



Facing Up To Offending: Use of restorative justice in the criminal justice system

A joint thematic inspection by HMIC, HMI Probation, HMI Prisons and the HMCPSI

September 2012

ISBN: 978-1-84987-990-3

Contents

| | |
|--|-----------|
| Executive Summary | 4 |
| This review | 5 |
| Key findings..... | 5 |
| Conclusion and next steps..... | 11 |
| 1 Introduction | 13 |
| 2 Restorative Justice in the Police Service | 15 |
| National context..... | 15 |
| Level One: Informal resolutions | 16 |
| The potential for informal resolutions to reduce bureaucracy..... | 21 |
| Cost effectiveness of informal resolutions..... | 22 |
| Disclosure of informal resolutions | 23 |
| Level Two: Restorative conferencing..... | 24 |
| Cost effectiveness of restorative justice conferences..... | 26 |
| Training | 30 |
| Victim, offender, police officer and public views on informal resolutions and restorative conferences..... | 31 |
| 3 Restorative Justice and Youth Offending Teams..... | 35 |
| National context..... | 35 |
| Principles of Effective Practice | 35 |
| Developments within the Youth Justice Board (YJB) | 36 |
| Strategic and operational approach to restorative justice..... | 37 |
| Engaging victims in referral orders | 40 |
| Delivery of the referral order and initial outcomes..... | 44 |
| Views of victims..... | 45 |
| Views of children and young people who have offended | 46 |
| Working in partnership – restorative approaches in other work with young people | 46 |
| 4 Restorative Justice in the Prison Service | 49 |
| National context..... | 49 |
| Strategic framework..... | 49 |
| Local strategic management..... | 50 |
| Operational delivery..... | 50 |
| Victim engagement..... | 52 |

| | |
|--|-----------|
| Prisoner/young person engagement..... | 54 |
| Training and awareness | 54 |
| Resourcing and partnership working | 56 |
| 5 Restorative Justice in the Probation Service..... | 57 |
| National context..... | 57 |
| Use of restorative justice by probation trusts | 57 |
| Training and awareness | 60 |
| Developments in the National Offender Management Service..... | 60 |
| Annex A What Works? A summary of key reviews and research on Restorative Justice..... | 63 |
| Annex B Methodology | 66 |
| Annex C Restorative Justice Questionnaire for Police..... | 69 |

Executive Summary

“I’m doing a course...which is all about how victims feel... I am deeply sorry for any pain I caused you and your family. I now understand how you feel and I wouldn’t wish that on anybody.”

Letter written by a prisoner to a victim

The definition of restorative justice (RJ) used in this report is:

“...processes which bring those harmed by crime or conflict, and those responsible for the harm, into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward.”¹

Much of the research on RJ has found that such an approach can have a positive effect on victim satisfaction and re-offending rates (see Annex A for a selection of this research and the outcomes). This has led to a renewed focus on RJ (which has been used in the criminal justice system since the 1980s). As a result, it features as a priority in current plans to reform sentencing.

RJ can be used at each stage of the criminal justice system: from *informal resolutions* on the street, when the police decide to resolve low-level crime and anti-social behaviour in a common-sense manner without resorting to judicial process, to *RJ conferences*, when a victim meets the offender face to face (sometimes in prison after the offender has been convicted). Although RJ outcomes are not recorded nationally, our inspection showed that informal resolutions administered by the police have shown a marked increase in number. More formal RJ approaches involving a meeting or conference between the offender and victim are much smaller in number by comparison, whether utilised before or after conviction and remain in development.

It is the impact of RJ conferences on reoffending behaviour and victim satisfaction that most academic research has been focussed. Conferencing aims to help victims recover from the impact of the crime; to ensure the offender understands the implication of his or her actions; and to provide an opportunity for the offender to make amends. Less is known about the impact of informal resolutions on the street.

¹ Taken from the Restorative Justice Council website (www.restorativejustice.org.uk)

This flexibility in how and where it can be used is a benefit; but in the absence of a clear strategy, it also introduces the risk that RJ approaches will be applied inconsistently. This could mean that people are being treated differently depending on where they live or what criminal justice agency they are involved with; and this could lead to the perception of unfairness.

The criminal justice joint inspectorates therefore committed to reviewing practices across the system, to ensure the benefits RJ offers are being fully exploited, and the risks minimised.

This review

The aim of this review was to identify the benefits of restorative justice practices across the criminal justice system. It was a joint inspection, carried out by Her Majesty's Inspectorate of Constabulary (HMIC), Her Majesty's Inspectorate of Probation (HMI Probation), Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) and Her Majesty's Inspectorate of Prisons (HMIP).

Fieldwork comprised an inspection of police forces, probation trusts and youth offending teams (YOTs) in six criminal justice areas: Sussex, Norfolk, Merseyside, West Midlands, Greater Manchester and North Wales. In each area we interviewed staff, victims and offenders, held focus groups with the public, and examined a sample of case records. We also inspected three custodial establishments: one adult male prison (HMP Gloucester), one young offender institution (YOI) holding 18 to 25-year-old males (HMYOI Thorn Cross), and one children and young people's establishment holding 15 to 18-year-old males (HMYOI Hindley). A complete methodology is at Annex B.

Key findings

The full report outlines our inspection findings for each criminal justice agency, and includes case studies of both good and bad practice. This section summarises the four key findings and the resulting recommendations.

1. There are good examples of all levels of restorative justice being used in a range of settings; but take-up varied across criminal justice agencies

There is widespread use of RJ approaches across *police forces* in England and Wales. All six forces inspected used informal RJ resolutions; half of these also regularly used restorative conferencing, with two of the other forces currently developing this as an option for future use.

The forces reported that use of RJ approaches, principally in the area of informal resolutions, had increased from 0.5% to 12% of all case disposals between 2008 and 2011, and they therefore represent an important means of dealing with crime

across communities. Our inspection found that RJ was less bureaucratic than other more formal processes, and had the potential to make savings and improve outcomes if used properly.

Based on our inspection, restorative conferencing has the best chance of success when schemes are well organised and have simple, clear referral methods that are well understood by practitioners. Follow-up calls (to keep victims up-to-date on the progress of their case) and sensible use of data from victim surveys were also key.

Restorative approaches were also well established in *youth offending teams* (in the practice of running youth offender panels). In contrast, a lack of an over-arching strategy by the National Offender Management Service (NOMS) has meant sporadic development in *probation trusts* and *prisons*, with little resources put into widening RJ practice. However, since RJ became a NOMS commissioning priority for 2012/13, there were indications that its profile has increased. Two of the six trusts we inspected used RJ extensively.

Recommendation

In order to promote the use of restorative justice, the National Offender Management Service should ensure that there is a national strategy, incorporating the use of RJ with offenders in custody and in the community, which defines what constitutes RJ as opposed to victim awareness work, defines the priority to be given to meeting the needs of victims and sets clear expectations for prisons and probation trusts.

2. There are benefits to using RJ – and these are understood by victims, offenders, practitioners and (with some reservations) the public

- *Victims* – We found very high levels of satisfaction among victims who had participated in a RJ conference, or in a youth referral panel.
- *Offenders* – The majority of offenders participating in RJ stated that their experience of restorative justice had influenced their views of offending: “*They don’t push this in prison, but they should...It makes you think 100 per cent about the victims.*”
- *Practitioners* – Professionals across all agencies were able to identify benefits in using restorative approaches, especially the potential for increasing victim satisfaction and reducing re-offending. In the police, the use of informal RJ had the added advantages of being less bureaucratic and more cost effective than other, more formal forms of justice.
- *The public* – In focus groups, the public were generally supportive of RJ, especially for young people who offend. There was less support for it as a

standalone option for dealing with older offenders, as it was felt that adults should know better and be punished if they offend. However, they saw the potential for informal resolution (when used properly) to transform policing at the neighbourhood level, with less bureaucracy and a more rapid conclusion to non-serious and first-time offending, for the benefit of the victim and (ultimately) the wider population. However, the public need clearer messages and more information about RJ.

3. There were inequalities in the service provided to victims and offenders

There were inconsistencies in the use of RJ – not only between criminal justice agencies but also within agencies from one area to the next.

Although the use of informal resolutions by the *police* has increased dramatically over the last four years, there was wide variation in how forces had implemented informal resolution schemes, including around the offences covered and which offenders were eligible.² Training also varied from force to force.

Recommendation

In order to maintain confidence in the administration of justice the Ministry of Justice, Home Office and the Association of Chief Police Officers (ACPO) should consider developing a consistent approach in the use of Informal Resolutions (or RJ outcomes) in their work relating to the development of the national out-of-court disposals framework, particularly in relation to:

- **the types of offences included, and specifically the circumstances in which more serious categories of offences such as race hate crimes or domestic abuse are eligible for inclusion; and**
- **eligibility of offenders with a previous offending history.**

Recommendation

In view of the rapidly increasing level of informal resolutions and the national drive for greater consistency the NPIA (or in future the College of Policing) should conduct further research on the impact of informal resolution on both victim satisfaction and the reduction of offending and develop an evidence base of what works to help forces to determine the most appropriate response in their prevailing circumstances. In addition they should rationalise training and awareness material for police forces which reflects that evidence.

² See Figure 2 on pp.17–18 for details of this variation.

We looked at 66 police cases of informal resolution, and judged that the resolution was inappropriate in 14. This was usually because the victim had not consented to the action taken (where this was a requirement), or the circumstances did not constitute a criminal offence.

Concerns were also expressed by criminal justice system partners that the police use of informal resolutions was not transparent or subject to any form of external scrutiny. When police and crime commissioners (PCCs) are elected in November 2012, it is likely that they will take a keen interest in this subject area.

Recommendation

In order to improve the quality of decision-making, and increase accountability, police forces should ensure that quality assurance processes for community resolutions are sufficiently rigorous and include analyses of victims' views, and consultation and liaison with criminal justice partners (including the Crown Prosecution Service, YOTs and probation trusts).

Some forces were unclear about the legal status of informal resolutions and the implications of these. Offenders and victims were not given clear advice on the status of these outcomes. This could lead to misunderstanding and have an impact on the life chances of individuals receiving informal resolutions.³

Recommendation

We recommend that the ACPO policies on the use of RJ and Community Resolution make the status of informally resolved cases clear and clarify the position on disclosure of the outcome of these to improve consistency in delivery.

The progress made by *probation trusts* in developing RJ varied considerably, and they were unclear about the expectations placed on them to deliver it. They were, however, committed to using RJ, and where trusts were doing so we found powerful examples of the value of a restorative approach to victims and offenders in difficult cases. Trusts expressed concerns that the cost of delivering RJ was not reflected in national costing models, but some had successfully worked around this by procuring additional funding to expand capacity (for example, by training Integrated Offender Management teams in RJ conferencing). This, together with the emergence of RJ as a NOMS commissioning priority, will provide a platform for improved delivery of RJ in the future.

³ This is discussed further at para 2.10 below.

Opportunities for RJ in *prisons* were not always recognised, due to a lack of awareness on the part of residential staff. Often prison/YOI staff did not understand the differences between RJ and other types of victim awareness programmes.

There are more opportunities for prison/YOI staff to generate restorative approaches with victims, and build upon the victim awareness programmes already in place: but clearer understanding of RJ is needed.

Recommendation

Residential staff should have a basic awareness of RJ and the services available within their establishment, enabling them to identify and refer prisoners or young people who may be suitable for an RJ intervention.

Recommendation

Opportunities for prisoners/young people and victims to engage in RJ interventions should be consistent throughout the custodial estate. Where prisoners/young people are supported to write a letter of apology, systems should be in place to ensure the victim is contacted where appropriate and able to decide if they would like to receive it. All prisoners/young people who have successfully engaged with and completed a comprehensive victim awareness course should be offered, where appropriate, the opportunity to engage in an RJ conference subject to agreement by the victim.

4. More could be done to involve victims and communities in the process

The 54 members of the public we spoke to in the areas inspected did not know much about RJ or informal resolution carried out by the *police*, adding weight to our finding that forces do little to market it to the communities they serve. Furthermore, in the case of informal resolution schemes, there was limited evidence that the community had been consulted at all on the formation of policies.

Recommendation

In order to raise public awareness of the police use of RJ and informal resolution, forces should consider wider public awareness and engagement through use of the media. Where local policies are developed, the views of the public should be sought.

Respondents were concerned that police officer time was spent running RJ conferences, as opposed to providing visible policing and responding to calls (which they saw as the police's primary role). The use of *community volunteers* to organise, prepare for, and run conferences was seen as a favourable option, and we found examples of this working well. Such schemes require considerable commitment on the part of volunteers, and careful planning by the organisations that develop them.

Over three-quarters of victims participating directly in *youth offender panels* were happy with their experience of restorative justice and said that it was effective in achieving reparation for the harm done to them. However, we found that not enough victims are engaging directly with youth offender panels, and this is a concern. There was also a tendency for the YOTs' contact with victims to be seen more as a set of administrative process than a fundamental part of the order. More needs to be done to improve the quality of the initial contact that YOT staff have with victims.

Recommendation

In order to promote victim engagement effectively in youth offender panels, youth offending teams should ensure that:

- **Timeliness, particularly of the initial contact, meets the needs of the victim;**
- **Communications with victims clearly focuses on the potential benefits to them; and**
- **Victims are therefore able to make a fully informed decision.**

Recommendation

Youth offending teams and the Youth Justice Board should ensure that the involvement of victims and active consideration of restorative opportunities is maximised in relevant sentences across the whole range of YOT interventions.

Running an RJ conference within a *custodial setting* is frequently cited as a barrier to involving victims. The victim's wishes are paramount in the setting up of a successful RJ conference and, in appropriate cases, consideration should be given to permitting release on temporary licence (ROTL) to allow this to happen outside the prison/YOI walls. Of course, this needs to be subject to the proper risk assessments and safeguards.

Recommendation

There should be a national information sharing agreement between NOMS and ACPO to facilitate contact with victims by prisons.

Where appropriate, and subject to the requisite risk assessment, release on temporary licence (ROTL) should be considered in order to facilitate RJ conferences outside the establishment.

Victims should be contacted by the relevant agency in a timely manner to suit the needs of the victim rather than those of criminal justice processes.

In cases of sexual offending and domestic violence, each case should be considered on its merits by suitably trained staff before a decision is made whether to offer RJ.

Conclusion and next steps

Our inspection has found that restorative justice has the best chance of success in relation to victim satisfaction when schemes are well organised and expeditious; have simple, clear referral methods; are unbureaucratic; involve victims fully throughout the process; are backed by commitment from the agency delivering it; and, for the police - in relation to informal resolutions, are delivered as far as possible in the public eye. There is some evidence to show that reoffending rates may be reduced but more work is needed in the area of informal resolutions to establish the longer term impacts on victim satisfaction and reoffending rates.

Throughout this inspection we have seen some good examples of these factors in play in the criminal justice system. We have spoken to the victims of a wide range of offences, and the majority have been able to put their experiences behind them and move on after the RJ took place. Similarly, offenders have spoken about how it had made them consider the impact of their crimes on victims and make them less likely to offend in the future.

