

# Effective partnership; a history of North South cooperation in probation work

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## **Abstract**

*The Probation system was formally established in Ireland on 1<sup>st</sup> January 1908 when the Probation of Offenders Act (1907) formally came into force. While there was previous legislation in this area across the island, this Act is recognised as a turning point in the government response to offenders and offending. Although the two jurisdictions proceeded down separate paths post-partition, the two Probation Services worked closely together in recognition of a shared challenge in a similar culture with people for whom society had little tolerance.*

*Since the Belfast Agreement in 1998 there has been more formal expression of that cooperation and this article sets out the challenges and achievements of this effective partnership. These include the development of a highly regarded professional journal, leadership of the Inter-Governmental Public Protection Advisory Group, shared resources across operational and strategic development and a commitment to ensure that communities are safer throughout the island. Practical examples of good practice are highlighted in addition to areas for future work as well as an acknowledgement of the challenges of a land border between a sovereign state (Ireland) and a region of the United Kingdom (Northern Ireland) within the European Union. The article also sets out the benefits to both jurisdictions of a common qualification framework and the advantages of links to other jurisdictions, particularly Scotland, mainland Europe and North America.*

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## **Introduction**

Probation is derived from the Latin verb probare, to test. It is defined as a process or a period in which a person's fitness, as for work or membership in a social group, is tested. Court ordered probation supervision can incorporate substitution of a custodial sanction and involve supervision in the community. It involves giving offenders a chance to prove themselves by staying out of further trouble and accepting help to change their ways.

Today there are two probation services on the island of Ireland. The Probation Board for Northern Ireland (PBNI) is a non-departmental public body and is sponsored by the Department of Justice in Northern Ireland. The Probation Service (PS) is an agency of the Irish Department of Justice and Equality. Both organisations carry out similar functions;

- Preparation of assessments on defendants for criminal courts by social work qualified Probation Officers to assist with sentencing;
- Provision of services to prisons and to victims, in partnership with other criminal justice organisations and the voluntary and community sectors;
- Oversight and supervision of a range of court orders and post custody sentences.

This article traces the development of cooperation between the two services, the challenges of probation work in two jurisdictions on a relatively small island and the opportunities for further progress between two progressive and successful organisations.

## **History**

The first record of legislation in Ireland in the area of court ordered intervention with offenders in the community dates back to the 1847 Juvenile Offenders Act and the 1887 Probation of First Offenders Act that opened up the possibility of offenders entering into recognizances with the Court. In an oral history of Probation in Northern Ireland published in 2009, Fulton and Parkhill<sup>2</sup> note that the legal discourse at that time was in line with the deserving and undeserving culture in existence in Ireland at that time, with a second chance being offered to the deserving. They note that the 1907 Probation of Offenders Act put into statute a number of actions already undertaken by Courts and Church Societies, particularly in relation to the provision of supervised recognizances on an informal basis with a particular focus on alcohol misuse. Although living conditions in Irish cities had improved by the early twentieth century, there was still significant poverty and, as a result, a range of charitable organisations had developed services based on a philanthropic ethos. However the Probation Service, as we know it today, was born in the first decade of the twentieth century; a time of significant political and social change in Ireland. With the election of a Liberal Government at Westminster in 1906, and in response to growing evidence of poverty and deprivation in industrial areas of the British Isles, it became clear that court disposals beyond prison were required.

A range of new statutory interventions was introduced in order to reduce the prison population and provide alternative sanctions; the most significant of these was the Probation of Offenders Act 1907. This legislation allowed courts to appoint paid Probation Officers for the first time and also to impose Probation Orders on offenders (particularly young offenders, first time offenders and occasional old/habitual offenders). While there was no specific training or support provided to the Probation Officers, there is evidence from an early stage that they wanted to professionalise their role and ensure that interventions were effective in preventing further offending.<sup>3</sup> Rogan<sup>4</sup> (2012) highlights the shared penal, legislative and administrative history between Ireland and Great Britain in relation to penal history and in addition to the 1907 Act, identifies the Prevention of Crime Act 1908 and the Children Act

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<sup>2</sup> Fulton, Brendan and Parkhill, Trevor *Making the difference: An oral history of Probation in Northern Ireland* 2009 PBNI.

<sup>3</sup> Senior, Paul *Moments in Probation* 2008 Shaw and Sons, tent.

