

DIRECT DEMOCRACY & SORTITION ASSEMBLIES

A Civic Architecture for the British Isles

DDSA-CJA-001 | Edition 1.0

Civic Justice Architecture — Condensed

The complete framework for justice in the Civic Commonwealth — restoration, truth, and proportionality

DOCUMENT INFORMATION

Version: 1.0

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Document ID: DDSA-CJA-001

CLASSIFICATION

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— DD&SA Founding Principle

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Document Status and Classification

EXECUTIVE SYNTHESIS

The Civic Justice Architecture (DD&SA-CJA-001) is the complete framework governing what happens from the moment a charge is laid by the Civic Policing Service to the moment civic accountability is fully discharged. It replaces the entire legacy criminal justice apparatus — Crown Courts, Magistrates' Courts, the Parole Board, the Prison Service, the Probation Service, and the Youth Justice System — with a constitutionally coherent, evidence-based, and genuinely restorative architecture that holds those responsible for harm accountable in ways that reduce future harm rather than simply satisfying a retributive impulse.

This Framework addresses a body of evidence that is both overwhelming and largely ignored by legacy justice systems: retributive punishment, as a response to harmful conduct, is one of the least effective tools available for reducing that conduct. Imprisonment, in particular, is among the most reliable mechanisms for ensuring that individuals re-enter their communities more dangerous and more damaged than when they left. The NBI does not abolish accountability — it builds an accountability architecture that actually works, drawing on five decades of rigorous research across multiple jurisdictions, the demonstrated outcomes of restorative justice programmes from New Zealand to Scandinavia to South Africa, and the specific lessons of every major miscarriage of justice in the British Isles' recent history.

The architecture has six constituent parts. The Magister Proceedings System replaces courts — three-Magister panels for serious matters, single Magisters for routine determinations, all proceedings recorded in full on the NIN Civic Justice Record. The Restorative Pathway System replaces sentencing — an individually tailored, Magister-determined pathway for each person found responsible, drawn from a menu of evidence-based responses ranging from supervised community contribution to residential restorative intervention. The Harmed Party Architecture gives those who have suffered harm a genuine, supported role in proceedings and in pathway determination — not a token consultative role, but structural participation. The Young Persons Architecture recognises that developmental science has radically changed the understanding of adolescent responsibility and applies that science to every element of how the CJA engages with residents under eighteen. The Mental Care Interface ensures that individuals whose harmful conduct is connected to mental health need receive the treatment they require within an accountability architecture that remains proportionate. The Review and Miscarriage Architecture provides the most rigorous wrongful-determination correction mechanism in the NBI constitutional order — because a system that cannot correct its own errors is not a justice system.

PART I — CONSTITUTIONAL AND PHILOSOPHICAL FOUNDATION

Section 1: Constitutional Basis — What Justice Is For

1.1 The Three Purposes of Civic Justice

The CJA is founded on a clear articulation of what civic justice is for. Without this clarity, every subsequent architectural decision becomes arbitrary — a preference rather than a reasoned choice. The NBI constitutional architecture holds that civic justice serves three purposes, in the following order of priority:

- Purpose 1 — Repairing harm: addressing the harm caused to specific individuals and to the community by the conduct in question, to the maximum extent that repair is possible
- Purpose 2 — Preventing recurrence: understanding the causes of the conduct and addressing them, so that the individual does not cause the same or similar harm in the future
- Purpose 3 — Affirming civic standards: making clear to the community what conduct is unacceptable and that the community's Civic Rules are taken seriously

Retribution — the infliction of suffering on the person responsible for harm, as an end in itself — is not a purpose of civic justice. This is not a soft position. It is a position with extensive empirical support and a clear constitutional logic: a civic Commonwealth premised on non-punitive architecture cannot simultaneously maintain a justice system whose purpose is to hurt people. The three purposes above can all be achieved through mechanisms that do not require suffering as their instrument. Where suffering is a by-product of accountability — where a person is removed from their community and this is experienced as painful — that suffering is not the point. It is an unavoidable consequence of a protective measure, not a designed feature of the justice response.

1.2 The Evidence Base — Why Retribution Fails and Restoration Works

The case for restorative justice is not philosophical preference. It is an empirical case supported by decades of rigorous research across multiple jurisdictions, harm categories, and social contexts. The CJA is built on this evidence base, which must be understood to understand the architectural choices that follow.

The Prison Failure

Imprisonment, as practised in the legacy British justice system, has a re-offending rate of approximately 75% within nine years of release. For short sentences (under 12 months), re-offending within one year exceeds 60%. These figures have been stable for decades, across multiple policy regimes and successive reforms. They are not the product of bad prison management — they are the structural outcome of what imprisonment does to people: it removes them from community, employment, and family networks; it exposes them to more sophisticated criminal networks; it produces institutional dependence; and it marks them permanently with a stigma that severely limits their legitimate social and economic opportunities. The research literature on this is not contested in substance, only in policy response.

The comparative international evidence makes the point with particular force. Norway's Bastøy Prison Island — a facility operating on principles of normalisation, community, dignity, and purposeful work — has a two-year reoffending rate of approximately 16%, compared to a Norwegian average of 20% and a UK average of 50%. The difference is not explained by the types of people held (Bastøy holds serious offenders including murderers) but by the type of environment in which they are held. Finland reduced its prison population by 70% between 1950 and 2000 through a systematic shift from imprisonment to community-based responses, with no resulting increase in serious harm. Iceland, with the lowest imprisonment rate in Europe, has some of the continent's lowest rates of serious violent harm.

The Restorative Justice Evidence

Restorative justice — approaches that bring together those responsible for harm, those harmed, and the community to address the harm and determine an appropriate response — has been evaluated in over 500 independent studies across multiple jurisdictions and harm categories. The consistent findings are: higher levels of satisfaction among harmed parties than in conventional proceedings (approximately 85% versus 40% in controlled comparisons); higher compliance with agreed outcomes by those responsible (typically above 90%); lower rates of subsequent harmful conduct compared to equivalent conventional justice responses (reductions typically in the range of 25–30%); and significantly lower cost to the civic infrastructure. These findings hold across harm categories from minor property harm to serious violence, with the caveat that voluntary participation is a necessary condition for effectiveness.

The Miscarriage Evidence

The legacy criminal justice system's most catastrophic failures are its wrongful convictions. The Birmingham Six, the Guildford Four, Stefan Kiszko, Barry George, Sam Hallam, Victor Nealon — individuals imprisoned for years or decades for harms they did not cause. The Innocence Project (US) has exonerated over 375 wrongfully convicted individuals through DNA evidence alone, with an average of 14 years served before exoneration. False confessions contribute to approximately 30% of wrongful convictions; eyewitness misidentification to approximately 70%. Forensic science failures — highlighted in the NBI CPF-001 — contribute significantly. The CJA builds its review and correction architecture specifically around these documented pathways to wrongful determination.

1.3 International Models — What the CJA Adopts and What It Rejects

New Zealand — Restorative Justice and Family Group Conferencing

New Zealand's 1989 Children, Young Persons and Their Families Act introduced Family Group Conferencing — bringing together the young person responsible for harm, their family, the harmed party, and community representatives to produce a collectively agreed response.

The model has been extensively evaluated and shows strong outcomes on recurrence prevention and harmed-party satisfaction. The CJA adopts and extends this model to all age groups, with appropriate structural modifications. What it rejects: the New Zealand system still defaults to court-centred proceedings for adults in most harm categories — the CJA makes the restorative process the primary pathway, with court-equivalent proceedings reserved for determinations of responsibility, not for pathway design.

Germany — Täter-Opfer-Ausgleich (Victim-Offender Mediation)

The German TOA programme has operated since the 1980s, providing structured victim-offender mediation in over 25,000 cases annually. Independent evaluation shows high rates of agreement, high compliance, and high satisfaction among both parties. The model is specifically voluntary — neither party is compelled to participate — and the mediators are independent of both the justice system and the parties. The CJA adopts this model as the foundation of its Restorative Dialogue Pathway while extending the voluntary participation principle and strengthening the institutional independence of the pathway facilitators.

