

Submission to the All-Party Parliamentary Group on Restorative Justice

Inquiry into the use of restorative justice and practices

What are the benefits of using restorative principles and what recent evidence of the benefits are you aware of?

Restorative principles include restoration, voluntarism, impartiality, safety, accessibility and empowerment. They can be put into practice through restorative justice and practices. This response will focus on restorative justice (RJ) and restorative practices (RP) in the criminal justice system (CJS).

The CJA seeks to achieve a fairer and more effective criminal justice system which we define as: safe, smart, person-centred, restorative and trusted. Restorative justice and practices have the potential to improve outcomes across these five measures. Using restorative principles more widely in criminal justice settings has the potential to:

- Increase feelings of safety and mental wellbeing. (Safe)
- Prevent crime, harm or conflict. Increase numbers of people being diverted from the CJS. Promote rehabilitation and rehabilitative culture. Reduce reoffending. (Smart)
- Meet individual needs. Offer hope and opportunities for positive life change. (Person-centred)
- Address harm, support victims and people impacted by crime and focus on reparation and reconnection to community. (Restorative)
- Build trust (Trusted)

There are varying degrees of evidence to support these potential benefits. Most of the evidence-base focuses on restorative justice conferencing or on the use of restorative practices in non-criminal justice institutions such as schools. Some evidence looks at benefits to one group of participants such as victims, but not to other participants or the culture of the setting as a whole.

Recommendation 1: A theory of change should be developed for the use of restorative justice (RJ) and restorative practices (RP) in the criminal justice system to more clearly articulate how RJ and RP could benefit individuals and lead to a fairer and more effective criminal justice system. This could provide a basis for systematically assessing the evidence base and identifying gaps.

Evidence on benefits of Restorative Justice:

RJ provides victims, should they wish, with an opportunity to meet in person or communicate with the person who committed the offence to ask questions and explain the harmful impact the crime has had on them. In this way, they may receive human engagement and answers – and also sometimes a meaningful apology. RJ holds people who have offended to account for what they have done and helps them take responsibility and make amends. Properly administered, good quality RJ processes produce individually tailored solutions

involving interaction between the harmed, the harmer and the community.

RJ has been shown to have significant benefits for victims of crime, who are too often marginalised by the 'traditional' criminal justice process, which has the potential to re-traumatise victims in intimidating and unsupportive environments. Instead of side-lining victims – whose only official place in the CJS is their potential to serve as witnesses – RJ places victims at the heart of its process, assessing their needs and level of desired engagement and responding accordingly. Numerous studies have shown victims who are given the opportunity to engage with RJ are more satisfied than those who only experience the traditional CJS.

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

Victims' experiences of the system, negative or otherwise, may have important knock-on effects for public confidence in, and the legitimacy of, the overall system.

'With restorative approaches there is potential to give the criminal justice system a real sense of legitimacy.'

-CJA Member

RJ has also been shown to have positive effects on victims' mental wellbeing, with the potential to reduce fear and anger and increase feelings of safety.

- 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 to alleviate symptoms as severe as post-traumatic stress disorder. 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.
- Why Me?'s 'Valuing Victims' Report found that victims who went through RJ in 2018/19 reported improved health and wellbeing, being better able to cope with aspects of life, having increased feelings of safety and feeling better informed and empowered.
- In some studies, the results indicate that the positive effects can last for a decade or more (Sherman et al., 2015).

RJ allows for a personal connection to be developed, provoking stronger empathy with the victim and a sense of obligation to provide some form of restitution. As the person who committed the offence 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.

- According to a review of 63 studies in five countries, victims who participated in a 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 when they go through a RJ process. A review of four studies found that offenders were almost seven times more likely to apologise to a victim in a RJ victim-offender mediation than in court.

Bringing a victim and the person who committed the crime into communication can also reduce the likelihood of that person reoffending, which not only positively impacts the wider public, but also satisfies many victims' primary concern – that the person in question does not commit another crime and so create further victims.

- 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.
- Research by the Smith Institute 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 a RJ service found it generated a 34 per cent reduction in recidivism.
- The College of Policing reported that 'Evidence suggests these [restorative] approaches have a particularly significant effect on violent crimes, and that victims are significantly less likely to seek revenge against the offender.'

- Ward, Fox and Garber (2014) in which they explore RJ in relation to offender rehabilitation and desistance and find that 'the values that are contained within [RJ] mesh well with the Good Lives Matter' and that 'RJ can play a role in promoting desistance'. However, they highlight a potential self-selection bias that those that do it are already on a journey of change.
- Ward et al. (2014) recognise RJ 'as a process could be part of the repertoire of tools that enhance pro-social identity change.'
- A recent study carried out in Wales on the use of RJ in probation found examples of improved wellbeing from the perpetrators as they described feelings of relief and a burden being lifted. (2021)

Despite robust evidence of the benefits, there are still extensive gaps in knowledge regarding the relative importance of the key components of restorative justice such as facilitator training, varied methods and the quality of programme implementation on influencing the outcomes. Lantermann has recently argued that 'The causal mechanisms of restorative justice are concealed in a black box that must be cracked in order to establish evidence-based practices, develop efficacious facilitator training, and develop or modify restorative justice practices and programmes to fulfil the promise of restorative justice.' In particular, she highlights three areas that require systematic evaluation: the effect of voluntary participation, the effect of participants meeting in person, and mechanisms that produce participant outcomes. There are also no known studies that compare participation in person and using video conferencing technology.

Calkin (2020) identifies that there is a lack of robust evidence surrounding the use of restorative practices and approaches in criminal justice settings,

such as prisons. However, she argues that evidence of the benefits in schools, where there has been greater levels of research, are comparable to comparable to prisons.

Recommendation 2: A cross-departmental project should be developed including a range of restorative practices across different criminal justice settings and with different cohorts. This would enable a systematic evaluation to improve the evidence-base and the learning could inform policy and practice. [The current cross-departmental 'Prison Leavers Project' could provide a blueprint for this].

In which areas is/are restorative justice/practices being applied effectively? Please provide examples of how practice has been effective in these areas.

Education

- In an extensive study of twenty schools implementing RP over 36 months, students in intervention schools had a higher quality of life and psychological wellbeing and lower psychological difficulties than students in control schools. (Bonell et al 2018.)
- An evaluation of restorative practices in three Scottish councils reported a number of schools increased student attainment and decreased exclusions. There was clear evidence of children developing conflict resolution skills.
- An evaluation examining the implementation of restorative practices at Approved Premises found that 'staff described increased confidence in tackling conflict within the AP environment between residents'.
- The Youth Endowment Fund toolkit (2021) states that 'There is promising

evidence about effective approaches to preventing exclusions. However, when the research has looked at the impact on arrests, it has tended to focus on interventions that have been less successful at keeping children in school.' They recommend 'Future research should identify the interventions with the biggest impacts on exclusions and evaluate their impact on crime and violence.' However, they found that evidence shows the programmes with the biggest impacts on preventing exclusions have tended to involve conflict resolution.

Recommendation 3: The Home Office and Department for Education should provide funding to VRUs to support work with secondary schools and alternative provision to promote and evaluate restorative approaches. This would improve understanding of how restorative approaches could help reduce exclusions and disrupt the school to prison pipeline.

