

# USER VOICE

ONLY OFFENDERS CAN STOP RE-OFFENDING

**SERVICE USER RESPONSE TO  
THE MINISTRY OF JUSTICE'S GREEN PAPER**

**BREAKING THE CYCLE: EFFECTIVE  
PUNISHMENT, REHABILITATION AND  
SENTENCING OF OFFENDERS**

**MARCH 2011**

# 1 INTRODUCTION

## 1.1 Consultation

This submission outlines the key themes from two focus groups held with young people and adults with personal experience of the criminal justice system. The consultations, sponsored by The Ministry of Justice, were designed and facilitated by User Voice with the aim of seeking the views of participants in response to the Green Paper, *Breaking the Cycle*.

Participants were asked to respond to a number of questions contained in the Green Paper that were of direct relevance to their own personal experience. These are categorised under the following headings: punishment and payback, sentencing, working with communities to reduce crime and rehabilitating offenders to reduce crime.

The two focus groups included people from a range of ages, ethnicities, from different areas of the country and from academics and professionals, to those just out of prison and others who are currently on orders. They were specifically designed to involve 3 distinct groups of people:

1. Those who **don't** engage with services
2. Those who **do** engage with services
3. Those who **have** engaged with services

This categorisation of participants is an important element that is often overlooked. Each group of people has important information that they can give about their experiences. For example, those who have engaged and are now living successfully can describe what worked in their rehabilitation. Being led by ex-offenders User Voice is able to access all of these groups, where others may struggle.

## 1.2 User Voice

User Voice was founded in 2009 by Mark Johnson and our work is led and delivered by ex-offenders. It exists to reduce offending by working with the most marginalised people to ensure that practitioners and policy-makers hear their voices. We are well placed to gain the trust of and access to people involved in crime or who have direct experience of the criminal justice system. Our work aims to deliver a powerful rehabilitation experience for offenders, better criminal justice services and institutions, and more effective policy.

In order to achieve this User Voice delivers the following services:

- ***User Voice councils*** that can be developed for use within prisons or in the community for probation, youth offending teams and related services.
- ***Bespoke consultations:*** User Voice works with clients to design projects aimed at accessing, hearing and acting upon the insights of those who are hardest to reach, including prisoners, ex-offenders and those at risk of crime. These projects include staff and user consultations, workshops and research.
- ***Advocacy:*** we present the models, practices and business case behind User Voice in order to inspire and influence key audiences. We create opportunities for the people we work with to meet and speak to those in power.

User Voice received charitable status in 2010. In its short life we have completed a number of projects and established a strong reputation. This includes: creating a number of new prison councils involving staff and prisoners; work with veterans; and consultations on skills and employment, drug and alcohol services, social services and probation.

## 2 PUNISHMENT AND PAYBACK

Participants were asked their views about the following Green Paper proposals both in providing effective punishment, but also in supporting offenders to move away from crime. Feedback is presented from the two age groups (adults and young people) combined, unless they offered different responses.

### 2.1 To make prisons places where they will do a full week's work

Participants broadly agreed that a 40-hour week could work in prison with benefits to the prison and prisoners. Prisoners would benefit from being exposed to the culture and routine of a working week, many of who would not have previously experienced this. It provides a great opportunity to teach prisoners useful skills that can aid gaining employment on release. This was seen as a critical factor. If the work on offer was generally meaningful, offering a trade or other vocation, then it would be welcomed. But if the work involved more menial pieces of work then participants saw it as highly detrimental to the rehabilitation process.

Many identified felt that it was important for the working week not to inhibit rehabilitation, notably education and drug and/or alcohol treatment. It was highlighted that wages could serve to disincentivise participation in education.

Participants suggested that prisoners should be involved in robust assessments which identified their needs and informed their sentence plan. This would incorporate aspects of work but also the necessary rehabilitation. Some thought that education was so important that some element of it should be mandatory.

Even if work in prison was meaningful, participants stressed the need to engage effectively with employers alongside 'through the gate' support to secure education or employment. This was highlighted as a critical: too often positive work undertaken in prison was undone due to a lack of opportunities on release. It was suggested that Government contracts should stipulate that a certain percentage of ex-offenders should be employed or at least interviewed, linking the skills required to training and work in prison.

