

BRIEFING

**THE NEED FOR AN ENTITLEMENT
TO RESTORATIVE JUSTICE**

June 2017

1. Introduction

In 2013 the Victims' Code was amended to give victims of crime in England and Wales a 'right to be receive information about Restorative Justice and how you can take part'. However the Code was, and remains, discretionary and thus non-enforceable.

Statistics from the Office for National Statistics show that in 2012/13 just 8.7 per cent of victims were actually offered the opportunity to meet their offender. This fell to just 4.2 per cent of victims in 2015/16, the latest year for which figures are available.

So in 2016, the CJA – with the support of its 120 member organisations – committed itself to securing an *entitlement* in law to restorative justice (RJ) for victims of crime (subject, of course, to an offender being identified and agreeing to participate). This briefing seeks to outline in a straightforward way the significant potential benefits, for victims of crime in particular, of introducing such an entitlement in a forthcoming Criminal Justice or Victims Bill.

2. What is Restorative Justice?

Restorative Justice is a voluntary process that brings together victims and offenders to better help repair the harm caused by a crime. It provides victims, should they wish, with an opportunity to meet in person or communicate with their offender to explain the harmful impact that the offender's crime has had on them. They may thus receive human engagement and answers - and also sometimes a meaningful apology from the offender.

RJ holds offenders to account for what they have done and helps them take responsibility and make amends. Properly administered, robust RJ processes produce individually tailored solutions involving interaction between offenders, victims and the community.

3. What are the benefits of Restorative Justice for victims?

a. Victim satisfaction & fairness

There is firm evidence that RJ improves victims' satisfaction and feelings of fairness and as a result generally enhances public confidence in the wider criminal justice system.

The traditional court process can exacerbate feelings of victimisation. In too many circumstances it causes individuals to feel 're-victimised' and relive the trauma of an offence in intimidating and unsupportive surroundings. Victims also often feel they are not given the opportunity properly to participate in the trial process, feeling themselves to be mere 'post-scripts'.

RJ does the opposite, placing the victim at the centre of the process, encouraging them to engage the process to a level they feel comfortable with. Victims who have engaged in an RJ programme have consistently expressed high levels of satisfaction.

Numerous studies have shown that victims given the opportunity to participate in an RJ process are more satisfied than victims who only experience the traditional court process. Robust 2007 research commissioned by the Home Office found that 85 per cent of victims participating in RJ were satisfied with their experience, 20 per cent more than the control group who were not. Almost nine in ten would recommend RJ to other victims.

The 2010 Witness and Victim Experience Survey (carried out across England and Wales) found that almost one in five was dissatisfied with their contact with the criminal justice

system. Only three per cent of victims expressed similar dissatisfaction with their RJ experience.

An extensive 2013 study by Cambridge University's Heather Strang and Lawrence Sherman found that almost seven in ten of victims going through an RJ process were pleased with their treatment and the fairness of the process compared to fewer than half of other victims. Similar results are routinely found in RJ programmes worldwide.

b. Victim health and wellbeing

Being victimised, whether violently or by acquisitive crime, can result in significant and lasting psychological damage. Many victims have subsequent problems with sleeping, eating or concentration. They can also suffer from hyper-vigilance, stress and long term emotional problems. Feelings of anger towards, and fear of, the offender can prevent victims from moving on from an incident and returning to a normal life. While RJ does not provide a 'silver bullet' solution to these issues, it significantly improves the health and wellbeing of victims when compared to the standard court process.

RJ allows victims to explain the suffering they have experienced to their offender and encourages the offender to confront the harm they have caused. Creating a dialogue with offenders helps them take responsibility for their crime and try to explain their reasons for causing it. This often assists victims in understanding the wider context to an offence. Many say it helps them begin to put the offence in the past and start thinking about the future.

Participation in RJ can reduce fear and anger in victims and make them feel safer. Australian research has found that victims randomly assigned to RJ conferences were less fearful of a repeat attack. The study showed better long term outcomes, even a decade later, for victims who went through a restorative process. A similar study found that, on average, the number of victims scared of their offender fell by 18.5 per cent following RJ, while the number of victims who were angry with the offender fell by 37 per cent.