Policing

COVID-19 has placed exceptional pressure on a CJS that was already under immense strain. OOCs are designed to deal with less serious offending and repair the harm; for example, by apologising, compensating victims, repairing damage or by doing some form of community service. The use of OOCs in England and Wales appears to have declined significantly in the last decade, more so than court disposals. With courts in England and Wales facing a backlog of 40,000 cases and the prison population predicted to rise to over 90,000 by 2023/24, emphasis should be placed on effective alternatives including greater use of OOCs, which could include a restorative justice or reparation element. There are various examples of diversion schemes that do this such as DIVERT (see Why Me Good Practice Guide).

Recommendation 4: PCCs should promote the use of OOCs and commission diversion programmes that incorporate restorative justice and practices, taking into account victims' views.

Restorative policing is a community style of policing that seeks to use alternative means of resolving conflict which does not resort to law enforcement. Instead, it calls on officers to use discretion, dialogue and negotiation to come to an effective resolution for all parties involved. Guidance co-produced by the National Police Chiefs' Council and the College of Policing promoted the 4 E's approach (Engage, Explain, Encourage, and only then Enforce) during the pandemic, which uses restorative principles. A report by Leaders Unlocked found young people felt more positive about police interactions during the pandemic when the 4 E's approach was used.

However, there are significant cultural challenges: 'There is a real opportunity, but there is challenge in shifting mindsets towards restorative practice within an organisation that is driven towards retribution and reaction, which is often how policing is done' former police officer Garry Shewan from Mutual Gain.

Recommendation 5: The College of Policing and National Police Chiefs Council should build on the 4 E's approach and develop further guidance for officers in restorative approaches. All new police recruits should receive training in restorative approaches from specialist restorative facilitators and ongoing reflective supervision and support to embed these approaches.

Prisons

A 2018 evaluation of a restorative prisons pilot found that 'with commitment, leadership and clear lines of

accountability, it is possible to use restorative approaches to deal, both formally and informally, with a wide variety of conflicts.' A recent study of restorative practices in three prisons by Calkin (2020) found the use of RP in these prisons has supported a better quality of life for staff and residents and built skills for de-escalating and managing conflict. Calkin argues that restorative skills learnt would be life skills for residents to take beyond custody. Research has shown that adjudications (prison's internal courts) are not deemed fair by residents and suggests that RP techniques could be used within adjudications to increase legitimacy and secure for better outcomes for all parties (Butler and Maruna, 2016).

In preparation for release, some prisons facilitate restorative interventions between those in custody and their families. Such conversations are difficult, but restorative approaches provide an opportunity for positive dialogue. Calkin said 'One of the things that I have been struck by, is how they don't have the conversations with their families that they need to because they don't know how to. If those conversations don't happen, then it does not set up a good foundation for life after prison.' Restorative conversations can support families to begin the process of healing and think more consciously about how they communicate.

In response to our recent report 'Responding Restoratively to Covid 19', the CEO of HMPPS informed us in a letter that 'Whilst there is not at present a published national plan for 'restorative prisons', re:hub is currently working to map and capture the experience of HMPPS across recent decades in applying restorative approaches including with prisoners' families and where there are mental health needs. A number of establishments already use restorative approaches for resolving

conflict and to help reduce violence and the Conflict Resolution model used across the Youth Custody Service is based on restorative principles.' She added 'We are committed to building back prison communities that are safe and where the culture is characterised by respect, cooperation and hope. This ongoing commitment is demonstrated by our continued focus on rehabilitative culture and procedural justice, as well as developing the application of restorative practice in many of the ways you have suggested.'

Recommendation 6: As part of its 'building back better' work, HMPPS should commit to more clearly making the connection between restorative approaches and concepts such as rehabilitative culture, enabling environments and procedural justice. HMPPS should commission restorative facilitators to produce a range of resources for staff and people in prison to use on a day-to-day basis to help embed restorative principles and practices.

Community sentences

Focus group participants felt that community service and other reparation-focused initiatives such as unpaid work could be restorative 'if delivered restoratively' and 'it is restorative to the extent it adheres to restorative values.' One participant described reparation as 'doing sorry.' Participants had seen reparation projects done restoratively. Examples were given of reparation projects that continued after the community service hours, as the participant had buy in and got the 'do good, feel good thing.' Participants felt that if participants could get a skill they can use in community and help to develop confidence to learn and shift patterns of behaviour, then it could be restorative. However, they discussed that some forms of reparation are punitive not

restorative. As one participant said 'Community Service – what a beautiful term and how sad it is sometimes not done in restorative and reparative way.'

David Nicholson argues that 'giving back' is both a central tenet of restorative justice and a key element in desistance (Maruna, 2016). He believes that widening the scope of existing Community Payback arrangements to include unpaid work with co-operatives and values-based 'purposeful' employers would 'provide both a means of making financial payback, as well as a progression route into desistance-supporting paid employment.'

The government's recent 'Beating Crime Plan' describes that 'As part of our work to ensure appropriate punishment in the community, we are revitalising unpaid work to ensure offenders are visibly and publicly making reparations for their crimes by undertaking work that is valuable to their local areas, such as cleaning the streets, estates, alleyways and open spaces of litter and other visible signs of disorder in local neighbourhoods.' Wearing high-vis jackets and descriptions of 'chain-gangs' in the media added to the punitive rather than restorative approach of this plan.

Recommendation 7: The government should retract plans that would increase shame and stigma when doing community service. They should instead commit to a restorative approach to developing and designing community sentences, including unpaid work. PCCs should commission restorative facilitators to help co-produce ideas for community reparation projects. Regional probation leads should ensure staff delivering and supporting unpaid work are trained in restorative approaches.

In your view, what measures should be used to determine effectiveness? Where possible, please provide examples.

Many RJ services struggle to define how they are effective and demonstrate success. Commissioning targets do not necessarily reflect the hugely positive effects of restorative interventions, even those that do not result in a 'fully' restorative outcome, i.e. a meeting or a conference. Many RJ services are improving their understanding of the wider benefits of their work and are enhancing their ability to capture this 'success'.

While the number of conferences and interventions provided (which often remain key targets of commissioning requirements) are useful measures of activity, they often fail to capture the breadth of positive intermediate outcomes that restorative interventions can secure for victims and those who have committed crimes. Part of the difficulty with this process is that restorative interventions are tailored to the individuals involved so a 'one-size-fits-all' approach to measuring success is often inappropriate – a successful outcome can look different from one participant to another.

Over-emphasising the volume of conferences as a measure also runs the risk of dissuading services from offering RJ in serious and complex cases that will take longer to complete. Survey respondents (see CJA report 'Journey of Learning, Growth and Change' 2019) were asked how they measure the success of their services. Half of respondents said they tracked satisfaction rates and the volume of cases and interventions was also highlighted. But while the volume of conferences and satisfaction rates remain important measures, services are looking beyond the recorded outcomes expected

by the Ministry of Justice. Services are also assessing the broader range of positive effects of RJ and restorative approaches to better capture the benefits of their activities.

Almost a third of respondent areas stated they were working to track 'distance travelled' by participants, which can help demonstrate the benefits of a restorative process that, for whatever reason, does not progress to a final conference. Some areas also evaluate testimonials from participants, which further assists with the qualitative side of measuring success. Other areas include training and awareness-raising outcomes as part of their measurements, while a minority of areas also responded that reoffending rates are monitored. Looking at this broader suite of measures will only serve to demonstrate the range of benefits that restorative services are providing:

'We do not see RJ as simply about conferencing. I think if a victim or offender is helped at any point in the process by talking about their feelings, indirect or direct RJ then it should be seen as a positive. Essentially though it is about the extent to which a victim has been supported to cope, recover, reflect upon, learn and move on from what happened.'

