



# Making Sense of the Restorative Justice

Landscape in Youth Justice  
in the West Midlands

Findings from West Midlands Police and  
Crime Commissioner's Restorative Justice  
Project Examining the Delivery of Restorative  
Justice in Relation to Youth Offending in the  
West Midlands

January 2015

“talking about how  
the victim feels,  
it’s not good  
knowing how people  
have been effected..  
I didn’t think  
about that before.”

*Young Offender*

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# Executive Summary

Restorative Justice (RJ) has been a key element of National Youth Justice policy since the inception of youth offending teams in 1999 and is embodied in legislation, government guidance to Youth Offending Teams and National Standards for Youth Justice. However fifteen years on, there are a number of key questions for and challenges to the youth justice system (YJS) around consistency, approach, reach and impact of RJ services and the RJ offer across the West Midlands. This project was commissioned by the West Midlands Police and Crime Commissioner (PCC) in order to make sense of the RJ landscape, understand what is actually being delivered and identify what needs to happen in order to improve outcomes for victims, young people and the community.

It has been decided through the RJ Reference Group formed as part of this project that the definition of Restorative Justice should be that which is set out by the Restorative Justice Council. It is as follows:

***Restorative justice gives victims the chance to meet or communicate with their offenders to explain the real impact of the crime - it empowers victims by giving them a voice. It also holds offenders to account for what they have done and helps them to take responsibility and make amends.***

***Restorative justice is about victims and offenders communicating within a controlled environment to talk about the harm that has been caused and finding a way to repair that harm. For offenders, the experience can be incredibly challenging as it confronts them with the personal impact of their crime. For victims, meeting the person who has harmed them can be a huge step in moving forward and recovering from the crime.***

In addition to the above definition, this report wishes to acknowledge that in 2010, the Ministry of Justice commissioned the Restorative Justice Council to publish *Best Practice Guidance for Restorative Practice*. This was completed in 2011 and provides an opportunity for a wider scope of restorative practice. This includes a widening of the above definition and includes the following additional areas:

- Shuttle mediation between the victim and offender involving the exchange of letters or use of audio or video technology.
- A community meeting involving those affected by the offending and the offender.
- Direct reparation to the victim by the offender.

This report details the wide extent of RJ activities in Youth Justice operations and indicates the need for greater consistency of approach and a number of other challenges to the system:-

## Key Highlights

- RJ is firmly embedded in Youth Justice practice across the region.
- All Youth Justice staff and volunteers have made use of the Youth Justice Board (YJB) grant in order to be trained to the Restorative Justice Council and YJB requirements.
- The literature review stands as a key learning resource for practitioners and managers.
- RJ/Victim staff across the seven services are totally committed to supporting victims and promoting RJ.
- The very useful opportunity to engage with West Midlands Police and the National Probation Service in dialogue about definition and local community needs.
- The professional exchange of views and experiences through the RJ Reference Group.
- The considerable amount of victim satisfaction already in place within Youth Justice Services.

## Key Challenges

- Need for RJ practice to be brought together on a regional basis in order to improve coherence, impact and consistency.
- The absence of an agreed operating definition of RJ.
- Restorative Justice by geography – should young people get the same service offer everywhere.
- The absence of an agreed operating framework across the West Midlands.
- The provision of services for victims with complex needs, particularly child victims.

## Key Opportunities

- The agreement to achieve the Restorative Justice Council Quality Mark in all seven Youth Justice Services in the West Midlands Police Force Area.
- To build in partnership with the relevant agencies, a co-ordinated approach to Restorative Practice and embodies work with children and adults.
- To analyse the evidence and success stories in order to replicate and learn from practice that achieves good outcomes for children and their victims of crime.
- To ensure that the commissioning of resources can be achieved with identified need as a foundation of the decision making process.

## Recommendations

As a result of this project the following recommendations are put forward for consideration.

