

Submission 4 – VACRO

Desisting from crime

At VACRO, we don't talk about recidivism - we talk about desistance. Whereas recidivism refers to one single point in time on an individual's journey through the justice system, desistance refers to the whole of someone's journey away from criminalised behaviours and towards successful integration with their community. Our desistance-focused practice is grounded in the academic literature around desistance theory, which looks for patterns and themes in the lives of people who move away from crime.

Desistance theory tells us that there are four main domains of desistance-focused reintegration work:

- New self-labels and narratives
 - Participants being open to change, reacting to 'hooks for change' or turning points, being able to envision a new identity/label/narrative for themselves, having that new identity reflected back to them.
 - For example, someone who has been involved with criminalised behaviours from an early age and has only ever identified as an 'offender' or 'problem youth' secures an apprenticeship and is able to build a new image of themselves as an 'apprentice' or 'employee' or 'colleague' - and sees this image reflected back to them via acceptance at their workplace.
- Family and friend relationships
 - Maintaining and strengthening healthy relationships with family members and peers can provide someone to desist for and promote exposure to 'hooks for change', blueprints for pro-social behaviour, new self-labels (e.g. 'mother', 'brother', 'friend') and the sense of a future that is incompatible with criminal behaviour. These networks can also be protective in moments of potential relapse.
- Access to resources
 - Legitimate access to resources and opportunities is needed to overcome the extreme socioeconomic disadvantage that allows people minimal opportunity to desist, and into a position of agency and capacity to change. Resources may include housing, an income, transportation, medical treatment, etc.
- Community participation
 - Connection to community groups can provide a 'hook for change' and give structure and meaning to future plans in which crime is no longer desirable or relevant. Community involvement can provide the meaning making activities that assist with the development of new self-labels and narratives.
 - Important examples include employment, peer mentoring, contributing one's lived experience expertise, sporting clubs, parenting groups, arts groups, Aboriginal community groups.

Having these four things in place means a desistance journey is likely to be more 'successful'. Having said that, desistance rarely follows a linear path and progress will often

be interspersed with setbacks and relapses. Services and practitioners that are committed to desistance must recognise that and continue to provide support through these setbacks.

Adjourned undertakings and desistance

Receiving a sentence from a judge can and should be an important step on an individual's desistance journey. Non-custodial sentences like adjourned undertakings have great potential to act as a hook for change if they connect people who are early in their contact with the justice system with the domains we know will help them move away from crime. We believe that any sentencing reforms should be done with desistance theory in mind. Below are some notes relating to adjourned undertakings and desistance.

Language

- The consultation paper asks the question: "should these orders continue to be described as 'adjourned undertakings'?" It argues that this terminology is not well understood by the general public.
- We would tend to agree, and argue that all language used in the justice system should be easily comprehensible for a lay person.
- While we don't have specific suggestions for new terminology, we would encourage thinking about how theories about new self-labels and narratives could factor into this process. For example, the phrase 'good behaviour order' may promote a more positive narrative.

Combined orders

- The consultation paper asks whether a combined order of imprisonment and an adjourned undertaking should be specifically empowered by the Sentencing Act 1991.
- We believe it should. This would, in our view, be a better response to the increasing rate of time served prison sentences than imprisonment plus community correction order, because it would reduce contact with the punitive end of the justice system and, if paired with resources and access to services, improve the reintegration experience.

Offences

- We note from Figure 8 in the consultation paper that almost one quarter of adjourned undertakings in Victoria are for traffic and vehicle offences while, for example, just 1.5% are for possession of cannabis.
- Given the overwhelming evidence that the justice system has a disproportionate (and harmful) effect on marginalised groups, we would ask whether there are ways for the SAC to encourage use of non-custodial sentence options like adjourned undertakings as commonly for non-violent drug offences as for road safety offences.

Conditions

- The consultation paper asks a number of questions related to mandatory and optional conditions attached to adjourned undertakings.
- Answering these questions is beyond our expertise, but as expressed during our consultation meeting, we would encourage recommendations for conditions that take desistance theory into account. Can 'conditions' be designed to promote new self-labels and narrative, connection to family and friends, access to resources, or community participation?

Payments, donations, and funding

- The consultation paper asks whether monetary payments or donations are appropriate conditions for adjourned undertakings.
- Our perspective is that monetary conditions are regressive and discriminate against those who are financially disadvantaged. Removing resources also directly contradicts the principles of desistance theory. Furthermore, as is covered in the consultation paper, financial conditions are effectively fines.

Spent convictions

- The consultation paper asks whether findings of guilt should become spent at the date of sentencing for people receiving adjourned undertakings without conviction, as opposed to at the end of their adjourned undertaking.
- Our answer is an unequivocal yes. People who are eligible to have their convictions spent should have them spent as quickly as possible to enable them to move forward on their desistance journey and, in particular, to enable their access to resources via employment without discrimination.

Decriminalising breaches

- The consultation paper asks whether breaching adjourned undertakings should be decriminalised.
- Again, our answer is an unequivocal yes. We agree with the views of the many stakeholders canvassed in the consultation paper that criminalising breaches is unnecessary. We would add that further criminalisation as a response to a setback contravenes the principles of desistance.