them reoffending.

2.4 **Thirdly, sentencing may allow reparation to the victim** of an offence or those otherwise harmed by an offence. Reparation may be direct to a victim (for example the payment of financial compensation) or it may be indirect (for example unpaid work undertaken for the wider community).

2.5 **Finally, sentencing serves to maintain public confidence** in the rule of law. It does so, not only when it meets the three purposes already described, but through the symbolism of sentencing when it is seen to mark appropriately the seriousness of an offence.

Sentencing Process

2.6 The majority of less serious offences are tried in a magistrates' court by a district judge (formerly known as a magistrate) and involve no jury. The sentencing powers in the magistrates' court are restricted. Generally, on conviction of a summary offence, the maximum sentence a district judge has the power to impose is 6 months imprisonment. For an indictable, more serious, offence being tried summarily, the maximum sentence that can be imposed is 12 months imprisonment, unless consecutive terms of imprisonment are imposed for more than one offence, when the limit is extended to 18 months. In the Crown Court, the judge may impose any sentence from the range of available options subject to the maximum (or sometimes minimum) possible sentence available in law for the particular offence.

2.7 It is the role of Government to determine the legislative framework for sentencing and ensure that there is a sufficient range of sentencing disposals available to enable the judiciary, which is wholly independent of Government, to direct the most appropriate sentence in individual cases. (**Annex A** provides a process map of the sentencing decision.)

2.8 Within this framework the most frequently used disposal is the fine, accounting for 66% of all sentences handed down in the courts in 2006.

Community orders lie within the central band of sentences available to the court. The legislation (Criminal Justice (NI) Order 1996) provides that where a decision is made to impose an appropriate community order, the offence must be serious enough to warrant such a sentence, taking into account the restrictions on liberty which the order will impose. The main community orders available to the judiciary in sentencing adult offenders are: Community Service Order (CSO); Probation Order and; Combination Order. All offenders sentenced to community orders are under the supervision of the Probation Board for Northern Ireland (PBNI).

Community Service Order

2.9 Under a CSO, offenders aged 16 or over, who are convicted of an imprisonable offence, other than one for which the sentence is fixed by law, are required to undertake unpaid community service work for a specified number of hours. The minimum number of hours is 40 and the maximum is 240. In 2006, the average length of a CSO handed down in the Crown Court was 133 hours, in the magistrates' courts 139 hours.

2.10 The work must normally be completed within 12 months, though the period may be extended on application to the court. The offender must consent to the order being made, be considered suitable to perform such work and the court must also be satisfied that PBNI can provide the activities required under the order. Where this is not the case, an alternative sentence will be imposed by the court. The purpose of the CSO is to prevent reoffending by re-integrating the offender into the community through the successful completion of positive and demanding unpaid work, keeping to disciplined requirements, and making reparation to the community by undertaking socially useful work. Offenders will be expected to be punctual, of good behaviour, and perform work to the best of their ability. Any work carried out can only be for those groups who do not have the resources to do it themselves, or to pay others to undertake the work.¹

¹ An Inspection of the Probation Board for Northern Ireland Community Service Scheme. Criminal Justice Inspection Northern Ireland March 2010

2.11 There are two types of placement available for a CSO – community placements and work squads. Community placements, which are usually allocated to offenders who are lower risk, more reliable and stable, entail working with a local community group or charity e.g. working in charity shops and animal sanctuaries; Riding for the Disabled and; Christmas gift preparation and distribution. Supervision on these placements is provided by the placement provider. Work squads involve work such as: painting and decorating or gardening projects, e.g. environmental work for the Forestry Commission; decorating pensioners' homes and; refurbishment of the SS Nomadic, a former support ship to the Titanic. Supervision of work squads is carried out by PBNI employed Sessional Supervisors. (See **Annex B** for further examples.)

CSO – Offender Profile

2.12 There is a general lack of Northern Ireland specific research into the profile of offenders attracting community sentences, other than statistical data. Of those being supervised by PBNI at the end of March 2010, 10% were female. In relation to the assessed likelihood of reoffending, approximately 14% were assessed as high likelihood of reoffending, 37% were classified as medium likelihood of reoffending and 48% were assessed as low likelihood of reoffending. This is a different risk profile to that of those subject to a Probation Order or Combination Order, with a greater proportion falling within the low likelihood of reoffending category. **Table 1** below gives the offence category for which CSOs were awarded in 2007.

Probation Order

2.13 Any offender, convicted of any offence, except where the sentence is fixed by law (e.g. murder), can be given a Probation Order. It is not intended to be imposed in minor cases, particularly where the proposed Probation Order includes requirements which may impose quite substantial restrictions on liberty. The aim of the Probation Order is to secure the rehabilitation of the offender, protect the public from harm or prevent the commission of further offences. A Probation Order cannot be for less than 6 months or for more than 3 years. The consent of the offender is sought prior to its imposition. If an

offender doesn't consent to the order, and it is an appropriate case, the court may then pass a custodial sentence. The average length of a Probation Order handed down in the Crown Court (which deals with more serious offences) is 23 months, in the magistrates' court is 14 months.

2.14 A number of requirements may be attached to a Probation Order; all require that the offender is under the supervision of a probation officer. Additional requirements may include:

- residence requirement – the offender must live at an address approved by a probation officer e.g. approved hostel accommodation
- activity requirement – the offender is required to participate in or refrain from specified activities on specified days, or for portions of the probation period. Participation in activities is for a maximum of 60 days
- attendance requirement – the offender is required to attend a specified day centre for no more than 60 days
- mental condition treatment requirement – the court may require an offender to submit to treatment for mental disorder, whether as an inpatient or outpatient for the whole or part of the probation period
- treatment for drug or alcohol dependency requirement where the court is satisfied that misuse of drugs or alcohol caused or contributed to the offence in question
- electronically monitored curfew

2.15 Offenders under Probation supervision will be expected to keep appointments, stay out of trouble, and agree a plan of work to reduce their likelihood of reoffending. The level of contact and intensity of the supervision depends on the level of assessed risks, both in terms of the likelihood of reoffending and the level of risk to others posed by an offender. Weekly contact for the first 16 weeks of supervision is the minimum level of contact but, where required and appropriate, this level of contact can be increased. Visits to the offender's home will also be made, both planned and unannounced.

2.16 The plan of work agreed with offenders, which is informed by assessment and ongoing review, can include:

- targeting risk factors known to reduce offending
- offence focused work – individual or group programmes (see **Annex C** for detail on the programmes delivered)
- victim awareness and restorative work to address victim harm (see para 2.27 for more detail on restorative interventions)
- work to address substance misuse/abuse problems
- family and relationship issues
- support and motivation
- employment, training, education and practical support

2.17 The aim throughout the Probation Order is to ensure offender compliance, reduce the likelihood of reoffending, minimise risk of harm and assist offenders to become responsible members of the community.

Probation Order- Offender Profile

2.18 At the end of March 2010, of the offenders subject to a Probation Order, 15% were female - this differs from the 90:10 gender split found within offenders under PBNi supervision as a whole, which would tend to indicate that a Probation Order is a more prevalent community sentence for female offenders than a CSO or Combination Order. In relation to the assessed likelihood of reoffending, approximately one quarter (24%) were assessed as high likelihood of reoffending, almost half (48%) were classified as medium likelihood of reoffending and the remaining 28% were assessed as low likelihood of reoffending. **Table 1** below gives the offence category for which Probation Orders were awarded in 2007.

Combination Order

2.19 The Combination Order, introduced in 1996, combines a Probation Order and a CSO and ‘is intended for offenders who the courts believe should make some reparation to the community and who need probation supervision

to reduce the risk of reoffending in the future². Unlike a Probation Order, the Combination Order can only be imposed where the offender, aged 16 or over, is convicted of an imprisonable offence, other than one for which the sentence is fixed by law. The court may impose a Combination Order in the interests of securing the rehabilitation of the offender, or protecting the public from harm or preventing reoffending. The probation must be for a minimum period of 12 months up to a maximum of 3 years; the community service must be for not less than 40 hours and not more than 100 hours. The Combination Order is the most punitive of the community orders³ and its use is intended for the most serious of those offences for which a community sentence is appropriate.

Combination Order – Offender Profile

2.20 Only 4% of those subject to Combination Orders at the end of March 2010 were female. This differs from the 90:10 gender split found within offenders under PBNI supervision as a whole. This would tend to indicate that a Combination Order is a less prevalent community sentence for female offenders compared to Probation Orders or CSOs. In relation to the assessed likelihood of reoffending, approximately one fifth (21%) were assessed as high likelihood of reoffending, almost half (49%) were classified as medium likelihood of reoffending and 30% were assessed as low likelihood of reoffending. **Table 1** below gives the offence category for which Combination Orders were awarded in 2007.

Offender compliance and enforcement

2.21 Probation works with offenders to ensure that the community order is completed and that the offender complies with requirements. Where an offender fails to comply with requirements and this continues, despite the issuing of a maximum two warnings, action is initiated to return the offender to court for breach. One of the options available to the court on hearing a breach

² Crime and the Community: A discussion paper on criminal justice policy in Northern Ireland. HMSO, March 1993

³ Sentencing Law and Practice in Northern Ireland. Allen MJ & McAleenan F. SLS Legal Publications (NI) 1998

case is to revoke the order, and deal with the offender for the original offence as if the relevant order had not been made. During 2009/10, the breach rate for both CSOs and Combination Orders was 15%, and 10% for Probation Orders.

Application of community sentences in the courts

2.22 In Northern Ireland, the use of the Probation Order and the CSO by the courts has remained relatively consistent between 2001 and 2006 (the most recent year for which court statistics are available). On the other hand, the use of the Combination Order (intended for the more serious offender), while steadily increasing, has been low – 26 awarded in 2001, 142 awarded to adult offenders in 2006. The reason for this is not clear, nor is its increased use reflected in a decreased use of custody.

Table 1 below gives the offence category for which these orders were awarded to adult offenders in 2007.