Scandinavia — Community-Based Responses and Normalisation

The Scandinavian model's most transferable insight is the normalisation principle: those held accountable for harm should, to the maximum extent possible, live in conditions that are as close as possible to normal community life, maintaining employment, education, family contact, and social networks. Isolation, institutional dependence, and the removal of normal life are not effective accountability tools — they are harm-producing mechanisms. The CJA's Residential Restorative Facility architecture (which replaces prison) is built on the normalisation principle. What the CJA rejects from the Scandinavian model: its continued, if limited, use of deprivation of liberty as the primary mechanism for serious harm — the CJA is more ambitious in its use of community-based pathways for serious harm categories.

South Africa — Truth and Reconciliation

The South African Truth and Reconciliation Commission demonstrated that large-scale accountability processes can operate on restorative principles — prioritising truth, acknowledgement, and societal healing over individual punishment. The CJA does not replicate the TRC model (which was designed for a specific transitional context) but draws on its core insight: that acknowledgement of harm, by those responsible, in a process that gives genuine voice to those harmed, is itself a form of accountability that retributive punishment cannot replicate. The Restorative Dialogue Pathway in the CJA is structurally informed by this insight.

Scotland — Children's Hearings System

Scotland's Children's Hearings System, operating since 1971, is the most durable example in the British Isles of a welfare-oriented, community-based response to harmful conduct by young people. Its outcomes on recurrence prevention substantially exceed those of the English and Welsh youth court system. The CJA extends and constitutionalises the Children's Hearing model into the Young Persons Architecture (Part VI), while addressing its documented weaknesses: inconsistency in panel quality, inadequate resource provision for agreed measures, and insufficient attention to the harmed party's experience.

Section 2: The Civic Justice Infrastructure

2.1 Replacing the Court System — The Magister Proceedings Chamber

The adversarial court system of the legacy British Isles — in which prosecution and defence advocates argue before a judge or jury, with truth emerging from the contest rather than from any systematic investigation — is replaced in the NBI by the Magister Proceedings Chamber (MPC). The MPC is inquisitorial in orientation: the presiding Magister or Magister panel takes an active role in establishing the facts, questioning witnesses, and directing the proceedings, rather than passively adjudicating between competing advocacy performances.

The shift from adversarial to inquisitorial is one of the most significant architectural changes in this Framework and requires explicit justification. The adversarial model was designed for a specific social and historical context — common law development in a class-stratified society — and it produces specific structural outcomes: those with access to the best advocates consistently outperform those without, regardless of the underlying facts; proceedings are shaped by procedural skill and performance rather than truth-seeking; and the contest dynamic incentivises the suppression of unfavourable evidence rather than its surfacing. The inquisitorial model, used across continental Europe, produces more consistent outcomes across resource levels, surfaces evidence more reliably,

and is associated in the empirical literature with lower rates of wrongful determination.

The CJA adopts the inquisitorial model while retaining the adversarial model's most important feature: the Civic Advocate for the person whose responsibility is being determined has a full and active role in proceedings, can challenge every piece of evidence, and can call and cross-examine witnesses. The Magister is inquisitorial in orientation — actively seeking truth — but is not the prosecution. The CPS Civic Advocate presents the case for responsibility. The distinction is: the Magister seeks truth; the advocates serve their respective parties; and these functions do not collapse into each other.

2.2 The NIN Civic Justice Record (NIN-CJR)

All CJA proceedings — every word spoken in a Magister Proceedings Chamber, every document submitted, every determination made, every pathway imposed and reviewed — are recorded on the NIN Civic Justice Record (NIN-CJR). The NIN-CJR is a public record, subject to individual privacy protections. It operates on the same write-once architecture as the NIN-PR and NIN-SIN: proceedings are recorded as they happen and cannot be amended, deleted, or altered.

The public nature of the NIN-CJR is a deliberate architectural choice with a specific purpose: justice administered in secret is not justice — it is power exercised without scrutiny. Any NBI resident can read the record of any proceeding (subject to anonymisation of victims, children, and vulnerable individuals). This transparency is the civic equivalent of open justice: proceedings whose reasoning can be read and challenged by any resident are proceedings that must be genuinely well-reasoned. The CPOC and the CJA Oversight Panel have real-time access to the NIN-CJR for their respective oversight functions.

2.3 The Civic Advocate Architecture

The CJA employs two classes of Civic Advocate in proceedings: the CPS Civic Advocate (presenting the case for responsibility) and the Defence Civic Advocate (representing the interests of the person whose responsibility is being determined). Both classes are trained under the same Civic Advocate formation programme and are drawn from the same Civic Advocate pool. There is no "Bar" equivalent and no cab-rank rule equivalent — Civic Advocates are assigned through the NBI Civic Advocate Allocation System on the basis of availability, experience, and any specific needs of the person they will represent.

Defence Civic Advocacy is a funded civic service. No person facing a determination of responsibility is unrepresented because they cannot afford representation. The NBI does not operate a means-tested legal aid equivalent — Civic Advocacy is a universal civic service. The quality of representation is not a function of personal wealth. This is not merely a fairness provision — it is an accuracy provision: unrepresented defendants have consistently higher rates of wrongful determination in every jurisdiction studied, because the Magister cannot simultaneously adjudicate impartially and compensate for the absence of one party's advocacy.

2.4 Key Procedural Bodies and Roles

PART II — THE PROCEEDINGS ARCHITECTURE

Section 3: From Charge to Determination — The Complete Proceedings Pathway

3.1 The Charge and Its Obligations

Charge is the formal initiation of proceedings. It marks the point at which the CPS asserts that specific conduct by a specific identified person constitutes a Notifiable Harm under the NBI Civic Rules, and that the evidence gathered through the CPF-001 process is sufficient to justify a Magister determination of responsibility. Charge is not a finding of responsibility — it is the beginning of the process through which responsibility may be determined.

At charge, the CPS must simultaneously: serve the charge document on the person charged (the Respondent), on their assigned Defence Civic Advocate, and on the Harmed Party Civic Advocate; file the complete prosecution disclosure bundle on the NIN-CJR; confirm in writing that all disclosable material has been disclosed (the Disclosure Certificate); and notify the presiding Magister of the harm category and the anticipated classification status of any evidence.

The Respondent is not required to enter any plea at charge. The NBI does not operate a plea system in the legacy sense — there is no mechanism by which a Respondent can trade acknowledgement of responsibility for a reduced pathway response. Pathway responses are determined by the Restorative Pathway Hub on the basis of the full individual assessment (Section 5), not by the outcome of a negotiation between advocates. Guilty plea discounting — one of the most ethically incoherent features of the legacy system, which effectively penalises those who exercise their right to have their case heard — is abolished.

3.2 Pre-Hearing Disclosure and Case Management

Following charge, a pre-hearing Case Management Session is held before the presiding Magister within 14 days. The Case Management Session is not a substantive hearing — it is a procedural hearing at which the Magister identifies: the scope of the contested issues; the evidence that is agreed and the evidence that is disputed; any classified evidence implications requiring CEM involvement; any special procedural requirements (young persons, mental health fitness, vulnerable witnesses); the anticipated hearing schedule; and any referrals to specialist assessments needed before the hearing.

The Defence Civic Advocate may, at the Case Management Session, indicate that the Respondent accepts responsibility for the harm alleged. Where responsibility is accepted, there is no substantive hearing — the proceedings move directly to the Pathway Determination Stage (Section 5). Where responsibility is contested, a substantive hearing is scheduled. The Case Management Session itself is recorded on the NIN-CJR.

3.3 The Substantive Hearing — Architecture and Process

Composition of the Magister Panel

The presiding Magister or Magister panel for the substantive hearing is determined by the harm category. Harm Category 3 (minor, non-violent) and Category 4 (minor with aggravating features) proceed before a single Magister. Harm Category 1 (serious, involving significant physical harm or death), Category 2 (serious, not involving physical harm — serious financial harm, serious civic integrity harm), and all matters with a potential residential restorative facility component proceed before a three-Magister panel. All classified evidence proceedings proceed before a CEM-led panel of three.