<sup>4</sup> Rogan, Mary *Rehabilitation, Research and Reform: Prison Policy in Ireland* 2012 Irish Probation Journal PBNI/PS

1908 as significant in the development of the concept of rehabilitation. In particular, the approach of ‘penal–welfarism’ dominated thinking in criminal justice for the first sixty years of the twentieth century in both parts of the island. She notes that *“these include particular penal practices such as attempts to divert people from prison through the use of fines and Probation, and, generally, a far greater number of sanctions requiring the input of the social and psychological sciences into the legal milieu. There is also a distinct transferral of responsibility for dealing with those who had committed crimes from private charity to a state funded and administered system”* (p 9, Irish Probation Journal, 2012).

Following partition, responsibility for Criminal Justice matters in Northern Ireland, including probation services, passed from Dublin Castle to the new Northern Ireland administration in Belfast in 1921. Two significant articles in the Irish Probation Journal illustrate how probation services progressed on both sides of the border; Fulton and Webb<sup>5</sup> set out the development of a Probation Service in Northern Ireland up to the Second World War while McNally<sup>6</sup> highlights an article in 1943 on the Probation Service in the Republic of Ireland. This noted that the circumstances and lack of development in Northern Ireland at the time was similar (to the south) but that *“no attempt was made to conceal the defects of the present system, and those defects, together with recommendations for putting the Probation Service on a sound basis were in the process given fullest publicity”* (p15).

Rogan<sup>7</sup> highlights a report by the Irish Labour Party in 1947 as a significant milestone in the attempt to provide work and training for prisoners as well as support following release. In a Dail Debate in November 1962, the then Justice Minister Charles Haughey said;

*“Prison will always be a place of punishment, but it seems to me that our prisons nowadays must, to increasing extent, become places of rehabilitation as well. In so far as rehabilitation may save a person from the misery and degradation associated with a life of crime, it is entirely justifiable on humanitarian grounds alone. In addition,*

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<sup>5</sup> Fulton, Brendan and Webb, Bob *The Emergence of Probation Services in North East Ireland* 2009 Irish Probation Journal PBNI/PS

<sup>6</sup> McNally, Gerry *Probation in Ireland: A Brief History of the Early Years* 2007 Irish Probation Journal PBNI/PS

<sup>7</sup> Rogan, Mary see (4).

*however, it can be regarded as something which brings a positive benefit to the community as a whole. It can mean the difference between a former prisoner continuing as a burden on the community or becoming a useful member of society”* (Rogan, 2012, P13).<sup>8</sup>

Meanwhile in Northern Ireland, the Probation Act (N.I.) 1950 established a Probation Service for the first time and oversight of Probation Officers passed from the Magistracy to the Civil Service. It became the duty of a Probation Officer on the direction of the Court to enquire into the circumstances or home surroundings of any person with a view to assisting the Court in determining the most suitable method of dealing with him. This language is still used in legislation and the 1953 Prison Act (N.I.) also brought additional responsibilities in relation to the after care of sentenced prisoners in Northern Ireland.

In 1966 the first Probation Officer in Northern Ireland with a Social Work qualification was appointed and in 1970 a Prisons Act in the Republic of Ireland included rehabilitation for the first time as an official aim of the system.

### **Civil Conflict in Northern Ireland**

However the progress of the 1960s was halted by the outbreak of civil conflict in Northern Ireland in the summer of 1969. ‘The Troubles’ placed a huge strain on prisons and the criminal justice system throughout the island but particularly in Northern Ireland. Offenders charged under emergency legislation were processed through non-jury (‘Diplock’) courts and all prisoners received automatic 50% remission off their sentences. Probation staff argued that persons processed under such legislation should be excluded from the supervisory element of post custody supervision and this did create some tension with the Northern Ireland Office (NIO), who had responsibility for the security of the state. However, in addition to support from the Trade Unions (particularly the National Association of Probation Officers), there is evidence that the Irish Probation Service discreetly lobbied their government to recognise that ‘politicisation’ of the probation service would damage the criminal justice system as a whole. Eventually, the NIO recognised the value of having a

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<sup>8</sup> Rogan, Mary see(4)

broadly independent voice in criminal justice and agreed that Probation Officers should not prepare assessments or supervise persons dealt with under emergency legislation; this decision was made easier by the Judiciary not normally seeking reports in 'Diplock' cases.<sup>9</sup>

There were other huge challenges for the service in Northern Ireland during this period particularly as staff continued to work in prison establishments and all the communities. It has been acknowledged that the Probation Service was the only part of the criminal justice system in Northern Ireland that was able to work in the community without excessive security considerations and this position was often a source of tension with government, political groupings and indeed staff.<sup>10</sup> Carr and Maruna (2012) note that during the periods of the most intense violence, Probation established a presence in communities which were considered no-go areas by other criminal justice agencies.<sup>11</sup> While the impact on Probation work at this time in the Republic of Ireland was more limited, there is evidence of close contact between the two services, particularly in relation to prisoners and the movement of people between the two jurisdictions. There were restrictions on the ability of staff to provide pre-sentence reports and statutory supervision to persons dealt with under the emergency legislation in the 'Diplock' Courts but service was offered to persons in custody on both sides of the border on the basis of voluntary uptake. There is also evidence of increased cooperation between the services and the voluntary sector organisations, which highlighted similar arrangements which existed in both parts of the island with a mixture of urban conurbations with high crime alongside large rural areas with little or no criminal activity.<sup>12</sup>