Table 1: Community orders in 2007 for those aged 18+ by offence classification and disposal type.

| | | <i>Community Service Order</i> | <i>Probation Order</i> | <i>Combination Order</i> | <i>Total</i> |
|----------------------|------------------------------------|--------------------------------|------------------------|--------------------------|--------------|
| <i>Offence Class</i> | <i>Violence against the Person</i> | 193 | 330 | 39 | 562 |
| | <i>Sexual</i> | 3 | 45 | 1 | 49 |
| | <i>Burglary</i> | 34 | 29 | 7 | 70 |
| | <i>Robbery</i> | 0 | 2 | 2 | 4 |
| | <i>Theft</i> | 124 | 164 | 11 | 299 |
| | <i>Fraud & forgery</i> | 70 | 38 | 6 | 114 |
| | <i>Criminal damage</i> | 67 | 91 | 12 | 170 |
| | <i>Drug offences</i> | 33 | 76 | 9 | 118 |
| | <i>Motoring offences</i> | 51 | 309 | 29 | 389 |
| | <i>Other</i> | 94 | 147 | 31 | 272 |
| <i>Total</i> | | 669 | 1231 | 147 | 2047 |

2.23 The CSO was originally introduced as a direct alternative to custody, but is now used by the judiciary for a wider range of cases where custody is

not an appropriate sentence due to the justifications used for imposing a CSO – i.e. rehabilitation, reparation and restricting liberty.⁴

Effectiveness of community sentences

2.24 Research into the factors which contribute to offending and reoffending has concluded that these include: homelessness; lack of educational attainment; unemployment; mental health issues; alcohol and substance misuse; lack of stable family relationship; being a victim of sexual abuse or domestic violence⁵.

2.25 Community sentences enable many of these factors to be minimised. They enable offenders to stay in their home with their families, to maintain employment or to continue to look for work, or to gain education and skills. Mental health issues can be exacerbated in custody, by isolation and lack of family support.

2.26 They provide opportunities for rehabilitation and reform – undertaking programmes challenge offenders to take steps to address the issues which lead to offending.

2.27 They provide the opportunity for reparation. This is usually provided through the provision of unpaid work in the community, which benefits both the community and the offender who gains skills and a sense of self-esteem, or less frequently through a restorative intervention. Since 2008, PBNI has worked in partnership with community restorative justice organisations in a pilot to facilitate offenders who have voluntarily agreed to complete a restorative plan e.g. indirect victim/offender contact via a Victim Liaison Officer; a victim/offender meeting; in a small number of cases a letter of apology. Some 80 offenders have participated.

⁴ Sentencing Law and Practice in Northern Ireland. Allen MJ & McAleenan F. SLS Legal Publications (NI) 1998

⁵ A Strategy to Manage Women Offenders and Those Vulnerable to Offending Behaviour 2010-2013. October 2010 www.dojni.gov.uk

2.28 However, while the sentencing criteria is that a community sentence should not be given unless the offence is serious enough to warrant the restrictions on liberty that the sentence will entail, they are not generally considered a robust punishment by the public, nor are they regarded as a significant deterrent to reoffending, all of which impacts negatively on public confidence.

2.29 Yet statistics show that community sentences do impact on reoffending. The 1 year reoffending rate for adult offenders (18+) sentenced to community disposals in 2007 is as follows:

| | |
|-------------------------|--------------------------------|
| Community Service Order | 23.5% |
| Probation Order | 24.4% |
| Combination Order | 34.0% (based on small numbers) |

The 1 year reoffending rate for adult offenders discharged from custody, having served a sentence of 6 months or less, is 40.2%

2.30 In considering these statistics, it should be remembered that no comparison can be made of the profile of the offenders, the nature of the offence, the offending history, or the propensity to reoffend. Given the average length of Probation Orders and CSOs, some of those included in the reoffending rate for community disposals will have been under PBNI supervision for some, if not all, of the 12 month period in question.

2.31 However, based on these statistics, which are the only measure available of sentence effectiveness, it would appear that community disposals are more effective than custody at tackling reoffending in adults convicted for less serious offences.

Short Prison Sentences

2.32 The principal sentencing criterion in relation to imprisonment is the seriousness of the offence - the offence must be so serious that only a prison sentence can be justified. Once the decision has been made that imprisonment is the appropriate sanction, its duration (within the maximum terms set in law) is for the judiciary to decide, taking into account all relevant considerations - including the nature of the offence, the history of the offender, the impact of the crime on the victim and any relevant guideline judgments - in individual cases. In 2006, the number of adult offenders sentenced to immediate custody in the magistrates' courts accounted for 5% of all court disposals.

2.33 Statistics show that, on average, those sentenced for 3 months or less serve just over 4 weeks in custody. For sentences of between 3 and 6 months, the average period in custody is 76 days. For those who have been remanded in custody pending trial - the average time spent on remand in Northern Ireland is 45 days – the time in custody post conviction can be much less. Some offenders will have served some, if not all, of their time on remand and be eligible to be released on the day the court imposes sentence, or shortly thereafter.

Offender profile

2.34 **Table 2** below shows the number of previous convictions of those (18+) discharged from custody in 2007, having served sentences of 6 months or less. 47 (13%) were first time offenders, but 42% (151) had 7 or more previous convictions. It is clear that many are habitual offenders who have been sentenced to prison for persistent offending, and who will have received non-custodial and custodial sentences before, and yet continue to offend. **Table 3** below shows almost 70% of those discharged from custody in 2007 had a previous custodial sentence; 31% had 3 or more.

Table 2: No of previous convictions (since Jan 2001) of those (18+) discharged from custody in 2007

| Sentence length <= 6 months | | Total |
|---|------|------------|
| Number of previous convictions since 2001 | | |
| <= 6 mths | None | 47 |
| | 1-2 | 51 |
| | 3-6 | 109 |
| | 7-10 | 57 |
| | 11+ | 94 |
| Total | | 358 |

Table 3: Previous custodial sentences (since Jan 2001) of those (18+) discharged from custody in 2007

| Sentence length <=6mths | No of Previous Custodial Sentences | No of Offenders |
|-------------------------|------------------------------------|-----------------|
| <=6mths | None | 109 |
| | 1-2 | 138 |
| | 3-6 | 82 |
| | 7-10 | 19 |
| | 11+ | 10 |
| Total | | 358 |

Table 4: Immediate custody prison receptions for males (21 & over) for sentences of 12 months or less

| Immediate Custody Receptions Adult Males | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | % increase from 2001 |
|--|------------|------------|------------|------------|------------|------------|------------|------------|------------|----------------------|
| <=3 months | 112 | 130 | 111 | 98 | 105 | 114 | 168 | 248 | 315 | + 181% |
| >3 and <=6 months | 154 | 203 | 210 | 197 | 192 | 211 | 238 | 291 | 240 | + 56% |
| >6 months and <=12 months | 175 | 165 | 249 | 218 | 199 | 240 | 229 | 267 | 208 | + 19% |
| Total | 441 | 498 | 570 | 513 | 496 | 565 | 635 | 806 | 763 | +73% |

Application of short prison sentences in the courts

2.35 Interestingly, statistics published in The Northern Ireland Prison Population 2009⁶ show that prison receptions for males (21 and over) for less serious offences – those attracting sentences of less than 6 months – have increased significantly, with the most significant increase seen in those sentenced to less than 3 months. (See **Table 4** above). We have little information on what factors led to the decision to sentence these offenders to custody rather than to a community sentence, other than the offence category which led to the disposal. (The issue of transparency in sentencing practice is discussed in more detail in the Consultation on a Sentencing Guidelines Mechanism⁷.) Please note: receptions will be higher than custodial discharges in any given year, as one offender may be received into prison more than once in that year.

Table 5 below gives the offence category for short custodial sentences in 2007.

Table 5: Offence category for custodial discharges aged 18+ in 2007 by sentence length

| | >3 months - <=6 months | <=3 months | Total |
|--|---------------------------|------------|------------|
| <i>Offence classification</i> <i>Violence against the Person</i> | 45 | 33 | 78 |
| <i>Sexual</i> | 7 | 2 | 9 |
| <i>Burglary</i> | 5 | 2 | 7 |
| <i>Robbery</i> | 3 | 0 | 3 |
| <i>Theft</i> | 33 | 10 | 43 |
| <i>Fraud & forgery</i> | 7 | 5 | 12 |
| <i>Criminal damage</i> | 14 | 14 | 28 |
| <i>Drug offences</i> | 8 | 2 | 10 |
| <i>Motoring offences</i> | 58 | 28 | 86 |
| <i>Other offences</i> | 35 | 47 | 82 |
| Total | 215 | 143 | 358 |

Effectiveness of short prison sentences

2.36 The impact on victims and communities that these offenders cause is considerable, and prison sentences provide visible and retributive punishment for the harm caused, and respite for a short time for the community. While in

⁶ Research & Statistical Bulletin 2/2010. NI Statistics & Research Agency

⁷ Consultation on a Sentencing Guidelines Mechanism Oct 2010 www.dojni.gov.uk

custody, offenders cannot commit new crime, contributing to reduction in crime; and such sentences are more likely to promote public confidence in sentencing, as they are the expected response to the consistent theme in media coverage that the courts are 'too soft' on crime.

2.37 They do provide a deterrence factor – this issue is discussed in more detail in **Section 3** – but they provide little opportunity for reform and rehabilitation. The Northern Ireland Prison Service (NIPS) provide a resettlement plan for prisoners with longer than 6-8 weeks to serve, to assist them on release from prison (see **Annex D**), but given the very short time these prisoners serve in custody, they cannot be engaged in any meaningful way in programmes aimed at reducing offending. 40% of adult offenders discharged from custody in 2007, who had received sentences of 6 months or less, reoffended within 12 months of their release.

2.38 Nor do these sentences, unless accompanied by a compensation order, provide any element of direct reparation to the victim, or indirect reparation to the community through the provision of unpaid work.