However, we also found widespread inconsistency in the implementation of RJ initiatives across the whole criminal justice system, with conflicting terminology and a lack of understanding of the principles of RJ. Further work needs to be done by all

agencies to create consistent opportunities for both victims and offenders to participate in RJ approaches. This will be achieved through collaboration between the criminal justice agencies rather than working in silos.

We recognise that there is a current drive to ensure services are delivered and regulated on a local basis. This provides an opportunity for the police and crime commissioner, force and other criminal justice agencies to engage with the public in developing policies on the use of RJ that are based on local priorities and concerns. This also allows any inconsistencies arising from different practices to be sensibly accounted for and explained to communities through public consultation. Such an approach minimises perceptions of injustice because explanations can be given about how RJ policies and practices were developed to deal with local needs.

Our public survey work showed that the public might generally join practitioners, victims and offenders in seeing the benefit of the restorative approach. However, at the moment they are not familiar with RJ; and if they are to fully understand it as an option, there needs first to be a clear and consistent message from the criminal justice system on what it can offer.

1 Introduction

Aim and focus of the inspection

- 1.1 This inspection aimed to identify the benefits of restorative justice (RJ) practices. It was carried out jointly by inspectors from Her Majesty's Inspectorate of Constabulary (HMIC), Her Majesty's Inspectorate of Probation (HMI Probation), Her Majesty's Crown Prosecution Service Inspectorate (HMCPSP) and Her Majesty's Inspectorate of Prisons (HMIP).
- 1.2 The inspection focused on:
 - different RJ approaches at various stages in the criminal justice system;
 - the views of those who have been involved in RJ (both the victims and perpetrators of crimes);
 - the views of the wider public; and
 - how far RJ represents value for money.

Definition of restorative justice

- 1.3 We use the following definition of RJ:

*"...processes which bring those harmed by crime or conflict, and those responsible for the harm, into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward."*⁴

- 1.4 RJ can be formal or informal, and be used in situations across education, health and criminal justice – wherever there are incidents that involve a victim and a wrong-doer. This can range from teachers resolving reports of bullying in a school, to the more formal staging of restorative justice conferences by specially trained criminal justice practitioners, conducted either pre or post-sentence (including inside a prison), or as a complement to an out-of-court disposal.⁵
- 1.5 There is a wealth of academic research which is broadly supportive of restorative justice as a technique for reducing re-offending rates and improving victim satisfaction. See Annex A for a summary of some of the key findings from recent research.

⁴ Taken from the Restorative Justice Council Website (www.restorativejustice.org.uk).

⁵ 'Out of court disposals' is a common expression in criminal justice system for police cautions and conditional cautions (including a range of youth equivalent disposals), penalty notices for disorder (PNDs) and cannabis warnings which do not involve the offender going to court.

Methodology

- 1.6 The methodology for this inspection is included at Annex B.

Structure of this report

- 1.7 Chapter 2 examines the formal and informal use of RJ in the Police Service. We then go on to discuss the use of RJ in youth offending teams (Chapter 3), the Prison Service (Chapter 4) and the Probation Service (Chapter 5)

2 Restorative Justice in the Police Service

National context

- 2.1 Restorative justice has been used in police forces across England and Wales since the 1980s. Research by the Association for Chief Police Officers (ACPO) in 2010 found that 33 out of the 43 police forces in England were using it in some form.
- 2.2 Although uptake has varied widely from force to force, the development of ACPO national guidelines on the use of RJ in the Police Service provides forces with a structure for delivering RJ programmes. The current draft of these guidelines defines three levels of restorative justice practice:
- Level One: Street level RJ, when police officers and police community support officers (PCSOs) decide to resolve low level crime and ASB without recourse to formal proceedings.
 - Level Two: RJ conferencing, when offenders and victims meet under supervision in a formal process which sees the offender apologise and (where possible) makes amends.
 - Level Three: Post-sentence RJ, when the offender meets the victim in order to apologise and/or make amends, to help the victim recover from the crime.
- 2.3 In addition, some forces have adopted schemes which are widely known as *community resolutions*. These are similar to Level One RJ but do not necessarily require an apology from the offender or the making good of any damage caused. The community resolution approach originated in the 2008 *Review of Policing* by Sir Ronnie Flanagan, which proposed a more proportionate and victim-centred response to low-level crime and disorder, and aimed to move the police away from the prevailing culture of achieving targets for detected crimes. Evaluation of a four-force pilot scheme which followed the 2008 report found that the approach freed up officer time, and that victim satisfaction rates were as high as 97%.⁶
- 2.4 A more recent research project⁷ conducted by the Home Office in conjunction with ACPO found that most forces were doing some form of *informal resolution* (a term that covers both Level One RJ and community resolution); but some only used it if the offender was a young person. Researchers found that forces were using a wide variety of names for these schemes, including restorative disposals, restorative

⁶ National Policing Improvement Agency (2009) *Flanagan Recommendation 21: Proportionate Crime Recording and Investigation, Strategic Summary*.

⁷ Home Office/ACPO (2012) *Officer Discretion Consultation: Emerging Findings*.

justice, informal resolutions, restorative resolutions, community resolution disposal, local resolutions, instant restorative justice, police resolutions, neighbourhood resolutions, extending professional judgement, and street resolutions.

- 2.5 We have included the full range of informal resolution schemes in this report, because they have much in common with RJ (albeit without fitting exactly the definition at para 1.3 above). We were interested to see whether the outcomes for the victims and offenders would be similar.
- 2.6 This chapter looks at informal resolutions first, before turning to restorative conferencing and (briefly) post-sentence RJ. The final sections examine how RJ is quality assured, the training provided to practitioners, and how informal resolution and RJ conferencing is seen by victims, offenders, practitioners and the public.

Level One: Informal resolutions

- 2.7 All the forces we inspected had in place an informal resolution scheme which allowed offenders to be dealt with proportionately without the need for arrest. They also reported a dramatic increase in the use of these resolutions over the last four years: from 0.5% of all case disposals in 2008 to 12% in 2011. As Figure 1 on the next page shows, over the same period there has been a corresponding drop in the proportion of other out-of-court disposals. Informal resolutions, therefore, now play a significant part in managing volume crime.
- 2.8 We found good examples of informal resolutions in all six forces. Officers frequently found innovative ways to try and ensure offenders learnt from their experience, as the following case study shows.

Two boys aged 12 years went onto the motorway hard shoulder to place graffiti onto a road sign. They were detained by local police near the scene. Both accepted responsibility for their actions and were very sorry.

After liaising with their parents, the officer arranged for the two boys to spend half a day at the Highways Agency control room, where they were made aware of how wandering onto the motorway put both themselves and motorists in danger. As well as writing an apology letter to the Highways Agency, the boys said they were shocked about how their actions could potentially affect so many people, and that they had learnt their lesson.

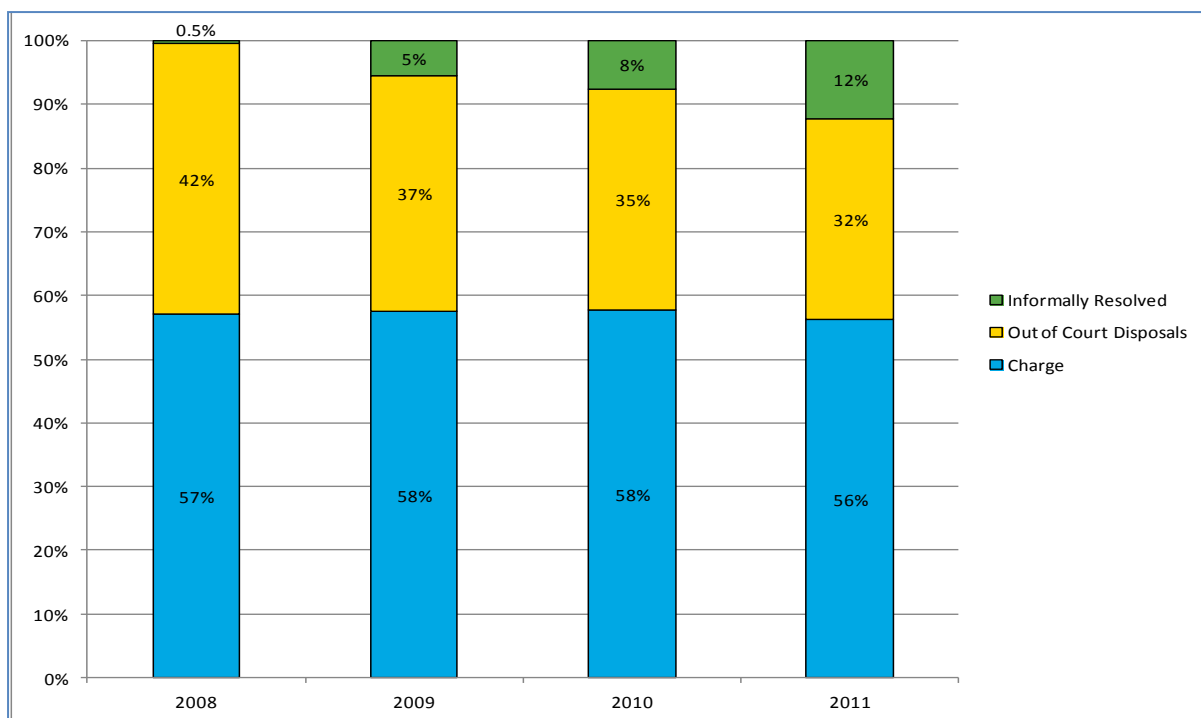


Figure 1 – The proportion of charges, out-of-court disposals and informal resolutions in the six inspected police forces

2.9 Informal resolutions can therefore have a positive outcome; and our public focus groups also revealed widespread support for the visible presence of police officers resolving problems on the street so that justice would be seen to be done.⁸ However, we found a great deal of variation in how forces implemented this approach, as is summarised in Figure 2 on the following pages.

2.10 This reflects the findings of the 2011 joint inspection report *Exercising Discretion: The Gateway to Justice*,⁹ which described a huge variation in how police forces went about issuing out-of-court disposals, and in the numbers of cases they dealt with in this way (ranging across England and Wales from 26% to 49% of all offences brought to justice). The inspection also found that RJ and community resolution for adult offenders was only used in three of the five forces in that inspection. This means that in the other two forces the only means for an officer to deal with the incident is through the formal processes of arresting or reporting the offender for summons, issuing a formal out-of-court disposal, or alternatively taking no further action. This has been said to create a postcode lottery in that an offender's employment opportunities can hinge upon the outcome, and in particular, on whether the police operate a discretionary RJ or community resolution scheme.

⁸ See paras 2.59–63 below for more on the results of these focus groups.

⁹ HMIC/HMCPSP (2011) *Exercising Discretion: The Gateway to Justice*. Available from www.hmic.gov.uk

| Force | Term(s) used | Who can issue? | Are offences precluded and what are the authority levels? | Are offenders precluded by reason of previous offending? | What is the minimum level of resolution required? |
|-------------------|---|--|--|--|---|
| Norfolk | Extended Professional Judgement (EPJ) | Trained police officers only. | Yes. The force uses a red, amber, green system to govern the use of EPJ: red offences are precluded; amber is at an inspector's authority; and green at an officer's discretion. | Yes. Any previous finding precludes the use of EPJ. | There is no minimum level requirement. |
| | Restorative Justice (RJ) | Levels One and Two: Trained police officers and police community support officers (PCSOs). | Sexual offences, knife crime and domestic violence are specifically precluded with regards to RJ. Beyond this officers can use their discretion. | Yes. The general rule is no more than two RJ disposals in a two-year period. | Face-to-face apology. |
| GMP | Restorative Justice (RJ) | Level One: Trained police officers only. Level Two: Trained police officers and PCSOs. Level Three: Integrated Offender Management Staff or other suitably trained staff supporting them only. | No offences are precluded. There are no authority levels. Decisions at an officer's discretion. | No. | Shuttle method of resolution, i.e. the passing of messages between harmed and harmer, although face to face is preferred. |
| Merseyside | Street Restorative Justice Resolution (RJR) | Trained police officers only. | Yes. Policy details a list of precluded offences (although beyond this officers can use their discretion). | Yes. A person is unsuitable for an RJR if he/she has previously received a conviction; a final warning in the last two years; or an RJR or reprimand, within the last six months for any offence or within the last 12 months for a similar offence. | An apology. |

| | | | | | |
|---------------------------|-----------------------------|--|---|---|---|
| North Wales Police | Restorative Resolution (RR) | Trained police officers and PCSOs. | Yes. The force uses a red, amber, green system to govern the use of RR: red offences are precluded; amber and green are at an officer's discretion. | Yes. A person is unsuitable for RR if he/she has previously received an RR or similar level sanction within the last 12 months; or a more serious sanction (such as a conditional caution or conviction) within the last 24 months. | An apology (face to face, indirect or in a letter). |
| Sussex Police | Community Resolution (CR) | Level One: Trained police officers only, and PCSOs for non-crime incidents. Level Two: Trained police officers, PCSOs and police staff. Level Three: Trained police, probation and prison officers only. | No. The force uses a red, amber, green system to govern the use of CR: red offences are at an inspector's authority; amber at a sergeant's authority; and green at an officer's discretion. | No. | There is no minimum level requirement. |
| West Midlands | Community Resolution (CR) | Trained police officers only. | Yes. Policy details a list of precluded offences, and there is also a list of offences requiring the authority of an inspector. Beyond this officers can use their discretion. | Yes. General rule is not to issue a second CR if the person has a conviction or CR for the same or similar offence in the last 24 months. | There is no minimum level requirement. |

Figure 2 – Variation in the application of informal resolutions

- 2.11 As well as the variation summarised in Figure 2, the current inspection also found a lack of consistency about the inclusion or exclusion of offences relating to race hate crimes or domestic abuse. While there was no evidence that these types of cases were dealt with inappropriately or to the dissatisfaction of victims, they may involve complex underlying issues which mean that an informal resolution may be insufficient for the longer term management of criminality. Race hate crimes and domestic abuse involve serious offences where more formal interventions may be required, often through the criminal trial process. Greater clarity within national policies on the use of informal resolutions for this kind of criminality would bring more consistency in the treatment of these offences. This is particularly important given that equality of treatment and the visible response of police officers are vital components in maintaining victim and public confidence in policing.
- 2.12 The inconsistencies outlined above both reflect and have evolved from an absence of clear national policies and wider public debate. Our consultation with the public suggests that forces should strive for greater consistency, particularly where the outcome in cases can materially alter the life opportunities of offenders (see further para 2.10 above).
- 2.13 Since the inspection, we are pleased to learn that ACPO are developing draft guidance for forces on the use of community resolution.

Recommendation

In order to maintain confidence in the administration of justice the Ministry of Justice, Home Office and ACPO should consider developing a consistent approach in the use of Informal Resolutions (or RJ outcomes) in their work relating to the development of the national out-of-court disposals framework, particularly in relation to:

- **the types of offences included, and specifically the circumstances in which more serious categories of offences such as race hate crimes or domestic abuse are eligible for inclusion; and**
- **eligibility of offenders with a previous offending history.**

- 2.14 Currently, informally resolved crimes are not routinely included in the force's 'detected crime' performance, and thus some forces are reluctant to use them. The Home Office is currently rationalising the measurement of crime detections through the introduction of new standards which aim to acknowledge a wider range of crime outcomes (including 'informal resolutions'), in recognition of the forces that adopt this approach.