Magisters for substantive hearings are allocated from the Magister pool through a system that is transparent and auditable — not by administrative assignment that could be manipulated to place particular cases before particular Magisters. The allocation algorithm and its outputs are published on the NIN-CJR.

The Inquisitorial Hearing Procedure

The substantive hearing follows this structure, which is mandatory and may be modified only by specific Magister order recorded on the NIN-CJR with reasons:

- Opening — the presiding Magister summarises the charge, the issues, and the procedural framework. This is not an adversarial opening — there are no "opening statements" from advocates designed to prime the Magister before evidence is heard.
- CPS evidence presentation — the CPS Civic Advocate presents the prosecution evidence in logical order, with each witness or document examined first by the advocate, then by the Magister panel, then by the Defence Civic Advocate, then by the Harmed Party Civic Advocate. The order of examination is designed to ensure that the Magister's questioning — truth-oriented — occurs before adversarial cross-examination.
- Defence evidence — the Defence Civic Advocate presents defence evidence under the same examination sequence. The Respondent is not required to give evidence and may not have adverse inferences drawn from a decision not to do so.
- Magister panel questions — following all evidence, the Magister panel may question any witness or either Civic Advocate on any aspect of the evidence not yet clarified. This is the inquisitorial core: the Magisters are not passive adjudicators but active truth-seekers.
- Closing — the CPS Civic Advocate and Defence Civic Advocate make closing submissions on the evidence. These are directed at the Magister panel, not at each other.
- Deliberation and determination — the Magister panel deliberates in private and issues a written determination with full reasoning within 21 days of the close of evidence.

Standard of Determination

The standard for a determination of responsibility is "sure" — the Magister panel must be sure that the Respondent bears responsibility for the harm alleged. This is the NBI's equivalent of "beyond reasonable doubt" in its proper formulation.

The "sure" standard is absolute — there is no lesser standard for any harm category, however minor. A determination made on a lesser standard is wrongful and subject to mandatory review.

In applying this standard, the Magister panel must specifically address: the reliability of each piece of evidence relied upon; any alternative interpretation of the evidence that is consistent with the Respondent not bearing responsibility; and the specific reason why each alternative interpretation has been excluded to the level of sureness. A determination that does not address these elements in its written reasoning is procedurally defective.

Adverse Inference — The Absolute Bar

No adverse inference may be drawn from the Respondent's silence at any stage — during CPS investigation, during CPS interview, or during proceedings. The legacy provisions of sections 34–38 of the Criminal Justice and Public Order Act 1994, which allowed adverse inferences from silence, are abolished. The right to silence is an absolute protection in the NBI. A Respondent who says nothing at every stage of the process has exercised a constitutional right, and their silence is invisible in the determination. This is not a technical safeguard — it is a structural protection against the pressured production of potentially false statements under the threat of adverse inference.

3.4 Harm Categories

The NBI Civic Rules establish four Harm Categories that determine procedural requirements, panel composition, and the range of available pathway responses. The categories are defined by the nature and gravity of the harm caused, not by the moral character of the Respondent.

The Harm Category is determined by the CPS at charge and is subject to Magister review at the Case Management Session. Where the Magister determines that the charge mischaracterises the harm — either by over-stating or under-stating its category — the Magister may reclassify. The Respondent and the CPS Civic Advocate may both make representations on category at the Case Management Session.

3.5 The Written Determination

Every determination — whether of responsibility or no responsibility — is produced in writing, with full reasoning, within 21 days of the close of evidence or acceptance of responsibility. The written determination is the most important output of the proceedings: it is the public record of why the outcome was reached, and it is the document against which any Review challenge is measured.

The written determination must address each of the following and clearly state the Magister's reasoning on each:

- The specific conduct alleged and whether the Magister panel finds it occurred to the standard of sureness
- The specific causal connection between the conduct and the harm, and whether that connection is established to the standard of sureness
- The state of mind of the Respondent at the time of the conduct, and its relevance to the determination
- All defences raised by the Defence Civic Advocate and the reason each has been accepted or rejected
- All evidence relied upon, with an assessment of its reliability
- All evidence that potentially assists the Respondent and the reason it does not, in the Magister's assessment, raise a reasonable doubt

- Where responsibility is found: a referral to the Restorative Pathway Hub for pathway determination, with a summary of the relevant circumstances the Magister considers material
- Where no responsibility is found: a clear statement of permanent discharge and the removal of all charges from the active register

The written determination is published on the NIN-CJR. Where the Respondent is found not responsible, their name is removed from any published record and all associated NIN-CJR entries are anonymised within 30 days. The record itself is not deleted — it is retained for systemic oversight purposes — but it cannot be attributed to the individual.

Section 4: Evidence Architecture in Proceedings

4.1 Evidence Principles

Evidence in NBI proceedings is assessed by the Magister panel on two dimensions: relevance (does it tend to prove or disprove a matter in issue?) and reliability (can it be trusted as an accurate representation of what it purports to show?). Both dimensions must be satisfied. Relevant but unreliable evidence — a confession obtained under oppression, an eyewitness identification made under suggestive conditions — is excluded. Reliable but irrelevant evidence — evidence of the Respondent's character that does not bear on the specific conduct alleged — is also excluded.

4.2 Character Evidence — Restrictions

Evidence of the Respondent's general character, past conduct, or prior determinations of responsibility is inadmissible in substantive proceedings unless it meets specific admissibility criteria. The criteria are:

- The prior conduct is so similar in its specific features to the conduct alleged as to make coincidence an unreasonable explanation — "similar fact" evidence
- The Respondent has specifically put their character in issue as part of their defence
- The prior conduct directly demonstrates a specific relevant state of mind (for example, prior knowledge of a fact that they claim not to have known)

General bad character evidence — evidence that the Respondent is the sort of person who would commit this type of harm — is absolutely inadmissible. The legacy provisions that allowed bad character evidence in broad categories (sections 98–113 of the Criminal Justice Act 2003) produced documented wrongful determinations in which previous convictions were used to supplement otherwise insufficient evidence. The NBI does not permit this. Each case is determined on its own evidence.

4.3 Confession Evidence

A statement by the Respondent acknowledging responsibility for the conduct alleged is admissible only where:

- It was made freely and voluntarily, without inducement, threat, or oppression
- The Respondent had access to a Civic Advocate at the time of the statement (or had made an informed, recorded decision not to have one present)
- The statement was made in recorded conditions — audio and video — with the recording available for the proceedings

- The Magister panel is satisfied that the statement is not the product of false memory, suggestibility, or cognitive vulnerability exploited in the interview process

The Magister panel is required to consider, in every case where a confession is relied upon, the research literature on false confessions and the specific risk factors present in the case: length of detention; vulnerability of the Respondent; interview technique used; and consistency of the confession with independently established facts. A confession that is inconsistent with physical evidence is not reliable on its own. The Cognitive Interview technique mandated in the CPF-001 is specifically designed to produce accurate accounts rather than confessions — but the Magister panel's reliability assessment is independent of the interview protocol used.

4.4 Eyewitness Evidence

Eyewitness identification evidence is among the least reliable forms of evidence in the research literature and is the single largest contributor to wrongful determinations globally. The NBI's eyewitness evidence architecture is built on the specific recommendations of the research literature, particularly the National Academy of Sciences (US) 2014 report on eyewitness identification:

- All identification procedures (visual line-ups, voice parades) are conducted by an administrator who does not know which is the suspect — double-blind administration
- Witnesses are told explicitly before any identification procedure that the person responsible may not be present
- Confidence statements are taken immediately after the identification, before any feedback to the witness; confidence expressed after feedback is inadmissible
- All identification procedures are video-recorded in full
- No identification evidence is admissible from a procedure that did not follow these protocols — there is no discretionary inclusion of non-compliant identifications
- Where identification evidence is the sole or primary evidence of responsibility, the Magister panel is required to apply heightened scrutiny and issue specific written findings on the reliability of the identification

4.5 Expert Evidence

Expert evidence — forensic science, medical evidence, psychological assessment, financial analysis — is admitted only from experts whose qualifications, methods, and independence meet the standards published by the Civic Forensic Service and the CJA Expert Evidence Register. The Register lists approved experts in each relevant field, together with their published methodology and the assessed reliability range of their techniques. An expert not on the Register may apply for case-specific admission, but the burden is on the admitting party to demonstrate that the expert's methods are sufficiently reliable.