2.39 In this context, an argument could be made that short custodial sentences, with their high cost per prisoner place, do not represent good value for money. For those offenders who are not in custody long enough to meaningfully engage in rehabilitative activity, many of the key costs are incurred at the front end of the process: in managing their reception; initial assessment of health and well-being and; work allocation. It might be argued that a community sentence could provide the opportunity to work with offenders not posing a risk to the public, on addressing offending behaviour and making reparation, without incurring the overhead costs inherent in a custodial sentence. Alternative community approaches, of course, are not themselves cost neutral, particularly where these are programme-led or require more intensive supervision. More information on relative costs of custodial and community sentences are found in **Section 3** (para 3.37).

Summary

2.40 Offenders choose to commit crime and are also responsible for the choices they make to change their behaviour and stop reoffending. However, there is a responsibility on the criminal justice system to take the most effective measures it can to protect the public from further offences, by minimising the opportunities for the offender to reoffend, either through imprisonment, through restrictions in the community, or by promoting change in behaviour by providing effective interventions. Punishment must be part of this process, but so too must measures to reform and rehabilitate. Whether that can be achieved through reform of current provision is considered in more detail in **Section 3**.

SECTION 3: CONSIDERING THE NEED FOR CHANGE

3.1 The legislative framework in many countries, though shaped by variances in legal systems, provides a combination of fines, community sentences and imprisonment, though their level of use and the impact on reoffending and imprisonment rates varies according to relevant cultural, social, economic and political factors. The use of the fine is the predominant disposal in most jurisdictions, and community service and probation are used as disposals for lower level offending where offenders do not pose a significant risk to the public.

3.2 Sentencing frameworks are constantly evolving and reforms are usually developed in response a number of factors – rising prison populations, predominance of particular types of crime, media campaigns for tougher sentences, high profile cases that have caused public outrage, the need to find ways to improve desistance from crime. In recent years, both England and Wales, and Scotland, have reformed their community disposals, following long periods of review. England and Wales has just published a Green Paper⁸ seeking views on fundamental changes to the criminal justice system.

England & Wales

3.3 In the Criminal Justice Act 2003, England and Wales legislated for the introduction of a single Community Order to replace the various community sentences that had been available previously, which included disposals similar to those in Northern Ireland - Probation Orders, CSOs and Combination Orders. In tandem with this they also legislated for a Suspended Sentence Order (SSO) to be used where the court is considering a custodial sentence of less than 12 months – previously prison sentences could only be suspended in exceptional circumstances and it had fallen into disuse. (In Northern Ireland, suspended sentences account for 9% of all disposals.) Both reforms (commenced in 2005) were introduced to provide credible and robust alternatives to short-term custodial sentences, with subsequent legislation

⁸ Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders Ministry of Justice December 2010

restricting the use of the Community Order to imprisonable offences or to persistent offenders previously fined. The Community Order consists of one or more of 12 possible requirements which can be imposed for a minimum of 12 hours up to a maximum of 3 years. (See **Annex E** for menu of requirements.) The same requirements can be attached to the SSO which may for a minimum of 6 months up to a maximum of 2 years.⁹ Consideration of the introduction of a disposal similar to the SSO was considered in the Review of the Sentencing Framework in Northern Ireland, which led to the reforms to custodial sentencing introduced in the Criminal Justice (NI) Order 2008, but was not considered appropriate for Northern Ireland.

3.4 In operation, the Community Order has been generally well received, with sentencers finding it a credible alternative to custody, and offenders considering that they had been helped as a result of their sentence.¹⁰ Additional funding of £40 million was allocated to the National Probation Service in 2008 for the provision of community sentences.

Intensive Community Payback

3.5 Intensive community payback, introduced in 2008, requires all unemployed offenders sentenced to more than 200 hours of community payback (unpaid work) to complete their punishment intensively. Offenders are expected to work 3 days a week, and do a minimum of 18 hours every week, on work which would otherwise not be done without the labour provided by offenders.

Intensive Alternative to Custody

3.6 England and Wales has also introduced the Intensive Alternative to Custody (IAC). With funding of almost £14 million, seven IAC demonstrator projects have been piloted, which maximise the use of Community Orders in those cases where the court may be considering custody of under 12 months

⁹ The Community Order and The Suspended Sentence Order Three Years on. Centre of Crime and Justice Studies March 2009

¹⁰ The Community Order and The Suspended Sentence Order. The views and attitudes of sentencers. June 2008

but where the Probation Service consider that a community sentence may be more effective in reducing offending¹¹. Each IAC will have a personalised sentence plan tailored to suit individual needs, but will normally include a 12 month supervision requirement, the appointment of a personal mentor, 100 hours of unpaid work to be worked 2 days a week, a curfew order for 12 hours a day for the first 3 months and attendance on an accredited programme, if appropriate, to tackle offending behaviour. The projects have also developed pathways to ensure that the particular needs of women offenders, such as childcare, are recognised. Based on needs, other features may be applied, including: accommodation support; help into work; drug/alcohol treatment; and accessing health provision. For the first 3 months of the IAC, the offender will be subject to Court Review hearings. A formal evaluation of the IAC pilots has yet to be published.

Scotland

3.7 Scotland has legislated - in the Criminal Justice and Licensing (Scotland) Act 2010 - for the introduction of a single Community Payback Order (CPO), with up to 9 requirements, to replace the community sentences currently available to the courts (similar to those in Northern Ireland). Under the legislation, where an offender is convicted of an imprisonable offence, the court can instead impose a CPO, with the emphasis on offenders repaying their dues to the community through unpaid manual labour. (See **Annex F** for the menu of requirements.) The unpaid work requirement (similar to our CSO) must be for at least 20 hours and no more than 300 hours. Where the CPO has been imposed as a direct alternative to custody, the unpaid work must be for a minimum of 101 hours and must be completed within 6 months, unless otherwise specified by the court. This reform has been introduced in tandem with a presumption against custody of 3 months or less. (See para 3.33) These reforms have been legislated for against a backdrop of a 45% increase in funding in 09/10 to local authorities for the delivery of community justice.

¹¹ Engaging Communities in Criminal Justice April 2009

Republic of Ireland

3.8 The Republic of Ireland has a broadly similar range of community disposals as is available in Northern Ireland – Probation Order; CSO and; Suspended Sentence, where the offender may have to comply with certain conditions which can include Probation supervision. The Government is currently carrying out an overall review of strategies to combat crime, and issued a Discussion Paper on Criminal Sanctions in February 2010, which sought views on the effectiveness of non-custodial disposals and if, and how, short prison sentences should be curtailed. Responses (recently published¹²) will feed into a White Paper on Crime due for completion in 2011.

Drivers for Reform

3.9 There have been two main drivers for the reforms in Great Britain. One has been to ensure that the most effective disposals are in place to punish offenders and tackle reoffending. The single community order provides: greater clarity in sentencing by combining the perhaps confusing mix of disposals that had developed over a number of years, and via various pieces of legislation, and; greater flexibility by enabling the judiciary to tailor the menu of requirements to address individual offending behaviour.

3.10 The other main driver for reform has been to reduce prison populations by encouraging the increased use of community disposals by sentencers, not only because prison is an expensive sanction and the prison population in these jurisdictions has increased over recent years, but also because there is a general recognition that, while short prison sentences punish and offer respite to the community for a brief period, they do little to rehabilitate the offender and address the factors which lead to offending.

Need for change in Northern Ireland?

3.11 When reoffending rates are compared with the rest of the United Kingdom, current arrangements in Northern Ireland appear to work successfully. In Northern Ireland, the overall one year reoffending rate in 2007

¹² White Paper on Crime Consultation Process. Discussion Document No 2 Criminal Sanctions Overview of Written Submissions Received August 2010. Department of Justice and Law Reform.

for community disposals was 28.6%, for custodial discharges 38.1% (in England and Wales for 2007 the comparative figures are 36.1% community disposals and 47.2% custodial discharges). Scotland does not have directly comparable figures, but there, the overall 2 year reconviction rate (for custody and community) was 44% compared to an overall one year reoffending rate of 31.3% for Northern Ireland.

3.12 However, this comparative effectiveness is not reflected in confidence in sentencing. For the third consecutive year, 'tougher sentences' were cited, in the 2009/10 Northern Ireland Crime Survey, as the most important thing the criminal justice system could do to improve its public confidence rating. Only 23% of respondents thought that the courts are 'effective at giving punishments which fit the crime' – a drop of 1% from last year.

3.13 As previously discussed, the public perception of community sentences is that they are soft options, with insufficient emphasis on punishment. In the reforms highlighted above, particularly those in Scotland, the emphasis is on offenders repaying their dues to the community through unpaid manual labour, while allowing for interventions to be targeted at the particular needs of the offender. There is also provision, in Scotland and in the IAC in England and Wales, to ensure that where offences are more serious - marked by longer periods of work - there is the facility to make the work more intensive and have it completed in a shorter time.

3.14 Here, offenders have up to 12 months to complete community service, with 139 hours being the average length of community service handed down in the magistrates' court. The Criminal Justice Inspection Northern Ireland (CJINI) inspection of the CSO scheme found that, in 2009, 28% of offenders sentenced to a CSO (based on a 5% sample of the overall caseload) worked an average of 5 hours per week. Since then, PBNI has implemented a Community Service Strategy which stipulates that unemployed offenders on longer orders will be required to complete community service on at least 2 days per week, for 7 hours each day.

3.15 Those sentenced to a Probation Order have no requirement to carry out community service, though it can be argued that their payback to the community for the harm they have done is provided through the completion of programmes aimed at addressing offending behaviour. If subsequent offending is reduced, then the community benefits through a reduction in crime. The reforms introduced in Scotland, and England and Wales, provide the flexibility to combine programmes with unpaid work where considered appropriate. (In England and Wales unpaid work is one of the most frequently used requirements.) In Northern Ireland, community service, or unpaid work, can only be combined with other interventions or requirements when the offender is sentenced to a Combination Order, which is intended for the more serious offender. The Combination Order is used relatively infrequently, though in practice it would appear that it is being used with flexibility by the judiciary – 30% of offenders being supervised on a Combination Order are assessed by PBNI as low likelihood of reoffending. All of the requirements that can be attached to Orders in Scotland and England and Wales can be delivered here, and PBNI consider that current disposals provide sufficient flexibility in the management of offenders.