Participants identified two additional potential problems. First, they highlighted the different needs and pressures for women in prison and their support needs if they were going to be able to do a 40-hour week. Some questioned whether it was appropriate at all for women. Participants welcomed the recognition in the Green Paper that work in prison should not undercut the local workforce: doing so would lead to the further marginalisation of ex-offenders.

## **2.2 More use of electronic tagging and curfews for up to 16 hours a day**

There was a very mixed response to the proposals on electronic tagging and curfews. Some welcomed the proposals as they would enable offenders to continue employment or education in the community. On the other hand, others felt that the tagging and curfew system sets people up to fail, resulting in breaches. This is largely because the system is not coupled with any form of support addressing the underlying factors of offending behaviour, so breaking the conditions of the tag/curfew and/or re-offending is the likely outcome.

Those that welcomed the proposals suggested that the process could be more flexible. This could be achieved by splitting the curfew period so that it was not in one time period. It was suggested that GPS systems be used to track people's movements rather than curfew.

## **2.3 More community based punishment, where the offender completes unpaid work such as improving derelict areas for public use and making community payback more effective and more immediate**

On the whole, the use of more community-based punishment was welcomed primarily because it means there will be minimal disruption to education and employment and, importantly for women, the family.

However, the main area of concern was around what form the punishment would take. There was unanimous dislike of the high visibility jackets used in Community Payback as they were humiliating and only reinforced the stigma of being an offender. Instead it was suggested that offenders on community orders should be able to undertake more work placements for Community Payback as this would enable social modelling and educate public/employers about offenders.

They felt there was a need to make greater use of a wide variety of activities. Participants welcomed the opportunity to undertake work that would help the local community, but suggested that there should be more creative opportunities such as music, art and entrepreneurship. Many said that local community based voluntary organisations were best placed to deliver community orders with probation services.

Ultimately it was agreed that, whatever the community sentence, two factors were critical. First, that sentences should focus on providing offenders with relevant work skills and/or access to rehabilitation (such as drug and alcohol treatment). Second, it should give the local community something.

## **2.4 Paying compensation to victims and communities**

Most agreed that, in the circumstances of a financial crime, paying compensation to victims was necessary. But with most other crimes this was seen as far more complex. If prisoners, for example, were paid a full wage as

part of the working week proposal, then there was generally consensus that a proportion of this could be paid to victims.

But there was also discussion that often victims want to know why a crime was committed rather than just be compensated for it and this could be achieved through the greater use of restorative justice. Most importantly, the group suggested that victims and communities would want to know that the crime was not going to be committed again with a necessary focus on rehabilitation rather than compensation.

For a number of participants this was a difficult topic: they felt that the sentence passed through the court was the compensation that they had been asked to pay to the victim or community. In a number of cases offenders have been victims themselves but received no compensation.

It was suggested that if a compensation scheme was launched it could be run along similar lines to the student loan scheme where students are given a loan to pay for his or her tuition fees and cost of living then pays this back as earnings increase and reach a certain threshold. This could be mirrored for prisoners with the loan used to pay victims and communities and paid back through the tax system.

## **2.5 More use of restorative justice with offenders apologising to their victims and listening to how they have been affected by the offence**

Restorative justice was on the whole welcomed by participants as a useful mechanism that enabled victims to understand why a crime had been committed and for offenders to face up to the crime and its impact.

A number of caveats were identified:

- Restorative justice interventions need to take place at the right point - when a person is ready to change - otherwise it can be damaging to both offender and victim.
- A range of restorative tools should be used and not just conferencing.
- Offenders must be prepared to face the fact that a victim may never forgive them.
- Restorative justice must be seen as one of a number of options in the rehabilitation process and not the answer in itself.

### **3 SENTENCING**

#### **3.1 Do offenders and ex-offenders think that shorter sentences for pleading early will encourage more people to plead guilty?**

There was unanimity that shorter sentences for pleading early would encourage more people to plead guilty. But there was significant unease about the assumption that this was a good thing.

It was suggested that it would increase the pressure on offenders to plead guilty, especially from lawyers, sometimes for crimes that they haven't done. This is especially worrying for vulnerable groups, such as those with drug and alcohol misuse or mental health problems.

If this proposal is enacted then there needs to be a greater and earlier level of support for offenders to make sure that they make the right decision.