The Magister panel receives expert evidence not as absolute fact but as opinion within a stated confidence range. "The forensic evidence proves X" is not an admissible formulation — "the forensic evidence is consistent with X and inconsistent with Y, to a confidence level of approximately Z" is the required formulation. Probabilistic evidence must be presented with the probability explicitly stated and with an accessible explanation of what the probability means in plain language. The legacy phenomenon of "prosecutor's fallacy" — confusing the probability of the evidence given innocence with the probability of innocence given the evidence — is addressed through mandatory expert evidence training for all Magisters.

PART III — THE RESTORATIVE PATHWAY SYSTEM

Section 5: Pathway Determination — From Responsibility to Response

5.1 The Restorative Pathway Hub

The Restorative Pathway Hub (RPH) is the body responsible for determining the pathway response following a Magister determination of responsibility. The RPH is not a sentencing body in the legacy sense — it does not select from a tariff of punishments calibrated to offence gravity. It conducts an individual assessment of the person found responsible, the harm caused, the harmed party's needs, and the community context, and designs a pathway response that addresses all three elements of the justice purpose: repairing harm, preventing recurrence, and affirming civic standards.

The RPH operates independently of the CPS and of the Magister who determined responsibility. Its assessments are evidence-based — drawing on psychology, criminology, social work, community consultation, and the expressed needs of the harmed party — and are individually tailored. There are no mandatory minimum pathway responses and no maximum pathway responses prescribed in this Framework. Duration and intensity of pathway response are determined by what is individually necessary, not by what a tariff prescribes. This is not a soft position: a pathway response that is not adequate to address the causes of harmful conduct is not a successful response, regardless of whether it meets a tariff threshold.

5.2 The Individual Assessment Process

Following a determination of responsibility, the RPH conducts a structured individual assessment within 28 days. The assessment covers:

- Personal history — developmental background, educational history, employment history, family and community context, prior experience of trauma or harm
- Circumstances of the harm — the specific context of the harmful conduct, the role of situational factors, the presence or absence of planning and deliberation
- Acknowledgement and understanding — the extent to which the person found responsible understands and acknowledges the harm caused, without compulsion
- Recurrence risk assessment — based on validated, independently audited risk assessment tools; a structured professional judgment of the factors associated with future harmful conduct
- Harmed party assessment — the needs and wishes of those harmed, gathered independently by the Harmed Party Civic Advocate and provided to the RPH
- Community assessment — the views and needs of the community most affected, gathered through a structured community consultation process
- Pathway suitability assessment — an assessment of which pathways are viable, proportionate, and likely to achieve the three justice purposes for this specific person in this specific context

The assessment is conducted by a multi-disciplinary RPH Assessment Team: a restorative justice practitioner, a psychologist or social worker, a community liaison officer, and a Harmed Party Civic Advocate representative. The assessment team produces a written Pathway Assessment Report (PAR) that is shared with the Respondent and their Defence Civic Advocate before the Pathway Determination Hearing.

5.3 The Pathway Determination Hearing

The Pathway Determination Hearing is a separate, distinct proceeding from the substantive hearing. It is presided over by the same Magister or panel that determined responsibility. The hearing considers the PAR, submissions from the Defence Civic Advocate, submissions from the Harmed Party Civic Advocate, and submissions from the RPH Assessment Team. The Respondent is encouraged to participate actively — to speak about their circumstances, their understanding of the harm caused, and their engagement with the pathway options — but is not compelled to do so. A Respondent who says nothing at the Pathway Determination Hearing receives the same quality of individual assessment as one who participates fully: the PAR is based on the full assessment, not solely on what the Respondent chooses to say.

The Magister issues a Pathway Order within 14 days of the Pathway Determination Hearing. The Pathway Order specifies: the pathway or combination of pathways selected; the duration and intensity of each pathway component; the review schedule; the criteria by which progress will be assessed; and the conditions under which the pathway may be modified or, in exceptional cases, escalated. The Pathway Order is published on the NIN-CJR.

Section 6: The Restorative Pathways — Full Specification

6.1 The Pathway Menu

The RPH draws on seven defined pathways, which may be combined, sequenced, or delivered concurrently depending on the individual assessment. No single pathway is presumed appropriate for any harm category — the assessment determines the combination. The seven pathways, from least to most intensive, are:

6.2 Pathway 1 — Restorative Dialogue Pathway

The Restorative Dialogue Pathway (RDP) brings together the person found responsible and the harmed party — with their respective Civic Advocates and a trained independent Restorative Pathway Facilitator — in a structured dialogue designed to: allow the harmed party to express the impact of the harm directly to the person responsible; allow the person responsible to understand the harm at a human level that the proceedings process cannot provide; and jointly develop a restitution and repair agreement that is meaningful to both parties.

The RDP is entirely voluntary for the harmed party. No harmed party is required, pressured, or expected to participate. A harmed party who does not wish to participate in the RDP has their interests fully represented through the Harmed Party Civic Advocate in all other elements of the process. The RDP is conditional on the person found responsible accepting responsibility for the harm — it is not available where responsibility is denied. It is not a mechanism for negotiating a lesser pathway response — participation in the RDP is a pathway component, not a transaction.

The RDP is based on the Howard Zehr restorative justice framework and the New Zealand Family Group Conferencing model, adapted for the NBI context. Independent evaluation of equivalent programmes across multiple jurisdictions consistently shows: 85%+ harmed party satisfaction; 90%+ agreement compliance by persons responsible; and 25–30% reductions in subsequent harmful conduct compared to conventional proceedings alone. The RDP is the most effective pathway for repairing interpersonal harm available to the CJA.

6.3 Pathway 2 — Material Restitution Pathway

The Material Restitution Pathway (MRP) requires the person found responsible to make financial or material restitution to the harmed party, to a level determined by the RPH assessment and confirmed by Magister order. Restitution is calculated by reference to the actual loss suffered by the harmed party, not by reference to any punitive multiplier. Restitution for financial harm matches the financial loss. Restitution for physical harm covers treatment costs, loss of earnings, and a contribution to the cost of ongoing support.

Where the person found responsible does not have the financial resources to make full restitution immediately, a structured payment schedule is ordered. Where immediate restitution would cause disproportionate hardship (for example, where it would make the person responsible homeless, making recurrence more likely), the RPH adjusts the schedule accordingly. The restitution obligation does not disappear — it is phased. Where full restitution is genuinely impossible, partial restitution combined with community contribution (Pathway 5) is used. The NBI Civic Restitution Fund provides immediate restitution payments to harmed parties from public resources, with recovery from the person responsible over the scheduled period — harmed parties are not made to wait for the person responsible's ability to pay.

6.4 Pathway 3 — Supported Community Accountability Pathway

The Supported Community Accountability Pathway (SCAP) places the person found responsible within a structured community accountability framework — regular contact with a Restorative Pathway Facilitator, active participation in community contribution activities, and engagement with any specific interventions identified in the PAR (substance dependency support, cognitive behavioural programmes, vocational development). The SCAP is the NBI's primary alternative to any form of custodial response for moderate and many serious harms.

The SCAP is based on the empirical evidence that community-based supervision substantially outperforms custodial responses on recurrence prevention for the vast majority of harm categories. It operates on the normalisation principle: the person found responsible remains embedded in their community, maintains employment, family contact, and civic participation, while being subject to structured accountability and support. The community itself is engaged — not through punitive monitoring but through the sortition-selected Community Accountability Panel that oversees the SCAP in each Community Assembly area.