'The majority of the cases that progress to conference tend to be offences that are more serious in nature. As a result, the offenders are often in prisons all over the country. These cases take a long time to prepare due to the sensitive and complex nature and the distance practitioners are travelling. The numbers engaging in RJ may not reflect the activity going on behind the scenes. We are trying to address this by ensuring that our provider reports on the number of hours that a practitioner spends with each case.'

Case studies from 'Journey of Learning, Growth and Change' (2019):

Restorative Gloucestershire makes use of traditional tracking of satisfaction and volume rates as a way to measure the success of its service. However, they also look at reoffending rates (85 per cent of offenders who have participated in their programmes since 2013 have not reoffended) and are also looking to capture the wider impact of innovative programmes in schools by looking at their effect on rates of exclusions.

The office of the PCC in Kent meets monthly with the RJ service provider to measure progress of the service. While the measurements used reflect the requirements from the Ministry of Justice, they also include tailored measures to reflect local need, including measuring the 'journey of the victim.'

In Cheshire a reporting framework is in place to monitor activity and effectiveness of the service, including monitoring of the referral rates. Proactive work is also measured, as well as types and numbers of cases, training activities, awareness raising, measures of service user satisfaction and improvements in wellbeing.

In Hampshire, in addition to monitoring referrals, attrition rates, and the number of restorative processes facilitated, the RJ provider also completes satisfaction surveys with anyone who engages in a restorative process. This includes a monitoring report with each victim, measuring their health and well-being at the beginning of their engagement with the service and then again on completion.

All parties, victims and offenders who engage in mediation or restorative interventions in North Yorkshire are carefully assessed and baseline measures across categories of need are taken on

entry to the service. A 'cope and recovery plan' is designed for each participant based on the initial assessment and on completion each participant carries out an exit review where the categories of need are re-measured, and a satisfaction survey is completed.

Recommendation 8: The Ministry of Justice and commissioners of restorative justice services across the CJS should move away from volume of meetings or conferences as a measure of effectiveness or success. A suite of measures should reflect the complexity of restorative work and aim to capture the wider benefits.

Focus group participants made various suggestions for measures of effectiveness for restorative practice including:

- Building understanding between groups where there is mistrust / othering. This could be measured using before and after attitude surveys. Example: 'When carrying out restorative circles with the police and young people we asked the police participants if there was anything they could do differently in how they responded to the other group. Beforehand people said no, after they came up with lots of ideas.'
- Mapping behaviour change including relationship and communication mapping. Example: 'When working with the police and traveller communities, we measured the presence of new relationships and lines of communication between the police and travellers as that is what we were trying to achieve, so it was a bespoke measure.'

- For restorative work in prisons measures could include: violence on the wing and against officers, self-harm, staff turnover / sickness. There are also measures used by HMIP and the Measuring Quality of Prison Life survey (MQPL) that could help measure changes in prisoner/staff relationships and prison culture. 'We need to talk more about how it can influence the safety of an environment'. Example: Manchester Metropolitan University undertook an evaluation of The Sycamore Tree course using various measures. Evidence indicated that the course contributed to a shift in how learners view their offence, greater empathy, improved wellbeing, self-forgiveness, attitude and behaviour change, improved relationships and greater engagement with other prison activities such as education, volunteering, giving back through being a Listener or peer mentor. They also interviewed prison staff and family members to track the impact on the wing and family ties.

The Measuring Quality of Prison Life (MQPL+) is a methodology design by University of Cambridge to carry out a 'cultural and quality diagnosis' of the social environment of a prison. It can assist in understanding institutional change trajectories. They state that 'In particular, we are interested in the 'new' ways in which prison officers manage and distribute power on the wings and with prisoners, and the implications this development has on fairness, legitimacy, and order.'

Recommendation 9: The Ministry of Justice and commissioners of restorative justice services across the CJS should develop a suite of measures to be used to help evaluate the effectiveness of restorative practice in criminal justice settings. The Justice Data Lab should also be used to help understand how

effective restorative practice is in reducing reoffending. The MQPL+ should be used to understand how prisons adopting restorative approaches result in institutional culture change and the impact on prisoner and staff quality of life.

What in your view makes a good restorative culture in a setting, institution or community? Please cite examples if you have any.

Cultures are typified by those living / working in them sharing similar aspirations, values and attitudes. Changing culture therefore requires behaviour and attitudinal change, which needs to be enabled, encouraged and exemplified until it becomes 'the norm'. Having a restorative culture helps to embed restorative justice and practices.

However, as Kay Pranis (2007) highlights 'Efforts to implement restorative justice in the criminal justice system are often undermined by workplace cultures that are not based on restorative justice values and principles. Implementing a fully restorative approach to crime requires the cooperation and commitment of those working in the criminal justice system.'

As Calkin has identified 'the literature on schools is very clear on one outcome: the introduction of RJ techniques such as conferencing as a way of managing harm and post conflict works best when it is 'not an isolated intervention ... (but) inextricably linked to all interactions'. She argues that 'The restorative initiative otherwise becomes swallowed by the existing punitive culture, another lesson for prisons. The RP literature contends that in order to successfully implement RP in schools it must not exist as one of a range of optional interventions, but as a central philosophy that informs decisions.

Whole school practice is identified as the optimal method of causing behavioural shifts’.

Focus group suggestions for supporting cultural change included:

- Restorative leadership techniques.
- Restorative internal HR policies and processes.
- Having published restorative strategies / action plans. Example: The PCC for Hampshire produced a strategy specifically for RJ and restorative approaches, recognising the growing support for these approaches in schools, prisons and care homes to resolve conflict. The strategy stated the need to move RJ from ‘the periphery’ of the criminal justice system, challenge perceptions, and give it the same level of importance as other interventions provided by criminal justice agencies. The strategy emphasised that this will only be achieved through a shared vision and commitment to restorative practices, which should be formalised on an annual basis through a local action plan endorsed by RJ Board members.
- Staff buy-in through awareness raising, training and leadership. This requires access by restorative specialists / organisations to explain and encourage. It also requires accountability mechanisms including incentives and consequences for agencies who do not engage.

Calkin found that ‘RJ initiatives often encounter resistance from staff and are repeatedly obstructed by the prison regime. This resistance can be as a result of any number of factors: a view amongst staff that RJ is unnecessary or a soft-option; annoyance at the time and energies required of staff; fear that restorative processes invalidate the traditional role of prison officers; or worry that RJ will lead to a questioning

of the dominant values and practices of the prison (Noakes-Duncan, 2015).’

- Co-location between RJ staff and others. More joined up working between restorative staff and other departments. More co-working across services.
- Provision of resources and toolkits to help people to understand how to practically apply restorative approaches and to help people understand how it fits with other training they may have done or other approaches (e.g. trauma-informed, signs of safety, rehab culture). ‘We need to not overwhelm already overwhelmed staff.’
- Helping people to understand that conferencing is an intervention within a broader range of tools and techniques restorative can offer. Better understanding of range of restorative practices and approaches and ongoing support to apply them in practice.
- Looking at all processes and policies and ‘injecting a restorative ethos’ for example in language, seating, literature and paperwork. Having open questions, moving away from tick boxes and helping hear the voices of people involved. ‘Putting a restorative heart within the square.’
- Training in restorative must start with the values before teaching the skills – they are the practical manifestation of restorative values. Training must emphasize that working restoratively is ‘not just being nice, it is an intentional and systematic way of working.’