The potential for informal resolutions to reduce bureaucracy

- 2.15 The HMIC report *Stop the Drift*¹⁰ identified that a simple case progressing to court contained around 1,000 steps (including form-filling) and seven stages where information is passed between criminal justice agencies. Even the cases where there is an anticipated guilty plea result in work for the officer beyond the time that the alleged offender is detained, increasing the time he or she must spend in the police station instead of being out on the streets.
- 2.16 As informal resolutions are usually conducted outside the police custody environment, and concluded at the scene of the incident, they present opportunities to reduce police bureaucracy.

Sussex Police record community resolutions on a ticket, which contains the minimum information required to be recorded to satisfy the National Crime Recording Standards (NCRS). Once an officer completes this on the street, a part of the form containing the offence details and implications of the informal resolution is handed to the offender. The other part is then simply submitted for recording by an administrator onto the computer system, with the ticket scanned in and subject of a quality assurance check. The officer submitting has no further administrative tasks to perform, as Figure 3 shows.

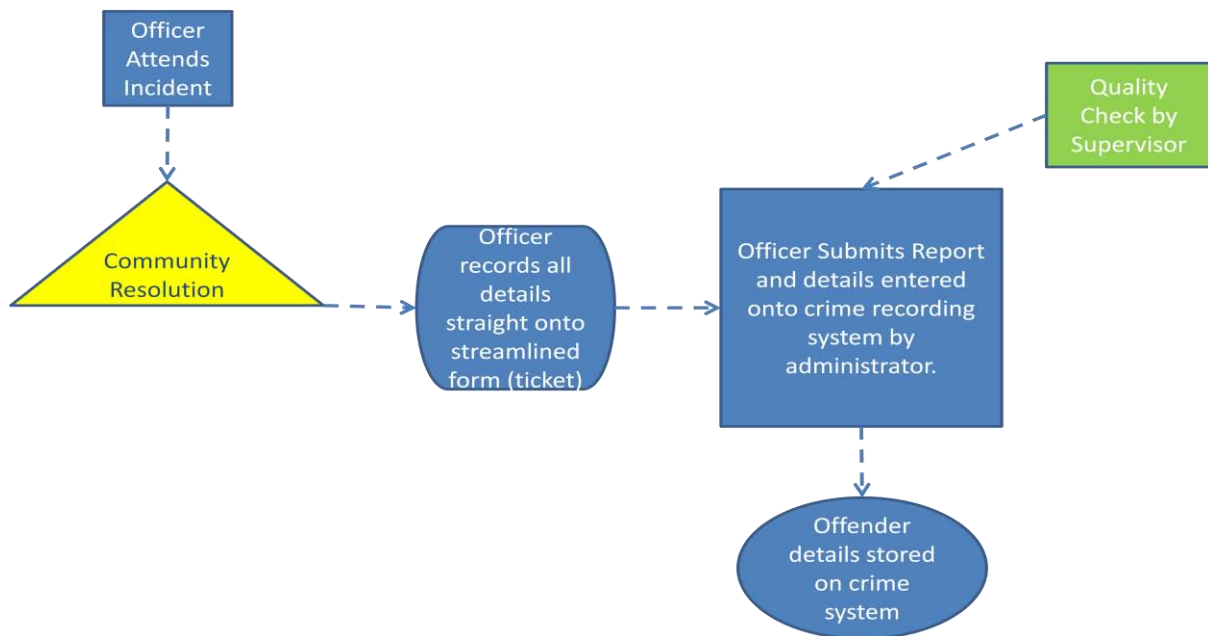


Figure 3 – The Sussex Police process for recording informal resolutions

¹⁰ HMIC (2010) *Stop the Drift: A focus on 21st century justice*. Available from www.hmic.gov.uk.

- 2.17 By means of comparison: in two other forces officers had to return to the station in order to enter all details onto the crime system themselves, a task that took some officers up to 45 minutes each time. This was not the most efficient use of frontline officers' time.
- 2.18 The police-led Reducing Bureaucracy Programme Board (chaired by a chief constable) is well placed to consider the bureaucracy impacts surrounding informal resolutions, with a view to minimising the paperwork and time spent away from frontline duties.
- 2.19 As informal resolutions are usually conducted outside of custody and without the usual protection of the Code Of Practice covering the question and treatment of detainees, it is equally important that the police ensure that the standard of decision making is of a high standard in order to maintain public confidence.

Cost effectiveness of informal resolutions

- 2.20 Three of the six forces we inspected provided evidence that they had evaluated the cost effectiveness of their use of informal resolutions.

North Wales Police conducted an evaluation of their use of Restorative Resolutions over a 12-month period. The 1,411 resolutions saved an estimated 3,363 hours, with a re-investable cash equivalent of £94,602.

Greater Manchester Police estimated that while an arrested person spends an average of eight hours and 45 minutes in police custody, Level One disposals are generally completed in around one hour (i.e. saving seven hours and 45 minutes per case). Since an estimated 107 of the 132 cases in the force's pilot negated the need for an arrest, this produced time savings equal to £21,861.

Projecting these savings to force level, this could result in a total saving of £850,000 per year, the equivalent of 19 full-time police officer posts.

- 2.21 While management and training costs need to be factored into developing informal resolution policies, the projected savings do not account for the additional time that officers spend preparing cases for court. If these costs are included, the savings would be much higher.
- 2.22 There was qualitative evidence in most forces that RJ approaches, when properly implemented, can assist victims by effectively tackling problems and, at the same time, reduce future demand on police time. The following example demonstrates this principle.

Police received 19 calls within a one-month period to deal with an ongoing neighbour dispute over parking, which had escalated into a series of minor public order incidents and an assault on one of the residents. The local neighbourhood policing team organised a Level Two RJ conference, bringing the victim and the assailant together. This resulted in an apology and an undertaking not to block the victim's driveway. Some months later, there had been no calls back to the same location.

2.23 The public value the role police officers play when they are visibly solving problems in communities.¹¹ Our inspection suggests there is real value for money in adopting informal resolution and restorative justice approaches. It is vital to ensure that the most cost effective approach is taken to fit the circumstances of the case.

Disclosure of informal resolutions

2.24 Informal resolutions do not amount to convictions. They are not legally recognised as disposals, and so are only disposals by virtue of the fact that they bring a conclusion to a case. They also do not constitute a criminal record and should not be entered onto the Police National Computer (PNC).

2.25 Our inspection found that the forces were recording informally resolved offending in different ways. No information was automatically made available to other forces; although as informal resolutions are aimed at less serious offending and offenders with little or no offending history, there is only a minimal risk that offenders will escape justice through repeated issue of informal resolutions across more than one force area. When an offender was arrested in an area outside where he or she resided, it was common practice for the home area to be asked to conduct local checks for intelligence. This would identify the presence of any informal resolution on record.

2.26 Informally resolved offences fall into the same category as police intelligence for purposes of disclosure. This information would normally be held on force intelligence systems and potentially disclosable on a Criminal Records Bureau (CRB) enhanced check. However, under the current test a chief constable has to believe the information or intelligence "*might*" be relevant to a CRB application and "*ought*" to be disclosed. Under the provisions in the Protection of Freedoms Bill,¹² the chief constable will be able to disclose information which he reasonably believes to be

¹¹ See HMIC (2011) *Demanding Times*, in which we concluded there is a link between police visibility and public confidence in the police. Available from www.hmic.gov.uk

¹² Protection of Freedoms Bill 2010-2012 was given Royal Assent on 01 May 2012 and at time of writing is being prepared for publication.

relevant to an application. Given that informal resolutions are mainly used for low level crime and anti-social behaviour, the instances in which he or she might reasonably believe this are likely to be relatively rare.

- 2.27 Our inspection visits and discussions with the judiciary and Crown Prosecution Service practitioners suggest that the status of community resolutions and other RJ outcomes is unclear. When designing policy guidance for local delivery it is important that offenders and victims are given clear advice about the status of these outcomes. They should be told that these approaches cannot be classified as convictions and be informed of the circumstances in which they may be disclosed.

Recommendation

We recommend that the ACPO policies on the use of RJ and community resolution make the status of informally resolved cases clear and clarify the position on disclosure of the outcome of these to improve consistency in delivery.

Level Two: Restorative conferencing

- 2.28 RJ conferences took place regularly in three of the forces we inspected. They were less common in the others, partly because of concerns about the time needed to prepare for them. However, two of these forces intended to expand their programme and start using Level Two and Level Three RJ conferencing for the most appropriate cases, as they recognised that this would provide opportunities to improve victim satisfaction and reduce re-offending.
- 2.29 We saw a number of very good examples of conferences, and it was clear from talking to offenders that the impact of meeting the victims was a far from easy option for them. Most spoke of feeling apprehensive, and many said that they had thought about it after the conference.

On Christmas Eve 2010, a fracas took place at a works function between two men, which resulted in one receiving head injuries and the other being arrested for causing grievous bodily harm. He pleaded guilty and was sentenced to six months imprisonment. During his sentence the offender intimated that he wished to apologise to his victim by writing a letter. After meeting with his offender manager before his release, he agreed to see whether the victim was prepared to meet him face-to-face in an RJ conference.

After initial reluctance, the victim finally agreed, as it was likely that both would inadvertently meet again in the course of their work. A neutral venue (the local vicarage) was selected as the setting, with the assistance of a local faith group. The officer who ran the conference met both parties to establish what they wanted from the meeting: for the offender, it was a chance to apologise and clear the air; and for the victim it was about moving on, as he did not want to bump into the offender at work for the first time. It was also important for the victim's girlfriend, who witnessed the assault and wished to attend the conference.

The offender said: *"I was very nervous but afterwards it was a huge weight off my shoulders...I reflected more on that meeting than on the whole of my time in prison. To hear their side of the story and look him in the eye was hard. My partner also told me how it had affected her and I hadn't realised."*

The victim said: *"To meet him before his return to work was of benefit, but it also really helped my girlfriend because she was so shaken up by what happened. It helped us to hear his apology, because he meant it. I was able to put it behind me and get on without fear of what would happen if I bumped into him. I don't have panic attacks any more."*

Both acknowledged the benefit of RJ, the offender adding: *"They don't push this in prison, but they should...It makes you think 100% about the victims."*

- 2.30 In Greater Manchester and Norfolk, we were informed that staff in most children's homes had been trained in the use of RJ, in partnership with the police and other local criminal justice agencies. In Norfolk, the police reported a 53% reduction in children entering the criminal justice system following the introduction of this training, and they felt that the training initiative had contributed to this.

Two young girls removed two plasma televisions from the children's home where they were residents and sold them, fully admitting this to staff. Although both girls came from troubled backgrounds and had been dealt with previously by the police for other matters, they had been trying to turn over a new leaf before this relapse.

The incident was dealt with by RJ at request of the children's home manager, and because both girls had been in trouble before the police were also called to assist. The RJ took the form of a meeting between the home managers, police and the two girls in which the home managers explained how theft affects everyone in the home and the home budgets. The girls apologised and offered to pay for the items from their allowances. Neither girl has reoffended since.

2.31 We also saw good examples of RJ conferences being used to solve long-standing disputes.

A dispute between neighbours, which had resulted in 35 calls to the police over a three-month period, was resolved by RJ conferencing. There had been no further calls for service and both neighbours reported that their lives had been improved significantly after the event

2.32 We found no evidence of RJ conferences being used alongside other out-of-court disposals in the criminal justice system. RJ was seen as a disposal in itself, and was not generally considered if other, more formal, kinds of action were taken. This was not surprising given the current drive to reduce the burden on police officers and keep them out on the beat on visible duties; however, the opportunity for the victim to explain the impact of the crime to the offender, and to seek reparation, is lost.

2.33 Victims had different views on where RJ conferences should be held. Some wanted to go into the police station where they felt safe, while others preferred a neutral venue (such as a local hall), or the place where the offence had been committed.

A 15-year-old boy admitted his part in damaging the guttering of a health centre. The centre manager did not want the boy to go to court and agreed to an RJ conference, but insisted on it being held near the place where the damage happened.

The manager said: *"The officer fully involved me, and it was on my terms... his whole body language changed, when the police officer said to talk to me not him, and he shrunk in the chair. I could tell that he was anxious, and very remorseful. This made me feel very confident that he was listening and learning. It wasn't just a slap on the wrist, it was real."*

Cost effectiveness of restorative justice conferences

2.34 None of the forces we inspected had attempted to analyse the cost benefit of RJ conferences. The three forces who commonly ran them did so because of the benefit to the victims and to help solve issues generally, rather than to improve efficiency. They acknowledged that conferences often took a substantial amount of time to organise: the trained officers interviewed for this inspection spent an average of about five hours preparing and running RJ conferences, as the offender, victim and any other participant have to be spoken to separately in advance.

Use of community volunteers for restorative conferencing

- 2.35 The Government's response to the 'Breaking the Cycle' Green Paper¹³ included an undertaking to test the concept of Neighbourhood Justice Panels, where community volunteers take referrals from the criminal justice professionals and deal with the offenders through restorative approaches.¹⁴
- 2.36 As these panels are established across the country, there needs to be a focus on keeping bureaucracy to a minimum and ensuring that officers are not removed from frontline duties unnecessarily. We therefore looked for examples of panels working well, which might act as a template for future schemes.

The Sheffield Community Justice Panel (CJP) shows that when schemes are well organised, with simple and clear referral methods which are well understood by practitioners, police officers do not need to be burdened with organising and running RJ conferences.

There have been 370 panels held since the beginning of the initiative in 2009, with 130 of these in the last 12 months. Locally, police officers have received both Level One and Level Two RJ training. The co-ordinator routinely attends response and safer neighbourhood team briefings, to remind officers of the CJP service and about the types of offences and disputes where a referral to the panel would be appropriate.

- 2.37 In contrast to this, one force had for some years run a scheme in which community volunteers prepare for and run some of the RJ conferences – but this had not been a success. The main reason for this was that police officers were reluctant to relinquish control over their cases, and so did not refer enough conferences to the volunteers. Although 50 volunteers had initially been trained in 2008, by the time this inspection took place (in late 2011) only six remained, partly due to their disillusionment over being under used. The force had recently tried to improve this by having each volunteer shadow an experienced practitioner.
- 2.38 It is clear that the use of volunteers to run RJ conferencing has much to offer, particularly when police officers are in demand to deal with other matters. However, there needs to be detailed thinking about how the referral processes work and how cases are managed after referral.

¹³ HM Government (2011) *Response to 'Breaking the cycle: effective punishment, rehabilitation and sentencing of offenders.'* Available from www.justice.gov.uk

¹⁴ This follows on from the Government's May 2010 statement that "we will introduce effective measures to tackle anti-social behaviour and low-level crime, including forms of restorative justice such as Neighbourhood Justice Panels." HM Government (2011) *The Coalition: Our Programme for Government.* Available from www.cabinetoffice.gov.uk

Quality assurance

Sample of case records

2.39 We examined a sample of 66 cases where restorative approaches had been applied, to see whether the decision to use an informal resolution met the threshold of the force's policy on this. Fifty-one (77%) of these were judged appropriate for resolution by the method chosen. The remaining 15 were found to be inappropriate for a variety of reasons, including:

- the victim(s) had not consented or had refused to co-operate (8 cases);
- there was no apology or other form of reparation (as was required – 4 cases);
- no criminal offence had been committed on the facts given (3 cases);
- the offender was precluded by previous offending background (2 cases);
- the offence was not admitted by the alleged offender (2 cases); or
- the value of goods stolen was too high (1 case).

