

# Office of the Independent Chairmen

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March 9, 1998

TO: Participants

FROM: The Office of the Independent Chairmen

SUBJECT: Meeting of the Liaison Sub- Committee on Confidence Building Measures: Proposed Change of Agenda

The British Government has given the Office of the Independent Chairmen the enclosed note suggesting a change of topic for the March 10 meeting of the Liaison Sub-Committee on Confidence Building Measures at 10:30 a.m. The British Government prepared two papers on Justice and Community Development Issues (enclosed). The Independent Chairmen propose to change the agenda of the meeting in accordance with the suggestion of the British Government. Please inform the Office of the Independent Chairmen by 3:00 p.m. today if this change in agenda for tomorrow poses serious difficulties.

TO: THE INDEPENDENT CHAIRMEN

FROM: THE BRITISH GOVERNMENT DELEGATION

DATE: 9 March 1998

LIAISON SUBCOMMITTEE ON CONFIDENCE BUILDING MEASURES

We should be grateful if the Independent Chairmen would consider changing the agenda for tomorrow's meeting of the Liaison Subcommittee on Confidence Building Measures to a discussion of Justice and Community Development issues. If you are content with this proposal we have two papers dealing with this subject which we would like to distribute to the parties this afternoon.

cc: The Irish Government Delegation  
Talks Participating Parties

LIAISON SUB-COMMITTEE ON CONFIDENCE BUILDING MEASURES,  
9 MARCH 1998

JUSTICE AND COMMUNITY DEVELOPMENT: NOTE BY HMG

The British Government has repeatedly endorsed the view of the International Body that building confidence is a critical part of the political process. Progress made in the Talks needs to be underpinned by greater confidence in the community, and the Government will play its full part. Building confidence in the justice system is an important component in that.

In this context the Government welcomes the opportunity to place two papers before the Liaison sub-committee for future discussion. The first addresses the concept of restorative justice and how it can shift the focus towards restoring relationships between offenders, victims and the community. The second paper deals with broader issues surrounding the community's response to criminal behaviour. It is the Government's intention to make this latter paper more widely available to groups and organisations which may have an interest in the issues raised.

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

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

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

recognition of the fact that the effect of crime goes beyond the initial participants, there is also scope to include family members and representatives of the wider community.

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

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

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

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

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

- The RUC are examining proposals, similar to the Thames Valley scheme, for administering "restorative cautions" to juvenile offenders within a particular area. This would involve their being confronted with the distress caused and brought to acknowledge the effects of their offences.

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

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

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



# CRIME AND COMMUNITY - A LOCAL PARTNERSHIP APPROACH

PAPER BY HMG (9 March)

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

2. It is clear that most people from the areas concerned want to prevent criminal and anti-social behaviour and the unacceptable response of punishment beatings and other forms of coercion. This can only be achieved successfully through the co-operation of the public agencies, including the police, and the voluntary and community sectors in providing programmes and interventions for those identified as being at risk or responsible for anti-social behaviour. Much is already happening along these lines. The involvement of communities and public representatives, working with public and voluntary agencies, in the management of the response to crime and anti-social behaviour is to be encouraged, so long as this is consistent with the rule

of law and does not lend support to the concept of "alternative justice".

3. Throughout the troubles the public agencies have been in the front line of service delivery to all parts of the community, often in the most difficult circumstances. Schools, the Youth Service, Social Services, the Housing Executive, Probation and the RUC are amongst the agencies in the forefront of social provision and the creation of a safer and better environment. They operate in partnership with each other, with the voluntary sector and with a well developed community infrastructure. There has been much innovation and a great deal has been achieved thanks to the commitment of people from all of the agencies and the community. At the same time it has to be recognised that the political and security background has made it more difficult for the police to operate in certain areas as effectively with the community as they would wish.

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

- i. upholding the rule of law;
- ii. promoting and safeguarding human rights;
- iii. protecting individuals against arbitrary decisions and procedures operating outside the rule of law;

- iv. the provision of services to communities and individuals based on consultation and objective assessment of need;
- v. partnership and consultation with and between the public, voluntary, community and private sectors.

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

6. The public organisations meet with and take account of the views of public representatives on these issues. However, decisions on the provision of services for which they are accountable and on the referral and treatment of individuals are matters for the agencies with the relevant statutory responsibilities. Thus an individual case appearing to require intervention might be drawn to the attention of Social Services as a result of a community-based initiative; but it will be for Social Services, in consultation as appropriate with other

agencies, to determine whether, and if so how, to intervene.

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

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