- The urgent investigation to identify resources to support child victims of crime, either through the seven Youth Offending Teams, or as the result of an invitation to tender from other sources.
- Consideration should also be given to the agreement of both a regional Victim Charter and RJ policies and procedures to support victims and promote the delivery of Restorative Justice.
- Restorative Justice and the support of victims of youth crime should be adopted as a standing item on all Youth Offending Team Management Board, and Regional Management meeting agendas. This would serve to ensure the necessary focus upon RJ is maintained at the highest levels.
- Consideration should be given to focusing the duties of RJ/Victim staff to specifically supporting victims and delivering RJ and relieving them of other wider duties with their service.
- The creation of an RJ working group consisting of both managers and practitioners. The focus of whose work would be to take forward the work identified in the key questions identified in the Literature Review.
- Consideration should be given by the Heads of Service for the seven YOTs to achieve the Restorative Justice Councils quality mark.
- The development and adoption of a performance monitoring/management system across the West Midlands YOTs to assist:
  1. The ongoing development of the use of RJ within Youth Justice and consistency of delivery.
  2. Enable meaningful and detailed evaluation of RJ performance in the region.
- Consideration should be given to the benefits of the provision of regular reports to the PCC on progress, achievements and outcomes relating to the delivery of RJ and other provisions which support victims.
- In the wider context of promoting RJ and the support of all victims of crime across the justice system consideration should to be given to the creation within the PCC Office of a "Victims Champion".



# Introduction

## Background to the Project

On 22 November 2012 in his keynote speech to the 2012 Youth Justice Conference Jeremy Wright, Under Secretary of State for Prisons and Youth Justice, reiterated the Government's commitment to extending the use of Restorative Justice by placing it on a statutory footing. He also stated that it is the Government's intention to make Restorative Justice available to all victims of crime at every stage of the justice system. Mr Hunt acknowledged that often the victims of youth crime are themselves young people and that they often do not receive adequate support to enable them to overcome their experiences.

On 6 January 2014 the Heads of Service for the seven Youth Offending Services serving the West Midlands Police Service area met with Assistant Chief Constable Garry Forsyth and his support team. At that meeting, it was agreed that collaboration should take place between Police and Youth Offending Services regarding the definition and delivery of Restorative Justice (RJ) within the Youth Justice System. It was acknowledged that the model of restorative approaches used in youth justice had been practised for at least a decade and should be considered carefully as part of the development

of RJ in the adult criminal justice system.

On February 4th 2014, the Police and Crime Commissioner for West Midlands, Bob Jones, called a meeting of the seven Heads of Youth Offending Services from the West Midlands districts along with the Local Partnership Adviser for the Youth Justice Board in the West Midlands. Information was shared of a grant for Restorative Justice provided to the Police and Crime Commissioner by the Home Office for the financial year 2013/14. The seven Youth Justice Services were invited to collaborate in putting together a proposal which would enhance restorative justice services and provide evidence of its effectiveness in the youth justice system. The invitation was to bid for a grant from the 2013/14 funding stream. That bid was successful and resulted in this project.

Following Bob Jones death David Jamieson was elected as the West Midlands Police and Crime Commissioner in August 2014. Mr Jamieson has reiterated the PCC's support of the project and expressed a particular interest in the provision of facilities for the support of child victims of crime.

## The Project

In response, the partnership of the seven Youth Offending Services serving the West Midlands PCC area, Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton, in conjunction with the YJB Regional Office, commissioned this project. Seven key components were identified to be addressed

1. Identify and map the delivery of RJ in each of the seven West Midlands districts including the capacity, quality assurance, evidence of effectiveness, training material, participation of victims and anything else that could be part of a baseline overview of how RJ is delivered in the youth justice context.
2. Form a working group with representation from the seven Youth Offending Services which will provide user participation and inform the professional leading the project.
3. Develop a specification and information base for local academic research and evaluation of RJ.
4. Collaborate with the West Midlands Police lead person for RJ and work towards an integrated approach to the roll out of the Police RJ pilot.
5. Work closely with the regional Victim Support team in order to establish both generic and specific needs of victims in relation to the youth justice system. In particular, to hear the voice of young victims of crime.
6. Based on the information found in the initial fact finding work, propose an RJ framework that could be used to model the approach taken with adult offenders, particularly in the 18 to 24 year old age group.

In addition the project was also asked to explore the key requirements in order to enable the delivery of Pre-Sentence Restorative Justice.

## Commitment from the Youth Justice Services

All seven Youth Justice Services committed to the principle and focus of the project. Each Head of Service has identified an Operational Manager or Lead Professional in Restorative Justice (RJ) to attend the Reference Group and give access to case material which demonstrates the way RJ is delivered locally. The project has been administratively located at Sandwell Targeted Youth Support, Unity Walk, Owen Street, Tipton.