Recommendation 10: The Ministry of Justice and Home Office should publish a new joint national action plan for restorative justice and practices. This should include internal actions for criminal justice settings, such as embedding restorative principles into HR policies and processes, awareness raising,

training and ongoing support. (The most recent plan expired in March 2018) The plan should be reviewed every three years.

Community Cohesion

Now more than ever, there is a need for open dialogue and difficult conversations. In dismantling the racism that permeates institutions, there is a lot to learn from restorative models that listen to people's lived experiences and bring communities together to repair harm. The creation of safe spaces for restorative discussions about experiences of COVID-19 and racial inequality, and the intersection of these issues, is critical to an effective recovery which heals trauma and builds more cohesive and safer communities.

In June 2020, Why Me? held a virtual restorative listening forum, where people could participate in dialogue and share their own experiences of racism from state bodies such as the police. The session focused on the experiences of attendees, the harm that these experiences have caused, and what could be done to repair that harm.

Organisations such as Another Night of Sisterhood, work with Black communities and the police to facilitate safe spaces for people to be heard, acknowledged and for positive actions to be agreed to move forward.

Experts in restorative communities interviewed as part of our 'Responding Restoratively to COVID-19' briefing told us:

'I think for the police to effectively deal with communities they need recognition of that history. It's almost like trust and reconciliation.'

'Victims of hate crime want to be listened to and taken seriously. Restorative

Justice empowers them to have their voices heard, express the impact of the crime, and move forward with their lives. It also gives them the opportunity to educate the perpetrator and combat prejudice.'

There are already restorative cities in the UK, such as Bristol and Hull, where efforts are being made to develop a restorative culture. The PCC in Sussex commissioned a post in Brighton and Hove to support the city to become restorative. Brighton and Hove have formed an RJ Champions network and are expanding the use of restorative approaches.

Recommendation 11: PCCs should commission restorative organisations to facilitate restorative conversations (or train community leaders in restorative practices) between the police and communities, as well as supporting community or city-wide restorative initiatives. The government should commission an evaluation of restorative communities and cities to better understand the benefits and to share the learning more widely across different regions.

In which areas is/are restorative justice/practices not being applied effectively? Please provide evidence of where there are blockages, and what could be done to overcome these.

Prisons and probation

CJA's survey of RJ services (2019) found almost 90 per cent of respondents said they accept 'offender-initiated' RJ, however they rely heavily on prisons and probation services buying in to RJ and referring in to the service, which one area noted could be a challenge because of lack of funding and resource.

One focus group participant who runs victim awareness courses in prisons, stated that many people who complete the course want to take part in restorative justice, but won't be accepted by local RJ services as their home address is in another part of the country. It was discussed that due to the 'postcode lottery' of funding, some RJ services can facilitate services with people held outside of their region, whereas others can't. As one focus group participant observed 'There are restrictions on working in a multi-agency approach with other CJS services by insisting on victim-led services.'

In a recent letter to the CJA from the CEO of HMPPS, Jo Farrar stated that 'HMPPS works in close partnership with commissioners and service providers to ensure safe and effective, evidence-based practice in accordance with national standards. HMPPS has proved its commitment to RJ by establishing its own Restorative Practice Hub (re:hub) in 2019 to support and coordinate RJ across the Agency. re:hub is concerned with the full spectrum of restorative practice covered in your briefing'. However some focus group participants expressed frustration at the 'gatekeeping' role re:hub play and some felt that their 'risk averse' approach was preventing more restorative work from happening across prisons and probation. There was also frustration that the work of re:hub was not more open and transparent, for example there is no web presence to inform the sector of their role, plans and work.

This year saw the re-unification of probation which went live in June with a dynamic framework to commission services. However, although restorative justice is on the dynamic framework, it was unfortunately not a 'day one' service. In a webinar discussing the framework, HMPPS stated that 'We have no fixed date for DF RJ commissioning as this will

be up to regional / local commissioners to decide'. It therefore appears that the 'postcode lottery' for RJ may continue, as they added 'It will be for regional directors, along with other local commissioners such as PCCs, to decide what resources they commit to RJ in their local area. Regional / local commissioners will commission on the basis of what needs there are, what services already exist to meet those needs or what gaps there may be, and what the market is.'

Recommendation 12: Each prison and probation service should have an RJ lead responsible for co-ordinating referrals to RJ services. Funding should be ringfenced to ensure that prison and probation services are able to make referrals to an RJ service and explore the option of RJ in all cases where people in prison or on probation indicate an interest in RJ. The work of re:hub should be made more transparent, through the development of a web presence and more accountable, through the development of a national action plan.

What areas of Restorative justice/practice are being funded and by whom?

'An uneven approach to implementing RJ and restorative practices has been propelled by the devolved budget of the Ministry of Justice to Police and Crime Commissioners.' (Journey of Learning Growth and Change, 2019)

RJ received financial backing from the Ministry of Justice in the form of allocated funding given to Police and Crime Commissioners (PCCs) between 2013 and 2016. However, since this allocation ended it is incumbent on PCCs to decide how much to invest in RJ from their victims' budgets.

Unfortunately, this appears to have resulted in a 'postcode lottery' for victims of crime, whose access to RJ may depend on where they live.

In 2017 Why Me? produced a breakdown of spending on RJ services by each police force area between 2013 and 2017. Acknowledging some limitations to the available data, the results still show a dramatic cliff edge in RJ spending for many areas of the country when the allocated MoJ funding ended in 2016. So, while some areas continued to invest significant proportions of over ten per cent of total victims' budgets in RJ, other areas reduced their funding to less than five per cent proportionately.

As one focus group member said 'they only allocate £50,000 - what can be achieved for this?' Why Me?'s 2021 Valuing Victims report found (through Freedom of Information requests) that seven PCC areas spent £50,000 or less on RJ services.

Concerns were also raised about the length of contracts which vary across PCC areas. Some areas offer contracts of 5 years plus annual renewals, however others only offer two-year contracts. Participants also raised concerns that in some areas tenders only come up three months before the end of the service which can cause problems with staffing. One participant explained that 'Partnership working is key to reach the people. If tenders are done every 5-7 years this isn't so bad, but every 2 years it is a huge problem [...] Transition arrangements are not to my knowledge included in contracts. It needs to be an accountable process, it is public money, but longer-term contracts would be better.'

Another participant highlighted the lack of available funds for training and awareness raising '[We are] trying to expand restorative knowledge to the

whole organisation, not only RJ staff, but there is no funding to do this.

Lack of ringfencing funding for PCCs is an issue.' Participants also raised concerns that many RJ services rely on volunteers, however there is insufficient funding available to properly train, manage, co-ordinate and supervise volunteers. 'It can be a difficult relationship to maintain to ensure volunteers are recruited, managed and trained. Attitude can be from funders that volunteers are easy to get.' Another added that 'We have a core of volunteers, but regular training is needed to cover a new pool of volunteers.'

Recommendation 13: The Home Office should reinstate minimum ring-fenced funding for RJ services to ensure greater consistency in accessibility across different PCC areas. This funding should also be sufficient to cover adequate training, awareness raising, volunteer management and outreach work. There should also be minimum contract terms to provide greater consistency and stability for providers to develop and nature partnership arrangements (subject to robust accountability mechanisms).