3.16 The need for reform in Northern Ireland should be considered in the context of the following factors:

- using reoffending rates as the measure, the range of sentences currently available appear to work relatively effectively;
- the lack of Northern Ireland specific research on this cohort of offenders;
- the potential impact on resources of any reforms in the current challenging financial climate.

Questions

Q.1 Do you consider that the existing community sentences are adequate and appropriate for the management of adult offenders for whom a community disposal is appropriate? If not, what reforms would you propose?

Q.2 Do you consider that community service should be completed within a shorter time frame? (Current provision allows 12 months). If so, what should the revised time frame be?

Q.3 Should Northern Ireland specific research be carried out on this cohort of offenders before any reforms are proposed?

Prison Population in Northern Ireland

3.17 The average prison population has been growing steadily in Northern Ireland in recent years, with 2009 seeing the first drop in the average prison population (2%) in 7 years. While there is a public perception that the courts are soft on crime, the trend of an increasing prison population would appear to suggest otherwise. If we are to address this trend, then we need to look at factors influencing prison numbers. As discussed earlier, there has been a significant rise in the number of prison receptions for short term sentenced prisoners (see **Table 4**), but immediate custody receptions are not the only factor which contribute to prison population growth.

3.18 Prison population consists of those held on remand, awaiting trial; those sentenced to immediate custody and; those imprisoned for fine default. Between 2001 and 2009, the average prison population has risen by almost 61%, against a backdrop of falling crime rates. (Levels of overall crime for 09/10 [109,139 crimes] have decreased by 7.6% since 2004/05 and are 23.4% lower than that recorded in 2002/2003.)

3.19 The average remand population has risen by almost 90% (266 in 2001; 505 in 2009); the average immediate custody population has risen by almost 52% (616 in 2001; 934 in 2009). The average fine default population has remained relatively stable (22 in 2001, 20 in 2009).

3.20 However, the average population figures do not accurately represent the volume of offenders which NIPS manage. In 2009/10 there were 2466

remand receptions, 1778 fine default receptions and 1383 sentenced prisoner receptions.

Fine Default

3.21 Individuals who default on a court fine are consequently committed to custody. Fines are the most commonly used court disposal accounting for almost 70% of all disposals in magistrates' courts with upwards of 45,000 fines imposed annually, on between 17,000 to 20,000 offenders. The fine is generally a very effective disposal. It is the most appropriate penalty for the vast majority of summary offences; it has a compliance rate of around 95%; and in terms of reconviction, has the lowest rate – and therefore best performance – of any other disposal. Only 16% of those fined were reconvicted within 2 years of sentence.

3.22 The success story of the fine comes, however, at a price both procedurally and in human terms. Less than half of fines imposed are paid on time and there is often limited information available on offender's means when enforcing the fine. Court and police enforcement procedures are required to raise the initial 45% compliance rate to an overall level of around 95% compliance and, at the end of the process, almost 2000 people are imprisoned each year for defaulting on a fine.

3.23 Though their stay in custody may be for only a few days on each occasion, fine defaulters account for more daily receptions into prison each year than those sentenced to immediate custody. A significant programme of work is underway to minimise the number of fine defaulters and to find ways of dealing with default, other than by committal to custody. An enhanced fine collection scheme has reduced the number of fine warrants by 30% and recovered almost £2m in fines without the need for police intervention. As part of a wider refresh of strategy on fine default, further consideration is being given to the potential for introducing attachment of earnings and deductions of benefits orders, as alternatives to custodial default for non-payment of fines. Such measures are, however, not cost neutral in themselves, and would not necessarily be met by reducing the prison

population by the average daily population of up to 30 fine default offenders at any one time. Further information on the separate and parallel programme of measures to address fine default are provided at **Annex G**.

3.24 A range of measures is also being taken to address issues concerning bail (**see Annex H**). For the purpose of this review, the focus is on those receiving short prison sentences.

Other Jurisdictions

3.25 Growth in prison populations over recent decades is a phenomenon not unique to Northern Ireland, and other jurisdictions have taken various measures to reduce the number of prisoners sentenced to custody for short periods.

Western Australia

3.26 In Western Australia, courts are prohibited, with limited exceptions, from imposing prison sentences of 6 months or less. This abolition was introduced incrementally. The Sentencing Act 1995 had prohibited sentences of 3 months or less – this was amended in 2003 to current provision of the abolition of sentences of 6 months or less. For many minor offences, the option of imprisonment has been replaced with a fine, with the courts having the option to replace the fine by a community-based order with conditions.

3.27 It is contended that the abolition of short prison sentences leads to 'sentencing creep' – some offenders may be inappropriately sentenced to longer periods of imprisonment so that they do not escape a prison sentence. Those with a history of prior imprisonment, or those with a history of failing to comply with non-custodial sentences, are more likely to be considered unsuitable for alternatives to imprisonment, and are the most vulnerable to 'sentence creep'¹³. Anecdotal comments from Western Australian practitioners refer to concerns that the impact of the legislation finds more

¹³ Abolishing Sentences of Six Months or Less. A Report of the NSW Sentencing Council 2000

people being imprisoned for fine default.¹⁴ The prison population in Western Australia has seen a steady growth. Between 2008 and 2009, the highest proportional increase in Australian prisoner population was in Western Australia (17%), compared with a 6% rise nationally, and it has the second highest rate of imprisonment in Australia, with a ratio of 260 per 100,000 adults¹⁵.

New South Wales

3.28 In New South Wales (NSW), the sentencing philosophy is that short sentences of imprisonment should not normally be imposed, with prison viewed as the sanction of last resort. Section 5(1) Crimes (Sentencing Procedure) Act 1999 provides that a court must not sentence an offender to imprisonment unless it is satisfied, having considered all possible alternatives, that no penalty other than imprisonment is appropriate. Where an offender is sentenced to imprisonment for 6 months or less, the court must state why imprisonment is the only appropriate penalty. The court is also required to give reasons for not allowing the offender to participate in an intervention or other programme for treatment or rehabilitation. Legislation provides a number of alternatives to custody: fines; community service orders; periodic detention (e.g. the offender can be sentenced to weekend detention, but is free to work or attend education); home detention (offender is supervised by way of electronic monitoring and random visits by a Probation or Parole Officer, but is allowed to leave home for certain approved periods).

3.29 The prison population in NSW has continued to rise – between 1998 and 2008, NSW prison population rate (per capita) rose by 20%. The reasons given for this increase vary – increase in maximum sentences for certain offences; removal of certain provisions for bail; lack of investment in non-custodial rehabilitative measures; less frequent use of alternative measures by the courts.

¹⁴ Impact of Abolishing Short Prison Sentences. The Law Society of New South Wales. 2004

¹⁵ Prisoners in Australia 2009: Australian Bureau of Statistics www.abs.gov.au

Canada

3.30 Conditional sentencing, introduced in Canada in September 1996, allows for sentences of imprisonment to be served in the community. It is a midway point between imprisonment and sanctions such as probation or fines. Judges in Canada are able to order that a term of imprisonment of less than 2 years can be served in the community, subject to conditions. One of the criteria is that the judge must be satisfied that serving the sentence in the community would not endanger the safety of the community, though the only offences excluded from a conditional sentence are those with a minimum term of imprisonment. The offender is subject to certain statutory conditions, similar to standard licence conditions in Northern Ireland. There are then optional conditions available to the courts, which can be tailored to the individual offender. The focus of the conditional sentence is not principally on rehabilitation and reintegration, as the sentence generally includes punitive conditions that are restrictive of the offender's liberty - the imposition of house arrest and strict curfews are often authorised. At the time of their introduction, conditional sentences were generally seen as an appropriate mechanism to divert minor offenders away from the prison system. However, in practice, conditional sentences have attracted criticism when used in cases of very serious crime. In 2008, Canada's rate of imprisonment was 117 per 100,000 of national population.

Germany

3.31 Under Section 47 of the German Penal Code, imprisonment of up to 6 months is imposed in exceptional cases only, and fines have to be imposed whenever possible. In 2010, Germany's rate of imprisonment was 88 per 100,000.

Finland

3.32 In the 1950s, Finland had a prison rate of 200 prisoners per 100,000 inhabitants. Over the decades this has reduced significantly to 60 per 100,000. The courts in Finland have four basic sentencing options open to them: unconditional imprisonment; conditional imprisonment; fine and; community service. The fine is the principal punishment. Sentences of up to 2

years can be imposed conditionally, by placing the offender on probation for 1 – 3 years, though this does not necessarily involve supervision. Community service, introduced in 1991, can replace unconditional prison sentences of up to 8 months. If the court makes the decision that the sentence is imprisonment, the sentence can be commuted to community service - the length of the order is calculated on the basis of one hour of community service for one day in prison.¹⁶

Scotland

3.33 The Scottish Executive has legislated for a presumption against custody of 3 months or less (Criminal Justice and Licensing (Scotland) Act 2010). In Scotland, 73.4% of those sentenced to 3 months or less went on to reoffend within 2 years; while in comparison 58% of those who received community sentences did not go on to reoffend¹⁷. This reform was legislated for in tandem with reform of Scotland's community penalties (para 3.7 refers). Under the provisions the court can only pass a sentence of imprisonment of 3 months or less, if it considers that no other method of dealing with the offender is appropriate, and must state and record why a prison sentence is being imposed. Judges would still be able to impose short prison sentences if no other method of dealing with the offender was considered appropriate, but would have to state and record why a prison sentence was being imposed.

Republic of Ireland

3.34 In advance of publication of its White Paper on Crime (see para 3.8), the Government has recently announced its intention to legislate for the increased use of community service orders as an alternative to prison. It proposes that courts will be required to consider imposing a community service order for minor offences where it would otherwise be appropriate to sentence the offender to imprisonment for a period of up to 6 months. This followed on from a Value for Money and Policy Review of the Community Service Scheme, which found that the scheme was under-utilised and had the

¹⁶ A Comparative Review of Alternatives to Custody. The Scottish Parliament Justice 1 Committee 2005

¹⁷ www.scotland.gov.uk

capacity to provide supervision services to 3 times as many offenders. (The CSO in the Republic of Ireland mirrors the CSO available in Northern Ireland.)