## Time Scales

It was originally agreed that the project would have a duration of 6 months with a final report being lodged with the Police and Crime Commissioner by 30th November 2014. However, due to delays in the commencement of the project this date was extended to 28 February 2015.

## The Project Team

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### Tribute to Bob Jones

Bob Jones was elected to the position of Police and Crime Commissioner for the West Midlands in 2012. He had previously been a member of the West Midlands Police Authority since 1986, chairing that Authority for five years between 1995 and 2000. Bob had also been a Ward Councillor for Blakenhall, Wolverhampton, for over 30 years during which time he carried out a number of key roles. Bob Jones sadly died on 1 July 2014 and, following a by-election in August 2014, was succeeded by David Jamieson.



# Component 1

Identify and map the delivery of RJ in each of the seven West Midlands districts including the capacity, quality assurance, evidence of effectiveness, training material, participation of victims and anything else that could be part of a baseline overview of how RJ is delivered in the youth justice context.

## Introduction

This component formed a major part of the project and has also been informed by other components of the project brief. The seven services involved cover a predominately urban area of 348 square miles with a diverse population of 2.8 million, 40% of whom are from cultural minorities.

Youth Offending Teams have a statutory duty to comply with "Code of Practice for victims of crime". In addition under the "National Standards for Youth Justice Services" Standard even requires Youth Offending Teams to "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 they have experienced. From their inception in April 2000 Youth Offending Teams nationally have strived to inform and involve the victims of the young offenders they work with. The introduction of Referral Orders in 2002 introduced the right for victims to attend Community Panel Meetings if they chose, in order to both relate the impact the offence had upon them and request measures by which the young offender might make amends.

Since April 2000 Youth Offending Teams have developed restorative approaches in order to involve victims throughout the justice process. They now contact and involve victims of young people receiving out of court interventions, as well as those appearing before the Courts and receiving statutory interventions.

## Methodology

In order to deliver this component, visits have been conducted to each service where Lead Managers and RJ/Victim staff have been interviewed. Statistical data has been gathered from each service and a baseline questionnaire circulated and completed by the RJ/Victim staff. Most recent Youth Justice Plans and Inspection Reports have also been read. The Working Group has also informed this component of the project as has victim and young offender feedback.

The seven Youth Offending Services were asked to provide information regarding the profile RJ has within the service. Levels of RJ training being provided along with detailed figures relating to numbers of victims identified, contacted, engaging with the YOT beyond the initial contact and engaging in RJ. They were asked to identify victims by age group (adult or child under 18 years of age) and whether they were individuals or companies or organisations (classed as corporate for the purposes of the project). In addition further breakdown was sought relating to the type of intervention the offender received.

All seven Youth Offending Services were able to provide details relating to types and ages of victims, however, some of the services were unable to provide details relating to the links to types of intervention. This was due to issues arising from changes to new information systems occurring during the period specified and in one case a move to new premises.

Copies of the most recent Youth Justice Plans were also requested from the seven teams and their most recent inspection reports were consulted.

In addition Youth Offending Teams and other agencies that have been identified as pathfinders and leaders in the delivery of restorative justice approaches from outside the area, have also been consulted and visited.

"Engaging in RJ has helped me  
to realised the pain  
I have caused the victim."

