

Reducing Offending Policy Unit  
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10 September 2020

Dear Sir/Madam

**Re: The Department of Justice's consultation on the development of An Adult Restorative Justice Strategy for Northern Ireland**

Thank you for your email regarding the Department of Justice (DoJ)'s consultation on *An Adult Restorative Justice Strategy for Northern Ireland*. We have reviewed the consultation document and have provided some comments below which we hope will be useful to you as you move towards developing a Strategy on this area. Our comments are being raised as general considerations for the DoJ and other stakeholders to consider in the development of a Strategy going forward.

**Data sharing and Legal basis**

Page 7 of the consultation document refers to the Protocol which governs the work of Community Based Restorative Justice (CBRJ) Organisations. It states that the Protocol sets out "*the process of how referrals are made to these organisations, as well as the accreditation of such organisations to undertake this work*". It is critical that the data protection implications of these data sharing arrangements are considered and procedures are put in place to ensure appropriate data sharing in line with the legal data protection framework. Organisations should consult our data sharing code of practice in relation to this area, which we are in the process of finalising following a period of consultation and will soon publish [here](#) on our website.

Given the nature of the information that will be shared between the PPS/PSNI and the CBRJs, and that it is likely to include both personal data and criminal offence data, organisations must have a lawful basis for the processing of

personal data under Article 6 of the GDPR, but will also need to comply with the requirements of Article 10 in respect of the criminal offence data. This means that organisations must either:

- process the data in an official capacity; or
- meet a specific condition in Schedule 1 of the Data Protection Act 2018, and comply with the additional safeguards set out in that Act.

More information on the requirements above is available [here](#) on our website.

In terms of the accreditation of CBRJs from the DoJ “*on a range of issues including staff training, human rights protection and complaints procedures*”, consideration should be given as to whether the accreditation should also include data protection training.

If, as a result of this consultation, it is decided that there should be a review of the Government Protocol, we would be keen to be consulted as part of this review so we can raise and further discuss the points above in greater detail.

### **Fairness and transparency**

It will also be important to ensure that all parties involved in any restorative justice programme are fully informed of how their personal data will be handled as part of the process to ensure the processing is fair, a requirement of the first data protection principle. Page 21 of the consultation document already acknowledges this in part, as it states: “*There would, of course, be a need for safeguards to ensure all parties are sufficiently well informed and engaged in the process*”.

It would be helpful for a privacy notice, particularly pertaining to any restorative justice initiative, to be developed and provided to all individuals whose personal data will be processed as part of same, including those who have been prosecuted, victims, witnesses, alongside any others. Everyone should be fully informed as to what personal data will be processed, how it will be used as part of the restorative justice programme, who it will be shared with, how long it will be retained for, among other requirements. Reference can be made to the ICO’s guidance for the full list of requirements regarding transparency and the right to be informed under GDPR which is available [here](#) on our website.

We would be keen to review any draft Strategy that the DoJ develops as a result of this consultation, whether that be as part of another public consultation on a draft Strategy or through direct engagement with our office.

In the meantime, we hope that the above comments are useful to you and look forward to further engagement with you on this area.

Yours sincerely,

Paula Hamilton  
Senior Policy Officer  
ICO (Northern Ireland)