2.40 Of particular concern were the three cases where it was clear that no criminal offence had taken place and yet an informal resolution was shown as recorded against the 'offender' (as is illustrated in the boxed text below). We considered this to be an unfair use of informal resolution, which clearly breaches guidelines on the issue.

A man filled up his motorbike with fuel, but claimed to have forgotten his wallet. He went into the garage shop, removed his helmet and explained his predicament to the garage attendant. He gave his correct name, address and mobile phone number and said he would return with the money.

After a week the man had not returned and the matter was reported to the police. An officer tried unsuccessfully to telephone the man and then left a note at his home address. The man returned to the garage within hours and settled the debt. Although there was no apparent direct contact between police and alleged offender, this matter was shown as a community resolution.

Force quality assurance systems

2.41 All forces had quality assurance systems in place, which scrutinized cases that had resulted in informal resolution. However, these systems focused on the quality of the reports, rather than feedback from victims.

- 2.42 Inspectors were surprised that of the six forces inspected, only Norfolk had a comprehensive victim survey specifically for offences where RJ approaches were used. They had recognised the potential risk to force reputation if incorrect decisions are made, and were keen to ensure that the victim was happy with the outcome and standards of service received. Data from this victim survey was then used to inform the force training department on areas where improvement was required.
- 2.43 While some good practice was also seen in other forces, it was less formalised. For instance, in Sussex, the local community resolution co-ordinators made random calls to victims to check on the quality of service received. These revealed that a common complaint from victims was around the quality of apology letters written by offenders, and the fact that sometimes they did not appear sincere. This was fed back to the force training department, who adapted the Level One training course to address the complaint.
- 2.44 Only one force (North Wales) had any plans to conduct a central audit of the quality of their RJ or informal resolutions.¹⁵

External scrutiny

- 2.45 Although our sample did not examine such cases, the Crown Prosecution Service in all areas inspected expressed concern over some of the offence categories that were being dealt with by RJ and informal resolution. This was felt to be partly because the police did not always correctly categorise offences according to the charging standards: for example, an offence which may be a common assault for purposes of charging may be recorded as actual bodily harm (ABH) by RJ or informal resolution. It would be helpful if offences were categorised in a consistent way.
- 2.46 Simple cautions (including reprimands and warnings for young people) for indictable only offences have to be authorised by the CPS. They argued strongly that this should also be the case if informal resolutions are issued for indictable offences, as it provides an external adjudication on what is perceived to be more serious offending.
- 2.47 Feedback from the CPS, Probation and YOTs suggests that the police have not always consulted effectively with partners in establishing RJ and informal resolution schemes. Too often we heard that partners were told after the processes had been set up, rather than involving them proactively in developing the protocols. This was a lost opportunity for forces to develop closer working relations with criminal justice partners in the use of RJ and informal resolution.

¹⁵ This took place in June 2012; at time of writing, results are undergoing analysis.

Recommendation

In order to improve the quality of decision-making, and increase accountability, police forces should ensure that quality assurance processes for community resolutions are sufficiently rigorous and include analyses of victims' views, and consultation and liaison with criminal justice partners (including the Crown Prosecution Service, YOTs and probation trusts).

- 2.48 Both the CPS and Judiciary have expressed concerns over the absence of consistency and transparency in the use of out-of-court disposals and informal resolution. This was also a finding of the recent joint inspection report on the use of out-of-court disposals.¹⁶ Some of these concerns will be addressed through the publication of the ACPO guidelines on community resolution.
- 2.49 Some forces are starting to look at developing external oversight on their use of informal resolution. For instance, Hampshire Constabulary has introduced a scrutiny group to look at both the trends and quality of the use in their community resolution scheme.
- 2.50 The public will also be able to see the proportion of offences their force resolves through informal resolution on the crime mapping website (www.police.uk).

Training

- 2.51 Five of the six forces inspected had at least two levels of training covering informal resolution and RJ conferences (although the quality and duration of this was variable). The sixth force only had one level of training, which covered their informal resolution policy.
- 2.52 Level One training was generally a half or one full day, and provided a basic introduction on force policy, value-based decision making, using discretion, restorative practices and recording methods. It was delivered in house to all response and neighbourhood teams.
- 2.53 Level Two training was aimed at those who were organising and running RJ conferences. It lasted between two and four days.

¹⁶ HMIC/HMCPSI (2011) *Exercising Discretion: The gateway to justice*. Available from www.hmic.gov.uk

- 2.54 The number of officers trained in restorative conferencing varied across all six forces, reflecting their different commitment to RJ and the degree to which they had bought into the benefits. The three forces using RJ conferencing had trained their own trainers to deliver Level Two RJ training. In North Wales, Greater Manchester and Norfolk there was good evidence of joint Level Three training of staff from a number of organisations, including police, probation and YOTs.
- 2.55 Four out of six forces had also developed capability to deliver RJ conferences at Level Three; this was aimed at post-sentence conferencing and generally involved staff from integrated offender management units (IOMs). Typically the officers in the IOMs deal with prolific offenders with the aim of preventing them re-offending, so RJ had been introduced as a further tool to assist in this respect.
- 2.56 While training had been delivered at Level Three, we struggled to see examples where the skills learned had been applied. Clearly some more work was required to identify suitable cases where RJ would be effective, and how the police, probation and prisons can better work together to deliver this.

Recommendation

In view of the rapidly increasing level of informal resolutions and the national drive for greater consistency the NPIA (or in future the College of Policing) should conduct further research on the impact of informal resolution on both victim satisfaction and the reduction of offending and develop an evidence base of what works to help forces to determine the most appropriate response in their prevailing circumstances. In addition they should rationalise training and awareness material for police forces which reflects that evidence.

Victim, offender, police officer and public views on informal resolutions and restorative conferences

- 2.57 To inform this review, we asked victims and offenders about their experience of informal resolutions and restorative conferences, and conducted a survey of 630 police officers who have used these approaches. We also held focus groups with the public in each of the force areas we visited.¹⁷
- 2.58 The findings were largely positive, and are summarised in Figure 4 on the next page. More detail on the views of the public and victims are outlined below.

¹⁷ See Duckfoot (2012) *The General Public's Response to Restorative Justice/Community Resolution: Research conducted on behalf of HMIC*. Available from www.hmic.gov.uk

| Respondents | Positive | Negative |
|-------------------------------|---|--|
| 52 victims | <p>44 (85%) were happy or very happy with their experience.</p> <p>39 (75%) said it had achieved reparation 'completely' or 'a lot'.</p> | <p>Only 24 (46%) received follow-up contact after the event to give an update or check on compliance.</p> |
| 33 offenders | <p>30 (91%) said that the process had been fair, including all 16 who had participated in an RJ conference.</p> <p>23 (70%) said that their experience had positively influenced their views on their offending. This figure was higher for conferences.</p> <p>20 (61%) said that their experience had not been an easy option.</p> | |
| 630 police officers and PCSOs | <p>458 (73%) said they thought RJ was more effective at improving victim satisfaction than simple cautions.</p> <p>336 (53%) said they thought RJ was more effective at reducing reoffending than simple cautions.</p> | <p>247 (39%) thought that charging offenders was more effective than RJ at reducing reoffending.</p> |
| 54 members of the public | <p>Universal acceptance that RJ has a place in the Criminal Justice System.</p> <p>About three-quarters of participants supported RJ as a stand-alone resolution for young, first-time offenders. (This support disappears when the offence involves pre-meditated physical harm, lasting trauma or repeat offending.)</p> <p>There was great support for street resolution, as it was fondly likened to the day of <i>Dixon of Dock Green</i>.</p> | <p>There was little understanding of what RJ was until examples of its use were given, whereupon about a quarter of participants were able to recall some media coverage on the topic.</p> <p>Intuitively RJ was not seen as an adequate stand-alone resolution for adult or repeat offenders.</p> <p>There was an overwhelming desire to see that offenders are punished, as well as the harm being repaired.</p> <p>RJ conferences were not widely supported as a police-led initiative. There was a belief that police should be on visible patrol duties and not in protracted closed-door meetings.</p> |

Figure 4 – Summary of victim, offender, police and public views

Public understanding of RJ

- 2.59 The public at the focus groups had little knowledge of RJ or informal resolution, and few could recall local media coverage on the subject. Only two of the forces we looked at had proactively marketed their use of RJ through the local media. Police forces need to be more proactive in engaging with the public over their use of RJ and informal resolution.
- 2.60 It is important that the public are kept informed about local RJ and informal resolution policies so that differences in approach in local communities are seen as a positive response to local concerns rather than differential treatment. The election of police and crime commissioners in November 2012 provides an opportunity to promote the public voice in policing.

Recommendation

In order to raise public awareness of the police use of RJ and informal resolution, forces should consider wider public awareness and engagement through use of the media. Where local policies are developed, the views of the public should be sought.

Public view of informal resolutions and restorative conferences

- 2.61 When Level One *informal resolutions* and their rationale were explained to the public in our focus groups, they saw potential for community resolutions to transform the status of the police and re-establish the respect it was felt they used to command on the street. They believed it would reduce bureaucracy and ultimately benefit communities.
- 2.62 There was concern that such discretion could lead to corrupt practice by a very small minority of officers who could be persuaded not to take formal action, and exploitation of the scheme by the more streetwise amongst them. To a lesser extent, some believed that street resolutions were implemented purely to save money.
- 2.63 The public were less comfortable about the police running Level Two *restorative conferences*. The concerns were principally over the fact that officers were having to spend time away from frontline duties where they would be more visible to the public.

Victim view of informal resolutions and restorative conferences

2.64 In the course of the inspection we spoke to 52 victims to obtain their views on their experience of RJ (the full methodology is shown in Annex B). The findings from these are summarised in Figure 5 on the next page, and suggest that RJ conferences can produce higher levels of victim satisfaction than informal resolutions.

| | Victims ‘happy’ or ‘very happy’ with the experience | Victims ‘unhappy’ or ‘very unhappy’ with the experience | Victims who would recommend RJ to others |
|---------------------|---|---|--|
| Informal resolution | 28 out of 35 (80%) | 7 out of 35 (20%) | 28 out of 35 (20%) |
| RJ conference | 16 out of 17 (94%) | 1 out of 17 (6%) | 16 out of 17 (94%) |

Figure 5 – Victim satisfaction with informal resolutions vs restorative conferences

2.65 As Figure 4 showed, in around half the cases we examined the police did not make a follow-up call to the victim after the RJ took place. Although this may not have been necessary at every case, our findings indicate that more work needs to be done to engage victims in the process and ensure that what the offender agreed to do to make amends has actually taken place.

An estate agent reported to the police that a tenant had moved out of their property and taken a number of large electrical items with her. The officer dealing with the case located the person responsible, and it was agreed that as part of a restorative disposal the woman should pay the estate agent the value of the items (£500). However, no money had been received to date by the victim and she had not received a follow-up call from the officer. She was of the view that the offender was being let off and had lost faith in the police and the criminal justice system.

2.66 Focus group members strongly felt that the application of justice should be fair wherever you live in England and Wales. They recognised that, should they be dealt with for a minor transgression, the likely outcome ought not to depend on which force area they lived in. There was broad support for a unified set of principles which could be implemented by their local neighbourhood teams (who know their communities best).

3 Restorative Justice and Youth Offending Teams

National context

- 3.1 The Youth Justice Board (YJB) provides oversight to the youth justice system in England and Wales. Their responsibilities include identifying and sharing good practice and monitoring the performance of youth offending teams (YOTs) against national indicators.
- 3.2 Responsibility for ensuring the provision of youth justice service rests with the chief executives of local authorities. This is normally delivered through a local partnership management board for each YOT in England and Wales.
- 3.3 The *National Standards for Youth Justice 2009* in place at the time of the inspection required that “*YOTs have processes in place to ensure that victims of youth crime are involved, as appropriate, in a range of restorative processes that seek to put right the harm that they have experienced*” (National Standard 7: Work with victims of crime). This was followed, amongst other responsibilities, by two powerful expectations that required YOT managers to “*Maximise victim involvement . . .*”, and to include “*the integration of restorative justice processes across all YOT interventions...*”.
- 3.4 We recognise that delivery of services needs to be responsive to local needs and priorities; however, we are very disappointed that the revised National Standards currently being trialled have, while retaining the initial requirement for processes to be in place, removed these two clear expectations, which were designed to maximise the use of restorative justice. Nor have they been replaced by alternative explicit expectations. In our opinion this significantly weakens the priority that National Standards require YOTs to give to restorative justice. However, the revised National Standards do require that any interventions that are delivered meet recognised best practice standards, and that YOTs comply with the Code of Practice for Victims of Crime.

Principles of Effective Practice

- 3.5 Effective practice guidance for RJ is found in the YJB publication *Key Elements of Effective Practice – Restorative Justice*, published in 2008 and under-pinned by research. This recognised the value of restorative justice in supporting reductions of offending and healing of victims in more serious crimes, and indicated that these cases should be given some priority when restorative justice resources are allocated.

- 3.6 Currently, the referral order is a primary sentencing disposal for 10–17 year olds pleading guilty and convicted for the first time (twice in exceptional circumstances). The court determines the length of the sentence. In line with the principles of restorative justice, the young person, accompanied by a parent or guardian, then appears before a youth offender panel. The panel consists of trained volunteers drawn from the local community, and a representative of the youth offending team (YOT). Victims should be invited to participate in the resolution of the offence by attending the panel or having their views represented.
- 3.7 Youth offender panels should operate on the restorative principles of responsibility, reparation and reintegration, thereby enabling young people to achieve reintegration into the law-abiding community.
- 3.8 The young person must agree a contract with the panel that includes reparation/restoration to the victim or wider community and a programme of interventions or activities to address the likelihood of further offending.
- 3.9 The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act (which received Royal Assent in May 2012) provides greater flexibility than was previously available in the use of referral orders, and in the range of disposals available on first conviction.

Developments within the Youth Justice Board (YJB)

- 3.10 The YJB has a longstanding commitment to the development and delivery of restorative justice. It has, for many years, supported the sharing of good and emerging restorative practice between YOTs. It is a signatory to the Restorative Justice Council (RJC) *Best Practice Guidance for Restorative Practice*, which it recognised as the benchmark against which delivery of restorative justice within YOTs should now be set.
- 3.11 Since November 2011 the YJB (in partnership with RJC and Victim Support) has facilitated a series of events focused at YOTs and other local partners, designed to promote wider use of restorative justice, encourage victim participation and promote the RJC standards. These events were well supported by YOTs and other organisations.
- 3.12 In order to widen the use of RJ, the YJB's aim is to increase the skills of panel members and YOT workers involved in panels through additional training. Specifically there is a large number of volunteers who sit on youth offender panels, with the last estimate being over 5, 000. The YJB is working to improve the level of their RJ training by upgrading its 'Panel Matters' training. The new training will include a much stronger RJ focus and will be classed as 'RJ

Conference Facilitation' training. This should enhance the restorative element and also improve volunteers' skills in dealing with victims who choose to attend panels.

