



The law and social work in Scotland

Criminal justice social work

Nick Balneaves:

In this edition of our series on The Law and Social Work in Scotland, we are going to be looking at Criminal Justice Social Work. Nick Burgess began his career as a generic social worker before moving onto specialising in Criminal Justice work. Since 1991 he has been working at the Falkirk Criminal Justice Service and today he is team manager there. I went to Falkirk to meet Nick and to start with I wanted to know what the work of a Criminal Justice Social Worker involved?

Nick Burgess:

A criminal justice social worker has two primary tasks under the Social Work Scotland Act - it's for the assessment and supervision of offenders. So they'll provide assessments for the Courts, both the Sheriff and the High Court, and also for the Parole Board. They will then supervise offenders sent to us by the Courts and the Parole Boards in line with national standards set out by the Scottish Executive.

Nick Balneaves:

How specialised a role is it?

Nick Burgess:

The role is quite specialised. You have to be aware of the demands of, the standards set by the Government and also by the law and try and balance all those competing areas to try and do the job as best you can.

Nick Balneaves:

How does criminal justice social work differ from the wider spectrum of social work practice?

Nick Burgess:

We have a lot more direct contact with the law and the Courts and traditionally I think Children and Families work and Community Care has perhaps been more seen in more welfare terms. We will only work with people if they are sent to us by law and so there are more constraints on us. Our clients are also more in tune with human rights legislation and what they think we may or may not be allowed to do. So there's a lot more sharp edge, if you like, we must know a bit more about the law than, than perhaps some of the other areas of social work.

Nick Balneaves:

In other types of social work the service user is absolutely at the heart of it. Does that hold true for your type of work as well?

Nick Burgess:

The service user for us is the person that's committed offences, so for us their, their human rights may come slightly second place to the need to protect the public from them. But we have to balance up the rights of the victim, the rights of other people, maybe future victims, and the rights of the offender.

Nick Balneaves:

So, you have obligations beyond simply the welfare of the client?

Nick Burgess:

Oh yes, yeah, there are two in a way distinct roles for staff. One is in terms of the administration of justice. We work as an Officer of the Court or an Officer of the Parole Board

in terms of providing information and gaining information from others, providing assessments and responsibility for the supervision of the offenders. We also have a role there for the welfare of the offender, and clearly there are a lot of offenders who have difficulties with relationships, with housing, with substance misuse, and all of that needs to be addressed at the same time as thinking about their actual offending behaviour. You can't deal with one without dealing with the other.

Nick Balneaves:

Are service users always clear about that distinction in your role?

Nick Burgess:

Every service user has to sign what we call a supervision agreement which will state things like: you must turn up sober; you must not use racist or threatening or other language; and that you must be aware that from time to time we may have reason to share information about you with, with other people, whether or not you may think we should. So, part of the role in getting involved with the offender is being clear with them about what your role is. You have to explain to them what you can and what you can't do, but also saying if you play ball with me, then I may be able to work more with housing. I may be able to help in terms of drug misuse, alcohol misuse, get more resources there for you, get more of a stable roof over your head. So you know, there's carrot and stick involved in all of that.

Nick Balneaves:

But still there is a disparity of power between your role and their position. How difficult does that make it to form a therapeutic relationship with your clients?

Nick Burgess:

It's, I suppose it's difficult in, in being a classic therapeutic relationship where you voluntarily go and see somebody and say help me with my drug problem, and then on a voluntary basis go back and see that person. Our clients are sent to us by the Courts and the Parole Board and a lot of times they have no choice. Although for somebody appearing on probation in Court, the Sheriff will say to them: do you agree to being put on probation? So for that, that Order, they do, they can say: no, I don't wanna be on probation. But, if you're between saying: do you want to go probation or would you like to be in jail, most people would say I'd rather be on probation. (Laughs) So that's the Hobson's choice.

Nick Balneaves:

Does that mean that they see you as a soft option though?

Nick Burgess:

They may see that to start with, but I think for a lot of people having to report to see us on a regular basis, knowing that the higher the risk that we assess them at, the more supervision they're going to get and the more accountable they're going to be for their actions. The less easy that choice actually is, in prison you're told what to do 24 hours a day. You might have an hour or two out of your cell; you have all your meals provided for you; you can choose whether or not you go to work; whether you undertake say an anger management programme or similar. When you're with us, we'll be asking you regularly: what have you been up to? What are you doing? We'll be working through programmes with them, and if they don't turn up then they're warned and then eventually may go back to Court or the Parole Board and their liberty may be taken away from them.

Nick Balneaves:

How often does that actually happen?

Nick Burgess:

Falkirk has a breach rate of around a third. So a third of our clients we will breach for either failing to comply with, with the Order or for committing a further offence.

Nick Balneaves:

A lot of the people that you deal with must lead quite chaotic lives that maybe will lead to them breaching their conditions in a minor way. How understanding can you be about that?