## **Development of the Irish Probation Service**

Following a review in 1969, the Irish Minister for Justice, Desmond O'Malley, announced that the service was to be expanded and reorganised with a large

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<sup>9</sup> Carr, Nicola *Contingency Legitimacy: Community Sanctions in Northern Ireland* 2016 Community Punishment: European Perspectives. Routledge: Oxon

<sup>10</sup> Interview with Breidge Gadd, former Chief Probation Officer, PBNI, August 2015

<sup>11</sup> Carr, Nicola and Maruna, Shadd *Legitimacy through Neutrality. Probation and the conflict in Northern Ireland* Howard Journal (2012) 51 (5)

<sup>12</sup> Interview with Brendan Fulton, former Assistant Chief Probation Officer, PBNI, August 2015

increase in the staffing levels in Dublin and an extension of the official Probation and After Care Service to the rest of the country generally. The service was rebranded as the Welfare Service of the Department of Justice and by 1973 service numbers had reached 47. The first Principal Welfare Officer, Martin Tansey, had been appointed by the Minister of Justice in 1972 ( although there had been previous heads of service with different titles) and he led the service until his retirement in 2002. This was a period of change and expansion, both in terms of numbers, legislation and geographical reach. The Misuse of Drugs Act (1977) included provision for Court Ordered Assessments, reports and supervision of drug misusing offenders by Probation Officers. In 1979 a joint management survey of the service by the Department of Justice recommended that the service be renamed the Probation and Welfare Service.

In 1981 a white paper on the introduction of Community Service was published in Ireland and in 1983 the Criminal Justice (Community Service) Act was enacted with an identical range of provisions such as hours of community service to be undertaken in lieu of imprisonment to the existing legislation in Northern Ireland for offenders age 16 and over. The first Community Service Order was made in 1985. In a significant review of the Community Service scheme by the Department of Justice, Equality and Law Reform in 2007, the methodology included a visit to PBNI to review the work of Community Service in Northern Ireland. There is evidence that the two services worked closely together to share information and ideas on strategic development, as well as practical cooperation to provide opportunities for voluntary community service for people from the other jurisdiction, in the absence of a legislative framework for the transfer of orders.<sup>13</sup>

Healy (2016)<sup>14</sup> sets out a range of changing socio-political attitudes which created additional challenges for the service in the 1990s but also highlights the report of an expert group in 1999 which recommended a significant shift in policy to facilitate the increased use of a much greater range of non-custodial sanctions. The Sex Offenders Act (2001) introduced post-release supervision for such offenders while

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<sup>13</sup> Interview with John Bourke, former Area Manager, PBNI, August 2015.

<sup>14</sup> Healy, Deirdre *The Evolution of Probation Supervision in the Republic of Ireland* 2016 in "Community Punishment: European Perspectives, Routledge: Oxon.

the Criminal Justice Act (2006) allowed the court to attach probation supervision to suspended or part-suspended sentences.

In 2006 the service was renamed the 'Probation Service' (PS) and in line with increased prosperity in the jurisdiction, there was a significant increase in staff numbers and a move to impressive corporate headquarters in the Smithfield area of Dublin, in close proximity to the Law Courts and the former headquarters building.

### **Development of the Probation Board for Northern Ireland**

In 1976 the Ministers of State for Health and Social Services at the NIO appointed a joint working group to review legislation and services relating to children and young people and to consider the future administration of the Probation Service. Following the publication of a consultative document in 1977, the final report (known as the 'Black Report') was published in 1979.<sup>15</sup> This recommended that the Probation Service should remain a separate service specialising in dealing with offenders, and serving the Criminal Courts. It also recommended that the service should be administered by a Board drawn from a wide spectrum of the community in Northern Ireland and that a written code of practice should be drawn up by the service, in consultation with the Courts and at the approval of the Secretary of State. Finally, and interestingly, it recommended that the Probation Board should have the responsibility for the management of the custodial establishment.