*Offender*

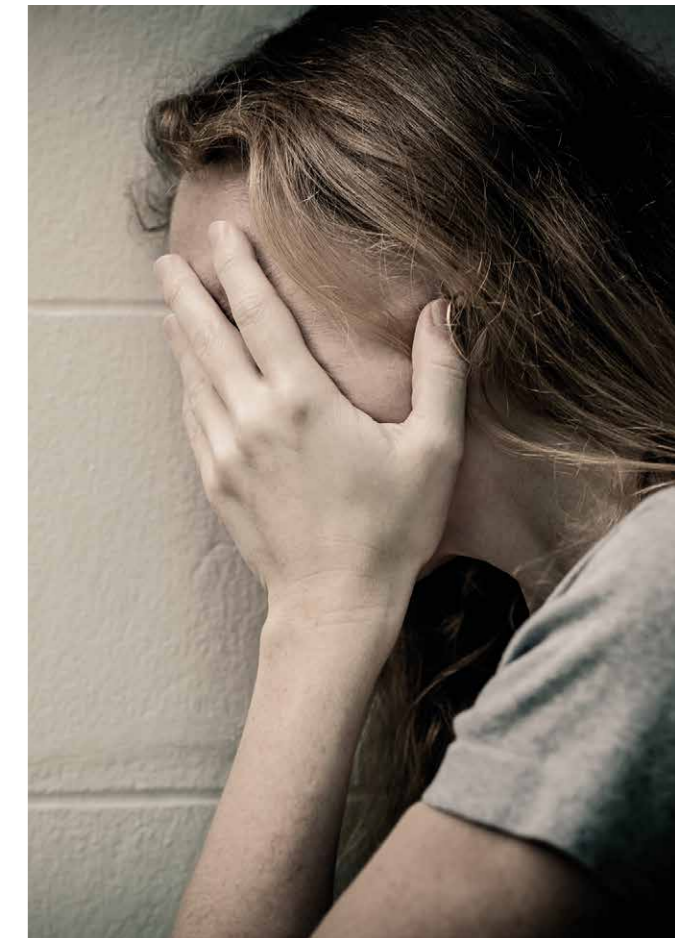
## Definition of What Constitutes Restorative Justice

An early issue that was identified is the lack of any clear definition of what constitutes RJ activities within the Youth Justice context. This issue was also identified by those involved in the delivery of the academic component of the project. We have therefore, for the purpose of this project, adopted the Restorative Justice Councils definition that specifies Restorative Justice as being:

- Face to face conferences facilitated by a trained practitioner between the victim and the offender.
- Shuttle mediation between the victim and offender, facilitated by a trained practitioner, involving the exchange of letters or use of audio or video technology.
- A community meeting, facilitated by a trained practitioner, involving those affected by the offending and the offender.
- Direct reparation to the victim by the offender facilitated by a trained practitioner.

This definition does not include any other form of restorative activity including letter of explanation or apology, indirect community reparation (even where the victim has requested it) and the victim being kept informed of the offenders progress on any intervention, or compliance with any requested restriction or prohibition, be it voluntary or imposed by a court. For some victims the mere fact that someone had contacted them, listened to how the crime had affected them and explained how this information would be used to address the offenders behaviour, was sufficient to attract appreciation and positive feedback.

It was a view of everyone interviewed during the delivery of this project that to ignore these other activities disregards valuable support that is provided to victims, as well as approaches which help young offenders to appreciate the harm their behaviour caused their victims, the community and themselves, and led to a reduction in the offenders future involvement in criminal behaviour. We have therefore included these activities and identified them as "Restorative Practices".



The victim is an overseas student attending University who had been on a night out with friends and was returning to his accommodation alone late at night. During the journey the victim was robbed at knife point by 4 young males. Following mediation the Victim said:

**“I have found everything helpful, being listened to, getting phone back, mediation meeting just the whole experience and feeling that someone cares.”**

## Capacity

With the exception of Birmingham, which has five area based teams and centrally located Intensive Supervision and Surveillance and Sexually Harmful behaviour Teams, each Youth Offending team has one team base where all staff are located. All of the services have dedicated RJ/Victim staff as well as staff responsible for the delivery of community based reparation projects. Whilst some of the services restrict the work of their RJ/Victim staff specifically to supporting victims and delivering RJ, others involve those staff in other roles such as contributing to duty rota's, Court duty, representing the service at Community Panel Meetings and delivering victim focused work with young offenders.

Historically most Youth Offending Teams took an “opt in” approach to contacting victims, whereby the victim was written to inviting them to contact the Youth Offending Team if they wished to be involved. This approach resulted in very low numbers of victims engaging. More recently most services have adopted a more robust approach where they write to victims advising them of their options and then contacting them by telephone or visit them to seek their views and wishes. This has greatly improved the levels of victim involvement.