#### **3.2 Do they think that the changes to Community Payback, tagging and GPS and being dealt with more effectively in the community would help them to reduce their offending?**

Everyone agreed that the proposals for changes to Community Payback, tagging and GPS would make it easier to punish and track people. It would promote greater personal responsibility by giving people greater freedom: they could have no complaint if they breach the conditions of their order. The changes would provide more cost effective means of carrying out sentences and enable authorities to track people resulting in better evidence and fewer miscarriages of justice.

Although these measures may make it easier to contain people it was agreed that they would not reduce re-offending because they are not linked to the necessary support that would enable offenders to begin the process of rehabilitation by addressing the reasons why they offended. The overwhelming response, to changes to community sentences is the need to better link punishment, rehabilitation and support services if the Government is to succeed in its 'rehabilitation revolution'.

## **4 WORKING WITH COMMUNITIES TO REDUCE CRIME**

### **4.1 What sort of offences and offenders should Neighbourhood Justice Panels deal with? How could these panels make the existing criminal justice processes work better?**

Before discussing the types of offences or offenders that Neighbourhood Justice Panels should deal with, participants wanted to look at their composition. There was a fear that it would be the same people who usually volunteer: those with the time and money. As a result this would have a negative impact on those appearing before the panel with only a particular opinion represented in making decisions.

Instead, it was felt that the composition of panels should be representative of a local community, including ex-offenders. In this way it would represent a broad range of experiences, views, beliefs and as a result be more likely to make 'fair' judgements. A note of caution was raised that members of the panel should not be too local as there would be the possibility that they would know offenders personally or even their family which could result in a prejudiced outcome. It was suggested that membership of the panel could be similar to that of a jury, in which it is random and not permanent.

In terms of the types of offences it was generally agreed that the Neighbourhood Justice Panels would be suitable for early intervention to look at more minor trigger offences so that they don't go to court and do not result in a criminal record. This would provide an opportunity to refer people at this stage to other services such as drugs and alcohol or mental health, to treat the reasons for offending. This however would rely on a robust assessment mechanism and good knowledge of local services.

The panels were welcomed as they would provide an opportunity to educate the local community about reasons why people offend and would remove the strain with more opportunities to divert people away from the criminal justice system.

### **4.2 What more can be done to support family relationships to reduce re-offending and prevent children of offenders from becoming offenders themselves?**

The first assumption that was challenged was that family relationships aid reducing re-offending. In fact the family is sometimes the cause of the problem and not the solution. As a result participants stressed the need for a system to assess whether an individual needed greater or less family interaction to inform their rehabilitation process. Yet even in circumstances where the family is part of the problem then it was suggested that they need to be made part of the solution through, for example, counselling or therapy.

The main factor that could help family relationships was to be placed in custody near to the family unit and especially for women to be supported to live in local secure units with access to their children. The need for more family visits was highlighted to include grandparents and extended family and for prisoners and families to be part of the sentence planning processes.

Women participants felt that there was a lack of understanding in male probation officers of the terrible difficulties faced by children and mothers. In their experience they are generally not referred to any specialist support and asked to attend with male offenders in probation.

There was real concern around the changes to the Release on Temporary Licence scheme which means that women offenders on long sentences are being denied access to childcare resettlement leave. In other words it is supposed to be available to eligible women, irrespective of the length of their sentence, but has been manipulated so it only is given when women reach the halfway point of their sentence, and then only if they are in a prison which offers ROTL.

In terms of children of offenders it was highlighted that many parents themselves have never been properly parented and as a result have no way of modelling their behaviour once they become parents. It was often difficult to access support services – such as parenting - without offending: it was suggested that issues like parenting be addressed in school alongside emotional development sessions that enable people to build, for example, resilience.

Most participants who were parents of offenders felt that social services should have asked or involved them when decisions were being made as they felt completely isolated from the process. It was at this point that many identified that peer support, from those who had been through similar experiences, would have been incredibly helpful.

## **5 REHABILITATING OFFENDERS TO REDUCE CRIME**

### **5.1 How can we best support offenders and ex-offenders in the community who need drug treatment? Are there any examples of what helps?**

There was agreement that everyone needs to be treated differently depending on their circumstances.