Community Service Orders (CSOs) were introduced in Northern Ireland in 1979 as part of the Treatment of Offenders (Northern Ireland) Order 1976. During the early years Community Service operated as a new community sentence within the responsibility of the then Probation and Aftercare service. In 1982 the Probation Board for Northern Ireland (PBNI) was established in response to the recommendations of the Black report. The decision to establish PBNI as a non-departmental public body was significant in that staff assumed the status of public servants rather than civil servants. By virtue of being one step removed from the Minister and Government, the Board was able to establish its own purpose and

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<sup>15</sup> *Report of the Children and Young Persons Review Group (Black Report) 1979* Belfast HMSO.

priorities and devise a set of strategic aims and objectives (including the ability to fund voluntary and community organisations). Bill Griffiths was the first person to hold the title of Chief Probation Officer and he led the organisation from 1977 to 1985. Carr <sup>16</sup> notes that from the 1980s onwards PBNI shifted the focus of its work to adults and more serious offenders, particularly in response to new Criminal Justice Orders in 1996 and 2008, and highlights a shift in role by combining the traditional 'rehabilitation' role with a public protection function. She also sets out the increased role of PBNI in post-custodial supervision but notes the challenges in developing a closer relationship with the Prison Service compared to England and Wales where the National Offender Management Service (NOMS) was established in 2005; however, it is acknowledged that it is preferable for Probation to maintain its own identity in such a relationship.

## **Social Work**

At the end of the 1960s social work became the main qualification for Probation Officers in the United Kingdom and Ireland with different social work disciplines entering into collaboration towards integrated professional training and development. It is ironic that Probation Officers from both parts of Ireland travelled to England to participate in the Home Office training course at Rainer House, yet were dealing with similar challenges at home which were very different to the prevailing conditions in Great Britain. In 1975 the Home Office proposed that Probation Officers should hold a recognised professional qualification and that this qualification should be the Certificate of Qualification in Social Work (CQSW). All holders of the Home Office letter of recognition were deemed to hold the equivalent of the CQSW but all new recruits were required to possess the qualification.<sup>17</sup> This was probably the most significant development in the professionalisation of the service and led to both services in Ireland requiring the qualification for the key position of Probation Officer. In Northern Ireland the first Probation Officer with a social work qualification had been appointed in 1966 and the following year the first Probation Officer was seconded to Queen's University Belfast to undertake a professional social work course. In 1969 the first Senior Probation Officer was appointed to provide probation

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<sup>16</sup> Carr see (8).

<sup>17</sup> Worthington, Mike *from CQSW to DIP PS* in 2 above.

placements at the new social work course at the University of Ulster in Coleraine At the same time an agreement was reached with the Home Office for the Probation Inspection Team there to assist with the oversight of the Northern Ireland Service. An inspection report in 1973 made a number of recommendations which reinforced the argument for a long term development plan for the service. Carr et al (2013)<sup>18</sup> set out how offender supervision developed in the two jurisdictions and note that while the retention of social work as the core qualification for Probation Officers helped resist some of the more punitive elements of community supervision, there were missed opportunities for further research in this area.

### **Collaborative work**

The 1980s saw the first developments in cooperation on the provision of Pre-Sentence reports to Courts by Probation Officers from the other jurisdiction and voluntary arrangements for the oversight of Court mandated orders.<sup>19</sup> In the early 1990s cooperation increased significantly with opportunities to learn from each other's work particularly in the areas of offender employment, substance misuse, victims and restorative interventions and group work. The two services cooperated to host the fourth General Assembly of Confederation of European Probation (CEP) in 1992 which featured an introduction from Northern Ireland Secretary of State, Michael Mates, on the first day (in NI) and Irish Minister of Justice (Ray Burke) on day two in the Republic of Ireland. This was the first time that simultaneous translation for delegates from different European countries was provided at a conference in Northern Ireland; it could be argued that this was a significant development at exploring a European dimension to the challenges in NI.

The PBNI Corporate Plan published in 1999<sup>20</sup> made a commitment to establishing closer partnerships with the Republic of Ireland on the area of employment. In addition to the 'split site' conferences on employment and prisoners families, the unwelcome development of a significant heroin problem in the Dublin area required the Irish service to adopt a radical approach to work with offenders who had substance misuse problems. The learning from this pioneering work was shared with

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<sup>18</sup> Carr, Nicola and Healy, Deirdre et al *A review of the Research on Offenders Supervision in the Republic Ireland and Northern Ireland* 2013 Irish Probation Journal PBNI/PS.

<sup>19</sup> See (9).