Recommendation 14: The Ministry of Justice should publish outcome framework returns including how much money is being spent on RJ services, rather than data having to be collated through annual Freedom of Information requests.

Focus group participants also highlighted that 'restorative justice conferences are being prioritised over things like restorative conversations which does not reflect the truth of what is happening in services across the country'.

There was also a frustration that some work that doesn't involve a conference is not funded. 'The danger is that onus on RJ conferencing detracts from the process, as not the only worthwhile outcome for participants. Funders come in and say what they want without asking the people who have been doing it successfully.'

Recommendation 15: Ring-fenced funding discussed above should include the restorative work done outside of conferencing and wider restorative practices across the CJS. It should also include the costs of evaluating innovative work to add to the evidence base and better understand what works.

What areas of Restorative justice/practice are not being funded? In your view, please explain what impact this has on access?

There is currently no entitlement to restorative justice for victims. A costings exercise carried out by the CJA in 2017 on the cost of an entitlement to RJ for victims. We estimated that RJ could be provided across England and Wales for appropriate offences for £30.5m per annum. However, RJ has often historically placed voluntary and community participation at the root of its practice and this ethos continues to this day. Many high-quality providers of RJ in the third sector make extensive use of volunteers through a variety of models. Consequently, were an entitlement to RJ to be secured for all victims of crime in England and Wales the actual costs of commissioning such a provision would in practice almost certainly be lower than the £30.5m estimate, based – conservatively for cost purposes – on the employment of paid staff to deliver this service.

Certain RJ interventions are demonstrably cost effective and 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 a 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 RJ in 70,000 cases involving adult offenders would deliver £185 million in cost savings to the CJS over two years, through reductions in reoffending alone. An evaluation of the economic benefits of RJ carried out by Matrix Evidence found that diverting young offenders from community orders to a pre-court RJ 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 CJS. For example, health agencies benefit from RJ services as fewer victims suffering from PTSD or other conditions require healthcare interventions.

Recommendation 16: The new Victims Law should include a specific right for victims to be referred to and access restorative justice services. This could include a conference, but may include other services such as a restorative conversation, use of a proxy or other forms of restorative support. The government should commit sufficient funding in the next Comprehensive Spending Review given the evidence of the cost-benefits.

Why is there still such a disparity between different Police and Crime Commissioner / Mayoral areas in terms of the types of offence which are considered suitable for Restorative Justice? Where this occurs, please provide examples of the impact this has on victims and offenders.

Participants in our focus groups raised concerns about the disparity in criteria for different offence types in different regions. As one said: 'There is variation in different types of referrals and criteria for cases to be considered. Some cases fall between the gaps and funding is not available to facilitate these despite entitlements under the victims code.' Participants felt that restorative justice can be valuable with virtually all types of crime, including serious and complex cases, as long as proper training and safeguarding measures are in place.

Focus group participants highlighted that the disparities occur due to the following factors:

- Fear. An example of 'backlash on twitter regarding domestic violence cases' was cited by one participant.
- Protectionism of some organisations.
- Misunderstandings of what RJ means - 'people automatically assuming it is risky.'
- Not listening to victims/survivors about how to meet their needs.
- Some services refuse to work with cases where restraining orders exist.
- Guidance from the Associations of PPC says 'you must not use RJ in DV cases unless you are told you can'. A participant pointed out that the guidance is 10 years old and argued that 'At some point each of these things have to be done for the first time. This is required to progress the

work - with care and preparation and risk assessment.'

One participant spoke about a recent pilot involving an RJ service working in partnership with a domestic violence charity to compile guidance to identify how to ensure that DV survivors are not automatically disregarded. They said 'Any cases that progress will be subject to rigorous risk assessment and process. [...] There are examples of people who have been subjected to abuse who have had to fight for access to RJ over a period of years - this is not acceptable. To exclude people who want RJ is secondary victimisation of the highest order.'

One way to increase trust and confidence in the use of RJ for some domestic violence / sexual abuse cases would be to introduce mandatory specific training for facilitators working on these cases.

Recommendation 17: PCCs should remove any blanket bans on funding RJ for certain offence types, instead they should ensure that there are specialist staff trained for serious and complex cases available to consider each case on its individual merits. Specific mandatory training should be required to facilitate cases involving domestic violence or sexual abuse. Funding should be made available for RJ services to work in partnership with domestic violence specialists in the development of services for these cases. The APCC guidance should be updated to remove the presumption against use in DV cases.

What in your view makes an inclusive restorative service/culture that enables and supports the participation of people with protected characteristics? Please cite any examples you are aware of.

Focus group participants described an inclusive restorative service / culture being fully seen, recognised and responded to; facilitating voices, hearing and listening properly; not imposing things on people; flexibility and adaptation and starting with asking what works for you and what doesn't. Participants highlighted that more could be done to better monitor who is accessing RJ services and identifying who is missing out and why. As one participant reflected 'An inclusive service asks who aren't we reaching? We can congratulate ourselves for the people we do reach and how we adjust and engage those we work with, but who is falling outside of that? Who doesn't ever come to our services? I don't think we always know that.'

Recommendation 18: Commissioners of restorative services should require providers to provide information on the protected characteristics of their service users, along with actions to address any cohorts who are not currently engaging.

Several participants spoke about the lack of a diverse workforce and volunteer base in restorative services. One said 'The workforce and volunteers should reflect who is coming through the system. You need to have people representative of people you are working with - otherwise they feel they have to justify and explain themselves. When you feel vulnerable the last thing you want to have to do is feel like you need to explain yourself.' Another described the concept of minority stress which can be heightened through a lack of

representative support 'Am I safe to come out in this space? Can I bring my whole self? Do I have to talk about this with every new professional?'

Participants identified some barriers to a more inclusive workforce / volunteer base. These included the times of day for volunteering, a lack of proper HR set up and input for staff and volunteers, a lack of outreach and resources. However, the focus group shared some good practice and ideas for overcoming those barriers:

- 'Have advisors who can have input. We worked closely with a Travellers charity.'
- Our manager worked really hard to bring in inclusive HR processes and monitoring into volunteer management.
- 'We should look into corporate volunteering in people's work time or hold panel meetings at times that are more accessible.'
- 'We reached out to organisations that are deeply embedded in those communities'
- 'Our interview process assesses resiliency, attitudes and illicit values and prejudices to understand how tolerant that person is going to be.'
- Having a specific role within a service focused on outreach, inclusion and equalities.
- Working with universities to find younger volunteers.

Recommendation 19: Commissioners of restorative services should require providers to submit information on the protected characteristics of their staff and volunteers, along with actions to increase diversity where required.

The focus group felt that an inclusive service and culture would also be aware of intersectionality. For example, one participant explained that their service works with an organisation that

specialises in working with the LGBTQ+ Muslim community. For others the focus group discussion itself made them consider other intersections: 'We have less issues with racial and religious diversity amongst our volunteers, but it is interesting to hear about intersectionality. They might be the same race or religion, but what about social class?'

Another participant identified that trans people have specific needs and may have mental health needs. They may also have experienced transphobia from the police and domestic violence services: 'The police may have used their legal name and not the name they use. They are also likely to be mis-gendered. Non-binary is not recognised as a category. If they have experienced hate crime, it is unlikely they will engage.'

Participants felt that there was some short-term funding available for projects that prioritise restorative justice and practices for people with protected characteristics, which helps to identify the issues and needs, however the funding is not always there to continue the work in the longer term, for example by working in partnership more closely with specialist organisations: 'We need more joint working with specialist orgs to work alongside RJ providers to provide confidence in engaging people with protected characteristics or a combination of protected characteristics to ensure they have a good as experience as possible.'