Consideration of the need for change in Northern Ireland

3.35 While the average prison population has been rising steadily in recent years, our rate of imprisonment per 100,000 head of population compares favourably with other jurisdictions. It currently stands at 78. For England & Wales the figure stands at 150, for Scotland 141 and for the Republic of Ireland 99. (See **Annex I**)

3.36 This is not to say that steps should not be considered to divert offenders from custody where possible. If trends seen in other jurisdictions were to be mirrored in Northern Ireland, then our prison population will continue to grow.

3.37 An argument often used in the debate on custody versus community disposals is the high cost of imprisonment compared with the cost of community disposals.

| | |
|-------------------------|-----------------------|
| Cost per prisoner place | £77,831 ¹⁸ |
| Community Service Order | £2,000 |
| Probation Order | £4,200 |
| Combination Order | £4,200 |

Certainly, the cost per prisoner place in Northern Ireland is high, but keeping one prisoner out of custody does not produce savings of £77,831 p.a. Currently in Northern Ireland, significant savings in prison costs can only be produced where the numbers of offenders kept out of prison are substantial enough to enable the closure of prison accommodation. Such savings are unlikely to be produced given that the average adult prison population (2009) of those serving 3 months or less was 30; 55 for those serving 3 to 6 months.

¹⁸ The target Cost Per Prisoner Place for 2010/11 is £76,500

3.38 Were we to introduce measures to encourage the greater use of community sentences for low level offenders currently receiving sentences of 6 months or less, it is difficult to predict how the judiciary might apply any new disposals, but, realistically, we might anticipate that 10% - 20% of these offenders might be diverted from custody. This would lead to a reduction of, at most, 10 to 20 prisoners in the average immediate custody population. Whilst this will not be enough to realise savings through closure of accommodation and savings in staff costs, it has the potential to produce the reduction of 50 – 100 prison receptions per year. Prison receptions of short sentence prisoners are labour intensive, and this level of reduction would free up staff resources for more value added activities.

3.39 The factors detailed previously which contribute to offending and reoffending – homelessness, lack of stable family relationships, lack of education and skills, mental health issues, substance and alcohol abuse - are exacerbated by custody. Prison isolates the offender from their family and the community, and instead exposes them to the influence of other offenders. In a survey of 193 offenders under PBNi supervision¹⁹, family relationships and fear of going to jail were the two most important factors cited by respondents as influencing desistance from crime, though interestingly, being put on probation again came further down the list of priorities. (see **Table 6** below)

Table 6: Factors influencing desistance from crime

| Factor | % Offenders 2005 (N=142) | % Offenders 2009 (N=193) |
|------------------------------|---|---|
| Family | 73 | 87 |
| Fear of going to jail | 72 | 78 |
| Your Probation Officer | 24 | 53 |
| Being put on Probation again | 21 | 41 |
| Your friends | 25 | 37 |
| Fear of losing your job | 12 | 27 |
| Other | 6 | 9 |

¹⁹ Probation Board for Northern Ireland Service Users Survey. Irish Probation Journal Sept 2010

3.40 Our statistics show that offenders are more likely to reoffend again if they have received a prison sentence than if they have received a community sentence (see para 2.29). Judging from the results of the PBNI survey, and our statistics on reoffending, it would appear that the threat of imprisonment may deter some from crime, but once custody has been experienced the deterrence factor is reduced.

3.41 The actual time served by offenders on short prison sentences provides little opportunity to address offending behaviour. Community sentences, where many offenders are under probation for a prolonged period, provide more opportunities to assist the offender to overcome the difficulties that lead the offender to reoffend. The cost of delivery of a community order has the potential to deliver longer term benefits, where levels of offending behaviour and consequent crimes in the community are reduced.

3.42 Again, the need for reform in Northern Ireland should be considered in the context of the following issues:

- the rate of imprisonment in Northern Ireland, although increasing in recent years, still compares favourably to many other jurisdictions;
- the substantial use of other non-custodial disposals and of community orders by the courts;
- the lack of Northern Ireland specific research on this cohort of offenders; and
- the potential impact on resources of any reforms in the current challenging financial climate.

Question

Q.4 Do you consider that the Department should take steps to reduce the use of short custodial sentences for less serious offences? If yes, what should these steps be?

SECTION 4: BRINGING JUSTICE AND THE COMMUNITY TOGETHER

4.1 Crime is not an issue solely for the criminal justice system. It impacts on everyone in the community, and victims in particular, who often feel that their voice isn't heard. As evidenced in the Northern Ireland Crime Survey, (see **Figures 1 & 2** page 41), the community feel that more attention is paid to the rights of offenders than to the rights of victims, and that sentences aren't tough enough. Faith in the ability of the criminal justice system to change offender behaviour is also low, with respondents of the view that neither prison nor probation work particularly effectively at rehabilitating offenders.

Community engagement

4.2 Community engagement is a vital component in the delivery of an effective criminal justice system. The PSNI, PBNI and NIPS work in partnership with a wide range of organisations to provide projects and services aimed at preventing crime, dealing with its impact, and re-integrating offenders into the community. Support to victims and witnesses of crime is provided by Victim Support Northern Ireland (VSNI) through a pool of volunteers working throughout Northern Ireland. Community Safety Partnerships also bring together key local service providers to tackle issues of concern that are affecting the local communities.

4.3 Offender management in the community in particular relies to a large extent on the interaction between the offender, the criminal justice agencies, the community, the voluntary and private sector. The delivery of community service in particular involves a number of community and voluntary organisations, ranging from local charities and church groups to community development organisations and resource centres that provide work placements and services to assist PBNI.

4.4 Awareness of the many positive and effective links between the criminal justice agencies and the community is low. Most people have little direct experience of the criminal justice system. Their opinions of it are often based on media coverage, which tends to focus more on the punitive aspects

of sentencing and less on prospects for minimising an offender's risk of reoffending. There is little focus on the offences being dealt with on a daily basis by the courts, or on the work being done in the community to tackle crime and its consequences. This leads to a public perception that the courts and criminal justice agencies are unresponsive to community concerns. However, research has shown the importance of effective communication to public perceptions of crime and sentencing, and that those who feel informed are more confident in the approaches being used.²⁰

4.5 Community engagement is also key to promoting public confidence in the criminal justice system. PBNI has recently implemented a Community Service Strategy²¹ in which they have undertaken to ask the views of victims, victims' groups and the wider public, via the PBNI website, on what work should be undertaken by offenders subject to community service. Other jurisdictions have taken similar steps to bring community justice and the community closer together, by increasing and making better known the opportunities for people to have a say in what work should be undertaken. In England and Wales, a Citizens Panels pilot scheme, launched in 2008, enables members of the public to consult with their local council and probation services to identify work that needs to be carried out in their area to improve public safety and the environment. Through Mayoral Projects, the National Probation Service invited mayors to choose unpaid work projects in their locality, to ensure that offenders gave something back to the communities that had suffered from their crimes.

Question

Q.5 Are there other mechanisms by which local communities could have more of a say in what work is done by offenders in their area? If so, what mechanisms would you suggest?

²⁰ Closing the Gaps – Crime and Public Perceptions www.ipsos-mori.com/_assets/reports/closing-the-gaps.pdf

²¹ Community Service Strategy in Action. July 2010 www.pbni.org.uk

4.6 Research in other jurisdictions has shown that community sentences are not well understood, and that community service in particular is seen as an appropriate first option punishment for minor crimes²². In Northern Ireland, media coverage would suggest that it is not viewed as being sufficiently punitive. It is a view exacerbated by the image of community service as one of offenders carrying out a few hours of non-rigorous work every week. As discussed previously, other jurisdictions have responded by making unpaid work more intensive and available as a component for all community sentences.

Question

Q.6 Should unpaid work form a more significant component of community sentences? Would this contribute to improved public confidence in community sentencing?

Communication

4.7 If local communities are to have a say in how offenders should pay back to the community for the harm they have done, then we need to ensure that the same communities are informed of the outcome of work undertaken. Unpaid work is of significant benefit to the community. During 2009/10, offenders subject to Community Service and Combination Orders completed over 140,000 hours of unpaid work – using the multiple of the minimum wage (£5.93) – this equates to work to the value of over £830,000. As part of their Community Service Strategy, PBNi plan to make the reparative nature of community service more visible within communities by placing, on a monthly basis, a series of articles in national and local media about community service projects across Northern Ireland and making presentations to Councils, Community Safety Partnerships, District Policing Partnerships and victims' groups.

Question

Q.7 What more can be done to communicate more widely the outcomes of community service?