<sup>20</sup> PBNI *Corporate Plan 1999 – 2002* 1999 PBNI: Belfast.

colleagues in Northern Ireland through exchange visits and conferences, and specifically at a major conference on substance misuse in Belfast in 1995. This was the first occasion that representatives from the police force in Northern Ireland (Royal Ulster Constabulary at that time) attended a conference that was also attended by a representative of Sinn Fein albeit from the Dublin area. Newspaper reports at the time suggested this was a template for cooperation on social factors that affected all communities and threatened no-one.<sup>21</sup>

## **Criminal Justice Review**

Following the ceasefires in Northern Ireland in 1994, there was a sustained period of growth in communication between the two services. In the Belfast Agreement of 1998 there was a commitment to undertake a review of the Criminal Justice System in Northern Ireland, published in March 2000.<sup>22</sup> While the recommendations were controversial at the time, there were a series of research reports generated to support the overarching review, including a report on Sentences, Prisons and Probation as well as structured cooperation. It is worth quoting the principles from the chapter on structured cooperation;

*“The land border between Northern Ireland and its neighbour, the Republic of Ireland, in one sense creates a challenge to be met, for example in the area of effective communication. It also presents an opportunity to be grasped in the interests of developing effective Criminal Justice strategies and responses. It is essential that there is consultation and cooperation to prevent criminals from taking advantage of the existence of two adjacent jurisdictions, and in furtherance of the joint interest of all of us on these islands in securing justice. In formulating the recommendations that follow we have therefore been guided by the principle that cooperation across boundaries should occur wherever it is necessary or useful. We foresee a strengthening of such cooperation between Northern Ireland and the Republic of Ireland taking account of the European Union Framework. As well as cooperation and coordination in combating criminal behaviour, there is also scope for*

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<sup>21</sup> Irish News, 17 February, 1995

<sup>22</sup> Criminal Justice Review Group *Review of the Criminal Justice System in Northern Ireland 2000* Belfast: Criminal Justice Review Group.

*working together in the prevention of crime and on community safety issues and in dealing with offenders after conviction. In some cases there may be a case for seeking harmonisation of procedures between North and South in order to facilitate effective cooperation. However there is also a need to take account of and facilitate effective joint working with the other jurisdictions of the United Kingdom. In some areas we should be prepared to welcome diversity of practice in different jurisdictions and be prepared to learn from best practice in each.” (PP 391 – 392)*

These principles could be taken as a summary of the existing cooperation between the Probation services and it is no coincidence that both services contributed to formulating the recommendations of the Criminal Justice Review. There were a total of 16 recommendations relating to structured cooperation with ten of these directly relevant to the work of the two services. The Criminal Justice Review provided confirmation that there was huge similarity between the two jurisdictions; in terms of the nature of the respective societies, the urban/rural balance, economic and age profile. Therefore it served as an affirmation of work that had taken place to date but also identified areas for future joint-work and, more implicitly, set out the contrast to developments in England and Wales which had preoccupied the minds of NI Ministers and Administrators since 1972.

### **European dimension**

One factor which united both services was a commitment to partnership with the community and voluntary sector and this led to exchange of best practice ideas as well as cooperation to promote Probation through the Confederation of European Probation (CEP) which was established in 1981. The Irish Probation Service in particular saw CEP as a unique opportunity to learn about emerging practice throughout Europe as well as publicising any innovative work in Ireland. Martin Tansey was elected President of the CEP in 1985, while Breidge Gadd (who was Chief Probation Officer in PBNI from 1986 until 2000) held executive posts with the Council of Europe during this period.

In 2003, the two services successfully applied to the Special European Union Programme Body (SEUPB) for funding under what was known as ‘Peace II’ and as a result the Probation Reducing Offending through Enhanced Cooperation and Training North and South (PROTECT N & S) was launched in September 2004.

Both services committed considerable resources to this new and innovative project which had four aims;

1. Develop cross border approaches to the management of offenders.
2. Disseminate knowledge of effective models of supervision approaches.
3. Promote and engage with local communities.
4. Create opportunities for staff exchanges.

The project facilitated a series of conferences and seminars on the sharing of good practice as well as improving relationships and facilitating a number of staff exchanges on both a formal and informal level. The final evaluation report, published in June 2007, notes that the project helped set the scene for a considerable amount of interagency work including placing both organisations at the centre of the public protection agenda in the two jurisdictions. The project targeted six key offending areas;

- Domestic Violence
- Alcohol Related Offending
- Youth Offending
- Dangerous Offending (Violence)
- Sex Offending
- Drug Dependent Offending.<sup>23</sup>

There have been joint initiatives in all six of these areas but a number are worthy of special consideration. Firstly, in the area of domestic violence, PBNI had developed programmes for perpetrators in the early 1990s and in recognition of the fact that perpetrators and victims often moved between the two jurisdictions, and also acknowledging similar social and economic conditions operating on both sides of the border, there was a significant programme of staff exchange, training and sharing of

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<sup>23</sup> Protect North and South *Final Evaluation Report 2007* PBNI/PS.

good practice to attempt to reduce the risk of further offending by domestic violence perpetrators. PBNI staff trained staff from the PS in delivery of an accredited programme and in turn the PS offered places for perpetrators living on the northern side of the border to participate in programmes closer to their home which were delivered in the Republic of Ireland.