Another important consideration raised by the focus group was to have professional support available to staff and volunteers as supporting someone with similar protected characteristics can be re-traumatising for them.

Participants also felt that an inclusive service would have good quality equalities training, however many felt

that equalities training could be improved. For example, it could have greater input from specialist organisations or people with lived experience of that protected characteristic. As well as training, participants felt that reflective practice and 'having procedures in place to challenge our own conscious and unconscious biases' were important.

Several examples were given of working with people with learning difficulties or disabilities. 'We spoke to autism lead to take advice, reflected on what more we could do. For example, we took them to the venue beforehand to acclimatised them.' Another added 'We had a child with speech and language issues. We asked what they needed and what they could deal with. They did not want to speak to a panel, so they spoke to individuals instead.'

Access to material in different languages is also important. One victim service told the CJA 'I think we have materials in 40 different languages and we are also starting to develop them with communities. But it takes a lot of time and resource to make sure that the resources themselves are appropriate.'

Recommendation 20: Commissioners should incorporate core funding for outreach, translation services, partnership working, equalities training and supervision into their budgets. It was suggested that volunteers and staff who are working on cases of hate crime should have specific training to work on these cases for example anti-racism and gender/sexuality awareness training, as well as supervision by someone with lived experience or a specialist organisation alongside their case supervisor.

Recommendation 21: Specific training for Hate Crime should be developed and required in order to facilitate restorative justice in these cases.

A roundtable held by the CJA in 2019 with the Ministry of Justice, explored the barriers for Black, Asian and minority ethnic victims of crime in accessing victim services including restorative justice. One participant said: 'I think sometimes there's an assumption that all victims are the same. So there's almost this colour-blind approach from agencies. So they don't actually look at some of the specific needs communities may have in terms of providing a service.'

Participants also felt that there was a lack of scrutiny and accountability of whether victim services, including restorative justice, were effectively engaging people from Black, Asian and minority ethnic backgrounds. As a result of that roundtable, and further work with the Ministry of Justice Race Disparity team, the MoJ have recently published guidance for PCCs on commissioning services for Black, Asian and minority ethnic victims and how they will be held to account on this.

Recommendation 22: PCCs should be required to feedback to the Ministry of Justice how the services they have commissioned have engaged and supported participants with protected characteristics and made their service and workplace more inclusive.

What are the current information sharing issues and how could these be overcome?

In order for RJ services to operate effectively, they must work in partnership with a range of other institutions and services, from victims' services to the police, prisons and probation. These connections are vital to ensure that the

expectation of RJ being available to all victims can be realised. However, the degree – and the form – these connections take varies across the country.

While it would be inappropriate to prescribe a particular model of 'multi-agency working', there is almost certainly a correlation between the degree to which RJ services are connected with other parts of the criminal justice system and the level of service they provide. PCCs remain the key commissioners of RJ and the bulk of RJ work in England and Wales is carried out by third sector organisations. Over two-thirds of survey respondents (see CJA report 'A Journey of Learning Growth and Change' 2019) stated that RJ was provided by a third sector organisation in their police force area. Of the remaining survey respondents, some described RJ services as being delivered by the Office of the Police and Crime Commissioner, while others stated services were provided through wider victims' services, through a dedicated RJ 'hub' or through other criminal justice agencies. However, when asked how RJ services bring different organisations together, there was a broader range of responses, which indicates the variation in how services have been designed and delivered. Almost half of survey respondents stated their area operated a 'hub' model. This may take the form of an independent restorative service. Over 40 per cent of respondents said that the RJ service operated as part of wider victims' services or a victim and witness hub. Some respondents also identified steering groups for RJ that bring together different agencies to share information and align strategies.

However, when asked about operational challenges facing RJ services, a number of respondents indicated that limited information-sharing was still hampering service effectiveness, while others

highlighted resistance from partner organisations such as the police. Survey respondents told us that ‘access to information is often a challenge, we are working closely with partners to ensure appropriate agreements are in place.’ Others said ‘Information sharing has also been a major challenge with the Police’ and ‘Information sharing is one of the biggest challenges particularly as we have a third sector provider delivering the RJ services.’ It also appears that simply developing a ‘hub’ model of working does not solve the issue of low referral rates – almost half of the areas that described a hub model stated that referral rates remained a challenge.

One respondent explained ‘Having the service sit within the police force allows for easy access to information and partnership work. Having partners hot-desk within the service helps develop closer working relationships. Having the Hate Crime team work within the RJ office helps with identifying potential new cases.’ Another told us that ‘An element of the service requirement is to provide a coordination hub that is the centre of excellence for restorative practices across multiple agencies and organisations in the area. The service provider fulfils this through close partnership working and has developed agreements and referral protocols that ensure consistent referrals are received, and good relationships with partners (e.g. prisons) where additional support is needed; they also provide training courses and bespoke team inputs to ensure consistent approaches are used across all sectors.’

Focus group participants have told us that more national information sharing agreements between RJ providers, police forces and government departments are needed. If an organization works nationally, then currently they are having to negotiate for each and every case. As one focus group participant said ‘It is

as easy or as hard as people make it – it is doable, or there wouldn’t be any information sharing processes in place. If it can be done locally, it can be done nationally, with the right impetus. We need an obligation for statutory services to share information with the RJ provider.’

Recommendation 23: The new Victims Law should include an obligation for statutory services to share information with RJ providers.

Where, in your opinion, are there good examples of the voices and views of people who have participated in restorative justice/practices being heard and acted on in the design and delivery of restorative services?

Focus group participants were asked to give examples of effective engagement and participation of people with lived experience of restorative justice and services.

People with lived experience were involved in a variety of ways in the design and delivery of services, although all agreed that there was a lot of room for more such work to be done and developed.

Involving victims and young people in designing RJ promotional materials and resources.

- Involving young people in designing an RJ information leaflet was described as ‘ground-breaking’ by a participant who explained that they changed the language they used and rather than calling it restorative justice, instead said we want to talk to you about what you need to help you move forward. ‘There was an element of co-production. We are still

doing to people a lot of the time, so we wanted to create something with them.’ They described that ‘the leaflet before was all text, we made it visual, much less text. We added a map saying this is a journey with images. We had a staff member who illustrated caricatures of us [...] I learned a lot, what do people need to know right now – we need to peak their interest at first.’

- Another restorative project that works in schools developed a book on restorative approaches in schools with children. ‘They invested the time and the money, it is now a book you would want to keep on your shelf, it’s really paid off. You want the students to value it and to know time and care has been put into it. It helps them feel valued.’

Involving service users with recruitment and training

- One service engages with young people on, or who have just completed, a referral order to help recruit new staff and volunteers. ‘They design their own questions and we give them interview training. They have a separate interview space usually on their own. Sometimes a worker observes, but we prefer if they don’t as it changes the dynamic.’ The participant said that they get really interesting feedback, however they added ‘to be honest I’m not sure it was taken into account as much as it ought to have been for staff. It is important to really listen to what they say and consider their feedback as an equal party to the decision making. It didn’t always happen, but it was a really valuable part of our process and I really enjoyed working with them to bring different dynamic to interviews.’ Another participant from a different service had been interviewed by a young person for their job: ‘I really appreciated it and

found it valuable. I was also able to ask them questions. The organisation did a good job of taking their views into account.’