Six of the seven services contact the victims of young people going before a Court upon conviction and prior to sentence, the exception waits until the young person has been sentenced. Historically victim views and the impact the offence had upon them were obtained and shared with the Court through Pre-Sentence Reports. However some years ago, following challenges that this practice could introduce new evidence that the defence was not party to, the Lord Chief Justice ruled that Pre-Sentence Reports could only specify whether the victim would be willing to engage

in a restorative activity. The youth offending team that waits until post sentence adopted this approach because of concerns that their relationship with victims might be compromised because of this ruling.

All RJ/Victim staff have experienced an increase in their workloads, as well as the need to meet shorter timescales, with the introduction of them contacting victims of young people receiving Community Resolutions and Youth Cautions. It is therefore commendable that 75% of identified victims in the West midlands have been contacted during the period 1 June 2013 and 31 May 2014.

## Restorative Justice Training

All of the teams involved in this project have embraced RJ training. In 2012 the Youth Justice Board invested funding specifically for RJ training in the project area. Across the seven teams 248 staff, Community Panel Members and Managers have been trained as RJ practitioners. All seven teams have committed to continuing training in RJ in the future.

## Extent of Victim Involvement

It became apparent, from examining the profiles of Youth Offending Services that have been identified as excelling in the delivery of RJ, that a total commitment from Senior Management coupled with a whole service approach, have been crucial to their success. Leeds Council has a commitment, driven by both the Chief Executive and Director of Children's Services to approach all of its functions restoratively.

Leeds Youth Offending Team also have a Restorative Justice Coordinator, whose role is to specifically promote RJ, both within and beyond the service, designing and delivering training, and providing an expert source of RJ knowledge.

The support of this project demonstrates a commitment to RJ and victims from the seven services at an executive level. We have also identified examples of creative work and projects that demonstrate the benefits of RJ for both victims and perpetrators of crime. There have however been views expressed by RJ/Victim staff that they sometimes feel they are lone advocates for Victims and RJ within their teams. This demonstrates the need to maintain a robust focus on the continuing integration and promotion of RJ in all Youth Justice activities.

## Victims Identified

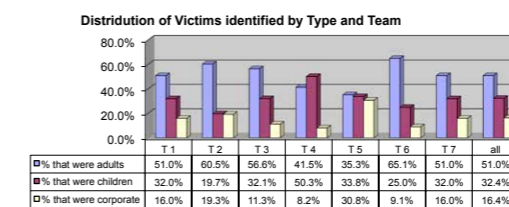
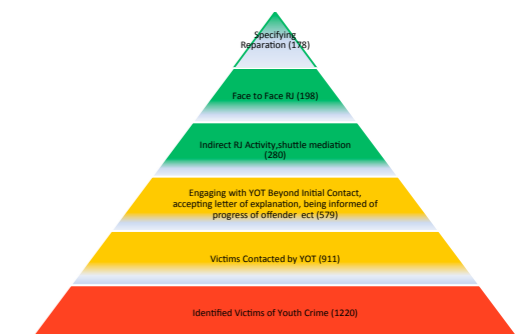
There is a well tested mechanism through which the victims of youth crime are identified to Youth Offending Teams known as PENY Prints (Police Electronic Notification to YOTS). These list the offender's details, an offence summary and the details of any victims. These lists have been a crucial contribution to the prompt identification and contacting of victims by Youth Offending Teams.

During the sample period of 1 June 2013 to 31 May 2014 1220 Victims were identified by the seven Youth Offending Services involved in the project through PENY Prints.

Two of the seven teams were unable to provide a breakdown between adult, child and corporate victims. An estimated distribution was therefore calculated for those two teams using the mean percentage distribution for the five that provided detail.

An average 51% of these victims were adult, 32.5% were children under the age of 18 years and 16.5% were companies, organisations or groups whereby there was no specific individual identified as the victim. Individually there were variations where child victims accounted for 50% of identified victims, and another where adults, children and corporate victims accounted for a third each.

It is significant that this average distribution of three adults, to every 2 children, to every corporate victim proved to repeat itself throughout the audit measures. The numbers of victims involved decreases proportionately to the level of their involvement, with very few progressing to face to face meetings with the perpetrator of the offence.

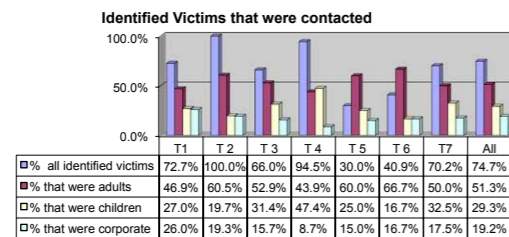


“It was helpful because it made the relationship better. We are now fine.”