Home Office research has confirmed that over half of victims found RJ had helped to reduce the negative effects of the offence and almost two in five said that they felt more secure after taking part.

RJ has been found effectively to alleviate symptoms as severe as post-traumatic stress (PTS). Numerous studies support this, with the most detailed suggesting that engaging in RJ reduced levels of PTS by 23 per cent compared to a control group.

The traditional court setting often forces victims to repress emotions while a trial is in progress and makes them feel forgotten about once the case is concluded, with little follow up advice and support. RJ programmes are based on honest and open communication between all those involved where mutual understanding is fundamental to the process. They largely take place in more welcoming settings. Victims thus feel better able to determine whether they need support and how to ask for it.

c. Restitution

Victims are more likely to receive some form of restitution - such as an apology, sharing their view of the impact of a crime or even repairing criminal damage - from an offender when they engage in an RJ process. RJ allows for a personal connection to be developed with an offender, provoking stronger empathy with the victim and a sense of obligation to provide some form of restitution.

As the offender is involved in constructing the agreement that provides for restitution they too can see it as fairer and are therefore more likely to follow through with it.

Restorative Justice Case Study: Alli

'It was the second anniversary of my mum's funeral, and so it was already a difficult day for me. When I got home with my two young daughters, I noticed that all the drawers of a piece of furniture in the hallway were open, and there was stuff from the cupboard all over the floor. I just assumed that it must have been my daughters who had caused the mess, but when I went into the living room all the drawers were pulled out there too and there was stuff all over the floor.'

'The main thing that hit me was that my cameras, which held a lot of personal family footage, were missing. I had downloaded some but not all of it, including the last six months of my mum's life. That was really hard to take. When I went upstairs I saw that the chest of drawers where I kept all of my jewellery had been completely emptied, and our bedroom had been trashed – the burglar had been very thorough.'

'The police arrived and they were very supportive. Losing the footage and the jewellery was devastating - I felt like I had lost my mum all over again. I wanted to show it to my daughters, and to be able to hear my Mum's voice and see her face. The burglar had denied me that, and it physically and emotionally wiped me out. The loss of my jewellery was also very upsetting. It had huge sentimental value for me, and I had looked forward to passing it on to my daughters.'

'A couple of months after the burglary I received a call from the police saying that they had found the offender. It turned out he was already in prison by then for other offences. As there was no follow up criminal justice process that I was directly involved in, it left a void. I received notification of his court case and sentencing, and that was the end of it. I still had a lot of questions, and I felt that I had no closure.'

'A year later I received a phone call from Lighthouse Victim and Witness Care within the Police. They told me about restorative justice, and asked if I wanted to take part in the process. I surprised myself by being instantly keen - I felt a need for something more. Two restorative justice facilitators got in touch and arranged to come and see me. They were very thorough, and placed an emphasis on my safety and feelings.'

'I was incredibly nervous about the meeting as I knew it would open up old wounds, but I felt strongly that I wanted to participate. I needed him to see the impact and effect of what he had done. I didn't want to shout at him, but I wanted him to see how hurtful his actions had been. His prison sentence was an impersonal punishment, and I wanted him to understand the personal impact he had had on me and my family.'

'I felt anxious on the morning of the meeting. I was absolutely sure that I wanted to do it, but I knew that it would also be really difficult for me. When I saw him, though, I was surprised because he wasn't at all as I had pictured. He spoke first and apologised straight away. The process was handled sensitively, and it was made clear throughout that the process was for my benefit, not his. He looked genuinely shocked when I explained the circumstances around the burglary. I felt that he was remorseful, and that what I had to say had an impact on him.'

'Meeting him gave me closure. He made clear that if he could recover the items he had taken that were so valuable to me he would, but that it would be impossible to do so. That was important for me to hear, as it helped me to stop hoping that I might get some of it back. After the meeting I felt that I had done as much as I could do to make him understand the real impact of what he'd done, and for me there was no mystery to him anymore.'

'I'd recommend restorative justice to other victims. It's important to be aware that it's not going to be easy, but if you feel in your heart that it's a way to move on from what's happened to you then go for it. The restorative justice process has definitely helped me to move on. It still hurts hugely that I won't ever get my camcorder footage and some of my jewellery back, but the process has nonetheless helped me to address the pain and begin to move forward.'