The duration of a SCAP order is individually determined and reviewed at regular intervals. There is no minimum or maximum — the order continues until the RPH Assessment Team and the presiding Magister are satisfied that the three justice purposes have been achieved. Progress is assessed against specific, measurable criteria established in the Pathway Order. Compliance with the SCAP is supported rather than enforced — where a person struggles to comply, the first response is a review of whether the pathway is correctly calibrated, not escalation to a more intensive response.

6.5 Pathway 4 — Specialist Intervention Pathway

The Specialist Intervention Pathway (SIP) provides intensive, evidence-based intervention targeting the specific factors identified in the PAR as contributing to the harmful conduct. This includes: cognitive behavioural therapy for cognitive distortions associated with violence or exploitation; Multisystemic Therapy for young persons; sex offender treatment programmes (those with demonstrated efficacy in independent evaluation, not programmes whose outcomes are based solely on internal assessment); substance dependency treatment; and trauma-informed support for individuals whose harmful conduct is significantly connected to their own prior experience of harm.

The SIP is not a punishment pathway — it is a treatment pathway. The interventions it provides are those that the research literature identifies as having the strongest evidence base for reducing specific recurrence risks. Programmes without a robust independent evidence base for effectiveness are not available on the SIP regardless of their institutional popularity. The RPH Assessment Team reviews the evidence base for all SIP components annually and removes or replaces those that do not meet the evidence threshold.

6.6 Pathway 5 — Civic Contribution Pathway

The Civic Contribution Pathway (CCP) requires the person found responsible to make a defined, structured contribution to the NBI civic community over a specified period. This is the NBI's replacement for community service orders, substantially redefined: it is not unpaid labour imposed as a sanction, but a structured contribution to civic life that: makes a genuine contribution to the community that has been affected by the harm; creates a positive relationship between the person responsible and the community in which they live; develops skills and civic identity; and provides visible acknowledgement that the person responsible is taking active steps to address the harm they have caused.

CCP placements are identified through consultation between the RPH and Community Assembly bodies. They are matched to the person's skills and interests where possible — a placement that builds on existing strengths is more effective at recurrence prevention than one that is simply arduous. The hours and duration are individually determined. The Community Accountability Panel provides oversight and support.

6.7 Pathway 6 — Residential Restorative Facility Pathway

The Residential Restorative Facility (RRF) pathway is the most intensive element of the CJA architecture. It is the NBI's replacement for imprisonment — and it is deliberately, substantially different from imprisonment in every feature that makes imprisonment damaging. An RRF is a residential environment in which a person found responsible for serious harm lives for a defined period, under conditions designed to address the factors contributing to their harmful conduct while preserving their human dignity, their capacity for productive civic life, and their connections to the community to which they will return.

What an RRF Is

- A residential community of a maximum of 50 residents, designed to be small enough to maintain genuine community relationships
- Operating on the normalisation principle: conditions of life inside the RRF are as close as possible to normal civic life, including purposeful employment, education, family contact, and community participation

- Staffed by restorative practitioners, psychologists, educators, and support workers — not guards. The staff role is facilitative and therapeutic, not custodial and coercive
- Providing a full range of the specialist interventions available on Pathway 4, delivered in the residential context
- Permitting regular family contact, including overnight stays where assessed as beneficial to reintegration
- Providing active preparation for community reintegration from the first day of residence — not a transition programme added at the end of a long period of isolation
- Subject to independent inspection by the CJA Oversight Panel quarterly; all inspection reports published on the NIN public portal

What an RRF Is Not

- A punishment facility — residents are not subjected to conditions designed to cause suffering or deprivation as a sanction for their harmful conduct
- An isolation facility — residents maintain contact with family, community, and civic life to the maximum extent consistent with the protection assessment
- A warehouse — residents are engaged in purposeful activity throughout their residence; idleness and institutional dependence are the enemies of successful reintegration and are not permitted to develop
- Indefinite — every RRF order has a specified review schedule and criteria for reintegration; no person remains in an RRF beyond the point at which those criteria are met

The RRF model is built on the Norwegian Halden and Bastøy facility models, the Danish open prison architecture, and the evidence from the NBI-specific RRF pilots conducted during the Transition period. The empirical evidence is consistent: RRF-equivalent facilities produce substantially lower rates of subsequent harmful conduct than conventional prisons, at comparable or lower cost per resident, with significantly better outcomes for the families and communities affected.

The RRF pathway is available for Category 1 and 2 harms only. The Magister panel must make specific, written findings that: community-based pathways have been considered and are insufficient to meet the protection assessment; the proposed RRF placement is the minimum necessary to achieve the justice purposes; and the duration proposed is individually justified, not tariff-derived. RRF orders are reviewed by the RPH at six-month intervals; early reintegration is not a sign of system failure — it is the intended outcome.

6.8 Pathway 7 — Long-Term Civic Safety Pathway

The Long-Term Civic Safety Pathway (LTCSP) applies in the exceptional circumstances where the RPH Assessment concludes that a person found responsible for serious Category 1 harm presents a sustained, evidence-based assessed risk of causing further serious harm, and where all other pathway options have been assessed as insufficient to manage that risk adequately.

The LTCSP is explicitly not a punishment pathway — it is a protective pathway. Its existence is justified solely by the protection of potential future harmed parties, not by the gravity of past conduct.

The LTCSP involves: extended residence in an RRF for a period determined by assessed risk rather than harm category; regular independent risk assessment reviews at six-month intervals; immediate reduction in intensity when the risk assessment changes; and a presumption of reintegration at every review. No LTCSP order is indefinite — each has a maximum specified period at which mandatory

reintegration occurs regardless of risk assessment, because the NBI does not permit indefinite preventive detention. The maximum LTCSP period is 15 years, at which point reintegration must occur with a supported community pathway.

The LTCSP is available only where: the initial harm was Category 1; the PAR provides specific, evidence-based grounds for the risk assessment; the three-Magister panel makes specific written findings; and the CJA Oversight Panel has reviewed and confirmed the appropriateness of the LTCSP classification. LTCSP orders are reviewed by the CJA Oversight Panel every 12 months, independent of the RPH review. Any reduction in assessed risk must be reflected in pathway modification within 90 days.

PART IV — THE HARMED PARTY ARCHITECTURE

Section 7: Rights and Participation of Harmed Parties

7.1 The Structural Status of Harmed Parties

The harmed party's position in the legacy criminal justice system has been one of the most comprehensively criticised features of that system: formally a witness for the prosecution rather than a party to proceedings; frequently uninformed about progress and outcomes; rarely consulted about what they needed; and often retraumatised by cross-examination designed to challenge their credibility. The Victim Code in England and Wales, introduced in various iterations from 2004, attempted to address these failures — and failed to do so structurally, because the adversarial system in which it operated did not accommodate genuine harmed party participation.

The NBI architecture gives harmed parties structural status in proceedings: a dedicated Harmed Party Civic Advocate representing their interests independently of both the CPS and the Defence; a right to be heard at every stage where their interests are material; a right to information about progress and outcomes; and a right to participate in the Restorative Pathway process on their own terms. This is not the harmed party's justice system — it is the civic community's justice system, in which the harmed party's interests are one of three purposes. But it is a system in which the harmed party is a participant, not a witness.

7.2 Harmed Party Rights — Enumerated

Right 1 — Civic Advocate Representation

Every harmed party is entitled, from the moment of initial CPS contact to representation by a Harmed Party Civic Advocate (HPCA). The HPCA is specifically trained in restorative justice practice and trauma-informed engagement. They are not the same person as the CPS Civic Advocate — the HPCA represents the harmed party's interests, which may include interests in outcomes that the CPS's prosecution approach does not serve. A harmed party who does not wish to pursue proceedings, for example, has that wish represented and considered through the HPCA.

Right 2 — Information

Harmed parties receive clear, regular information about the progress of proceedings at every stage: when a charge is laid; when hearings are scheduled; when a determination is made; and when a pathway order is issued and reviewed. Information is provided in plain language, in the harmed party's preferred language and format. It is not dependent on the harmed party requesting it — it is proactively provided by the HPCA.