Offender

### Victims Contacted by the YOT

As referred to earlier an average of 75% of identified victims were contacted by the Youth Offending Services RJ/Victim staff, though the variation between individual teams was substantial ranging from 100% to 30%, with two services achieving levels of victim contact below 41%



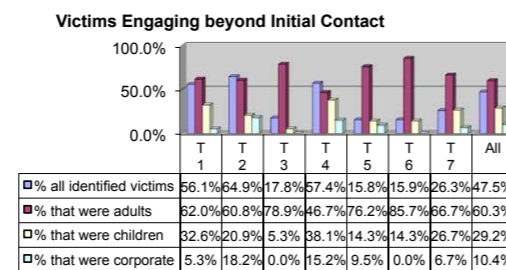
The Lead Manager for RJ at the team that achieved 100% put that success down to their approach whereby they write to all victims explaining they will be contacted. That letter is then followed up by a phone call and often a visit to the victim at home. The Team Manager audits all victim files and does not allow his staff to close a case where they have not spoken to the victim until he is satisfied that every reasonable effort has been made to engage with them.

The services that reported being able to contact lower numbers of victims had both changed to new information systems during the audit period and believe the data identified does not accurately reflect their performance with regards to both numbers of victims identified and contacted. The lead for RJ/Victim services for one of the services explained that they had experienced recording issues from key members of staff, who, whilst being very good with victims were not always efficient at recording information. The other YOT had

during the period experienced absences due to illness of key members of staff. Both services have committed to implementing more robust in-house auditing systems with regards to victim contact.

### Victims Engaging Beyond Initial Contact (Restorative Practice)

Some of the victims contacted declined speak to the Youth Offending Service staff. Others having had the opportunity to express their views, heard the options available to the Court, what intervention the young offender might receive and that their views would contribute to that intervention, declined further involvement. An average of 47% of identified victims agreed upon being contacted to have further involvement with the Youth Offending Services. Again there was a considerable variation between individual Youth Offending Services ranging between 65% and 16%.



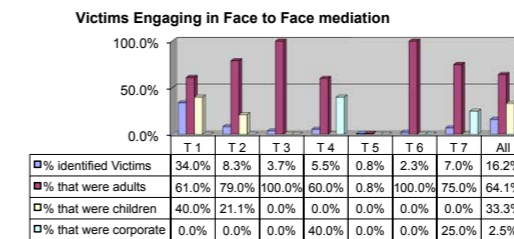
Again the service achieving higher levels of engagement attribute it to a combination of robust monitoring and the commitment of staff. Two services that achieved low levels of ongoing victim involvement had both changed to a new information system and believed some data may have been lost during that process.

“Working with victims is demanding but highly rewarding. The work we do can be an emotional rollercoaster for all who participate. Our goal is to ensure we provide support and opportunities for victims to move forward positively and overcome the grievances and hurt that they have been through.”

RJ Worker

### Victims Engaging in Face to Face Communication with the Offender (Restorative Justice)

Overall an average of 16% of identified victims elected to participate in face to face meetings with the young person who offended against them. It is significant that this average is hugely influenced by the results provided by Birmingham Youth Offending Service where 34% of identified victims engaged in face to face meetings. Without this figure the average would have been just 5%. The manager with lead responsibility for RJ in Birmingham attributed this success to the service being accountable under the Birmingham Victims Charter. This places a requirement upon all Birmingham Council services to support victims.

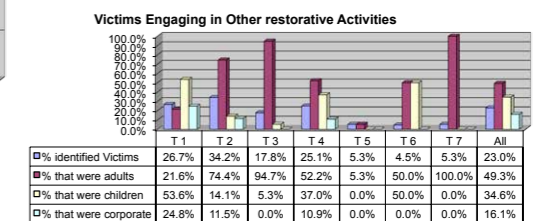


It is significant that instances where victims, and indeed young offenders, indicate a willingness to engage in a restorative activity immediately tend to be the exception. Usually victims will decline any involvement other than to be kept informed of the offenders progress with their intervention, or agree to accept a letter of explanation or apology from the offender. At the commencement of an intervention young offenders often, even in cases where they have admitted their offence, decline to accept culpability for, or justify, their behaviour.