- 3.13 The YJB has also issued a £632,000 grant (£4,000 each) to each of the 158 YOTs for RJ conference facilitation trainer training. The conditions stipulated that the YJB would support the costs for YOTs to locally commission a trainer, registered with the Restorative Justice Council, to train a minimum of two members of staff, who can then go on to train others as conference facilitators. The YJB reports that all YOTs have taken up this opportunity.
- 3.14 Historically the focus on restorative justice has primarily been through referral orders. The current developments should improve the restorative aspects of these, and support the extension of the use of RJ further into other community and custodial sentences.

Strategic and operational approach to restorative justice

- 3.15 Each YOT that we visited had a strong management and staff commitment to the use of restorative justice with children and young people, and their victims. Staff recognised the positive outcomes that could be achieved. However, the extent to which the commitment was recognised in a clear strategy and delivery beyond referral orders varied.
- 3.16 Norfolk YOT had a comprehensive Restorative Justice Strategy. It sought to reinforce and embed the use of restorative justice by providing links to all aspects of the YOT's work. It included guidance on how (subject to appropriate oversight) to deal with restorative justice in serious or complex cases. It also included a clear statement about the expectation that a restorative element should be considered in all sentences, and that there would be management oversight of this.
- 3.17 Norfolk, Wigan and Walsall YOTs were closely linked into restorative approaches undertaken elsewhere within their locality. These areas presented evidence of the positive impact of restorative approaches applied in pre-offending environments on the numbers of children and young people entering or continuing in the criminal justice system.
- 3.18 In most YOTs, engagement with victims was carried out by one or more specialist workers. While these staff were often impressively knowledgeable and committed, it left the continuity of service highly vulnerable to their availability.

Youth rehabilitation orders and custodial cases

- 3.19 National Standards for Youth Justice in place at the time of the inspection required the integration of restorative justice processes across all YOT interventions.

We therefore asked to see examples of restorative justice in youth rehabilitation orders and custodial cases; however some YOTs struggled to identify many, or sometimes any, of these. When they were found they were strong evidence of the benefits of using restorative opportunities in such cases. This explicit requirement has been removed in the revised National Standards now being trialled.

An offender received a youth rehabilitation order. Following sentence he confessed to another unsolved burglary, and received a further sentence. He was remorseful and wanted to apologise and make up for the crimes he had committed. The victim welcomed the opportunity to meet the offender and explain the impact of his crime, to hear why it had happened, to understand that he had not been targeted and to receive a direct apology. He said he was listened to by all concerned, particularly by the offender. He then said: *“I want to see more of this. I was impressed with the sense of something being done to help stop people offending again... I would not have realised this otherwise.”*

- 3.20 YOTs acknowledged that much less priority was given to such cases compared to referral orders. The combination of demands of the referral order processes and workload meant that the potential of restorative justice in serious or complex cases may be overlooked.
- 3.21 However, all YOTs recognised the priority to develop this area of their work, were keen to do so, and provided evidence of their plans for this (including their intention to use the opportunities recently provided by the YJB).
- 3.22 In some YOTs there was an expectation that all case managers would consider the opportunity for restorative interventions. In others the likelihood of a restorative approach being considered was dependent on the knowledge and interests of the particular case manager. In St Helens, the worker who had spoken to the victim then attended the case planning meeting for all community and custodial cases, including the initial planning meeting in custody. This was particularly valuable in ensuring that the intervention plan was properly informed by the victim perspective, and it was hoped that it would in time support more active consideration of opportunities for restorative justice.
- 3.23 East Sussex and Norfolk YOTs had formed a restorative justice focus group to champion and drive forward the use of restorative justice across all types of YOT intervention.
- 3.24 In Norfolk internal procedures required management approval before attempts to contact the victim could be ended. They also undertook an annual audit of adherence to restorative justice expectations. Learning was used to inform development plans.

An offender was subject to Intensive Supervision and Surveillance following release from custody. A garden wall next to a community centre had been damaged, with the culprits never identified. The householder could not afford the repairs, but the offender had bricklaying skills. The centre manager arranged funds for the materials, and the offender rebuilt the wall as part of his reparation, which helped him develop and exhibit his skills. The work, and engagement with the reparation supervisor, helped him reflect on his offending. The householder was pleased to have his wall rebuilt, and the publicity was helpful in rebuilding community cohesion around the youth centre. The creative approach successfully linked together the circumstances of one offender with the needs of a victim from unrelated behaviour, to the benefit of both as well as to the wider community.

Inspection of referral orders

3.25 As part of the inspection of each referral order we asked the question: 'Overall, how restorative was the delivery of this sentence?' This assessed whether sufficient efforts had been made across the whole of the referral order to ensure that delivery met the restorative objectives. Almost all the cases (25 of the 29 reviewed) were at least partly restorative; however sufficient efforts were made to meet the restorative objectives in only half (15) the cases, as Figure 6 shows.

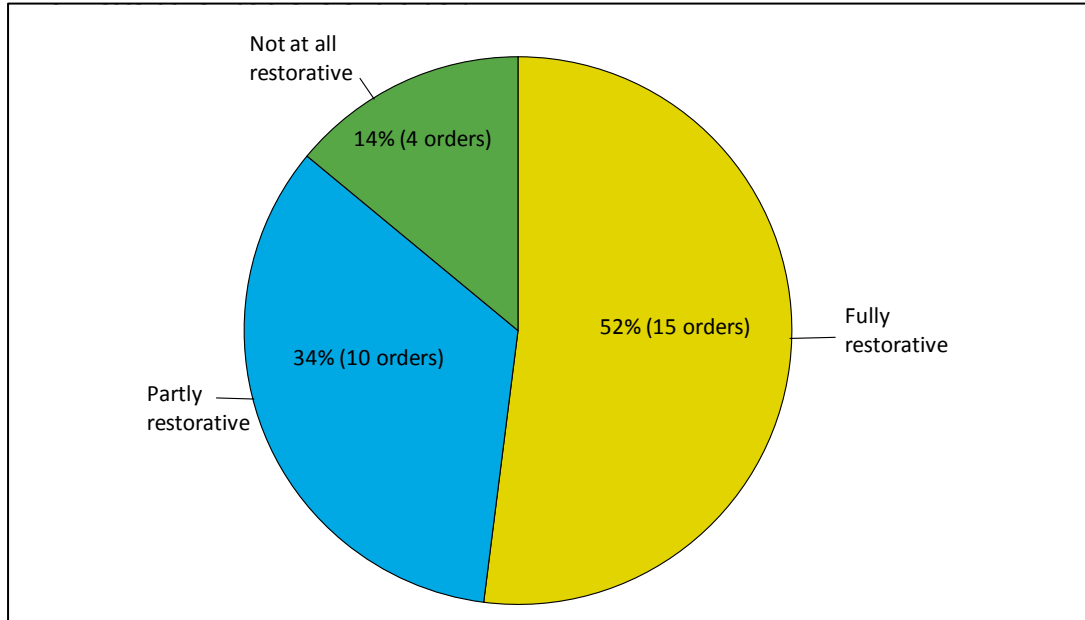


Figure 6 – How restorative was the referral order?

3.26 The initial engagement with the victim appeared to be the single most significant factor in understanding why some referral orders were more restorative than others.

3.27 In the 14 cases reviewed that were either not restorative or only partly restorative, we also found:

- they were much less likely to have engaged effectively to help the young person take full responsibility for the offence;
- they were less likely to have included reparation, either direct or indirect, on the agreed contract;
- reparation had been commenced in only half those cases that were partly restorative; and
- services to the victim had not been delivered as agreed in the contract.

Engaging victims in referral orders

3.28 There was broad agreement that not enough victims became engaged by attending the panel, having their voice heard or otherwise meeting the offender. When challenged about this staff normally responded that this was the victim's choice and there was little they could do about it. However there were some notable lessons to be learnt about the way that victims were approached, and the need for an appropriate degree of persistence to ensure that their choice was fully informed by an understanding of the potential benefits to them.

3.29 The first contact between the YOT and the victim normally took place following sentence, when the YOT was under pressure to ensure a timely initial panel meeting. At this point victims had sometimes had no involvement in the criminal justice process or awareness of what was happening about the case for some period of time, thereby already feeling negative and creating a barrier to further involvement.

3.30 Normal practice was to send a letter of introduction, sometimes with a leaflet explaining referral orders. These letters and leaflets tended to focus on the process and the opportunities for involvement, rather than clearly presenting the potential benefits to victims. As such their objective could be seen by victims as focused on the offender and delivery of the sentence. Victims were much less likely to become involved if they thought the process was primarily for the benefit of the offender.

3.31 Some YOTs had tried to promote higher levels of victim participation by contacting victims a lot earlier:

- in Walsall and Flintshire, the youth justice services worked with other local criminal justice agencies to ensure that an early letter was sent to victims outlining what was available;

- in East Sussex, an agreement had recently been made that Victim Support would attempt earlier face to face contact with victims; and
- some YOTs included a provisional appointment for a home visit in the introductory letter.

3.32 Some victim workers recognised the importance of leaving the opportunity open for (or sometimes arranging) subsequent contacts with the victim. If this could be achieved it sometimes meant that the victim had longer to reflect on the services provided by the YOT and was more willing to engage. It also left open the opportunity to make further contact if work with the young person indicated there may be benefits to the victim. One worker made the following helpful observation:

“ . . . on that first visit perhaps I should focus on ensuring I get another opportunity to see the victim once they’ve had time to reflect, rather than asking them to make an immediate decision on my first visit.”

3.33 The approach of individual victim workers also made a difference to the likelihood and nature of ongoing engagement. For example, in East Sussex and St Helens the workers clearly believed in and focused their efforts on ensuring that the voice of the victim was heard at the initial panel meeting, and each was successful in ensuring that a high proportion of panels had access to a victim statement.

3.34 Many victims did not want to engage directly with youth offender panels. We therefore make the following recommendation.

Recommendation

In order to promote victim engagement effectively in youth offender panels, youth offending teams should ensure that:

- **Timeliness, particularly of the initial contact meets the needs of the victim;**
- **Communications with victims clearly focuses on the potential benefits to them; and**
- **Victims are therefore able to make a fully informed decision.**

Youth offender panels

3.35 We examined the records following initial panels and, where possible spoke to staff who had attended. Figure 7 summarises what we found.

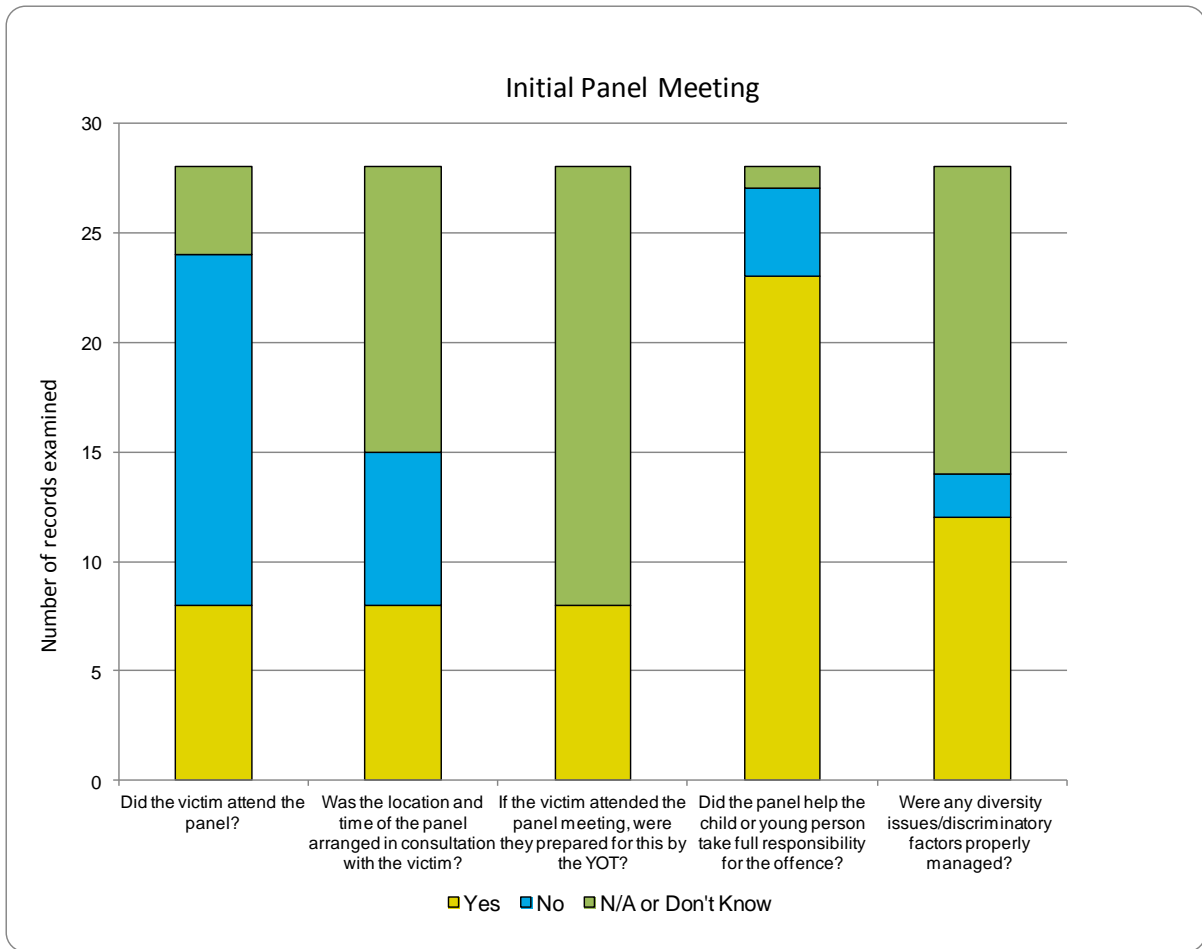


Figure 7 – Summary of case record examination

3.36 Where information was received from victims about the impact of the offences, or victims had requested answers to specific questions, panel members sought to use this to help offenders acknowledge and take responsibility for their offences. They also gave a high priority to the views of victims in the development of referral order contracts.

3.37 We were very pleased that when the victim attended the panel, they had been well prepared for it, understanding both the process and boundaries on their involvement. Panel members commented on the value of meeting victims immediately before the meeting so that they could get to know them and ensure that they were comfortable in the meeting room before the young person arrived.

3.38 Where relevant diversity factors existed for either the victim or the offender, these were properly managed at panel meetings in most cases.

3.39 In some YOTs the victim worker attended the panel and read the statement provided by the victim. Being read by the same person who had met the victim and understood the emotions behind the words added to the power of the statement.

This use of resources seemed particularly valuable to enhance the impact of the victim statement.

A victim received a life-changing injury. His parents were so angry that they were unable to focus their energies on helping him deal with his problems. Meeting the offender at the panel helped them realise that he was a normal young person, and helped dissipate their anger towards him. As a result they were able to devote their energies to addressing their son's problems, in particular the impact on his education.