**Thanks to Lighthouse Victim and Witness Care within Avon & Somerset Police, and Alli
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According to a review of 63 studies in five countries victims who participated in an RJ process were up to 60 per cent more likely to receive restitution.

Similarly, a victim is far more likely to receive a meaningful apology from an offender when they go through an RJ process. A review of four studies found that offenders were almost seven times more likely to apologise to a victim in an RJ victim-offender mediation than in court.

4. Does RJ have an impact on offender rehabilitation?

A 2005 study conducted for the Probation Service found that for 94 per cent of victims of crime their most important priority was that the offender did not commit the crime again, inflicting the distress they had suffered on someone else. This is confirmed by similar evidence from Victim Support. It often reassures victims to know that there is conclusive proof that RJ has helped reduce reoffending.

A core principle of RJ is that instead of a perpetrator simply being given punishment in court, it focuses them on acceptance of responsibility and on their reintegration into the community. It helps offenders understand what responsibility is and how to engage in a process that can help make things better.

The emotions generated during RJ programmes are believed to prompt and reinforce 'turning points' that can redirect a person's life away from crime. As a result offenders are less likely to reoffend. They themselves also report being more satisfied with the process and happier with the outcome, both of which help reduce re-offending.

Analysis of the 2007 Home Office research concluded that RJ reduces the frequency of reoffending by 14 per cent. The study used a randomised control trial, the most robust methodology possible and something rarely achievable in criminal justice research.

A host of other studies have found similar correlations between RJ and lower rates of reoffending, both in the UK and elsewhere. Research by the Smith Institute, for example, determined there was a 25 per cent reduction in recidivism among violent offenders after participation in RJ processes. A more recent rigorous analysis of juvenile offenders who engaged in an RJ service found it generated a 34 per cent reduction in recidivism.

Further evidence is available to suggest that RJ can be valuable at each stage of the justice system – from policing to probation - and with virtually all types of crime, from minor violent and property offences to serious sexual and violent crimes, including murder.

5. Are there wider cost benefits?

Certain RJ interventions are demonstrably cost effective. They thus offer the potential to generate large savings for the wider criminal justice system.

An authoritative evaluation of pilot RJ programmes in England, carried out by the University of Sheffield in 2007, found that on average for every £1 spent on an RJ service criminal justice agencies saved £8. In some of the trial areas the cost saving was as much as £14 per £1 spent.

Similar 2010 analysis by the Restorative Justice Council and Victim Support demonstrated that providing restorative justice in 70,000 cases involving adult offenders would deliver £185 million in cashable cost savings to the criminal justice system over two years, through reductions in reoffending alone.

An evaluation of the economic benefits of restorative justice carried out by Matrix Evidence found that diverting young offenders from community orders to a pre-court restorative justice conferencing scheme could also produce a lifetime saving to the public purse of almost £275m.

These cost-benefit evaluations do not take into account the significant savings RJ can generate outside the criminal justice system. For example, health agencies benefit from RJ services as fewer victims suffering from PTS, or less acute conditions, require healthcare interventions.

6. What does the general public think?

Surveys have repeatedly shown that the majority of the public support the wider use of restorative justice. A 2016 public opinion poll commissioned by the Restorative Justice Council found that 80 per cent of respondents thought victims should have the right to meet their offender. A 2003 study of UK public opinion found strong support for restorative considerations at sentencing.

There are also wider public benefits when RJ services are based in local communities. Greater public awareness and engagement in RJ processes creates a greater sense of involvement in addressing local crime issues. Communities themselves are better equipped to take ownership of crime issues affecting them than when traditional court processes are the only remedy deployed. This builds greater satisfaction and increased confidence in the criminal justice system and generally improves community cohesion.

7. What would the cost of an entitlement to Restorative Justice be?

In order to make a credible case for the introduction of an entitlement to Restorative Justice we recognise that is necessary, for the benefit of both policymakers and politicians, to be able to identify the annual cost. Over 2016-2017, working with a reference group of expert member organisations the Criminal Justice Alliance developed a national cost framework which identified this as **£30.5m** per annum.

8. Thanks

We remain grateful to all our member organisations which have supported this work, particularly those with specific expertise in this area. We are also hugely grateful to Porticus UK.

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