Right 3 — The Harmed Party Statement

Harmed parties may submit a Harmed Party Statement to the Magister panel for consideration at the Pathway Determination Hearing. The Statement describes the impact of the harm on the harmed party, their needs arising from that harm, and their views on what pathway response would be meaningful for them. The Magister panel considers the Statement — it does not determine the outcome, because pathway determination is based on all three justice purposes, not solely on harmed party wishes — but it is a material consideration in the pathway determination and must be specifically addressed in the Pathway Order.

Right 4 — Voluntary Dialogue

Harmed parties may choose to participate in the Restorative Dialogue Pathway (Pathway 1) at any time, including after the Pathway Order has been issued. Participation is always voluntary, never pressured, and never conditioned on any other outcome. Harmed parties who initially decline RDP participation may choose to participate later — the RDP mechanism remains available throughout the pathway period. Harmed parties who participate in the RDP have the option, if they choose, to have their views on the outcome reflected in a review application to the RPH.

Right 5 — Anonymity and Protection

Harmed parties are anonymised in all NIN-CJR public records unless they specifically consent to identification. In proceedings involving sexual harm, domestic harm, or harm to children, anonymity is automatic and cannot be waived without specific Magister order following an assessment of the harmed party's wishes. Harmed parties who fear contact or retaliation from the person found responsible may apply to the Magister for a Contact Restriction Order — which prohibits contact during and after the pathway period — subject to review at the Respondent's request after a minimum period.

Right 6 — Support Services

Harmed parties are entitled to access the full range of NBI civic support services — mental health support, financial assistance, housing support, community connection — from the moment of initial CPS contact, regardless of whether proceedings are initiated or result in a determination of responsibility. Support services are not contingent on the outcome of proceedings. A harmed party who does not wish to support a prosecution, or whose case does not result in a determination of responsibility, still has access to the same support as one whose case is fully prosecuted and results in responsibility. This decoupling of support from prosecution outcome is essential — the requirement to pursue prosecution as a condition of accessing support has historically caused significant additional harm to harmed parties.

PART V — YOUNG PERSONS ARCHITECTURE

Section 8: The Young Persons Justice Framework

8.1 The Developmental Science Basis

The last two decades of developmental neuroscience have fundamentally changed the understanding of adolescent responsibility. The adolescent brain — specifically the prefrontal cortex responsible for impulse control, forward planning, and assessment of consequences — is not fully developed until the mid-twenties. This is not metaphor or excuse; it is structural biology, confirmed by neuroimaging research across multiple studies and populations. It means that adolescent harmful conduct cannot be assessed through the same framework as adult harmful conduct: the capacity for the deliberate, considered moral agency that justifies full adult accountability is developmentally incomplete.

This understanding does not mean adolescents have no responsibility for harmful conduct — it means that responsibility exists on a developmental spectrum and must be assessed accordingly. The NBI Young Persons Justice Framework operationalises the developmental science: it calibrates every element of the justice response — the threshold for proceeding, the assessment process, the pathway options, the duration of responses — to the developmental realities of the person before it, not to a legal fiction of uniform adult-equivalent responsibility at a defined age.

8.2 The Minimum Age of Civic Responsibility

No person under the age of 12 may be the subject of any CJA proceeding. Below the age of 12, harmful conduct by a child is addressed through the civic welfare and support architecture — specifically through the Child Welfare Assessment process under the Civic Education Framework and the civic social services system. The conduct is addressed; the child is supported; but the justice architecture does not apply. The minimum age of 12 is based on the research evidence on the developmental capacity for the specific moral understanding required for civic responsibility, and on the comparative evidence from jurisdictions that have set minimum ages: Scotland's 12 threshold, Sweden's 15, Germany's 14, and the consistent finding that the lower the minimum age, the worse the long-term outcomes for the children involved.

8.3 Young Persons Proceedings (Age 12–17)

Proceedings involving residents aged 12–17 are governed by the Young Persons Justice Framework (YPJF) and are conducted in closed Young Persons Proceedings Chambers, with specific procedural adaptations:

- The proceeding is presided over by a Magister with specific Young Persons training and accreditation
- The young person's parent or guardian is present unless their presence is not in the young person's best interests — determined by the presiding Magister after hearing from the young person and their Defence Civic Advocate
- The language, pace, and formality of proceedings are specifically adapted to the young person's developmental level, assessed before the hearing
- All proceedings are recorded but closed to the public; young persons are never identified in any public record during proceedings or for a minimum of 5 years thereafter
- The Multisystemic Therapy and Youth Restorative pathway options are available from the outset and are presumptively preferred over any residential response

- Family Group Conferencing (adapted from the New Zealand model) is offered in all cases as an alternative to formal proceedings — the conference outcome is submitted to the Magister for approval but the conference itself replaces the formal substantive hearing where all parties agree

8.4 Youth Pathway Presumptions

Young persons proceedings operate under the following evidenced presumptions, which may be displaced only by specific Magister findings with written reasons:

- Presumption of community pathway: the first and presumptively appropriate response to any Category 3 or 4 harm by a young person is a community-based pathway, with RRF placement exceptional and specifically justified
- Presumption of family involvement: family support and engagement is a component of every young persons pathway unless the young person's safety requires otherwise
- Presumption of education continuity: no young persons pathway disrupts education continuity without specific justification — the research evidence on education disruption as a predictor of subsequent serious harmful conduct is unambiguous
- Presumption of short duration: pathways for young persons are reviewed at 3-month intervals, with a presumption of completion at the earliest point at which the three justice purposes are satisfied
- Presumption of record non-disclosure: the young person's civic responsibility record does not form part of any future adult proceedings unless specific Magister order permits limited reference, which is available only for Category 1 harm and only where specifically relevant

8.5 Transition to Adult Proceedings

Where a young person turns 18 during active proceedings or during a pathway order, the proceedings or pathway continue under the YPJF unless the presiding Magister makes a specific transition order. Transition to the adult framework is not automatic — it is a Magister decision based on the individual's developmental assessment and the best interests of the justice purposes. A Pathway Order that was appropriately designed for a 17-year-old does not become inappropriate on their 18th birthday.

PART VI — MENTAL CARE AND COGNITIVE NEED INTERFACE

Section 9: Mental Health, Cognitive Need, and Civic Justice

9.1 Fitness to Participate in Proceedings

No proceedings may proceed against a Respondent who does not have the mental capacity to meaningfully participate — to understand the charge, to follow the proceedings, to instruct their Defence Civic Advocate, and to make decisions about their own case. Fitness to participate is assessed by an independent clinical psychologist or psychiatrist, commissioned by the Magister, at any point where it is raised by any party or where the Magister has grounds for concern.

Where a Respondent is found unfit to participate, the proceedings are not abandoned — they are suspended pending treatment that may restore fitness. If fitness is restored, proceedings recommence. Where it is unlikely that fitness will be restored within a reasonable period, the Magister may — with the specific agreement of all parties and specific CJA Oversight Panel notification — substitute a Fitness Hearing in which responsibility for the conduct is determined on the available evidence without the adversarial participation of the Respondent. A Fitness Hearing determination is

not a criminal finding of responsibility — it is a protective finding that allows the Mental Care Pathway to be activated. The Respondent is entitled to full advocacy representation throughout.

9.2 The Mental Care Pathway

Where the RPH Individual Assessment establishes that the harmful conduct is significantly connected to a mental health condition or cognitive need, the Mental Care Pathway (MCP) is activated either as the primary pathway or as a component of the broader pathway package. The MCP provides: assessment and treatment within the civic Mental Care Facility (MCF) network; a pathway that is structured around therapeutic progress rather than a fixed duration; regular independent clinical and Magister review; and reintegration support calibrated to the clinical picture.

The MCP is not a mechanism for indefinite preventive detention dressed in therapeutic language. It is a genuine treatment pathway with a clear and reviewable endpoint: the point at which the clinical assessment shows that the mental health condition or cognitive need that contributed to the harmful conduct has been addressed to the degree that the recurrence risk is no greater than that of any comparable individual without that specific treatment history. The LTCSP maximum period limit (15 years) applies equally to MCP orders — no person remains on an MCP order indefinitely.