However, a number of recurrent themes emerged:

- Prisons should provide detox, not just maintenance
- The need for peer support in an informal and unstructured way
- Residential drug/alcohol treatment
- Help needs to be available immediately when a person is ready to change not a few days, weeks or months later when the system is able to accommodate them
- Treatment needs to not just look at the symptom, i.e. the misuse of substances, but most importantly to address through some form of therapy the underlying reasons why

### **5.2 What do offenders and ex-offenders need to help them into homes and jobs?**

Responses to this were simple and unanimous.

In terms of help into employment participants identified the current Criminal Records Bureau checks as the major obstacle to gaining employment. The Government's review of the Rehabilitation of Offenders Act was therefore welcomed and it is hoped that by reducing the number of years after which an offence has to be declared to a sensible level will enable lots of skilled ex-offenders gain employment without the need for support from the state.

In terms of help into accommodation the groups welcomed the suggestion of a rent deposit scheme.

### **5.3 Do offenders, ex-offenders and their families feel that all the agencies that they deal with could work in a more joined-up way? If so, are there any particular changes they can make? Are there any examples of good practice we can learn from?**

There was overwhelming agreement for the need for services to work in a more joined up way and there were three main suggestions of how this could be achieved.

First, as discussed, it was felt that there is a need to target the children of offenders. Although not all children of offenders go on to offend themselves, the evidence is clear that this greatly increases the chances and there is no better way of a range of services being effectively directed.

Second, school was identified as another opportunity for services to be enacted in a joined up way, with teachers acting as the focal point. As a result they would need to be equipped with the knowledge and skills to trigger support which does not currently exist.

Finally, the idea of a one stop shop was proposed as an ideal way to join up services. Currently services lack a coordinated approach not only in their thinking but also geographic locations and as a result offenders can waste huge amounts of time, energy and expenditure on accessing a range of services. Importantly this one stop shop should either be run by ex-offenders or at least include a significant element of peer support as it is only the (ex-)offender who sees the world through a person-centred approach and not the silos within which services exist. This also provides the opportunity for lay advocates to help offenders navigate through often very complex bureaucratic processes.

## **6 PAYMENT BY RESULTS AND SERVICE USER ENGAGEMENT**

User Voice is not a representative organisation and as a result does not offer organisational opinions on most issues within the criminal justice system. Instead we provide a mechanism through which insights from those with personal experience of the system can be understood.

There are, however, some questions raised in the Green Paper consultation that relate directly to the work of User Voice.

### **6.1 What measurement method provides the best fit with the principles we have set out for payment by results?**

User Voice welcomes any structure that promotes measuring success on outcomes as opposed to outputs. The majority of service users that have engaged in User Voice projects describe the number of programmes they have been on or services delivered which while meeting targets have had little impact on their journey to rehabilitation and reintegration into society.

Payment by results, in principle, will address this fundamental flaw in the criminal justice system. However, it is the detail, of which there is currently little, that will determine the success of this model. User Voice suggests that there are three main areas that need to be considered.

First, payment by results assumes that service providers – whether from the public, private or voluntary sectors – have the answer. Yet the current levels of re-offending and little change in these over the past decade would suggest otherwise.

This in turn leads to the second point that service providers will need to engage with their service users to design, deliver and evaluate the intervention(s) on offer. In the output based model that has previously existed there was no need for service providers to engage with their service users as they were measured on what was delivered not how successfully. In a payment by results model, providers should be encouraged by the Ministry of Justice to involve service users to gain a real understanding of what is effective in achieving the defined outcomes (which is described in greater detail in the following section).

Finally, the crucial element of the model is this definition of the outcomes on which service providers will be measured. The road to recovery is full of relapses. Change requires long-term therapies that attack the roots of criminality, which we know often lie in damaged, abused and neglected childhoods. We also know that they are often nurtured by later addiction and mental health problems. So outcomes must not only consider short term measurements, as providers will have no incentive to offer long-term rehabilitation to tackle these problems.

Measurement of success should also incorporate a range of indicators beyond re-offending. While this is an important and the ultimate indicator, rehabilitation is a journey and there must be adequate measurements that take this into account, for example, a reduction in the severity or frequency of offending or symptoms such as drug and alcohol misuse. Most importantly these should be defined not by commissioners alone but with the input of service users: they are the experts in their own rehabilitation.