Nick Burgess:

The Supervising Officer has to take account of the development of how the Order has gone so far; how much the offender has or has not changed, and the seriousness of, of the alleged compliance or lack of it. So if it's something relatively minor, for example, a failure to attend on one occasion, we can give a verbal caution or we can give a written warning, depend on the Supervising Officer's discretion at that particular point. In terms of offending, we do not have any discretion. If an offence has been committed then we will report that person to the Parole Board or the Court. Then it's up to the Court or the Parole Board what they then wish to do with that person. Do they give them a warning and say look, you'd better buck your ideas up, or they'll say: no, sorry, you've had your chance, that's you going, going to jail.

Nick Balneaves:

How does that make you as a social worker feel when you see people going back? Does it make you feel that you've failed in some way?

Nick Burgess:

We're dealing with adults who have to be responsible for their actions. You know, we can't live peoples' lives for them. They have to put one foot in front of the other. We can do what we can to assist people, but at the end of the day if they've made choices, however bad those choices have been, they're their choices - unless you can say that their learning disability or their mental disorder or something means that they can't really be held responsible for their actions. So, I mean, some staff may feel from time to time that could they have done a bit more; could they have got other services involved; could they have tried something else? But at the end of the day it's the client that has done whatever it is they should or should not have done.

Nick Balneaves:

Can we talk about the realities of supervision of offenders in a bit more detail? Can you talk me through how it would work?

Nick Burgess:

Okay. Today, Thursday, is sentencing day in Falkirk Sheriff Court. So I have staff available in this office between two and four, so everybody that is made subject to probation or community service has to report in here between those times for their first contact with us. At the very first contact, they sign the supervision agreement, so they know what's expected of them and they're told that unless they hear otherwise they come back in a week today. The Court will then send me the, the Order and the work starts. The first things we need to do is to check over, are their circumstances the same. What was the initial action plan in the SER? Was it to do with controlling their anger? Was it to do with domestic violence, alcohol misuse, so on and so forth. So we check out with the client what it is, the specific issues in that person's life that need to be worked on over the next wee while.

So by the end of the first month what we want is an action plan agreed and signed between the client and the supervising officer on what will be done over the course of the next three months. Also during that first month we'll want to be looking at making referrals off to the various agencies that we need to put them in touch with. So it's very much in the first month engaging with the client. Also in that first month we'll be looking at doing a crime-pix attitudinal survey with the client. So the client themselves, from their answers to that survey, will be able to say: look, I've got a lot of problems in my life, or I'm anticipating getting back into trouble quite quickly. So that as we come back in six months time or a year's time they can redo that and see whether those scores have come down. Once you've got past the first month you're getting into the meat of the supervision, you'll be thinking: what is the programme, either individual or group work, that that person is going to be going on.

Is it individual work on their offending behaviour operating from a module or group work programme that we do? Is it the domestic of violence programme that they need to do with Sacro and so we need to be speaking with Sacro and doing the pre-programme work to get

them prepared for that group? So over time, over a regular period, you need to get that relationship going, you need to be going through the action plan and then review it every so often.

So it's a three months stage; three months thereafter and then six months and a year, depending on how long the supervision is for, so that you're coming back to that action plan saying: has it been achievable? Do we need to change it? Has progress been made such that we can maybe go back to the Court and say the Probation Order can be discharged?

Nick Balneaves:

How do you keep their motivation up? How do you encourage them to take responsibility in practical terms?

Nick Burgess:

Obviously it's help, helpful if motivation comes from the client themselves, but one of the large roles of the social worker is to motivate somebody else and to have the skills to try and do that and be saying look: if you can deal with the Housing Service appropriately, you're more likely to get a house. If you go in there and you bang on the window and shout and swear you're less likely to get a house. So you're looking at consequences of your actions. You're saying: yes, the amount of times that you have to see me is a lot, at the moment, but if you can show by your actions and your behaviour that you're making progress then, you know, the amount of times you have to see me is going to reduce. So you're trying to, you're trying to use the carrot for motivation as well as: do you want to see the door of Barlinnie again, that is another, maybe a more negative motivation factor. And that, that more negative motivational factor depends on how used people are, are to custody. The more used they are, they either might be blasé about it or they might have got to the stage where they're so fed up with it and think: oh God, I don't want to go there again. So social workers have got to find different ways of trying to motivate and engage with clients.

Nick Balneaves:

How important is the continuity of relationship between social worker and client?

Nick Burgess:

Continuity is very important in working with people. You want to know that your supervising officer may be saying hard things to you, you may not like what they say, but at the end of the day they're trying to help you help yourself. And yes, sometimes that relationship will break down. But you need to go for the long haul there, because supervision may last a long, long time. We can have people on life licence, so you can be talking about a good few years. So you don't want to become complacent, but you do need to have a good working relationship.

Nick Balneaves:

But how easy is that when you're dealing with people day in, day out who've been through Court, who are convicted of offences?

Nick Burgess:

We have to try and treat people holistically as a person. Okay, for ten minutes one weekend you might have committed a breach of the peace. But for the other 24 hours or seven days of the week you have not committed offences, you might have gone lawfully to your work and back, had a normal week's activities. So, I don't like the idea of labelling somebody for one or two occasions as an offender for the rest of their life. You have to be able to get past that.

Nick Balneaves:

And yet it must be difficult sometimes to respect some of the people that come before you?