²² Community Sentencing: Public Perceptions & Attitudes Summary Research Report . Scottish Executive Social Research 2007

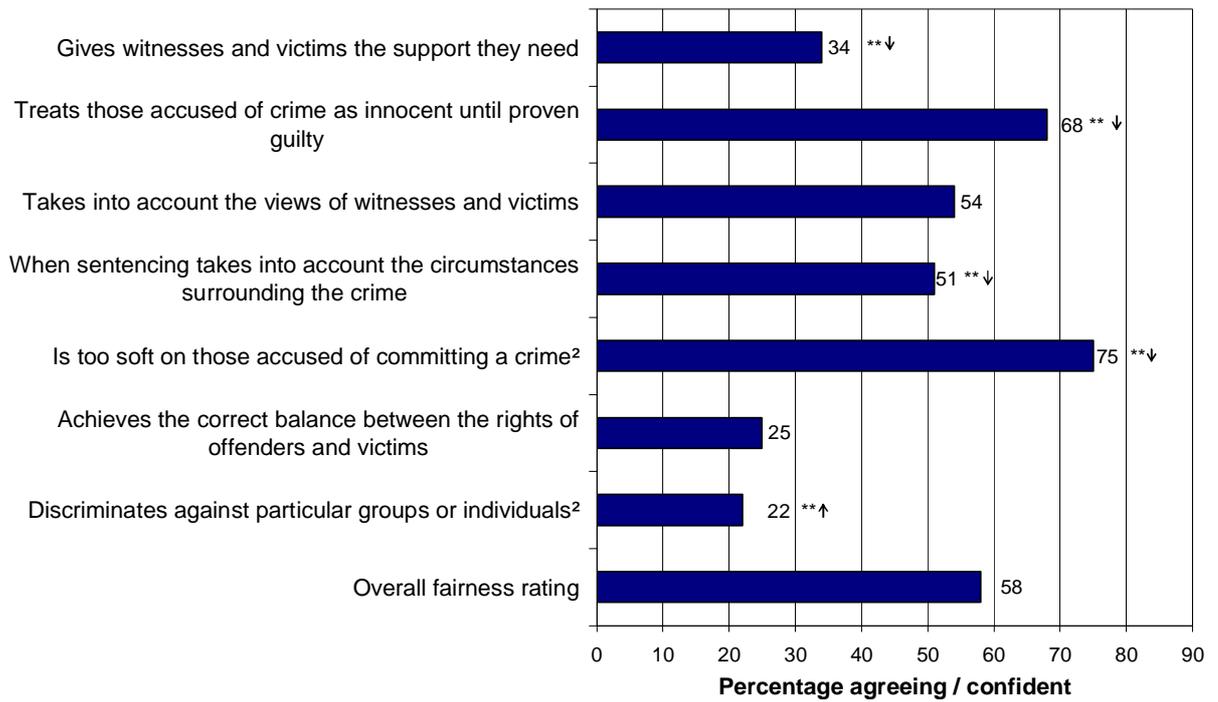
4.8 The issue of information flow on sentencing issues, and its impact on public confidence, was discussed in detail in the Consultation on a Sentencing Guidelines Mechanism, which considers the role that such a mechanism might play in raising public awareness. The way forward on this issue will be determined by responses to the consultation which closed on 31 January 2011. However, it is an issue worth highlighting in this review. The predominant view portrayed in the media is that imprisonment is the only punishment that will meet the expectations of victims. There is little public awareness of the role community sentences have in punishing offenders; of addressing the issues which lead to reoffending or; of their beneficial impact for both the offender and the community.

Questions

Q.8 What further information do you consider would promote public confidence in community sentences?

Q.9 How should this information be made available?

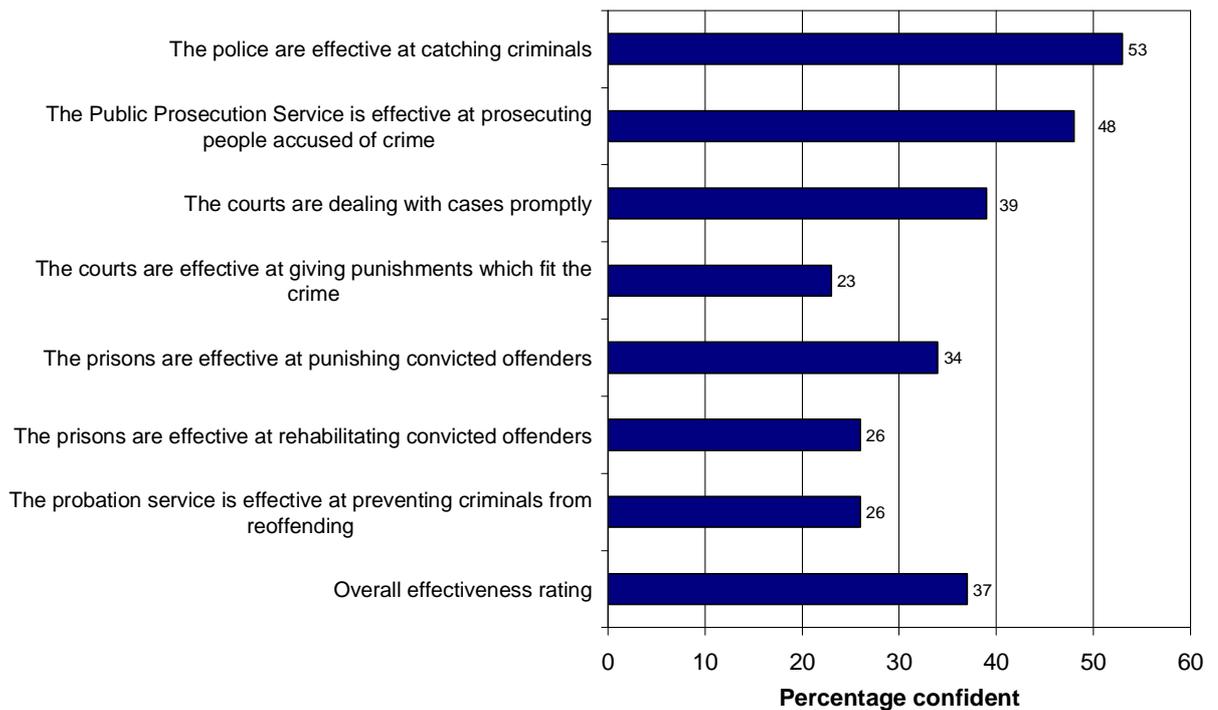
Figure 1: Confidence in the fairness of the criminal justice system (%) in Northern Ireland (NICS 2009/10)¹



1. '**' denotes statistically significant change (increase, ↑; decrease, ↓) at the 5% level (p<0.05) compared with previous year.

2. These statements relate to what would be negative outcomes.

Figure 2: Confidence in the effectiveness of the criminal justice system (%) in Northern Ireland (NICS 2009/10)



SECTION 5: EQUALITY IMPLICATIONS AND NEXT STEPS

5.1 This paper explores the role and effectiveness of community disposals and short prison sentences for adult offenders committing less serious offences, and seeks views on the need for change. As the disposals under consideration relate to existing offences, there would consequently be a greater impact on young males than any other Section 75 category because they form the largest grouping in the offending population. In light of comments received, any more specific policy proposals developed would be subject to formal equality impact screening. We would welcome views from respondents who might identify any area where they consider there might be an adverse equality impact.

Question

Q.10 Do you consider that any of the matters raised in the consultation might give rise to equality issue concerns?

5.2 The consultation period concludes on 26 April 2011. All responses should be made to the address identified at paragraph 6.1 on page 43. A pro forma listing the questions raised has been attached for those who might find it a convenient way to respond, but we would, of course, welcome responses in whatever form respondents find most suitable.

5.3 Responses will be analysed and a summary of responses published on the Department's website. The responses will inform further policy consideration.

SECTION 6: CONSULTATION ARRANGEMENTS

Responding to Consultation

6.1 Your views are sought on the specific questions posed, but would also be widely welcomed on any aspect of the matters raised in the paper. All comments should be returned by **5pm 26 April 2011** to:

Review of Community Sentences Consultation
Criminal Policy Unit
Massey House
Stoney Road
Belfast BT4 3SX

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6.2 **If you have any queries about the information provided in this document please contact the Criminal Policy Unit (whose details are listed above) for assistance.** However if you have any queries or concerns about the way in which the consultation process itself has been handled, you may raise these separately with the Consultation Co-ordinator at the following address:

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Alternative Formats

6.3 An electronic version of this document will be available to view and download from the Department's website (www.dojni.gov.uk). Hard copies will

be posted on request. Copies in other formats, including Braille, large print, computer disc etc may be made available on request. If it would assist you to access the document in an alternative format or a language other than English, please let us know, and we will do our best to assist you.

