

CAJ's submission no. S. 253

CAJ's Response to
**NIPS Offender Management
Practice Manual –
Operational Guidance and Standards**

January 2010

Promoting Justice /
Protecting Rights

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What is the CAJ?

The Committee on the Administration of Justice (CAJ) was established in 1981 and is an independent non-governmental organisation affiliated to the International Federation of Human Rights. CAJ takes no position on the constitutional status of Northern Ireland and is firmly opposed to the use of violence for political ends. Its membership is drawn from across the community.

The Committee seeks to ensure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities in international human rights law. The CAJ works closely with other domestic and international human rights groups such as Amnesty International, Human Rights First (formerly the Lawyers Committee for Human Rights) and Human Rights Watch and makes regular submissions to a number of United Nations and European bodies established to protect human rights.

CAJ's activities include - publishing reports, conducting research, holding conferences, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include policing, emergency laws and the criminal justice system, equality and advocacy for a Bill of Rights.

CAJ however would not be in a position to do any of this work, without the financial help of its funders, individual donors and charitable trusts (since CAJ does not take government funding). We would like to take this opportunity to thank Atlantic Philanthropies, Barrow Cadbury Trust, Hilda Mullen Foundation, Joseph Rowntree Charitable Trust, Oak Foundation and UNISON.

The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award and the Council of Europe Human Rights Prize.

**NIPS CJO Implementation Team
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29 January 2010

Dear Madam/Sir,

Re NIPS Offender Management Practice Manual – Operational Guidance and Standards

Thank you for permitting the Committee on the Administration of Justice (CAJ) to partake in the consultation on the **Offender Management Practice Manual – Operational Guidance and Standards**.

As you will know, CAJ is an independent non-governmental human rights organisation that was established in 1981. The activities of CAJ include - publishing reports, conducting research, holding conferences, monitoring, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include policing, emergency laws, criminal justice, equality and the protection of rights. The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award and the Council of Europe Human Rights Prize

General Considerations

As with the numerous public consultations which NIPS has undertaken over the past 6 months, CAJ commends the prison service for carrying out a review of the Offender Management Practice Manual. Thank you for permitting us to make the following comments:

One non-substantive consideration would be that all documents of length should include a list of acronyms for ease of reference for consultation respondents and subsequent stakeholders.

Generally speaking, much of the manual relates to the upkeep of prisoner files, primarily by the Case and Sentence Managers, and CAJ commends NIPS for acknowledging its responsibility to adhere to Data Protection legislation and principles, namely the *Data Protection Act 1998*.

As noted by Penal Reform International: ‘when the state deprives a person of liberty, it assumes a duty of care for that person. The primary duty of care is to maintain the safety of persons deprived of their liberty.’¹ It is vital, therefore, that prisoner files are accurate and referred to when making consequential decisions.

We highlight a statement made in the United Nations publication *Handbook on Prisoner File Management*:

The presence of complete, accurate and accessible prisoner files is not only a prerequisite for effective prison management and strategic planning, it is also an essential tool for ensuring the human rights of prisoners are respected and upheld.

As such, we suggest that the NIPS *Offender Manual Practice Manual* be forthright in stating its guiding principles, in the same way that the Public Protection Arrangements Northern Ireland (PPANI) *Manual of Practice* clearly states in relation to risk assessment:

Articles 2 (right to life) and 3 (right to freedom from inhuman and degrading treatment) of the European Convention on Human Rights impose positive obligations on the state to protect members of the public. As in all cases where information is retained and shared, account must be taken of whether actions are necessary and proportionate and whether any infringement of the ECHR Article 8 rights of the individual concerned is justifiable for public safety and the protection of rights and freedoms of others in ECHR Article 8(2).

Specific Comments

We applaud NIPS for its recognition that ‘the concept of Offender Management ensures that offenders will be managed and supervised throughout their time in custody, *appropriate to the risk they present*, before being prepared for their return to the community’ (section 1.1). However, this has apparently not yet been rolled out in practice given that various CJI reports and the Pearson Review Team report have noted that there is a continued over emphasis on security within the prisons and this is a substantial issue which needs addressed as it clearly has significant ramifications.

Whilst recognising that the list of programmes (section 1.9) for which the Case Managers are responsible for delivering is not exhaustive, we would suggest that cognitive behaviours programme also target offenders who are ‘deniers’ as has been suggested by the CJI and HMIP (if this is not yet being implemented).

¹ Penal Reform Trust. *Making Standards Work*, 2001.

The use of the term ‘standards’ in the title suggests that the principles to which an operational practice manual adheres will be laid out in the document. Whilst best practice guidelines in relation to risk and programme assessment (section 5.4) are mentioned, they are not set out in the document or adjoined in an appendix. This would help both staff and consultation respondents to measure the proposals against principles. The Summary of Offender Management Standards (section 2.3) is really a timeframe for completing actions, but is not about standards (that is to say principles or values) to which staff should adhere when undertaking these tasks.