3.40 The date and time of panel meetings should be arranged to suit the needs of the victim. In order to meet standards for timeliness these were, understandably, set in advance of the sentencing court date, so that the young person could be informed before they left the court. While we did find some evidence of meetings being re-arranged to suit the needs of the victim, failing to offer this was a barrier to their involvement.

3.41 The contents of the contract were usually appropriate; however its presentation could often be improved and it was frequently unclear what the young person should be aiming to do differently. As contracts made insufficient reference to the victim or the outcome sought, their presentation was not sufficiently restorative. For instance, many contracts presented reparation as a number of hours to be completed (which could be seen solely as punishment). An example of how this was presented in a more restorative contract was: "*Repair some of the harm caused by your offending through completing [number of hours] reparation at [project name].*"

A female member of staff who worked at a school that had lead stolen from its roof attended a panel meeting to represent the interests of her pupils. To aid this she set some classes a problem-solving activity to plan a school holiday or other activity, or purchase some outdoor equipment, with a cost limit of the bill for the repairs. She presented the results at the panel meeting to describe the impact from the perspective of the children and to put the consequences into context. She believed this had a profound effect on the offender, and both he and his father were shocked at the impact on the children's education. The offender undertook direct reparation by helping to prepare a new outdoor play area.

The teacher said: "*It exceeded my expectations. The fact that you could see the realisation on his face made the process entirely worthwhile.*"

3.42 In St Helens, victims who participated in restorative justice were given access to an out-of-hours contact number which they could use if they had any concerns having

met the offender. A follow-up call was also made to the victim the day after they met the offender, a practice that was replicated in many of the YOTs.

Delivery of the referral order and initial outcomes

- 3.43 A restorative intervention was delivered in more than three-quarters of the inspected cases. In all 28 cases there was evidence that substantive efforts had been made by the case manager to help the young person take full responsibility for the offence, or to reinforce the level of responsibility that they had already achieved.
- 3.44 The value of direct reparation to victims was recognised and positive and creative examples of direct reparation were provided to us. However the opportunities for direct reparation were limited by the quality of initial engagement with victims to explore their wishes. In some examples the opportunity only became apparent during subsequent conversations with the victim, further highlighting the need for an appropriate degree of persistence when engaging with victims.

Two offenders attempted to steal a car. The victim was angry that he had not received compensation and he was initially reluctant to participate in any restorative work. Persistence on the part of the YOT worker led to the victim recognising the benefits to him. He agreed to let the offenders help to put right the damage caused. The parents paid for the required parts, and a parent who was a mechanic made the repairs with the help of the offenders. The repairs were completed under the supervision of the YOT reparation worker. The victim was extremely happy with the outcome and stated it had restored his faith in the criminal justice system.

- 3.45 We were impressed with the reparation workers we met. They sought to engage with the young person to motivate them, to help them understand why they were undertaking the reparation, to make use of the time to help them develop their skills and, where appropriate, to engage in discussions about the factors that were most linked to the offending.
- 3.46 YOT involvement in local anti-social behaviour or other neighbourhood forums often helped to identify hotspots where communities would benefit from indirect reparation. Where this worked well it was a powerful opportunity for the YOT to ensure that reparation was focused on the communities that had suffered most. For example in Walsall and St Helens, the YOT consulted local area partnerships or other community representatives to seek nominations for projects. In some examples direct reparation projects became extended to act as indirect projects for other offenders, thereby further increasing the service provided to the victim.

Views of victims

- 3.47 We asked to speak to the named victim for every referral order that we inspected. Arrangements had been made for this in only 14 out of the 30 cases. While this was voluntary on the part of the victim we did not feel that sufficient focus was always given to facilitating this, which left us concerned about the effectiveness of the continuing relationship between YOTs and victims.
- 3.48 However, the victims we did speak to were very positive about their involvement with the YOT. Over three-quarters were happy with their experience of restorative justice, and most of these said it was effective in achieving reparation for the harm done to them. A summary of their answers is shown in Figure 8 below.

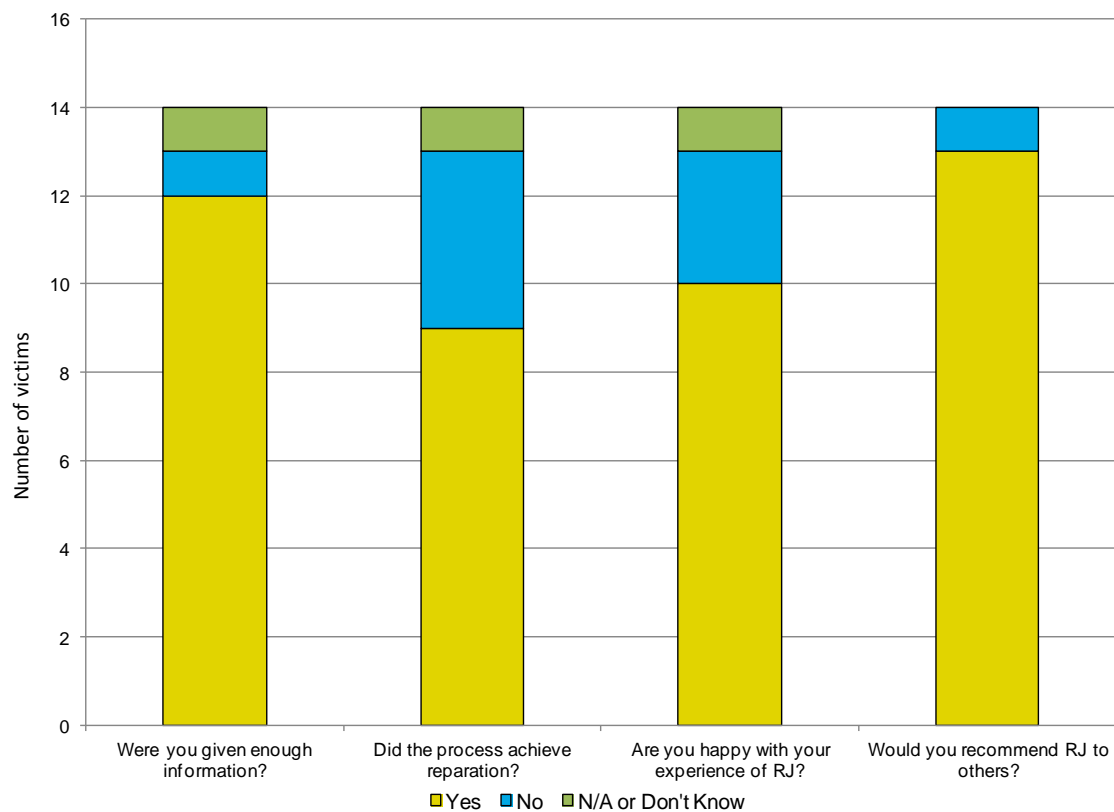


Figure 8 – Summary of victim views

- 3.49 More than half the victims we spoke to said they had not had any follow-up from the YOT to see whether they were satisfied with the outcomes of the restorative process to date, and it was not clear that outcomes from panels were systematically shared with victims who had wanted to be kept up to date, even where the victim asked for answers to specific questions.

Views of children and young people who have offended

3.50 We spoke to 16 of the young people whose referral orders we inspected. Their views were encouraging. Over three-quarters recognised that they had heard, at the panel meeting or otherwise, what the victim thought about the impact of the offence. All thought the restorative process had been conducted fairly, even though most of those who met the victim did not find it easy. Three-quarters of the young people said that their experience of restorative justice had changed their perspective on offending.

Working in partnership – restorative approaches in other work with young people

3.51 The impact of restorative approaches delivered outside the criminal justice system was not within the terms of reference of this inspection. However some YOTs were closely involved in the delivery of restorative approaches with other local agencies and were keen to present this to us. Where local partners were committed to the use of restorative approaches, the impact on the number of young people entering or continuing in the criminal justice system was impressively positive.

Great Yarmouth YOT ran an allotment as a reparation project within a community where much offending and anti-social behaviour occurred. They ensured that the produce visibly went back into the local community, for example food was used in a lunch club, and plants for planters at a retirement home.

Other allotment holders valued seeing the young people working and paying something back to their community. The local police were also actively involved in the project, and with the young people working on it. This further contributed to the confidence of local residents.

3.52 Examples of RJ schemes delivered in partnership with other agencies included:

- In Norfolk and Walsall, staff in children's homes had been trained in restorative approaches leading to substantial reductions in offending rates.
- In Wigan and Walsall, restorative practices used by staff in schools and colleges led to reduced levels of exclusions, a reduction in calls for police involvement in incidents on educational premises, and in one case an impact on crime and anti-social behaviour in the immediate vicinity of the school.

One victim lived in an area where agencies worked together to address alcohol-related anti-social behaviour, and improve public confidence in the police and local authority's ability to tackle problems. He was the victim of continuing anti-social behaviour in a lane at the end of his garden.

This had an impact on his health and “*made his life a misery*”. A large tree at the bottom of the garden provided natural shelter for the offenders. The victim had wanted it cut down for many years but the cost was prohibitive.

A joint operation between police, YOT and local authority neighbourhood teams identified a number of young people who were involved in the behaviour. Each was visited by a YOT worker who explained the impact that the behaviour was having. They agreed to cut the tree down as voluntary reparation. In order to ensure safety the felling was undertaken by a trained worker and the young people cleared it up.

The victim came out and met the young people and let them know how their behaviour had affected him. He gained peace of mind from seeing them as “*decent enough youngsters*”, and his confidence was improved. The young people said they hadn’t realised that their behaviour had such an impact.

Developing staff and volunteers to deliver restorative justice

- 3.53 Most YOTs used specialist staff to undertake contact with victims, and all used dedicated staff for the delivery of reparation. The victim workers that we met were well trained in restorative justice and clearly understood the objectives of their role.
- 3.54 All those who facilitated restorative conferences were well trained, although in most YOTs inspected the opportunity to deliver conferences was limited by the number of staff who had the necessary training. Some YOTs ensured that the training led to external accreditation.
- 3.55 There was some relationship between the extent to which the wider group of case-holding staff had been trained in restorative justice and the ease with which we were able to find examples of restorative justice in other community orders or licences.
- 3.56 In general panel members were well trained and very committed to their work. All had undergone the required ‘Panel Matters’ training, and in most YOTs this was supplemented by regular training or supervision sessions.
- 3.57 However most volunteers had not received practical training in dealing with victims at panels, nor had they been trained to conduct restorative conferences, even when many other YOT staff had been. Due to the low number of victims that some panel members encountered it was not always clear that they would still have the ability to manage this properly if it were to occur.
- 3.58 We were encouraged that developments by the YJB sought to address each of these areas for improvement, and all YOTs were planning to make best use of this opportunity.

3.59 Not enough victims engage directly with youth offender panels and more needs to be done to improve the quality of the initial contact that YOT staff have with victims.

Recommendation

Youth offending teams and the Youth Justice Board should ensure that the involvement of victims and active consideration of restorative opportunities is maximised in relevant sentences across the whole range of YOT interventions.

4 Restorative Justice in the Prison Service

National context

- 4.1 The National Offender Management Service (NOMS) is responsible for the delivery of prison services through HM Prison Service (HMPS) across England and Wales in 120 public sector prisons and (through a small number of other providers) 14 private sector prisons.¹⁸ It is not currently mandatory to deliver RJ within the custodial estate.

Strategic framework

- 4.2 At the time of the inspection senior managers at each of the three establishments visited said they had not received a clear directive from NOMS to develop RJ services. Services had, therefore, been developed on a local basis, largely through the commitment of individual members of staff combined with good support from Governors. The availability of RJ within establishments was inconsistent. It was significantly difficult to identify three establishments that were delivering RJ, despite assistance from NOMS, which had undertaken a survey over the summer 2011 to identify delivery within the custodial estate.
- 4.3 Unlike in some other criminal justice agencies where RJ is now becoming increasingly embedded, in the custodial estate the perception appeared to be that it was very new and innovative. It was also evident that some failed to understand fully what RJ was. In one establishment which said it was using RJ in the adjudication process with prisoners/young people involved in fights, this could more accurately be described as mediation (because it was not always clear who was at fault). This confusion over the definition of RJ was of concern because it had the potential to dilute the wider understanding and impact of RJ, and to lose the victim focus inherent within it.
- 4.4 The 2012-13 NOMS commissioning intentions for the custodial estate establishes RJ conferencing within prisons as a key objective for the forthcoming financial year. Each of the three establishments we inspected were concerned about there being sufficient resources available to meet this commissioning priority, as provision will need to be made from within their existing core budgets. In the absence of external funding, RJ is often delivered as an 'add on' to a core role profile, which conflicts with the notion of RJ development within HMPS as a key NOMS objective.

¹⁸ NOMS website <http://www.justice.gov.uk/about/NOMS/>

Recommendation

In order to promote the use of restorative justice, the National Offender Management Service should ensure that there is a national strategy incorporating the use of RJ with offenders in custody, and in the community, which defines what constitutes RJ as opposed to victim awareness work, defines the priority to be given to meeting the needs of victims and sets clear expectations for prisons and probation trusts.

Local strategic management

- 4.5 There was good senior management support for the use of RJ in each of the three establishments visited. This was particularly evident in one, which was aiming to develop an RJ ethos throughout the establishment. At an operational level the development of the respective programmes had been driven largely by the commitment of individual members of staff, leaving continuity of service dependent on their availability and potentially vulnerable. Each establishment was yet to identify a means for assessing longer term outcomes of RJ, although one had the advantage of being part of a wider county partnership which could facilitate this. Two of the three had incorporated RJ into their reducing re-offending strategy and, to some extent, associated planning and reporting at senior management meetings.

Operational delivery

- 4.6 Each of the three establishments had developed a different approach to RJ delivery, reflecting the absence of a national strategy. One had developed a discrete RJ conferencing service led by an RJ co-ordinator, which was offered to all offenders who met a set of basic criteria. A team of trained volunteers delivered the service, from initial assessment of the prisoner/young person through to facilitating the conference. An effective database had also been developed locally. In the first full year of operation the scheme had facilitated nine RJ conferences.

An offender had been imprisoned after a burglary at a local youth club. He felt remorse for his offence and was keen to make things right.

The victim for the purpose of the conference was the youth club owner. The offender was known to the victim, as he was from the same community. The victim expressed a willingness to take part so that he could help the offender change his ways.

The victim was initially contacted via telephone and given a detailed description of the RJ process. He also had a face-to-face meeting with a restorative justice team member in the lead up to the conference.

The victim expressed that he had all the information he needed before the conference taking place. He was also driven to the conference by a member of the restorative justice team.

During the conference, the offender and victim agreed that the offender would undertake reparation work. Once released into the community the offender helped with gardening work around the youth club.

- 4.7 The second establishment had undertaken only four face-to-face conferences in the previous 12 months, all of which had been arranged by external offender managers rather than the establishment itself. Instead it had focused on development of the 'Time 4 Change' programme, a non faith-based victim awareness course delivered by the chaplaincy which introduced the principles of RJ and incorporated the concept of writing a letter of apology. Some prisoners/young people had taken up this opportunity. One prisoner/young person wrote:

"I am doing a course called Time 4 Change which is all about how victims feel...I am deeply sorry for any pain I have caused you and your family. I now understand how you feel and I wouldn't wish that on anybody."