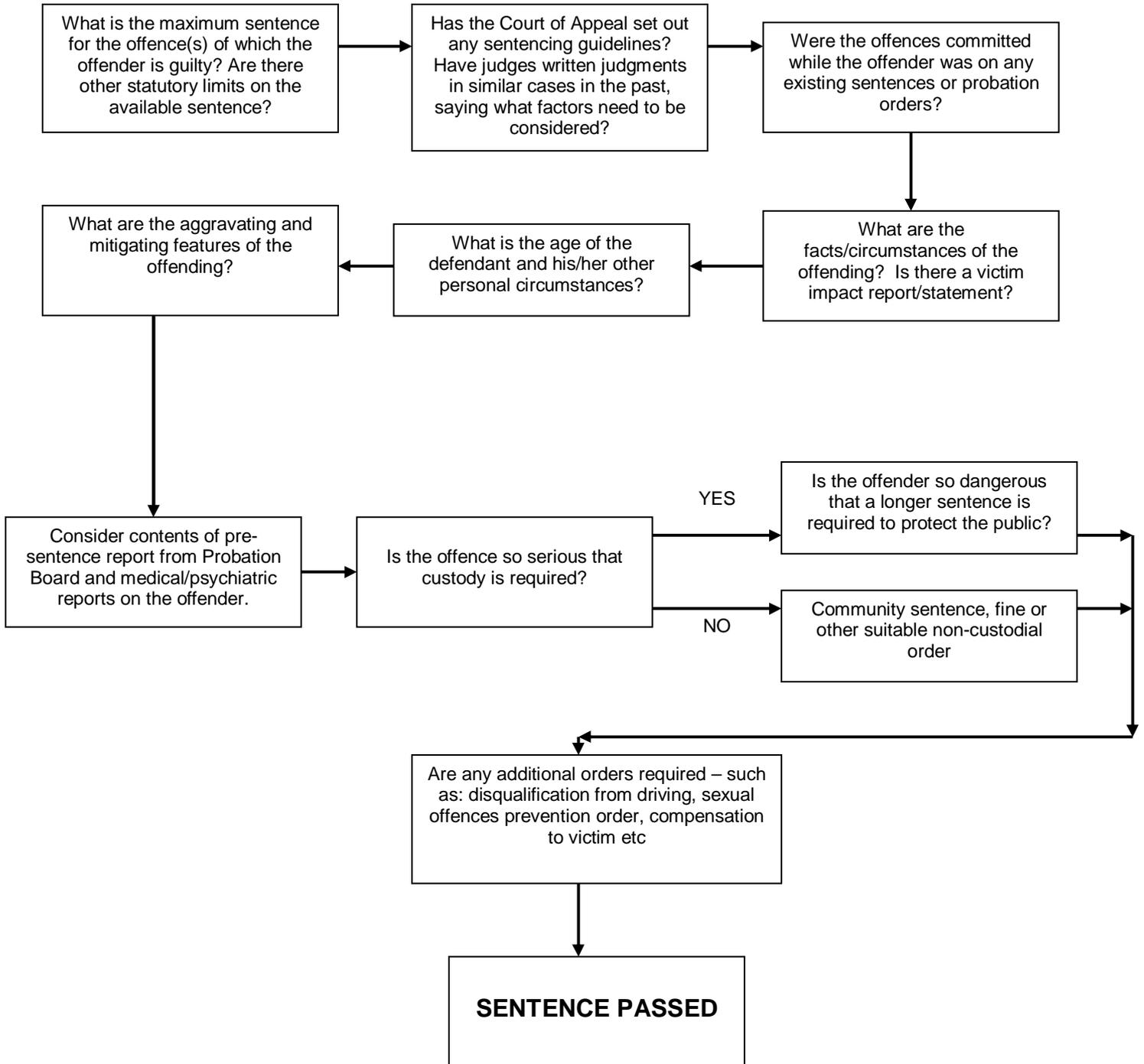
Confidentiality of Responses

6.4 A summary of responses will be published following the completion of the consultation process. Unless individual respondents specifically indicated that they wish their response to be treated in confidence, the nature of their response may be included in any published summary of responses.

Respondents should also be aware that our obligations under the Freedom of Information Act may require that any responses, not subject to specific exemptions in the Act, may be disclosed to other parties on request.

Sentencing Decision Process Map

Sentencing the guilty
Issues for the judge to consider



Examples of Community Service Placements

PBNI has worked with Ballykeel Community Association, Ballymena, for a number of years and places people there to complete unpaid work as part of community service. They supervise CSO workers in their office (admin and cleaning work) as well as outside work (cutting grass, litter picking, cleaning graffiti and delivering local news-sheet).

At the Hope Centre Project, offenders are currently re-decorating new premises as well as helping with moving office equipment etc,

Community service hours have been provided to the Fintona Re-generation Scheme, in litter picking and planting flowers and shrubs. Offenders have also painted the Ecclesville Centre. In Omagh, offenders have helped re-paint the Scout and Guide Hall, provided maintenance for the Drumragh Parish graveyard and painted the railings around the Presbyterian Church.

Hours of work through community service have also been provided for the upkeep of allotments in the RSPB Wildfowl Centre in Lisnaskea, and for grass cutting for the Tir Navar Environmental Centre in Derrygonnelly. Charity shops in Omagh and Enniskillen also provide placements for community service, as does the Northern Ireland Association of Mental Health (NIAMH).

Community partners supervise lower risk offenders on PBNI's behalf, providing valuable unpaid work in many different contexts. Offenders undertake work for charities, such as Action Cancer, Cancer Research and Oxfam, across Belfast, Lisburn and South Down, within a retail environment and also in furniture delivery. Community Service hours are also provided through Voluntary Services Lisburn, in recycling and woodwork, and for the National Trust, grass cutting and litter picking, on both the Black Mountain and Divis Mountain.

Across Belfast, PBNI is involved in a number of community based initiatives, examples of which are the Oasis Centre in East Belfast, providing community service hours in a café, and the Link Drop-In Centre in Bangor. Significant hours are also provided to placements such as the Assisi Animal Sanctuary, helping with animal welfare.

In North Belfast, the senior citizens club at St Kevin's Hall benefits greatly from the assistance of community service, where offenders help with a luncheon club and catering.

Offenders have contributed community service hours over many years to the Victorian Gardens Project at Downshire Hospital in Downpatrick, carrying out gardening duties, clearing paths and assisting with maintenance.

Offending Behaviour Programmes

PBNI provides a range of programmes which are structured, challenging and delivered to clear standards and best practice guidance. The range of programmes available includes:

Integrated Domestic Abuse Programme- IDAP

This is a Home Office accredited programme targeting men who are abusive in a heterosexual relationship. Principles underpinning IDAP recognise that a co-ordinated community response is needed to tackle domestic violence. PBNI has therefore built close links with Women's Aid, PSNI and Social Services in order to safeguard victims and potential victims of offenders attending the programme. The programme is intensively delivered during 27 weeks of group work sessions. In addition, there is an initial first week orientation session and 6 sessions provided on a one-to-one basis by the offender manager focusing on preventing reoffending. The programme also provides for 9 'end of module review sessions' with the case manager where necessary.

Anger Management

This is a PBNI Approved programme designed to help develop skills to enable participants to cope with episodes of anger (physical and non-physical). This programme is run in two-hourly sessions over a 9 week period. Offenders are required to carry out work outside the programme and to complete diary entries. The coursework informs the supervision plan for the remainder of the Order. PBNI will introduce a Home Office accredited programme CALM (to replace the Anger Management Programme) during 2011.

Community Sex Offenders Group Work Programme (C-SOGP)

This is a Home Office accredited programme and is designed to reduce reoffending by adult male sex offenders using cognitive behavioural techniques. The programme involves identifying and challenging how the thought, attitudes and emotional responses of offenders link to their

abusive behaviour. There are three sections within the C-SOGP programme:

- Induction module- 50 hours in total
- Relapse prevention group – 50 hours in total
- Long term group – 190 hours in total

Low risk/low deviance offenders will complete the induction module followed by a 20 week relapse prevention programme, whereas medium to high risk offenders will complete the long-term programme of 87 weeks.

Internet Sex Offender Treatment Programme (I-SOTP)

I-SOTP is an accredited Home Office programme designed for offenders convicted of offences which involve the viewing, making, possession and distribution of abusive images of children through the medium of electronic communication. The course can be completed through a one-to-one format or in a group. In the one-to-one programme the offender must complete 20-30 sessions of 90 minutes each once a week (minimum), and 30-45 treatment hours over a period of 5-8 months. In the group work format, the programme is completed over 35 sessions of 2 hours duration, once or twice a week, with an additional 70 hours of treatment. The programme will last 4-9 months depending on the frequency of group work sessions.

Safer Lives

This programme, commissioned in conjunction with the NIPS and run in Hydebank Wood and in the community, targets young adult males aged 18 to 21 who have engaged in sexually harmful behaviour towards others. It combines supervision with group work and individual input. The programme lasts for the life of the Order and can be continued thereafter on a voluntary basis

Cognitive Self Change Programme

This is a PBNI approved programme which aims to reduce violent or aggressive behaviour by addressing the anti-social thinking which leads

offenders to commit crime. Full attendance in the 12-24 month programme enables those convicted of serious offending to identify: risk situations linked to violent offending; address the thoughts, feelings and beliefs underpinning their violent behaviour; supports the development of new thoughts, attitudes and beliefs and; to adopt new non-violent behaviours.

Think First- General Offending Behaviour Programme

Think First is a Home Office accredited general offending behaviour programme which is designed to reduce offending by addressing the offenders thinking, attitudes and problem solving skills. It takes the participant through a sequence of exercises with the objective of teaching a number of skills that can be applied to aspects of their offending and social situations. The programme consists of 33 sessions to be delivered in three stages: 4 pre-group sessions, 22 group sessions, 7 post-group sessions. 24 of these group sessions will be delivered as one session per week over 24 weeks each lasting 2½ hours, where the participant is employed. If the offender is unemployed, then this can be increased to 2 sessions over 12 weeks.

Alcohol Management being replaced by Addressing Substance Related Offending (ASRO)

Alcohol management is a PBNi approved programme and targets offenders whose likelihood of reoffending is increased by substance abuse. The offender is required to attend 6 two-hour sessions over 6 consecutive weeks. Coursework completed during this programme will inform the supervision plan for the remainder of the Order. The programme provides information about the effects of alcohol upon health, personal relationships and offending to enable participants to make informed choices about their use of alcohol. It will enable participants to identify situations in which they lose control, and assist them in preparing an action plan to facilitate positive change in their alcohol use. PBNi is currently in the process of changing this programme to the Home Office accredited programme ASRO.

Resettlement for Short Term Prisoners

All prisoners now benefit from an induction programme on committal to prison. During this programme, they are informed of the Resettlement Services and the activities available to them within the prison. Part of the induction given to remand and short sentenced prisoners includes an assessment of need. For those remaining in custody for longer than 6-8 weeks a Resettlement Plan is drawn up on basis of those identified needs (with the exception of fine defaulters).

All remand and short sentence prisoners will have access (based on identified needs) to a range of resettlement services, some of which are detailed below. At Magilligan, there is a short term Resettlement Plan drawn up for shorter term sentenced prisoners with less than 5 months to serve.

Housing Rights Service

The Housing Rights Service is currently on offer to prisoners at all establishments. The service identifies a number of tasks that need to be achieved to ensure basic procedures are in place to prevent the inappropriate loss of housing on committal and whilst in custody and also to improve access to housing and support in the 3 months prior to release. Dedicated housing advice workers are based in each prison, though a number of staff have also been trained and accredited to deliver parts of this service.

At Maghaberry, a number of prisoners have been trained and accredited as Peer Mentors to assist in the delivery of this service. NIPS, in conjunction with Housing Rights, have recently commissioned an independent review and options paper to explore extending the Peer Mentoring Service to other establishments.

Thrucare Pre-Release Programme

This programme is designed to provide assistance to those in the last 3 months of their sentence. The programme provides assistance and advice

with regard to housing, social security benefits, employment, access to job search, career matching, assistance with completion of CVs, and development of discharge plans for prisoners.

NIACRO Welfare Advice – Benefits, Housing and Debt

This service is offered to families, prisoners and offenders in the community providing accurate and up-to-date advice that will ensure benefit entitlement to alleviate poverty, as well as maximising benefits to support the transition from benefit dependence to Jobseeker allowance. NIACRO has dedicated advice workers delivering this service in each establishment and a number of NIPS staff have also been trained and accredited to deliver aspects of this service. Advice and support is offered on matters relating to benefits, housing and debt.