A similar approach was taken in the area of drink driving and in both of these initiatives, partnerships were established with the relevant police services and social services. . In 2008 both services agreed to offer short periods of secondment to improve understanding and in the same year both services committed to using the same model of assessment of sex offenders. An all-Ireland Working Group was established to oversee the roll out of this model and joint training events were organised as well as a commitment to joint evaluation. This cooperative work was extended to Scotland and has contributed to a significant piece of international research, supported by Trinity College Dublin.<sup>24</sup> There has been a total of 1100 offenders who have been assessed and managed through this shared assessment instrument and this initiative has played a significant role in ensuring that the communities North and South are safer as a result of cooperation between the two agencies. With Ireland's membership of the EU the PS has been a partner in several significant EU programmes and has ensured that PBNI colleagues are involved in the planning and delivery of projects; in 2014, thanks to PS influence, PBNI was able to send a delegation of staff and members of partner agencies to a significant criminal justice conference in Germany, entirely funded by the EU.<sup>25</sup> This opportunity would not have been available if PBNI had applied to attend as part of the UK delegation.

## **Challenges**

A critical concern for both services has been the fact that it is not legally possible to transfer probation-related Court Orders from one jurisdiction to another. During the final decade of the twentieth century and in the first decade of the twenty first century there were a number of examples where offenders moved from one jurisdiction to

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<sup>24</sup> Evaluation of the Stable and Acute 07 (SAO7) Assessment Instrument 2015 PBNI/PS unpublished

<sup>25</sup> European Commission on reintegration of high risk offenders *Report of the Justice Cooperation Conference in Germany 2014* European Commission.

another in a bid to escape detection and monitoring by Criminal Justice organisations.<sup>26</sup>

In 2006, a formal joint protocol on the monitoring and supervision of sex offenders was signed by both organisations.<sup>27</sup> This document set out the roles and responsibilities of both organisations in an attempt to minimise the opportunity for dangerous offenders to use or abuse the close proximity of the border to avoid monitoring and supervision. For the first time in Criminal Justice on the island, a joint paper set out agreed definitions in line with legislation operating in the two jurisdictions. The document also acknowledged the recommendation from the Criminal Justice Review as well as a Memorandum of Understanding between the Government of the UK and the Government of Ireland on information sharing relating to sex offenders. The protocols were updated in 2010 and again in 2014 to reflect changes in legislation and to include offenders assessed as posing a risk of serious harm.

Unfortunately the UK decided not to sign up to the forthcoming EU Framework Decision on the transfer of community sanctions between EU states and as a result of this decision will be possible for offenders to move from the Republic of Ireland to the European mainland and have their Community Order legally enforced but it will not be possible for a person to move to Northern Ireland under the same circumstances.<sup>28</sup> Both Probation Services have highlighted the risks and challenges that arise from this anomaly but this example serves to highlight the dangers of policy makers based in London being unaware of some of the practical consequences of their decision making.

In 2009 the Northern Ireland Affairs Committee at Westminster carried out a review of cross border cooperation and as part of that review visited Dublin and also

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<sup>26</sup> See (9) and (10).

<sup>27</sup> *Joint Protocols on Monitoring and Supervision of Sex Offenders* 2006 PBNI/PS.

<sup>28</sup> Counsel Framework Decision 2008/947/JHA *Mutual Recognition to Judgements and Probation Decisions with a view to the Supervision of Probation Measures and Alternative Sanctions* 2008 available on [www.cep-probation.org](http://www.cep-probation.org)

received evidence from PBNi representatives at Westminster.<sup>29</sup> The Committee noted that the two organisations maintained a close relationship but also highlighted the further need for cooperation, particularly when offenders leave prison in one jurisdiction to return to a home in the other. The report highlighted the areas of cooperation already identified in this article (Domestic Violence, Drink Driving, the provision of reports and voluntary arrangements for supervision as well as the protocol on sharing information on the management of sex offenders) and noted that the two Probation Services had signed protocols in 2006 which was followed by the two Police Services signing a similar protocol in 2008. The report also noted that no formal arrangements existed for the passing of information between the Prison Services upon release and praised the creation of the Public Protection Advisory Group (PPAG) which will be referred to later in the article.