- 4.8 This particular letter was shared with the victim, after obtaining their consent, although many were not routinely shared in this way. There appeared to be some confusion as to what constituted an RJ intervention as opposed to victim awareness, and staff used RJ freely to describe work which, in our interpretation, was prisoner/young person focused with no victim participation. The content was robust and challenging. However, once prisoners/young people had completed the course there was no opportunity for them to engage in an RJ conference with their victim where appropriate, which was a missed opportunity given their likely increased victim empathy.
- 4.9 The third establishment had undertaken six conferences during 2010 and 2011, with a further two arranged for delivery after release, and three more undergoing assessment for suitability at the time of inspection.

4.10 In this establishment conferences between prisoners/young people and their victims were usually facilitated by a partner agency such as the police, and were sometimes held off site. There was an expectation that prisoners/young people should first undertake some victim awareness work with offender supervisors. This included a victim impact session (which the establishment delivered with partners), and the Sycamore Tree course, a Christian-based victim awareness course. Once this work had been completed, and after being assessed as suitable, the prisoner/young person could be offered the opportunity to either write a letter of apology to their victim or undertake an RJ conference. Six letters of apology had been completed.

An offender approached staff at his establishment to request an RJ conference; he was offered a place on the Sycamore Tree as a first step towards this. He was very enthusiastic about the course and recommended it to others: *“It works, it’s quite difficult but it should be in every prison.”* Since the course the offender has written to his victim and was waiting for a response. While optimistic he understood many victims were unwilling to engage in restorative justice practices. This offender is currently a mentor for others at his establishment and hopes to make a career of reducing offending in the community after his release.

Recommendation

Opportunities for prisoners/young people and victims to engage in RJ interventions should be consistent throughout the custodial estate. Where prisoners/young people are supported to write a letter of apology, systems should be in place to ensure the victim is contacted where appropriate and able to decide if they would like to receive it. All prisoners/young people who have successfully engaged with and completed a comprehensive victim awareness course should be offered, where appropriate, the opportunity to engage in an RJ conference, subject to agreement by the victim.

Victim engagement

4.11 Victim engagement was very low, although broadly in line with rates in previously published research on the use of RJ in prisons.¹⁹ In one establishment, of 86 cases where the offender agreed to a conference, only 41 victims were successfully

¹⁹ Shapland, J. et al (2006) Restorative Justice in Practice: The second report from the evaluation of three schemes. Available from www.shef.ac.uk

contacted. There were a number of reasons why the others were not contacted, including the accuracy of victim details and ease with which they could be obtained from the police. This was a particular issue with police areas with no links to the establishment.

- 4.12 Of the 41 victims contacted, 19 agreed to an assessment; 13 of these agreed to a face-to-face conference; and nine eventually went ahead. Low take-up by those victims successfully contacted was attributed to factors such as the conference being held in the establishment. At one of the three establishments, Release on Temporary Licence (ROTL) was granted to appropriate prisoners/young people so that conferences could be held elsewhere. Another was using ROTL to facilitate indirect reparation within the community, but had not used it for RJ conferencing.
- 4.13 A further factor was the sometimes significant passage of time between commission of the offence, conviction and contact being made. Only one establishment directly contacted victims. The other two relied on contact being made by the relevant YOT or Probation Service, and only actively sought this out if the prisoner/young person requested it.
- 4.14 All three establishments felt that RJ should not be offered to victims or perpetrators of sexual offences of domestic violence; and prisoners/young people who had committed such offences were excluded from consideration for an RJ intervention. Notwithstanding the specialist nature of such an intervention, such a blanket policy of exclusion was not justified.

Recommendation

There should be a national information sharing agreement between NOMS and ACPO to facilitate contact with victims by prisons.

Where appropriate, and subject to the requisite risk assessment, release on temporary licence (ROTL) should be considered in order to facilitate RJ conferences outside the establishment.

Victims should be contacted by the relevant agency in a timely manner to suit the needs of the victim rather than those of criminal justice processes.

In cases of sexual offending and domestic violence, each case should be considered on its merits by suitably trained staff before a decision is made whether to offer RJ.

Prisoner/young person engagement

- 4.15 Prisoner/young person engagement was generally good. This was especially evident in the discrete RJ conferencing service: this had an 82% level of engagement during the first full year of operation, and we were confident that RJ conferencing between victims and prisoners/young people was entirely voluntary.
- 4.16 However, we were not sure that this was the case during internal restorative practices held at one establishment. As part of the adjudication process following fights, prisoners/young people were offered the opportunity to engage in a mediation process. While this appeared effective in resolving conflict, some prisoners/young people said they were expected to participate and there was a perception that engaging would lessen any punishment they may have otherwise received. We would hope that the voluntary nature of restorative practices is upheld into the future, and that they do not become a means of avoiding punishment.
- 4.17 One establishment was prioritising what it considered to be the highest impact offences of murder, manslaughter and death by dangerous driving. While we understood the rationale of this approach, we considered it ill advised to make assumptions about the degree to which an offence has impacted on victims and their families, as each case is individual and each victim unique. Therefore in the future we would hope to see delivery expanded.

Training and awareness

- 4.18 All staff who facilitated conferences had received the appropriate level of training. However, two of the three establishments had trained a number of staff who were not able to use it, either due to capacity issues or because conferencing was not part of their role. Residential staff in these two establishments had either a basic or good awareness of RJ, and knew who to refer prisoners/young people to if they expressed an interest. However, within the third establishment residential staff knew almost nothing about the service and did not actively refer prisoners/young people to it, despite being ideally placed to do so. This meant that prisoners/young people deemed unsuitable on arrival to the establishment were rarely given a second chance to participate: we consider this a missed opportunity.

4.19 Where volunteers were being used to deliver services they were given ongoing training opportunities, including undertaking the Restorative Practice Diploma. However, retention of volunteers was difficult, particularly during periods of inactivity. The lengthy delays in obtaining the requisite security clearance for volunteers was also identified as an issue, although lessons had been learnt from the first recruitment drive and steps taken to facilitate shadowing while awaiting clearance, in order to promote retention.

Recommendation

Residential staff should have a basic awareness of RJ and the services available within their establishment, enabling them to identify and refer prisoners/young people who may be suitable for an RJ intervention.

Resourcing and partnership working

- 4.20 One establishment had been able to develop a dedicated RJ post by successfully applying for external funding. However, this was due to run out within three months. While the other two establishments had allocated funding to delivering victim awareness work (including by way of extensive external fundraising), there was no dedicated funding for RJ conferencing or other RJ interventions, and where these were happening existing staff were undertaking responsibility in addition to their core roles. An example of the impact of this was the Time 4 Change programme (see para 4.7 above); lack of staff availability meant only one course per month with eight participants could be held, and there was no capacity to then support prisoners/young people through an RJ intervention with their victim.
- 4.21 Partnership working varied amongst the three establishments, with one having very limited partnership links with relevant agencies and another working with partners to facilitate conferences on an ad hoc basis. However partnership working was particularly good at one establishment, which had become part of a broader county initiative (in partnership with other agencies including the police, probation, Crown Prosecution Service, the youth offending team and the voluntary sector). Additional funding had been secured to provide a county RJ manager for three years, with the intention of developing the delivery of RJ to a consistent level in all criminal justice agencies – including the establishment.
- 4.22 Two of the three establishments had successfully worked together to facilitate an RJ conference.

An offender had been charged with death by dangerous driving after an accident in which his friend had been killed. He knew the parents of his friend well and was due to move back to the community where they lived after release. He wanted to apologise to them and help both parties deal with living close to each other after release.

The offender was moved to another establishment where RJ was unavailable, stalling the process until he was later transferred a second time to one of the establishments we inspected. He approached staff to discuss the possibility of a conference, who in turn contacted his original establishment to continue the work that had begun there. The two establishments worked together to contact the parents of the victim and to facilitate the conference. Staff from both establishments attended the conference, which was conducted in the community with the offender released on temporary licence.

Both the parties viewed the conference as a positive experience. As part of the reparation process the offender now speaks to school groups about dangerous driving and the impact this can have on the lives of other people.

5 Restorative Justice in the Probation Service

National context

- 5.1 The National Offender Management Service (NOMS) is an agency of the Ministry of Justice with responsibility for the delivery of services with offenders to reduce the likelihood of offending and protect the public. Specific responsibilities include the commissioning of offender management services and the national performance management of prisons and probation trusts.
- 5.2 Probation services are delivered by probation trusts located throughout England and Wales. Trusts are funded by the Ministry of Justice through NOMS. Most trusts are co-terminus with their local police force, although some have combined to cover more than one force area. Wales now has one probation trust covering the whole of the country.

Use of restorative justice by probation trusts

- 5.3 All six probation trusts we visited were committed to developing restorative justice in their work with offenders. The extent to which that commitment had resulted in concrete plans or delivery varied considerably. However even where progress was limited there was evidence of a groundswell of interest from offender managers.
- 5.4 At one end of the spectrum the intention to implement use of restorative justice was recognised in local business plans. In another trust an opportunity had been presented through funding obtained by the police to deliver restorative conference training to some offender managers in advance of development of a strategy. In Norfolk and Suffolk Probation Trust external funding had enabled a restorative justice development role, leading to plans for delivery of restorative activities in Integrated Offender Management (IOM) teams by April 2012.
- 5.5 We found evidence of restorative justice being used extensively in two of the six trusts that we visited: Staffordshire and West Midlands, and Greater Manchester. In both of these significant progress had been made within IOM teams and alongside intensive alternatives to custody. We found some impressive examples of the benefits that RJ can bring to victims and offenders in complex or difficult cases.

A victim managed a store that was robbed by an offender who was under the influence of alcohol and drugs and on medication to support his mental health. The offender received an Intensive Alternative to Custody order.

The victim and offender met at a restorative conference organised by the Probation Service. The victim felt empowered by this, since he recognised that the offender was not the scary person that he remembered from the offence, but instead was distressed and uncomfortable about what he had done. He realised that the offender was out of work, and offered him employment in another part of his business. While this did not come to fruition, the opportunity effected a significant change in the offender as he had previously seen himself as unworthy and unable to work. He later told the sentencing judge that the conference had “*opened his eyes*”.

Six months later he has not reoffended, having previously been a highly prolific offender. He has made many significant positive changes to his lifestyle and is working full time. Both the victim and offender like to tell others about the impact that RJ can have.

- 5.6 Where progress had been more limited, the main barriers were the priority given to other initiatives to address offending behaviour and protect the public, and the availability of resources. Trusts expressed some concern that the costs of delivering restorative justice were not reflected in national costing models. Local allocation of resources is heavily influenced by the requirements of national specifications; therefore unless a trust was to access additional external funding, the development of RJ would be at the expense of other work that was considered to be a higher priority.
- 5.7 Each trust recognised the multiple outcomes that could be achieved – in particular, increased victim satisfaction and reductions in reoffending. They also recognised a contribution to improved community confidence in the criminal justice system. These were the reasons why they wished to develop their use of restorative justice.
- 5.8 Each of the local police forces had a policy covering the use of restorative justice. While some acknowledged the potential for RJ and community resolution in certain cases where perpetrators had previously offended or were under Probation Service supervision, trusts had not been involved in development of these policies to ensure that the shared interests of police and probation in those offenders were recognised.
- 5.9 Some trusts were unclear about the level of training that staff would need in order to deliver RJ, and were keen to receive guidance on this from NOMS.

5.10 Use of restorative justice in Greater Manchester Probation Trust (GMPT) started in 2009 when, following research into the prime offences leading to short custodial sentences, they realised that the majority were cases where a restorative approach was most likely to bring benefits. They developed an intensive victim awareness programme, which included an objective to achieve a restorative conference where possible as a core element of the Intensive Alternative to Custody option that they provided for local courts. Due to the complex nature of the cases being considered for restorative justice, GMPT has chosen to avoid suggesting the potential to victims until the case manager has assessed (through completion of the victim awareness work) that the offender is likely to be ready to engage. This is to reduce the risk of victims having a poor experience which may not be of benefit to them.

5.11 The development of restorative justice within GMPT was led by a project group which included Greater Manchester Police, Victim Support and community safety partnerships. RJ was rolled out into the Integrated Offender Management (IOM) teams, with a view to further extending its use as resources allow. Managers recognised that the use of RJ within those teams would develop as practitioner confidence increases (particularly around the management of conferences and risks to victims). They were developing an event for staff at which these barriers would be explored. A similar multi-agency approach to rolling out RJ into IOM teams was being taken in Staffordshire West Midlands Probation Trust (SWMPT).

A young man was killed in an incident between two gangs. His mother could not make sense of his futile death and wondered whether her son had been involved in things that she wasn't aware of. The adult killers received long custodial sentences. Eventually, having received another annual contact from the victim liaison service, she rang back saying that she wanted to meet two of the killers – the one who fired the gun and one whom she had known previously and whom she suspected of pointing out her son. She wanted answers to the questions she had lived with – who did shoot her son and why – and to tell them about the impact on her, her family and friends.

After much preparation (complicated by the killers being in separate prisons a long distance apart), they all met. One revealed that he had denied the killing for many years as he could not cope with it – she appreciated his honesty. The other confirmed that her son had not been pointed out, that he was not a gang member and had been caught in the cross-fire.

Meeting the people responsible for her son's death was a life-changing experience for her, and she believes also for the killers. It enabled her to start to move on in her life, and removed much of the confusion that she had suffered. She strongly recommended such a meeting to other victims in a similar position.

- 5.12 SWMPT has preserved its longstanding commitment to restorative justice, which dates from before the introduction of the statutory victim contact scheme in 2001. RJ has been part of its Intensive Change and Control Programme (ICCP) since before 2008. The aim was to work towards mediation between the offender and victim, subject to the offender being willing to repair the harm they had caused.
- 5.13 Victim liaison staff within probation trusts have a key role to play in laying down the potential for RJ work with victims. However, the national costing model for victim contact services does not currently recognise this.

Training and awareness

- 5.14 GMPT recognised the importance of training victim contact staff and was planning to address this. SWMPT has trained many victim contact staff in restorative conferencing, and retained the post of Victim Offender Development Officer: the post holder is a recognised expert in RJ who provides a helpline for any SWMPT staff who need advice. Offender managers within SWMPT have also been trained in the use of the SWMPT victims workbook, which encourages a restorative approach. The training encouraged engagement with the victims unit as restorative opportunities arise. Roadshows were used to reinforce this opportunity.
- 5.15 Practitioners had been trained to the required standards in both probation trusts where RJ was being used.

Developments in the National Offender Management Service

- 5.16 We were encouraged that NOMS now recognises the development of RJ as a strategic priority and has set an objective to build delivery capacity.
- 5.17 Until recently, using restorative justice to reduce offending was not an area of priority. However NOMS now recognises that RJ can have a positive impact on an offender's motivation to change their offending behaviour. Indeed, NOMS considers the evidence for the effectiveness of RJ on offending behaviour to be stronger than that for some other approaches to developing awareness by offenders of the impact of their offending. NOMS also recognises the high degree of satisfaction that victims achieve from RJ.