9.3 Autism, Learning Disability, and Cognitive Difference

The CJA specifically addresses the over-representation of autistic people, people with learning disabilities, and people with other cognitive differences in the justice system — a documented phenomenon across multiple jurisdictions, attributable primarily to the justice system's failure to accommodate cognitive difference rather than to any elevated propensity for harmful conduct in these populations. Adjustments for cognitive difference are mandated at every stage of the justice process:

- At investigation: the CPF-001 interview architecture is adapted for cognitive accessibility; appropriate adults are required; cognitive vulnerability assessment is mandatory before any interview
- At proceedings: the hearing process is adapted to the Respondent's specific communication and comprehension needs; additional time, visual aids, breaks, and alternative communication methods are provided as required
- At pathway determination: the PAR specifically addresses cognitive difference as a factor in both the conduct assessment and the pathway design; pathways are adapted for cognitive accessibility rather than defaulting to standard formats

PART VII — REVIEW, APPEAL, AND MISCARRIAGE ARCHITECTURE

Section 10: The Review and Appeal System

10.1 The Right to Challenge a Determination

Every Respondent who receives a determination of responsibility has an absolute right to challenge that determination. The right of appeal cannot be conditioned on: leave from the original Magister; payment of a fee; a preliminary filter that disproportionately excludes certain categories of appeal; or any prior assessment of the likelihood of success. The right exists unconditionally. The mechanism through which it is exercised must be proportionate to what is being challenged — a challenge to a minor Category 4 determination does not require the same architecture as a challenge to a Category 1 determination with a Pathway 6 or 7 order.

10.2 Appeal Pathway Structure

10.3 Grounds for Appeal

A challenge to a determination may be brought on any of the following grounds:

- The Magister panel applied an incorrect standard of determination — a determination on the balance of probability rather than the "sure" standard
- The Magister panel admitted evidence that should have been excluded, or excluded evidence that should have been admitted, and this materially affected the determination
- The Magister panel's reasoning in the written determination does not support the conclusion reached
- The proceedings were conducted in a way that was unfair to the Respondent — inadequate time for preparation, defective Civic Advocate representation, failure to accommodate disclosed disability or vulnerability
- Fresh evidence has emerged that was not available at the time of proceedings and that might reasonably have affected the determination
- The Classified Evidence Protocol was applied incorrectly and the Respondent was unable to mount a meaningful challenge as a result
- The Magister panel was not independent — any fact demonstrating that a member of the panel had a conflict of interest or prior relationship with any party

10.4 The Miscarriage Review Panel — Architecture for Wrongful Determinations

The Miscarriage Review Panel (MRP) is the NBI's mechanism for addressing wrongful determinations — cases where a person has been found responsible for harm they did not cause. The MRP is constitutionally the most important single review mechanism in the CJA, because the wrongful determination of responsibility — subjecting a person to a pathway response for conduct they did not engage in — is among the most serious civic harms the justice system can cause. The NBI's response to this harm is not to minimise the likelihood of its being raised (the legacy approach of imposing leave requirements, time limits, and narrow grounds for reference) but to maximise the probability that wrongful determinations are identified and corrected.

MRP Composition

The MRP consists of:

- 7 members drawn by sortition from the Magister pool — with specific exclusion of any Magister who has participated in any stage of the case being reviewed
- 2 independent scientific advisers appointed for each case on the basis of the specific evidence types at issue
- 1 CJA Oversight Panel representative, as an observer without voting role
- 1 independent Civic Advocate with no connection to the original proceedings, whose mandate is to advocate for the interests of the person whose determination is under review

Referral Mechanism

A case may be referred to the MRP by:

- The person who received the determination of responsibility, at any time and without restriction on grounds
- Their Defence Civic Advocate, with consent
- The CJA Oversight Panel, where its systemic monitoring identifies a pattern suggesting that specific determinations may be wrongful
- Any Magister who, in the course of subsequent proceedings, encounters evidence that raises a serious concern about the integrity of a prior determination
- The NSA, through its investigative mandate, where NSA-reviewed records raise a concern about the integrity of specific proceedings

There is no filter on referrals based on an initial assessment of their likelihood of success. Every referral receives an initial assessment within 30 days, at which point the MRP either proceeds to full review or issues a written determination that no prima facie case for review has been established. A "no prima facie case" determination from the MRP is itself subject to challenge by the referring party.

MRP Powers

The MRP has access to the full NIN-CJR record of the original proceedings, all evidence on the NIN-PR, and any NIN-SIN material relevant to the case under the NSA's investigative mandate.

It may commission new forensic analysis, commission new witness interviews, and access any material that was not before the original Magister panel. The MRP is specifically empowered to re-examine the reliability of forensic evidence using current scientific standards — a determination made on forensic evidence that has subsequently been shown to be unreliable is a wrongful determination regardless of whether the original evidence was the best available at the time.

MRP Outcomes

10.5 Civic Miscarriage Restitution Protocol

Any person whose determination of responsibility is quashed by the MRP is entitled to:

- A full public statement by the Director of Civic Policing and the CJA Director acknowledging the miscarriage and its causes
- Financial restitution for loss of earnings, lost civic participation opportunity, and the harm caused by the pathway response, calculated at the rate established by the Civic Miscarriage Restitution Table (published on the NIN public portal and reviewed annually)
- Comprehensive therapeutic support for the duration required to address the psychological impact of the miscarriage
- A Miscarriage Explanation Report — a written account of how the wrongful determination came to be made, what failed in the process, and what structural changes have been or will be made as a result. This report is published in full on the NIN public portal. No wrongful determination is simply corrected and moved on from — every wrongful determination requires a public account of its causes.

The Miscarriage Explanation Report is not a disciplinary tool. It is a systemic improvement tool. Where it identifies structural failures — in forensic method, in disclosure practice, in investigation technique — those failures are referred to the CPOC and to the relevant forensic or investigative bodies for systemic correction. Wrongful determinations are the justice system's most important quality data.

PART VIII — ACCOUNTABILITY, FAILURE MODES, AND INTEGRATION

Section 11: CJA Oversight Panel and Accountability Architecture

11.1 The CJA Oversight Panel

The CJA Oversight Panel (CJA-OP) is the permanent independent oversight body for all elements of the Civic Justice Architecture — from proceedings through pathway delivery to miscarriage review. It is sortition-selected, reports to the NSA, and has real-time read access to the NIN-CJR. Like the CPOC in the policing architecture, the CJA-OP's most important function is systemic pattern monitoring: identifying trends across the system as a whole that individual case review cannot see.

The CJA-OP publishes an Annual State of Civic Justice Report on the NIN public portal — the most comprehensive public account of the NBI justice system's performance. The report covers: determination rates and their accuracy (including wrongful determination rates); pathway completion rates and recurrence data; harmed party satisfaction data; RRF and LTCSP population data and outcomes; young persons proceedings data; miscarriage review statistics; and systemic recommendations. The Annual Report is laid before the NSA, which holds an annual Civic Justice Accountability Session.

Section 12: Failure Mode Analysis — Adversarial Stress-Testing

12.1 CJA Failure Modes

Failure Mode 1: Elite Justice Differential

Description: Wealthy, well-connected, or socially powerful Respondents receive systematically better outcomes through: superior Civic Advocate quality (despite equal allocation); informal institutional deference; better access to the MRP review mechanism; and pathway responses designed around their social circumstances in ways that community-embedded individuals do not receive.

Likelihood: Very high without structural countermeasures. The empirical evidence on wealth-correlated justice outcomes is one of the most robust findings in criminology across every jurisdiction studied.