Section 4.5 makes reference to a NIPS policy on the Victims Information Scheme which was to be published in Autumn 2009. We are keen to see that this is made public. In general, we suggest that all policy documents which are referred in consultation documents should be readily available online (see below re footnote 3).

Section 4.8 (para. 5) is slightly confusing. It states: for offenders who are subject to post release supervision the information obtained during the induction will be a valuable starting point for OMG staff (Case Managers, Sentence Managers and Psychology staff) to complete a full risk and needs assessment’. Surely, this information is relevant not only to *post-release* but to *assist to identify vulnerable individuals or those who are likely to cause harm to themselves or others within the prison*.

This same section (para. 9) notes that an offender may not have a sufficient enough command of the English language and support might be needed at this stage so as to help the prisoner understand the information relayed to him/her. However, it does not clearly state that the Case Manager or Sentence Manager is responsible for ensuring that this support will be provided, when applicable.

It is also important to note the implications for those with speech, language and communication difficulties in order to understand the information presented to them and to communicate with those who are assessing their risk and needs. This management manual should address this issue.

It is crucial that all policy translates to practice. Section 4.8 speaks of the Induction Process and states that ‘the first contact interview will be arranged by the Sentence Manager and Case Manager within 5 working days from date of sentence’ (Standard 5) although the specific procedures are not given. There is also reference to an ‘Induction policy’ in the *Operational Standards Manual* (section a. Arrival in Custody) although this policy does not appear to be available on the NIPS website. It is worth noting that a consistent and holistic induction programme beginning with the first night in custody is necessary and that since 2004 at least 9 reports by various sources including the Northern Ireland Affairs Committee and HM Chief Inspector of Prisons indicate that the induction policy and/or practice need attention. In 2007 the CJI noted that at Hydebank Wood YOC ‘there was a good written induction policy [although] staff were largely unaware of it and so it was not consistently delivered’.

Section 5.6 suggests that human rights standards are given consideration in relation to risk assessment; it states ‘in terms of Human Rights, defensible assessments will always be based on the principles of legality, necessity and proportionality’. It is good to see this referenced, however, it would be helpful if this was unpacked to demonstrate a genuine understanding of how the rights of prisoners should translate into operational practice, as is done in the Public Protection Arrangements in Northern Ireland (PPANI) Manual of Practice (section 3.1) as noted above.

Similarly, although reference to ‘legislation of Data Protection’ is referred to in a general sense in the introductory section 6.1, as an extra safeguard it would be helpful if obligations under the *Data Protection Act* and the *European Convention on Human Rights* (article 8) were specifically cited, particularly given that section 6.3 ‘Psychiatric and Psychological Reports’ states that copies of psychiatric and psychological reports ‘*from any period*’ of an offender’s life may be in his/her file.

A subsequent paragraph in section 6.3 entitled ‘Preps/Residential Officers Reports’ states that the residential officer complete reports that ‘provide critical information on the day to day work of the offender’. This is similarly stated in section 9.2 (standard 10). The Prison Rules state that a residential officer can be any officer normally working in a residential unit. CAJ suggests that perhaps a *personal* officer may be more suitable to write such intrinsic reports. It is our understanding the personal officers have not been rolled out in *all* prisons, although this has been recommended by the Northern Ireland Affairs Committee, CJI, and HMIP.

Sections 7.2 and 15.3 state that the sentence plan and the release plan will ‘be written in the first person, stating what the offender will do’. This implies that the offender himself will write these plans. This needs to be clarified.

Section 7.2 also states that the sentence plan will ‘have a specific victim focus’. This also needs clarification as it is not clear what this means. This same section has a typo which is repeated throughout the document: ‘See section 18 for OMU templates’ should read ‘See section 19 for OMU templates’.

We commend the use of multi-disciplinary meetings in relation to sentence planning for offenders who present ‘complex and difficult issues’ and the wide criteria used to identify such prisoners (section 7.4).

The bullet point in section 10.5 which states ‘the completed assessment (s) have been explained to the offender (and parents in the case of a child or young person) and that he/she has been helped to understand how the assessments were arrived at’ should explicitly state that the information will be explained in a manner which is accessible for those who have communication difficulties or difficulties with the English language.

Footnote 3 (p53) refers to the NIPS *Safeguarding Children Framework & Guidance* (December 2009) which does not appear to be readily available on the website.

Section 16.2 relates to Standard 18 and states that it 'is essential that the offender is made aware of the possible consequences of failure to comply with the written instruction'. It should also state that special consideration will be given to explain this to those offenders with communication or language difficulties, as noted in other sections above.

Finally, we take this opportunity to again commend NIPS for undertaking to update policies and hope that those staff members who are responsible for implementing operational policies are involved in the consultation process so as to have their input to and support for the subsequent changes.

We look forward to reading the response to the consultation.

Yours sincerely,

Jacqueline Monahan
Criminal Justice Programme Officer