NIACRO Jobtrack

This is an employment focussed programme providing individual needs based advice and support on training/skills development to increase employment opportunities. Activities include: individual action planning; assistance with course related costs; intensive support for job seeking; assistance with disclosure of convictions; work shadowing/sampling opportunities with a range of employers in the community. All of these activities are available before and after release. Jobtrack is available to all prisoners and offenders in the community. Dedicated Jobtrack workers (NIACRO) are based in each prison establishment to deliver the service and work with NIPS Offender Management Unit/Resettlement staff.

NIACRO Services – Family Links

This service offers one-to-one ongoing support for adults, children and young people through the provision of telephone support; home visits and; information and advice on other appropriate services, particularly benefits, housing and debt. The programme also provides assistance with transport to the prisons for families of prisoners, help with childcare and links to Visitors Centres.

Relate – Developing Healthy Relationships

Run by Relate, this looks at 6 main areas including communication and self esteem; conflict management; addictions; stress and relationships and; homelessness.

Samaritan's Listener Scheme Support

There are many trained (prisoner) 'Listeners' in each prison establishment who offer a valuable service to those who may be experiencing some difficulty in their lives. However, for a Listener to continue to offer this service, individuals must attend the support group organised and delivered by the Samaritans.

HEARTMATH

This is not a programme as such but a service delivered to those who may have been identified through participation in other programmes and/or counselling. It is a computer based intervention that helps an individual alleviate stress, control their breathing and focus on making better informed decisions.

Cruse Bereavement Care

This service provides bereavement support to prisoners, regardless of the cause of the bereavement or the length of time elapsed since the bereavement. The individual support is delivered by trained volunteers, and support and counselling is provided on a face to face person- centred model. The Cruse service has been developed and extended to all prison establishments. A part-time Cruse co-ordinator works within each prison with a part-time Prison Support Manager taking overall charge of the project.

Alcohol Management

The aim of this programme is to educate participants on the effects and consequences of alcohol misuse, and the harmful effects it may have on their health and relationships. It is aimed at those individuals whose drinking has caused problems for them but who believe it is within their own control. It will give the prisoner an insight into their drinking habits and help them make

better decisions about future drinking. The programme will cover the emotional, social, and physical costs of heavy drinking; responsible limits, managing risks and; related topics. The programme aims to improve the prisoners' skills to cope with situations which lead them to misuse alcohol.

Basic Substance Awareness Programme

The aim of this programme is to educate participants about the range of substances and issues surrounding their use. It will also make them aware of the disadvantages of substance abuse. More importantly, the programme aims to identify the role that substances have played in an individual's life, and the consequences for them and those around them. Participants will consider their future lifestyles and examine how they are going to achieve their aims, including their intentions on the role that substances will play. It is designed and delivered in a way that is intended to be more receptive to those who may have some difficulty with certain essential skills. A member of staff and a trained prisoner, together with another prisoner acting as an observer, can deliver the programme to the group.

Money Management Programme

NIPS have staff trained at each prison establishment to deliver a Money Management / Financial Capability Course. This links with the NIACRO Welfare Advice Service and aims to help prisoners manage their finances and maximise their income on release.

Bank Accounts

In response to an identified need and through consultation with Resettlement Teams at each prison establishment, NIPS has arranged for bank accounts to be opened for prisoners as part of the pre-release preparation. This will assist offenders to be better prepared for release and to enable efficient arrangements to be made with potential employers and landlords, and for receipt of social security and housing benefits. Prisoners who want to avail of this service have to agree to undertake a Money Management Programme.

Barnardo's Parenting Matters Being a Dad

This programme deals with relationships and looks at the problems that may cause some concern. It is delivered in a group environment and looks at issues such as: communicating with children; roles within the family; child development; parenting styles; dealing with a parent in prison; problem solving and; positive discipline. The final session and evaluation of the programme will involve the prisoner's partner and children.

Barnardo's Partners Together

Participation in this programme involves both parents of children and their dependants. It deals with personal relationships and relationships with the prisoner's children, and looks at problems that may cause some concern. It is run in a group environment involving both the father and mother, looking at issues such as: communicating with their children; roles within their family; child development; parenting styles; dealing with a parent in prison; problem solving and; positive discipline. The final session will involve the children and bring the whole family unit together.

Barnardo's Parents on Release

This programme deals with family relationships and looks at possible problems that may cause some concern prior to release. It is run in a group environment and looks at issues such as: returning to the home environment; roles within the family; communicating with children and; parenting styles.

Barnardo's Talking to Children about Tough issues

This programme is aimed at helping parents increase their knowledge and skills in dealing with difficult issues surrounding children, including substance misuse. Parents will understand the risk factors involved and develop protective ones to reduce concerns. It will also explore the importance of good communication and of positive role models for young people.

Barnardo's Parenting Teenagers

This programme offers support to parents of teenagers, and covers sessions on teenage development; communication skills; understanding teenage

behaviour; supporting teenage children; parenting styles and; the world of teenagers in relation to IT/mobile phones/technology.

Barnardo's Staying in Touch

This Programme aims to raise awareness of issues in families when dad is sent to prison, and identifies ways in which fathers can support their families at this time.

Chaplains

Within the prison establishments, Chaplaincy primarily deals with the personal pastoral encounter with prisoners. This is multifaceted. It may, on occasions, have a social aspect: befriending and listening. The prison Chaplain also undertakes family visits, and an informal liaison exists between some families via the chaplain to the prisoner. Follow-up and relational work can extend to receiving phone calls at home from offenders who have been released from prison. Bereavement and family loss is a big concern for all prisoners, especially those serving a long sentence. Accompaniment of the prisoner during these difficult times relies upon a relationship being established, and confidential liaison with the prisoner and the family. Chaplains are also involved with hospital visits.

Gaining Opportunities & Living Skills (GOALS)

The aim of this programme is to prepare prisoners for release and to encourage a self-directed approach to planning their return to the community. It is a programme that specifically targets self-esteem: what it is; what raises it and; what can destroy it. The programme encourages and supports prisoners to take responsibility for all their actions and overcome barriers in their life. It addresses the events in a person's life and their reactions to these. It encourages the setting of personal targets and goals that are realistic and achievable. The programme focuses clearly on repetition and practice, in order to enhance self belief.

Community Order Requirements – England and Wales

The 12 requirements available for Community Orders in England & Wales are:

- unpaid work (40-300 hours)
- supervision (up to 36 months)
- accredited programme (length to be expressed as the number of sessions; must be combined with a supervision requirement)
- drug rehabilitation (6-36 months; offender's consent is required)
- alcohol treatment (6-36 months; offender's consent is required)
- mental health treatment (up to 36 months; offender's consent is required)
- residence (up to 36 months)
- specified activity (up to 60 days)
- prohibited activity (up to 36 months)
- exclusion (up to 24 months)
- curfew (up to 6 months and for 2-12 hours in any one day; if a stand-alone curfew order is made, there is no probation involvement)
- attendance centre (12-36 hours with a maximum of 3 hours per attendance)

Community Payback Order – Scotland

The 9 requirements available for a Community Payback Order in Scotland are:

- offender supervision requirement
- compensation requirement
- unpaid work or other activity requirement
- programme requirement
- residence requirement
- mental health treatment requirement
- drug treatment requirement
- alcohol treatment requirement
- conduct requirement

Measures to address Fine Default

- Since May 2009, NICTS has operated a fine collection scheme across the whole of Northern Ireland. This scheme encourages prompt payment of fines and since its introduction, in May 2009, £1.9m in fines has been recovered without the need for police intervention and the number of fine warrants issued to the PSNI has reduced by 30%.
- The scheme involves court staff contacting the debtor once the fine is due. Staff will encourage full payment of the fine or agree a payment plan with the defaulter which will be approved by the District Judge (Magistrates' Courts). After 10 days, if the fine has not been paid, or no payment plan agreed, a warrant will issue to PSNI in the normal way.
- Department of Justice will also continue to examine the potential for Supervised Activity Orders, attachment of earnings and deductions from benefits powers to further increase rates of payment.
- Consideration is also being given to whether alternative systems of fine collection might be appropriate
- NICTS have been developing an "information initiative" to ensure that offenders know the importance of providing their means information to the court and to make them aware of the payment options available to them. A fine payment history is also being developed as a further measure aimed at maximising the information available to the court.

Law Commission Consultation on Bail in Criminal Proceedings

The Law Commission recently published a Consultation on Bail in Criminal Proceedings. The Commission invited views on a range of issues relating to bail law and the appropriate statutory framework to be adopted for decision making. These include:

- clarifying the legal framework for the grant or refusal of bail by adopting a single Bail Act;
- setting out in legislation the grounds for refusing bail and what those grounds should be;
- how comprehensive bail information might be delivered;
- the scope and appropriateness of bail conditions;
- offences for breach of bail;
- whether provision of information to victims should be made statutory;
- measures to enhance awareness, transparency and public confidence in the bail process;
- issues on bail relating to children and young people.

The Consultation is available at www.nlawcommission.gov.uk The closing date for responses was 31 January 2011.

Prison Population Rate (per 100,000 of national population)*

| | |
|----------------------------|-----|
| United States | 743 |
| New Zealand | 203 |
| Spain | 159 |
| Hungary | 153 |
| England & Wales | 150 |
| Scotland | 141 |
| Australia | 133 |
| Canada | 117 |
| Italy | 113 |
| Portugal | 109 |
| Austria | 103 |
| Greece | 102 |
| Republic of Ireland | 99 |
| Belgium | 97 |
| France | 96 |
| Netherlands | 94 |
| Germany | 88 |
| Switzerland | 79 |
| Northern Ireland | 78 |
| Sweden | 78 |
| Norway | 71 |
| Denmark | 71 |
| Finland | 60 |

*Extracts (27 January 2010) from World Prison Brief Online (www.klc.ac.uk) International Centre for Prison Studies, King's College, London