- Another project described how service users interview and play a part in mentor training by observing and giving feedback.

Peer support groups

- One service runs peer support groups. They provide an informal space potential, current and former service users to and get a cup of tea, so they are comfortable with peers before deciding whether to take part in the more formal process. It also helps long term inclusion for former service users for as long as they need. Feedback processes
- One participant said they have a formal feedback process by asking questions at 3 and 6 month check in calls, but reflected that they don’t often get much feedback. They felt another approach might be necessary to more proactively involve former service users.

Training to become facilitators and speakers

- One service informs former service users that if at any time in the future they can access training to become a facilitator. They also invite former service users to speak at events if they wish.
- Participants felt there was more they could be doing and were also keen that service users and former service users be valued for their time through expenses, training and payment.
- ‘There is a lot of debate about paying people. We wanted to recognise the fact young people took time out to support us. We took them to McDonalds. They will hopefully learn some skills for interviews themselves. It is important to recognise their time,

so we gave them vouchers. It's a gesture that says your time is valued, we are not exploiting or coercing you. Offering a thank you is really important, but I know a contentious issue in some services.'

Recommendation 24: A toolkit should be commissioned by the Ministry of Justice to support restorative services to develop service user participation plans. Commissioners should require services to share these plans and budgets should include remuneration for service users / former service users to value their time and offer them training and development opportunities.

What more could be done to improve public awareness and understanding of Restorative justice/practices?

Surveys have repeatedly shown the majority of the public support the wider use of RJ. 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. However, there is a strong need to raise public awareness of restorative justice and restorative practices. Participants described some of the barriers to raising public awareness of restorative justice and practice, and their ideas for overcoming these barriers.

Participants felt there was a lack of expert communication support and lack of knowledge about how to get the information 'out there' into the public domain, for example by using social media more. To overcome this they would like to see restorative services have access to communications and marketing training and consultants.

Mint House, in their series of blogs on communicating about restorative justice and practices, also identified that people need to see how restorative approaches can be helpful in their own relationships, as well as recognising the benefits to society.

Focus group participants felt that the terms restorative justice and restorative practice are vague and not easily understood. Mint House suggest that emotive stories and imagery can help explain these concepts and that photo and video content is replacing text-text based content, however gathering testimonies using photo and video can be difficult due to the personal nature of restorative justice. Why Me? have a Restorative Justice Ambassador network which was set up as a result of funding from MOPAC and provides training and support for people with lived experience of restorative justice who wish to get involved in speaking in different forums and to the media about their experiences and the changes they would like to see. In their 'Media Toolkit for Restorative Justice Organisations' the EU Forum for Restorative Justice suggests a greater emphasis on values rather than facts and statistics. In their report on building social support for RJ they suggest using peer to peer communication through training and resourcing people who work in the community in various roles in order to encourage restorative approaches among the people they work with.

A public awareness campaign

Some participants identified that there could be a role for a national public awareness raising campaign to help re-frame restorative justice. Participants wanted to see greater national media coverage, but felt that a Media Advisory Board would be useful to ensure portrayals of restorative in the media are accurate.

Recommendation 25: A new national action plan should include a specific communications plan to raise awareness amongst the public of restorative justice and practice. This plan should be co-produced by communications experts, who have a good understanding of how to frame issues, along with restorative professionals and people with lived experience. Values-based key messages should be devised and used as part of a national awareness raising campaign, as well as in materials and support given to PCCs, VRUs, police forces and restorative organisations to raise public awareness on a local and regional basis. Commissioners should ensure resource is allocated to restorative service providers to increase public awareness, develop supportive ambassador networks and train community champions. The government should commission an evaluation of various awareness raising initiatives to better understand what works.

Recommendation 26: Senior public figures and government departments should be supported to talk more about restorative responses to harm, crime and conflict. Government departments and other public bodies should lead by example by implementing restorative cultures in their own organisations in HR and other aspects of their work.

Recommendation 27: A media advisory service should be reinstated to ensure media portrayals of restorative justice and practices are accurate. This could be a role for the Restorative Justice Council informed by key stakeholders and people who have experience of RJ.

How and when are victims and offenders being offered restorative justice? What could be improved when making the offer?

In April 2021 the new Victims' Code of Practice came into force. Under Right Three (The Right to Information) it says 'If the offender is an adult, you have the Right to receive information about Restorative Justice from the police and how to access Restorative Justice services in your local area. If the offender is under the age of 18, you have the Right to receive information about Restorative Justice from the Youth Offending Team.' Earlier drafts of the Code used vague language such as 'might' and 'may' receive this information 'when appropriate'. We were therefore pleased to see that, following concerns raised by the CJA and others, the Right to information is now more clearly set out in the Code. An earlier draft of the Code also meant that only Police had responsibility for providing this information. The CJA raised concerns that, as the equality impact assessment set out, some communities have lower levels of trust in the police and therefore we argued that the wording should make clear that it is also the responsibility of other agencies at different stages of the process to provide information about restorative justice. We were therefore pleased that the wording was amended to say: 'Although the police are responsible for providing you with information on Restorative Justice initially, all service providers must consider whether you would benefit from receiving this information at any stage of the criminal justice process.'

Under Right Four (The Right to be referred to services) 3.4 states 'If you report a crime to the police, you have the Right to be referred to a service that supports victims, including Restorative Justice services. The police will tell you about all the support services available in your local area. You will be referred to a support service within 2 working days, and these services will endeavour to provide timely access to support based on availability.'

However, as with previous versions of the Code, this Right to information falls short of a specific right to be referred to a restorative justice service so that a trained restorative facilitator can have a restorative conversation and explain the possible restorative services available at different stages of the process. It also falls short of an entitlement to access restorative justice services.

Restorative practitioners are best placed to explain the process to a victim and answer their questions or concerns, including around safety concerns, so they can make a fully informed decision. By removing this protection, there is a risk that information will not be passed on or the person giving the information will not be able to discuss the options, explain the benefits and answer the victim's questions, as effectively as a trained restorative facilitator could.

In its 2016 report, the Justice Select Committee thought a legislative right to access RJ was a 'laudable' goal that 'should be actively worked towards' as part of a Victims Law, however it concluded this initiative should only take place once the system had sufficient capacity. However, in the years following the report, we have seen that without an enforceable Right to access restorative justice, many areas have not provided sufficient capacity or resource. So, we are stuck in a 'chicken and egg' situation. Five years after the JSC report, it is time to enshrine the entitlement into statute.

Recommendation 28: The government should include in the new Victims Law a specific right to be referred to and access restorative justice services.

Some focus group participants shared examples of how technology could be used to share information about restorative justice with victims. For example, one service printed leaflets with their website address on and asked

agencies to hand them out to their service users. Another encourage the sharing of short films such as Restoring Hope and The Meeting. However, they highlighted that the disadvantage is that it looks like RJ is only relevant for serious crimes only if that is what the film is based on. Mint House suggest developing a range of audio, visual and video content which can be used to explain restorative justice and practices.

Recommendation 29: The Ministry of Justice should commission the development of materials and resources in different formats including audio, visual and video for police and other agencies to use when giving victims information about restorative justice and practices.

How do agencies ensure they are adhering to their Victims Code of Practice obligations of providing victims with information on how to access restorative justice?