Service providers have a very poor track record of employing the people they are trying to help. There is still an assumption that a degree is worth more than experience when tackling crime and disadvantage. User Voice suggests that a PBR intervention to prevent re-offending should be paid for its success only if, by the end of the programme, the organisation employs a healthy percentage of ex-offenders. This can be similarly adapted for interventions that seek to treat addiction. There is no greater measurement of success.

## **6.2 What more can we do to engage people in the justice system, enable and promote volunteering, and make it more transparent and accountable to the public?**

The Green Paper makes no reference to the significant role that service user engagement can play in the rehabilitation revolution. There is an increasing recognition of the role that service users can play more widely in public services and this debate is beginning to have an impact on the criminal justice system.

The Cabinet Office's report on personalisation in health and social care highlighted that: "models of involvement and levels of service user control need to take into account the context in which the criminal justice system operates. However, there is scope to build on existing good practice to improve the way that offenders, ex-offenders, their families and victims of crime inform interventions and the Offender Management model. For example, User Voice is piloting Prison Councils in three prisons and providing a forum for discussion with prisoners on a wide range of issues."<sup>1</sup>

The Home Affairs Committee's report, *The Government's Approach to Crime Prevention*, recommended that: "Ministers should still ensure that interventions are properly scoped, piloted and evaluated. In doing this they should take account of the experiences of victims and offenders, such as the organisation User Voice set up by former offenders for this precise purpose."<sup>2</sup>

Public debate and media coverage of prison and crime tends towards strong opinion and high emotion, too often crowding out reason and facts and

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<sup>1</sup> Cabinet Office. The Role of Third Sector Innovation: Personalisation of health and social care and services to reduce re-offending. Cabinet Office 2010.

<sup>2</sup> Home Affairs Committee. The Government's Approach to Crime Prevention Tenth Report of Session 2009–10. Home Office 2010.

inhibiting new approaches. We recognise that any suggestion of improving services for service users, let alone increasing their power within the criminal justice system – however constrained, however pragmatic – can be controversial. We underpin this report with three uncontroversial assumptions that inform all our work.

First, people can and do change; User Voice is positive proof of that fact. Levels of crime and reoffending will not reduce substantially as long as prison, probation and the myriad of interventions that occur are ‘done to’ people. Achieving better outcomes requires more responsibility and more power to be handed to service users.

Our second assumption is that participation in services and democratic engagement – and the responsibilities that this implies – is good for us. These benefits do not only arise through the potential social outcomes we may achieve, given a voice and choice, but through the process of engagement itself and its impact on individual human beings. The behaviours that we tend to hone when taking part in deliberations – in whatever context and however frustrating – are valuable life skills: of individual responsibility and team work, of listening and understanding the perspective of others, of communication and reasoned argument, in balancing our ideals and immediate desires with compromises for the longer-term greater good. These skills happen to correlate strongly with those ‘soft’ or life skills that employers say they value and which are important for making our way in the world.<sup>3</sup> They are exactly the types of skills that can often be found wanting among some of our most excluded young people and among the prison population.<sup>4</sup>

Our third assumption is that public policy and public service priorities should embrace innovation while striving to learn from what works within and across different parts of the state. While context should define the particulars, if embracing user engagement and empowerment works to improve health and education services and outcomes, we should assume this approach has much to add to the criminal justice system.

Any strategy that takes inclusion seriously must seek to engage the most marginalised and those who have the least power: this must include prisoners, offenders and ex-offenders. The evidence shows that communities and public services that effectively engage with users are better: they are more efficient, more popular and promote well-being.<sup>5</sup>

‘User engagement’, ‘public participation’, ‘active citizenship’: some of the jargon may be impenetrable and is often used interchangeably. But behind much of the language is action: these agendas are informing the delivery