- 5.18 NOMS commissioning intentions for 2012-13 recognise the evidence base and include an objective to develop victim–offender restorative conferences as the focus of their RJ activity. The commissioning intentions act as the baseline against which plans from trusts and prison establishments will be assessed and negotiations undertaken. There is an expectation that development and delivery of restorative approaches is resourced from the core budget provided to prison establishments and probation trusts.
- 5.19 The initial focus of NOMs will be on use of RJ with offenders who have committed serious acquisitive crime or violent offences, and who have a medium or higher likelihood of reoffending. This is in line with both the focus that NOMS give to these offender types and the evidence of where RJ is likely to be most effective. This approach also recognises that the costs and logistical problems of undertaking restorative conferences with offenders in custody are considerably higher than in the community. It is expected that these parameters will be kept under review, and that work currently being undertaken within trusts and prison establishments which sits outside these parameters will continue.
- 5.20 In summer 2011 NOMS created a dedicated full-time post to lead on the development of policy relating to RJ.
- 5.21 A survey has been undertaken of victim-related work in probation trusts and custodial institutions. This aimed to identify current practice so as to inform policy development. Approximately 50% of probation trusts and 33% of prisons responded. Preliminary results indicate a mixed picture of practice, including some positive examples, but also some confusion as to what constitutes RJ.
- 5.22 More recently NOMS has awarded a three-year grant to help NOMS deliver increased capacity for RJ victim–offender conferencing models. The grant was awarded to an external provider supported by joint funding from the Monument Trust. An additional grant was awarded to another organisation to develop implementation advice and templates based on examples of good practice which currently exist within probation trusts and prisons, particularly in Thames Valley Probation Trust.
- 5.23 Probation trusts and prisons are being invited to submit expressions of interest for involvement in this programme of roll-out of training and implementation support. In June 2012, roll out commenced in specific localities in the North West and North East (Phase One), with a further six phases planned over the next 18 months. The first significant results from this investment are expected later in 2012. Training for trainers is also part of this roll-out in order to contribute to sustainable models of restorative justice delivery locally.

5.24 NOMS is supporting the evaluation of the effectiveness of a popular programme based on the concept of surrogate victims. This is used in particular in custodial institutions where there is no named victim or it is not otherwise appropriate to involve the victim.

5.25 NOMS recognises the urgent need to develop a national policy and strategy on RJ for both community and custody. However, the focus at the time of the inspection, within the limited national resource available to lead on RJ, was on the commission and implementation of the training programme.

Recommendation 8

In order to promote the use of restorative justice, the National Offender Management Service should ensure that there is a national strategy incorporating the use of RJ with offenders in custody, and in the community, which defines what constitutes RJ as opposed to victim awareness work, defines the priority to be given to meeting the needs of victims and sets clear expectations for prisons and probation trusts.

Annex A – What Works? A summary of key reviews and research on Restorative Justice

The following is a summary of some of the recent reviews and research on the subject of RJ. It is not intended as a complete literature review of the topic but rather as a synopsis of some of the recent work. Further articles relating to research and evidence on RJ can be found on the Restorative Justice Council website at www.restorativejustice.org.uk .

Restorative Justice Conferencing (RJC): Effects of Face-to-Face Meetings on Offenders and Victims; A Systematic Review for the Campbell Collaboration²⁰

This work reviewed a number of research projects from around the world and concluded that restorative conferencing provided substantial benefits for victims. It also produced a modest but cost effective reduction in repeat offending. In the seven experiments reviewed that were based in the United Kingdom, the cost of running the conferences were as low as one-fourteenth the cost of dealing with the crime that would otherwise have likely been committed.

Restorative Justice: The Evidence, The Smith Institute 2007²¹

This was a review of research on RJ in the United Kingdom and abroad and made comparisons between conventional criminal justice and RJ. It found that RJ conferences:

- Substantially reduced repeat offending for some offenders but not all. RJ appears more successful for more serious offending rather than less serious offending, and in particular for violent offences where there is a personal victim, or an offence against property;
- Increased the number of offences brought to justice;
- Reduced crime victims' post-traumatic stress symptoms and related costs;
- Provided an increased level of satisfaction for victims compared to conventional CJ;
- Reduced the desire for victims to seek revenge;
- Reduced costs of administering criminal justice, when used as a diversion from more conventional CJ methods; and

²⁰ Heather Strang, Lawrence W. Sherman, Evan Mayo-Wilson, Daniel J. Woods, Barak Ariel (July 2012)

²¹ Conducted by Sherman, Lawrence W and Strang Heather (2007)

- Reduced recidivism more than prison (for adults) and as well as prison (for youth).

Restorative Justice: Research into reconviction rates and views of victims – based on an evaluation of three schemes²².

Commissioned by the Ministry of Justice. The Government funded a £7 million seven year research programme looking into restorative justice. In her independent evaluation, published in four reports.

Professor Joanna Shapland found that in randomised control trials of RJ conferences with serious offences (robbery, burglary and violent offences) by adult offenders, 85% of victims who took part were satisfied with the process; and RJ reduced the frequency of re-offending, leading to £9 savings for every £1 spent on restorative justice.

Evaluation of South Yorkshire Police' Restorative Justice Programme (2012)²³

This was the final report of the evaluation of South Yorkshire Restorative Justice Programme (SYRJP), undertaken by the Hallam Centre for Community Justice at Sheffield Hallam University.

There were largely positive findings from this small-scale review which concentrated on 34 victims, 29 offenders and 10 police officers. They found favourable reoffending rates amongst offenders, but not to a statistically significant level. It makes recommendations to further the development of RJ in South Yorkshire.

A Business Case for Restorative Justice and Policing²⁴, (2010)

This report gives a largely positive resume of the benefits of RJ for police forces and draws together findings from an ACPO survey of police forces. It found that use of RJ within UK police forces was increasing at a significant pace, with many forces reporting favourably on how RJ and Community Resolution were improving victim satisfaction and helping to reduce re-offending.

There was also found to be growing national interest in its application to develop both a victim-focused but low-bureaucratic disposal for low level offending and as a

²² Conducted by Shapland, J. et al. (2007–08)

²³ Conducted by Linda Meadows, Katherine Albertson, Dan Ellingworth, and Paul Senior, Hallam Centre for Community Justice, Sheffield Hallam University

²⁴ Conducted by ACC Garry Shewan, ACPO lead on Restorative and Community Justice

critical tool within Neighbourhood Policing to assist in problem-solving and meeting community expectations. A survey sent out to police forces on behalf of ACPO in December 2009 examined the extent that RJ was being utilised in policing. Thirty eight forces responded of which thirty three forces indicated that they are using RJ practices.

Evaluation of Sheffield Community Justice Panel Project²⁵ (2010)

Community (or Neighbourhood) Justice Panels are an innovative community based model of restorative justice being used in Sheffield, Somerset and Manchester.

Community Justice Panels are community based, using local volunteers to facilitate restorative meetings, building community ownership of solutions without recourse to the criminal justice system.

This research by Sheffield Hallam University comparing the cost of community mediation with interventions by statutory agencies found that the average cost of mediating a neighbour dispute across three mediation services varied from £160 to £430 (depending on throughput of cases); whereas Local Authority interventions could cost £1,240 - for example to go to court for an injunction.

Economic Analysis of interventions for young offenders (2009)²⁶

Independent expert analysis of the economic benefits of restorative justice has revealed that restorative justice would likely lead to a net benefit of over £1billion over ten years. The report concludes that diverting young offenders from community orders to a pre-court restorative justice conferencing scheme would produce a life time saving to society of almost £275 million (£7,050 per offender). The cost of implementing the scheme would be paid back in the first year and during the course of two parliaments (10 years) society would benefit by over £1billion.

²⁵ Conducted by Linda Meadows, Kerry Clamp, Alex Culshaw, Nichola Cadet, Dr Katherine Wilkinson and Joanna Davidson, Hallam centre for Community Justice, Sheffield Hallam University

²⁶ Conducted by Matrix Evidence, commissioned by The Barrow Cadbury Trust

Annex B – Methodology

Inspectors from Her Majesty’s Inspectorate of Constabulary (HMIC), Her Majesty’s Inspectorate of Probation (HMI Probation), Her Majesty’s Crown Prosecution Service Inspectorate (HMCPSI) and Her Majesty’s Inspectorate of Prisons (HMIP) were all involved in this inspection.

The inspection involved fieldwork in six areas: Sussex (East Sussex YOT), Norfolk (Norfolk YOT), Merseyside (St Helens YOS), West Midlands (Walsall Youth Justice Service), Greater Manchester (Wigan YOT) and North Wales (Flintshire YJS). Areas were selected to represent a cross-section of demographic areas, both rural and urban. In each area the local police force, probation trust and YOT were inspected, and the CPS leads on RJ interviewed.

We also inspected the delivery RJ in three custodial establishments:

- HMP Gloucester – a category B adult male prison with an operational capacity of 321, which also holds a limited number of young adult offenders. It is a local prison, meaning the majority of prisoners are held there either on remand or for a short period upon conviction until they are transferred to a training or open prison;
- HMYOI Hindley – a closed children and young people establishment with an operational capacity of 506, holding young males aged 15–18 years, on remand or sentenced; and
- HMYOI Thorn Cross – an integrated open establishment with an operational capacity of 322, holding young adult male offenders and adults aged between 18–25 years.

These establishments were inspected after learning each was implementing restorative practices in some form. We recognise that these prisons are not representative of the estate although it is likely there are some establishments that also use restorative justice methods.

The inspection was conducted through a combination of staff and manager interviews and focus groups, surveys of victims, offenders and the public, and an examination of cases where RJ had been used.

The case samples in each area were selected as follows:

- Five Level One street resolutions by officers or PCSOs;
- Five cases where an RJ conference had been arranged by the police (Level Two) – or, if RJ conferences were not used in that area, five additional Level One resolutions;
- Five referral orders overseen by the YOT; and
- Up to five cases where RJ had been used in each prison visited (dependent upon numbers of conferences held).

For each type, the area inspected were requested to nominate two examples which best demonstrated the benefits of restorative approaches, while the remaining three cases were selected by the inspectors.

Victims and perpetrators in the cases selected were contacted for their views on how the matter had been dealt with, and on any benefits derived from the experience.

The approach of each prison establishment to the delivery of RJ was quite different, and many prisoners who had been through an RJ intervention had already been released and were back living in the community. As a result the methodology we employed required a different approach to that employed in the inspection of community RJ delivery.

Where possible, in prison establishments, interviews were undertaken with prisoners, their victims and members of staff directly involved in RJ interventions and their delivery. Due to the low numbers of RJ conferences held or arranged within the prison environment, and the difficulties contacting past offenders and their victims, we were therefore only able to use these as case study examples. We were only able to undertake two face to face interviews with prisoners, with a further three interviewed via telephone. Victims were interviewed where possible, however many declined to be involved or were not available for undisclosed reasons. Staff interviewed were from a number of different areas, including external YOT workers, offender managers and senior officers. Case files for RJ interventions were also reviewed when available.

In order to reduce the likelihood that the victim would be re-victimised, we requested that the area inspected made contact in the first instance and ask whether they would be prepared to participate in the inspection. As the wider use of RJ is not standard practice in every criminal justice area, only those areas that currently offered it for both adults and young people were considered for inspection. Some of the areas that are not engaging in RJ approaches, however, were contacted to identify the reasons why they are not adopting it and explore potential solutions to problems encountered.

A link to an online questionnaire was distributed by email to all police officers and PCSOs using RJ or CR in each of the forces inspected, in order to gain an understanding of what officers thought about it as a tool for dealing with low level crime and anti-social behaviour, compared to other disposals. A copy of this questionnaire is at Annex C.

In probation trusts, it was mostly the case that there were insufficient examples where RJ approaches had been used to validate a structured inspection, although we inspected those that were available.

The views of the public were considered by commissioning an independent research company, Duckfoot Ltd, to conduct a number of focus groups on behalf of HMIC, focussing upon the police use of RJ and informal resolution. These were held in the same areas visited during our fieldwork. This company were briefed to produce a separate report on their work: see Duckfoot (2012) *The General Public's Response to Restorative Justice/Community Resolution: Research conducted on behalf of HMIC*, which is available from the HMIC website (www.hmic.gov.uk).

These focus groups explored public views on the use of RJ by their local forces, examining what they understood the meaning to be without prompting, based only on what they had heard about it, and then again how they felt once fully informed. The focus groups covered the degree to which the public expected police use of RJ or street resolution as a disposal to be the same or different across different areas. Finally, we explored what the public want to know about the use of RJ and how this could be better used to market its benefits.

Annex C – Restorative Justice Questionnaire for Police

Police Force name: _____

Dear Respondent

Representatives from the Inspectorates of Constabulary, CPS, Probation and Prison Service are currently involved in a joint thematic inspection examining Restorative Justice and Community Resolution in the criminal justice system.

The overall aim of the inspection is to:

- Identify different practices which promote the development of an effective Restorative justice (RJ)/Community Justice(CJ) approach at various stages, both pre and post-charge.
- Assess at a high level the value for money of RJ approaches against the outcomes achieved.
- Assess the views of both the victims and perpetrators involved in RJ approaches, and use the responses to determine the likely benefits of the practice.

A total of six forces will be visited during the process: Greater Manchester, Merseyside, Norfolk, North Wales, Sussex and West Midlands.

This questionnaire will assist the inspection team in understanding officer/staff opinion on the effectiveness of RJ and CJ approaches at ‘street level’ as a disposal. We know that forces use different names to describe ‘street level’ restorative justice practices (e.g. Restorative Justice, Street Restorative Justice and Community Resolution). However for the purposes of the questionnaire all questions will refer to the term RJ.

Your help and assistance is greatly appreciated and all answers will be collated and used in confidence.

1. In your opinion how effective is restorative justice at improving victim satisfaction compared to other disposals?

(Please tick **ONLY** one box per disposal type)

| Disposal type | Considerably less | A little less | Same | A little more | Considerably more |
|---------------------|-------------------|---------------|------|---------------|-------------------|
| Simple caution | | | | | |
| Conditional caution | | | | | |
| PND | | | | | |
| Charge | | | | | |

Comments:

2. In your opinion how effective is restorative justice at reducing reoffending compared to other disposals?

(Please tick **ONLY** one box per disposal type)

| Disposal type | Considerably less | A little less | Same | A little more | Considerably more |
|---------------------|-------------------|---------------|------|---------------|-------------------|
| Simple caution | | | | | |
| Conditional caution | | | | | |
| PND | | | | | |
| Charge | | | | | |

Comments:

3. In your opinion how does the time taken to deal with restorative justice disposals compare against other disposals?

(Please tick **ONLY** one box per disposal type)

| Disposal type | RJ takes considerably less time | RJ takes a little less time | RJ takes the same time | RJ takes a little more time | RJ takes considerably more time |
|---------------------|---------------------------------|-----------------------------|------------------------|-----------------------------|---------------------------------|
| Simple caution | | | | | |
| Conditional caution | | | | | |
| PND | | | | | |
| Charge | | | | | |

Comments:

4. How has community resolution helped (or hindered) you perform your role effectively?

| Hindered a lot | Hindered a little | Made no difference | Helped a little | Helped a lot |
|----------------|-------------------|--------------------|-----------------|--------------|
| | | | | |

(Please comment below using examples where appropriate)