As a result the Committee recommended that the two Governments explore every avenue towards establishing an information sharing regime that acts as an effective register of sex offenders across the island of Ireland. It also urged both Governments to continue to promote the primacy of the protection of children in their discussions and reminded both Governments of the jurisdictional issues that arise from having *“two systems of law operating in an area so crisscrossed with roads, streams and other crossing points that officials of the Ordnance Survey are sometimes required to decide on which side of the border a premises lies”* (page 31). It praised the contact between the agencies on both sides of the border and stressed the importance of personal contact between staff.

### **Public Protection Advisory Group**

In 2008 the Public Protection Advisory Group (PPAG) was established as part of the intergovernmental agreement overseen by the Irish Department of Justice and the then Northern Ireland Office.<sup>30</sup> It was agreed that the PPAG would be jointly chaired by the two Directors of the Probation Services but would have representatives from Police, Prisons and DOJ(North and South). Each Year the PPAG would meet on at

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<sup>29</sup> House of Commons Northern Ireland Affairs Committee *Cross Border Cooperation between the Governments of the United Kingdom and the Republic of Ireland* 2009 London: The Stationery Office

<sup>30</sup> Intergovernmental (IGA) on Criminal Justice Cooperation between Northern Ireland and the Republic of Ireland, first signed on 26 July 2005.

least two occasions (North and South) and formally agrees a set of objectives which would be reported to both Ministers as part of the intergovernmental agreement. This group has proved to be highly successful in taking cross border cooperation to a new level and the history of links between the Probation Services has served as an exemplar for other elements of the Criminal Justice system. In 2010 the PPAG organised its first annual seminar, led by the two Probation Services, to bring together staff from Criminal Justice agencies throughout the island who were working in partnership to achieve safer communities.

The seminars were an opportunity for participants to showcase examples of innovative interventions, share information on effective practice and establish networks for ongoing collaboration. The two Ministers attended the seminars and publically acknowledged the ground breaking work undertaken by the two services. As a result of the success of this event, the seminars have subsequently run on an annual basis with both Ministers attending on each occasion. The venues have alternated between North and South and have resulted in positive publicity for the entire Criminal Justice system. During 2010, Justice had been devolved from Westminster to the locally elected NI Assembly and the first Minister for Justice appointed was David Ford from the Alliance Party, a former Social Worker. It is noteworthy that since the first seminar Mr Ford has remained as Minister of Justice in Northern Ireland while there have been three Justice Ministers in the Republic of Ireland; the current Minister being Frances Fitzgerald, TD, who is also a former Social Worker. Both Ministers have publically stated their support for the work of the Probation Services and have congratulated them for their proactive approach to cross border work which reflects the strategic priorities of their departments.

### **Irish Probation Journal**

In 2004 the two organisations supported the creation of the Irish Probation Journal (IPJ). In the opening editorial the joint Editors stated *“It is with great pride that we launch the first edition of the Irish Probation Journal. This is a significant development in the history of the Probation and Welfare Service and the Probation Board for Northern Ireland. We hope that the journal will become an annual record of issues facing Probation staff in the two services. It is hoped that the journal will*

*help the development of professional practice within the overall objective of reducing crime and the harm it does” (p 2).*<sup>31</sup>

The editorial acknowledged that the impetus for the initiative arose from the Belfast Agreement in 1998, the Criminal Justice Review in 2000 as well as the parallel development of the PROTECT N and S project. IPJ has been fortunate in attracting articles from practitioners and academics in Ireland as well as international academics such as Fergus McNeill (Scotland), Hazel Kemshall (England) Shadd Maruna (USA) and Jim Bonta (Canada). Over the years, the journal has been published each autumn and has attracted articles from both sides of the border as well as further afield. It has been recognised by Criminologists and academics as providing a forum for sharing theory and practice, increasing cooperation and learning between the two jurisdictions and developing debate about work with offenders. It is to the credit of staff in the two organisations that the twelfth edition will be published at the PPAG seminar in Belfast City Hall in November 2015.

### **Ongoing cooperation**

Since 2001 the two Senior Management Teams (PS and PBNI) have met formally on an annual basis to review ongoing contact and cooperation and to agree on joint strategic priorities for the following year. This has given rise to shared initiatives in many areas, particularly linked to the priorities of the PPAG. There has also been significant cooperation in the areas of work with victims and on restorative justice. In addition to sharing of information in relation to training and best practice, PBNI contributed to the Irish National Commission on Restorative Justice in 2008<sup>32</sup> and the PPAG has ensured that the needs of victims are considered in each annual review of objectives.