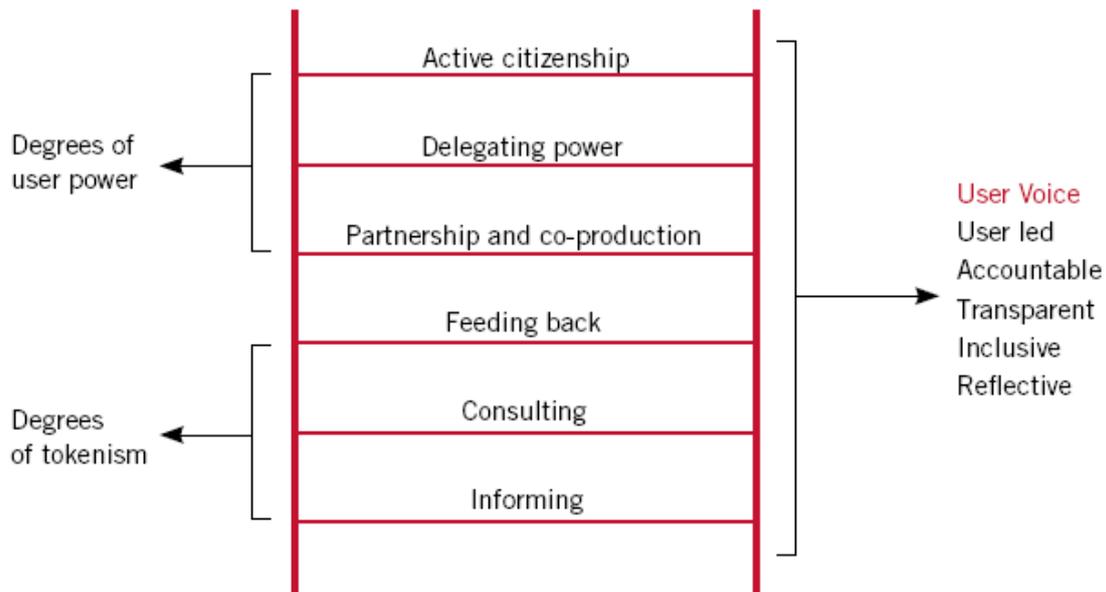
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<sup>3</sup> IPD/KPMG quarterly. Labour Market Outlook. August 2006.

<sup>4</sup> J Margo et al. Freedom’s Orphans. ippr 2006.

<sup>5</sup> See for example the Report from the Sir Roger Bannister Health Summit, Leeds Castle, 17-18th May 2007, Engaging Patients in their Health: How the NHS needs to change. The Kings Fund 2008.

and regulatory frameworks of public authorities, whether community consultation in relation to regeneration or the increased use of patient satisfaction data to drive improvements in health care. There is a clear consensus that 'one size does not fit all' when it comes to engaging the public. Rather, levels of engagement and control tend to be seen as a spectrum (or ladder).<sup>6</sup>



**Figure 1: User Voice’s interpretation of Arnstein’s ladder of citizen engagement**

To put this very crudely: on the lower rung is the aim of providing people with better (but not necessarily more) *information* about changes being made in their area, the services they use and how they can access support and give feedback. In the middle are a range of approaches that aim to *consult and involve* people in shaping change. Higher up are examples of 'co-design' or 'co-production' where services are *designed and delivered in partnership* with citizens. At the top end are schemes where citizens, often residents, are encouraged to take *ownership* of community assets and, sometimes, to play a role in the running or stewardship of services.

This ladder of participation does not necessarily reflect a hierarchy. Good practice on community and user engagement stresses the need to be on the right rung for the right job. This is important for when we come to think more about prison councils and what they are aiming to do: exchange information and allow feedback? Do they suggest a deeper level of involvement? What and whose agenda is being served? What is clear is that honesty and clarity about purpose and process from the outset are critical: if people think that they are being asked their views in order to shape a decision, they do not appreciate finding out it was in reality a foregone conclusion.

<sup>6</sup> S Arnstein. "A Ladder of Citizen Participation," Journal of the American Planning Association, Vol. 35, No. 4, July 1969, pp. 216-224.

In the context of a funding squeeze and payment by results (in which intelligent service providers will have to engage with their service users to define effective outcomes), user engagement becomes more, not less, important. There are ways in which service users can and do take part in co-production in the criminal justice system (peer-mentoring, for example) and consultation (on particular issues). That said, there is no overall definition or strategy for user engagement.

User Voice strongly recommends that the Ministry of Justice seeks not only to promote this agenda as part of the 'rehabilitation revolution', but that it sets out a definition of what user engagement is within the criminal justice context and some appropriate metrics against which to measure service providers.

User Voice has published a report about engagement specifically within the prison context<sup>7</sup> and is currently in the process of broadening this to cover community based settings and prevention services.<sup>8</sup>

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<sup>7</sup> User Voice. The Power Inside, User Voice 2010.

<sup>8</sup> To be published Spring 2011.

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