The Victims' Code does not have any clear enforcement mechanisms for non-compliance and instead relies on victims having to complain to the relevant agency or, failing that, to the Parliamentary and Health Service Ombudsman via their MP. The PHSO have a remit of over 300 different government departments and public bodies. Therefore, we would prefer to see a specific Victims' Ombudsman established to ensure victims are at the heart of the complaints process and complaint caseworkers are trained specifically in victim issues and in communicating with victims of crime. Clarity of the title would help ensure victims knew where they could go to for help and build trust that their complaint will be looked at by someone with specific expertise in the Victims' Code entitlements.

This would help ensure that the Code had sufficient ‘teeth’ to ensure victims can enforce their rights. There should also be a greater role for the Office of the Victims Commissioner to scrutinize whether victims are receiving their rights and entitlements under the Victims Code and to respond to complaints from victims who are not receiving them.

Recommendation 30: A Victims Ombudsman should be established with caseworkers specifically trained in victim issues and communicating with victims of crime. The Office of the Victims Commissioner should be strengthened to provide scrutiny and oversight to ensure victims are receiving their entitlements in the Victims Code.

Does there need to be greater access of relevant information to ensure Restorative Justice practices can be widely available across the country? if so, who within the criminal justice system would benefit from greater access to relevant information, training and/or awareness raising about restorative justice / practices in order to increase access?

Our report ‘A Journey of Learning, Growth and Change’ (2019) found that RJ services are hampered by low referral rates, which are themselves a symptom of low awareness of restorative interventions by professionals across the criminal justice system. One survey respondent said ‘There is still a general lack of understanding about RJ within the police and general criminal justice system and many myths and misconceptions.’

Survey respondents were asked how awareness was raised about RJ in their local areas. Many areas responded with

details about how RJ services work with criminal justice agencies delivering awareness-raising sessions, training and sharing learning. A minority of areas responded that the third sector provider was obligated through its contractual arrangements to raise awareness about RJ. However, when asked about operational challenges to RJ services, over 40 per cent of respondents indicated that low referral rates were still hampering the service’s effectiveness. This shows that there is still clearly much more work to be done to improve RJ awareness within criminal justice institutions.

If the sole responsibility for raising awareness is on the service provider, this raises the concern that potentially valuable opportunities for increasing RJ’s profile through the PCC and criminal justice agencies may be lost.

One suggested solution was to do greater outreach and have restorative service staff proactively review cases and contact the officers to suggest RJ, which has resulted in them increasing their referrals. One survey respondent said ‘Rather than waiting for them to come to you, go to them. Can be difficult capacity-wise, as hundreds of cases. [...] Some services don’t even have a separate budget and/or small numbers of facilitators to cover huge geographical areas. No time to undertake ongoing engagement and training across the area.’

One focus group participant explained that despite training large numbers of police officers and attending team meetings, there was no increase in referrals. They said ‘Once you leave the room it’s not on their agenda. [...] A one or two-day training can be helpful but need ongoing support over a period of time. Following up on any inappropriate referrals. Increasing referrals by speaking to different services on a regular basis –

how are you, how are things going? [...] Accountability doesn't exist where there is no obligation to refer.'

Recommendation 31: Commissioners of restorative services should ensure that there are sufficient resources for awareness raising and training amongst other agencies and stakeholders. This should include refreshers and follow up support. Commissioners should also take responsibility for leading on the promotion of restorative justice and practices, for example by embedding restorative practices into their organisations to embed a restorative culture.

In her research focused on three prisons who adopted restorative practices Calkin found that 'barely any of the senior leadership had received this [restorative] training and whilst enthusiastic about restorative practices, they lacked an understanding of its potential application within their prisons.' She adds 'the Senior Leadership Teams of the three prisons are not clear on how to implement RP but are keen to further explore these nascent ideas believing RP could add value to their prison to improve relationships, reducing tensions.' She found that although there was restorative practice work happening in the prisons, this was not being gathered or interpreted as there was no restorative lead within the prison.

Some focus group participants highlighted the need for greater awareness raising and training amongst probation staff. One said 'There are so many hurdles to get through in probation, problems with trying to inform and educate the probation staff. The main problem is that they can get a lot of referrals, and they can struggle getting victims information to contact them. Probation staff may have less understanding of RJ and can become overprotective over their cases. They are

not sure if it's right for their person as they don't want to risk them failing.'

Recommendation 32: Restorative justice and practices should be a mandatory element of prison and probation officer training. Prison and probation services should adopt restorative HR practices to help embed a restorative culture.

Does there need to be a targeted approach at a senior level to improve the overall understanding and encourage wider use of Restorative Justice within the Met and other police forces? If so, what should this look like?

Some areas who responded to our survey (CJA, 2019) singled out resistance from the police as a continuing factor in low uptake of RJ:

'One of the most reoccurring challenges in RJ work relates to the attitudes of police officers towards restorative justice. The service communicates with police officers almost daily around their cases and often experience negativity.' Another survey respondent said 'Police Officers have struggled with understanding the various types of restorative interventions, the value of RJ and the differences between RJ and community resolutions etc.'

A focus group participant highlighted that strong leadership is key: 'We need a Chief Constable to talk about RJ throughout their tenure not just every now and again. When dealing with different teams, you get someone passionate but then they move roles or area, and you have to start over again. Senior officers need to be involved and enforcing the message across the team.'

Participants also highlighted the importance of embedding a restorative culture to ensure that progress made is not lost when there is a change in senior leadership. One focus group participant explained ‘The school I was Headteacher of 18 years ago is still a restorative school. It wasn’t reliant on me, it has been maintained due to work invested in the culture, so it becomes what they are.’

Recommendation 33: The National Police Chiefs Council, College of Policing and Association of PCCs should work together to improve understanding and encourage greater use of restorative justice and practices amongst senior leaders in the police, as well as embedding restorative workplace cultures.

What is your vision and your hopes for a more restorative future? What innovations would enable this to become a reality?

As restorative justice and practices continue to spread, it raises important questions about the way these practices are changing attitudes, shifting cultures and shaping more strategic approaches to fundamental questions about harm, conflict and responses to crime. Our vision and hopes for a more restorative future is a criminal justice system that moves away from a focus on punishment and retribution, to one focused on preventing, addressing and repairing harm, supporting victims and all those impacted by crime and focusing on reparation and re-connection to the community. Scaling up the innovative work happening across the country, embedding restorative cultures in criminal justice organisations and shifting the rhetoric around how we respond to crime would enable this to become a reality. Wider application of restorative approaches in schools, workplaces and other community settings, would help

‘being restorative’ become the norm. New generations of people working in the criminal justice sector will more instinctively understand restorative approaches if they have experienced them in educational settings, within their families and in other settings. However, it needs political will and leadership across government departments to this vision to become a reality. We hope this APPG will help to build cross-party support for restorative justice and approaches in the CJS and beyond.

Recommendation 34: A minister with responsibility for restorative justice and practices should be reinstated.

What are the top three things you would like to come out of this enquiry?

Three recommendations that would make a significant difference are:

A cross-departmental project should be developed including a range of restorative practices across different settings and with different cohorts. This would enable a systemic evaluation to improve the evidence-base and the learning could inform policy and practice. [The current cross-departmental ‘Prison Leavers Project’ could provide a blueprint for this]

The Ministry of Justice and Home Office should publish a new national action plan for restorative justice and practices. This should include internal actions for criminal justice settings, such as embedding restorative principles into HR policies and processes, awareness raising, training and ongoing support.

The government should include a right to be referred to and access a restorative justice service in the proposed Victims Law.