With the increasingly multi-cultural nature of UK and Irish society, the two Probation Services agreed in 2009 to undertake a joint snapshot survey of the nationality of offenders under supervision on 1<sup>st</sup> May to help inform the planning and delivery of

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<sup>31</sup> Irish Probation Journal editorial 2004

<sup>32</sup> National Commission on Restorative Justice Final Report 2009.

services. Following agreement in the planning and implementation of the survey, as well as objective oversight by the Northern Ireland Statistic Research Agency (NISRA) and the Central Statistics Office (CSO) a comprehensive joint report was published.<sup>33</sup> The results showed that in Northern Ireland, only 2% of the caseload were foreign nationals and that the majority came originally from Lithuania, Poland and Portugal. In the Republic of Ireland, 3% of the caseload were foreign nationals with the majority originating from Romania, Poland and Latvia. The recommendations from this review helped shape the two organisations response to the challenge of working in a multi-cultural society and ensured that there was good quality data to help plan future services. The recommendations have now been adopted into mainstream statistical oversight and these form part of a bi-annual report to the Public Protection Advisory Group summarising the work of the two services, along with key statistics from the two Prison Services. The Probation Service has developed closer links with the Irish Prison Service in recent years to the extent that they launched a joint strategic plan in 2015;<sup>34</sup> while a significant review of the prison service in Northern Ireland in 2011('Owers Review')<sup>35</sup> noted areas for further collaboration between the prison service and PBNI, its main focus was on the need for reform in a prison system that was criticized for being highly costly and overly securitized (Carr (2016), p129).<sup>36</sup>

There has also been significant cooperation in the assessment and management of female offenders. In addition to staff exchanges and training events, visits were hosted to the PBNI Inspire project and the Dochas Centre at Mountjoy Prison in Dublin which supported strategic developments in both jurisdictions.

There has been a range of informal links developed between the two services, originating in the early 1990s when an annual soccer match was established (with a mixture of male and female players) for the John Magee cup, in memory of a former PBNI staff member who worked on cross-border projects. Members of staff from senior management have sat on interview panels in the other jurisdiction to provide a

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<sup>33</sup> Fernee, Ursula and Burke, Ita *Cultural Diversity and the Probation Service* Irish Probation Journal 2010

<sup>34</sup> Joint Irish Prison Service and Probation Service Strategic Plan 2015-2017.

<sup>35</sup> Owers, and et al *Review of the Northern Ireland Prison Service* 2011 Belfast: Prison Review Team.

<sup>36</sup> Carr see (8).

degree of independence and assurance and staff in border counties have developed appropriate links to minimise the impact of a land border. In 2014 the Probation Service hosted a delegation from PBNI to see the innovative 'Community Return' scheme in operation- this allows for early release from prison on condition that the person undertakes unpaid work in the community under probation supervision. As a result of this visit, PBNI representatives highlighted the opportunities provided by the scheme in a presentation to the Northern Ireland Assembly Justice Committee in June 2015 and the Committee successfully amended the 2015 Justice Bill to allow for the possibility of unpaid work as part of the Conditional Early Release scheme. It was noted that the amendment was directly based on the positive evaluation of the Community Return project and this was a clear example of cross-border communication assisting legislative change in the neighbouring jurisdiction.

A significant element of North South cooperation has been in relation to the preparation of Pre-Sentence reports for Courts on offenders normally resident in the other jurisdiction. In order to address data protection issues, arrangements have been in place since 2004 for the secure electronic transmission of information between two single points of contact (SPOC) in relation to Court reports. Each year approximately 100 such reports are prepared by the services for offenders appearing in the other jurisdiction and while community disposals cannot be formally transferred, Judges have been briefed by staff about what is achievable under the current system. An annual review takes place of the oversight of the SPOC arrangements and a report is brought to the Senior Management Teams and subsequently to the Public Protection Advisory Group. The PS developed an International Desk in 2010 to oversee arrangements for the requests for report and transfers between Ireland and the UK (including NI) and this has served as an example to the rest of Europe in the development of this formal practice in this area.

## **Conclusion**

The two probation services in Ireland carry out vital work in the assessment and management of offenders, as well as providing an important service to victims of crime. This article has highlighted the development of probation work in both jurisdictions and the challenges of sharing a land border on a small island. By

referring to the shared socio-criminological factors the article has set out the factors which logically led to closer cooperation and joint working. It has been a consistent feature of the commitment to work together that there has never been any competition between the services (except on the football field) and both partners have 'gone the extra mile' to help each other out. However, as always, more can be done and many challenges remain, mostly beyond the power and legal authority of the services, in minimising the risk to the public and providing transferable community supervision arrangements and rehabilitation services when dealing with a land border. Both governments can learn from the progressive and visionary leadership shown by individual Probation Officers and Managers in changing lives in both jurisdictions to build safer communities.

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