Nick Burgess:

We have certain offenders, the highest risk offenders that we've got may have committed very serious crimes, assault to severe injury, attempted murder and murder or violent sexual crimes. And we can't deal with that person any differently, from one to one, as we do with anyone else. You have to treat people with respect; you have to listen to their point of view, at the same time you have to have as good assessment as you can of the risks that they pose.

Nick Balneaves:

Why is risk management important?

Nick Burgess:

Risk management is very important, primarily to try and reduce the chance of further serious offences happening. And to try and reduce the chance of further offending we need to gain as much information as we can to make a good risk assessment. We have to do risk assessments at certain stages. The most important stages are at our first contact with the client. So for reports for the Court and the Parole Board we'll be doing risk assessments.

Nick Balneaves:

Talk me through how you would do a risk assessment in practical terms?

Nick Burgess:

There are different risk assessment tools that are used across the United Kingdom. Locally we use one called 'Risk Assessment One To Four', which was produced by the Scottish Executive. And also 'Risk Matrix 2000' for sex offenders. But all that risk assessment tools are is, is basically a checklist: Have you covered a variety of factors involved with this person's life and character? So we'll be wanting to know obviously their age; their gender; how many previous convictions they've got; the seriousness of the current offence; all those sorts of factors which are unlikely to change cos they're historic factors. And then you've got the dynamic factors about that person's life as is, or as is known, at that particular time with their alcohol and drug misuse, relationship issues, employment and so on and so forth, which may change over time. So you want to try and capture that information and part of that is done by interview with a client; part of that is by gathering information from other sources. So we'll have the criminal report printout of their previous and pending convictions. The higher the risk, the more information we'll get from the police, so we might have police reports into what actually happened in that offence.

We may have information from other agencies such as the drugs agency, from Forensic Psychology, from Children and Family Services, Community Care. So we try and gather that information as much as possible, to say well, we think this person presents a relatively low risk or a medium risk or a high risk, and depending on the outcome of the risk, decide on how will that feed into how we manage that risk.

So if somebody's coming out as a low risk, say for a Court report for the Sheriff Court, we will not be suggesting probation, community service or any other sort of social work type disposal, cos there's no point in us working with people that are low risk, because you know, they're low risk of coming back into obviously contact with the police and to the public. For medium and high risk, then there's more of a reason for us to use our resources to work with them. And then the higher the risk, the more resources we'll want to put in place to try and monitor and reduce that risk.

Nick Balneaves:

Is there a danger that risk assessments will stigmatise the people who are assessed?

Nick Burgess:

I suppose there's a danger that that might happen. I mean once you're deemed to be high risk, how is that risk reduced. And if you're being, you know, forensic psychology is saying well, Joe Bloggs has psychopathic personality disorder traits, well is that a label that's going to last them for the rest of their life? So there are issues around that, but it's ... equally it's important for staff, well certainly for staff safety, to know about whether it's personality disorder traits that somebody might be more prone to be violent, doesn't care about what happens to himself and others. So yes, it's ... I suppose it's the lesser of two evils in that sort of sense.

Nick Balneaves:

How successful do you think risk assessment tools are in accurately predicting future behaviour?

Nick Burgess: Even with all the information available, you're not gonna be a hundred percent right on the risk assessment. So no, it's not an exact science and no matter how good a tool might be, I don't think you're every gonna find perfection. At the end of the day human beings will react in unexpected ways.

Nick Balneaves:

Do you think the public understand what you do in terms of supervision or do they have different expectations?

Nick Burgess:

I think the public have very little understanding of, what we do and I think that's, it's very difficult for us for advertising and bringing into the public domain what we actually do because a lot of it is confidential with clients and people may already have been in and out of the Court setting and you don't want any more publicity, thank you very much. So sometimes the tabloid papers can make the job quite difficult, cos a lot of people read the tabloids and they'll be raising fear and anxiety in the general population about offenders when sometimes it needs to be a more balanced view. So, whether it's that we're very poor at publicising what we do, or the Government on our behalf are poor at it - maybe it's a combination of both.

Nick Balneaves:

And when things go wrong?

Nick Burgess:

When things go wrong we'll have the press phoning us up for a press statement. The Scottish Executive will be wanting to know what the scenario was. Was the person seen according to national standards? Were all the various procedures followed as they should have been? And in the worse cases there may well be an inquiry. So that is the worse case scenario. So it's important that supervising social workers know that they can get support from management, that they've recorded things adequately and that the information has been shared appropriately as far as possible.

Nick Balneaves:

To finish us off Nick, what do you wish that you'd known when you came into the profession that you know now?

Nick Burgess:

Oh... [laughs] I had no idea when I came into the profession that I'd be sitting in Falkirk Criminal Justice Service 21 years later after walking through the door of this office and still, for a large part, enjoying what I do. The generic work is very different from the specialist work but for all the trials and tribulations, knowing the sort of staff you've got and making friends and relationships with others and hopefully encouraging and seeing people - clients - maybe putting their bad behaviour behind them, you know, I think is worth it. But, yes, it's certainly a long road.

Nick Balneaves:

Nick Burgess, thank you very much.

Nick Burgess:

Thank you.