Countermeasures: The universal, quality-assured Civic Advocate allocation system is the primary structural countermeasure — allocation by rotation from a standardised-quality pool eliminates the commercial legal market's quality gradient. The NIN-CJR public record makes every determination and every pathway order visible to the CJA-OP and to the public — patterns of elite leniency are detectable. The CJA-OP specifically monitors for statistically significant differences in determination and pathway outcomes correlated with socioeconomic status, and publishes those findings. The NSA's investigative access provides a final recourse where systemic differential is identified. These countermeasures do not eliminate elite advantage — social capital operates in ways that are difficult to fully structuralise away. But they make it visible, auditable, and capable of being addressed systematically rather than perpetually ignored.

Failure Mode 2: Pathway Creep Toward Punitiveness

Description: The pathway system, under sustained public and media pressure following serious incidents, gradually drifts toward longer, more restrictive pathways that are justified in the language of recurrence prevention but functionally serve a punitive purpose — responding to public demand for visible punishment rather than evidence-based recurrence management.

Likelihood: High. Every restorative justice system that has operated at scale has faced this pressure, and most have partially yielded to it.

Countermeasures: The mandatory written reasoning requirement for every Pathway Order — which must demonstrate that the pathway selected is the minimum necessary to achieve the three justice purposes — is the primary internal countermeasure. Pathway orders that cannot demonstrate this are procedurally defective and subject to review. The CJA-OP's annual recurrence data provides the external countermeasure: if pathways are becoming longer and more restrictive but recurrence rates are not improving, the data makes this visible and the CJA-OP is mandated to investigate. The RPH's independence from political pressure is structural — it has no elected component and is not subject to direction from any executive body. The NSA can review pathway trends but cannot direct individual pathway decisions.

Failure Mode 3: The RPH Assessment Quality Problem

Description: The quality of Individual Assessments produced by RPH Assessment Teams varies significantly between teams and regions, resulting in systematically inconsistent pathway outcomes for similarly situated Respondents — not because of individual circumstances (which should produce different outcomes) but because of assessment quality variation.

Likelihood: High. Assessment quality variation is the most common internal quality problem in restorative justice systems. The Scottish Children's Hearings System's most significant documented weakness is exactly this.

Countermeasures: Standardised, independently validated assessment tools — used consistently across all RPH Assessment Teams — are the primary countermeasure. The CJA-OP reviews a sample of PARs annually for quality and consistency. All RPH practitioners undergo accredited training with minimum standards. The NIN-CJR record of all Pathway Orders and subsequent outcomes allows retrospective assessment of assessment quality — where a pathway consistently produces poor recurrence outcomes for a specific RPH team, the data is visible and the team's assessment practice is reviewed. Assessment quality is a publishable metric, creating institutional accountability for teams whose assessments are consistently poor.

Failure Mode 4: The Harmed Party Captured Process

Description: The harmed party architecture, intended to give harmed parties a genuine voice in a system that previously ignored them, is captured by a cultural shift in which harmed party preferences become determinative of pathway responses, effectively reintroducing punitive logic through the harmed party's preference for punishment rather than restoration.

Likelihood: Moderate. The tension between harmed party voice and restorative purpose is real and has been observed in restorative justice programmes that placed excessive weight on harmed party preferences.

Countermeasures: The architectural relationship between the Harmed Party Statement and the Pathway Order is explicitly non-determinative: the Magister considers the Statement but is not bound

by it, and must demonstrate in the Pathway Order why the pathway serves all three justice purposes, not merely the harmed party's expressed preferences. The HPCA is specifically trained in restorative rather than retributive advocacy — they represent harmed party interests, but their professional formation orients those interests toward repair, support, and prevention rather than punishment. The CJA-OP monitors the correlation between harmed party preferences expressed in Statements and Pathway Orders — a strong correlation that is not driven by the three justice purposes would indicate capture.

Failure Mode 5: The Wrongful Determination That Cannot Be Corrected

Description: A wrongful determination is made and all available review mechanisms — including the MRP — fail to correct it, either because the evidence required to establish the wrongful determination is classified and inaccessible, or because the systemic failure that produced it is not visible in the individual case record.

Likelihood: Low but non-zero. The Birmingham Six spent 16 years in the prison system after exhausting all available appeals before their convictions were finally quashed. The NBI's architecture substantially reduces this risk — the MRP has broader investigative powers than any previous review mechanism — but it cannot reduce it to zero. The underlying risk is that wrongful determinations are sometimes the product of systemic, invisible failures that are not detectable in any individual case record.

Countermeasures: The CJA-OP's systemic monitoring is designed specifically to detect the pattern signatures of systemic wrongful determination — geographic concentration of determinations using specific forensic methods, specific investigation teams, or specific Magister allocation patterns that show anomalously high rates of subsequent challenge. The NSA investigative access to NIN-SIN material relating to intelligence-adjacent cases provides an additional layer unavailable to any legacy review body. The Civic Forensic Service's commitment to retrospective evidence re-examination using current scientific standards is the most important long-term protection: as scientific methods improve, the CFS is mandated to apply new standards to closed cases where the evidence type is relevant. The Miscarriage Explanation Report requirement means that every identified wrongful determination generates a systemic examination that may reveal invisible patterns. None of this eliminates the risk. All of it reduces it to the minimum that a constitutionally coherent system can achieve.

Failure Mode 6: The RRF Becoming a Prison

Description: Residential Restorative Facilities, under operational and political pressure, gradually adopt the physical, institutional, and cultural characteristics of prisons — expanding population, reducing programming, increasing restriction, and losing the therapeutic and community character that justifies their existence. The research evidence on what they should be is overwhelmed by the operational reality of what they become.

Likelihood: Very high without structural countermeasures.

This is exactly what happened to therapeutic communities in the UK prison system — they were established on restorative and therapeutic principles, expanded into the mainstream estate, and lost their distinctive character under operational pressure. It is exactly what happened to Youth Offender Institutions under the YJB.

Countermeasures: The maximum RRF population of 50 residents is constitutionally specified — it cannot be exceeded without a National SA vote and a CJA-OP impact assessment. Quarterly

independent inspection by the CJA-OP, with mandatory publication of all inspection reports, makes quality degradation visible within three months of its onset — not after years. The absolute conditions specified in Section 6.7 are constitutionally operative, not aspirational — their breach is a Tier 1 civic harm with a Civic Consequence pathway. The prohibition on custodial staff eliminates the institutional culture of restriction that produces prison-like environments; RRF staff are practitioners, not guards, and their professional formation is accordingly different. These countermeasures make institutional drift much harder than in legacy systems — but they require the CJA-OP to be genuinely willing to publish critical inspection findings. The CJA-OP's sortition composition, short non-renewable terms, and NSA accountability are the structural guarantees of that willingness.

Section 13: Integration with the DD&SA Constitutional Architecture

13.1 Instrument Crosswalk

13.2 Implementation Roadmap

13.3 The Authorial Statement

The Civic Justice Architecture was written in the knowledge that it will be challenged from two directions simultaneously: by those who believe it is insufficiently tough on those who cause harm, and by those who believe no justice system can be made genuinely restorative within a constitutional state. Both challenges are wrong, but they are wrong in ways that require direct engagement rather than dismissal.

To the first challenge: the evidence on what reduces harmful conduct is not ambiguous. Longer, harsher pathway responses for most harm categories do not reduce recurrence — they increase it. A justice architecture that is insufficiently tough on harm is one that relies on evidence-free retribution rather than evidence-based restoration. The CJA is tougher on harm than the legacy system, in the sense that matters: it is more likely to produce a genuine reduction in future harmful conduct. That is the only sense of toughness that serves the interests of current and future harmed parties.

To the second challenge: the evidence on restorative justice is not that it works perfectly, but that it works substantially better than the system it replaces across almost every measurable dimension. No justice system eliminates wrongful determinations, produces perfect outcomes for all harmed parties, or achieves zero recurrence. The CJA does not claim otherwise. It claims only that the architecture produces better outcomes — for harmed parties, for those found responsible, for communities, and for the civic body as a whole — than any alternative yet implemented at scale. That claim is empirically defensible. It is the basis on which this Framework was written and on which it asks to be assessed.

"We do not turn back time; we move forward with the wisdom its patterns reveal."

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Edition 1.0 | April 2026

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