More commonly victims become curious as they are kept informed of the offenders progress, or upon receiving a letter from them. On occasions victims will respond to letters, either in writing or through the RJ/Victim Worker, thus initiating indirect communication with the offender. Similarly, as the offenders progress on their intervention they develop personally, better understanding the impact their behaviour has had on others and becoming more willing to make amends.

### Victims Engaging in Shuttle Mediation (Restorative Justice)

Slightly higher numbers of victims chose to engage in indirect mediation with the offender involving the exchange of letters. Less common is communication through audio or video technology.



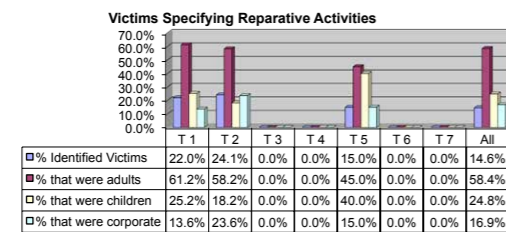
The average take-up for this type of mediation was 23%, with the best achieving service using this approach with 34% of identified victims and the lowest take-up being 4.5%. Analysis indicates that again the service achieving the highest use of this approach attribute robust leadership and staff enthusiasm to their high level of success, coupled with easily available technology.





### Victims Specifying Reparative Activities (Restorative Practice)

The use of the approach where the offender makes reparation directly to the victim, or more often, participates in a community based reparation project chosen by the victim, is being used by three of the seven Youth Offending Teams involved in the project. The average figure for victim involvement in this approach across the three teams that apply it is 21% of identified victims.



In Birmingham, Centro Travel secured funding through the PCC Office earlier this year to provide a reparative project for young people involved in offences against Centro property or staff. Young offenders are identified by Birmingham Youth Offending Service and referred to the project to undertake reparation every Saturday morning. The young people work at the central bus garage helping to clean vehicles and assist in basic maintenance, and are provided with health and safety training and clothing. At the time this report was prepared, 35 young offenders had participated in the programme over a nine month period. Centro are keen to extend the scope of this project to other areas within the West Midlands.

Across the region the seven Youth Offending Services provide projects whereby young offenders carry out community based projects for the benefit of the wider community, whilst

at the same time developing worthwhile skills that will benefit them in the future. Many of these projects involve the clearance of areas of waste ground to improve their appearance. Others involve the young people supporting those less fortunate than themselves.

The provision of direct reparation to victims, though it occurs, is less common due to difficulties relating to the vulnerability of both victims and the young offenders, legal barriers relating to health and safety requirements, guaranteeing the young people are able to deliver the work to a standard acceptable to the victim, and issues relating to insurance cover.

The opportunity to apply the practice whereby victims can contribute to the choice of reparative activity young offenders undertake already exists through the Referral Order Panel process. The youth Offending Services could consider promoting this practice more robustly by including the victim's views regarding reparation as a specific element of the meeting agenda, and requesting an explanation from Community Panel Members when victim's requests are not supported.

### Provisions for Victims Requiring Support Beyond the Scope of Youth Offending Teams

The primary function of Youth Offending Teams is to supervise young people who offend and address their behaviour whilst assisting them to lead worthwhile fulfilling lives and avoid future offending. They are also required to involve victims in achieving that process and take into account wherever possible, their views and wishes. However the level of support staff are able to provide to victims, particularly in the longer term, is limited.

Current Victim Support does not support child victims in the West Midlands. Whilst there are other organisations in the region that support victims of crime they tend to operate in particular geographic areas, focused upon specific cultural sectors of society, or lack the capacity to meet the needs of all victims.

The project team were unable to identify any provision to support child victims of crime in the region. Children and young people under the age of 18 years accounted for 33% of the victims identified by the Youth Offending Services involved in the project during the audit period of June 2013 to May 2014. It is acknowledged that in some instances, where the identified victim is an adult, there may be children who have also been affected, who are not identified. For example a case of burglary where the victim is identified as the home owner, who declines to engage with the YOS, may have children who have been affected by the crime and would benefit from some support. There are also, of course, children who are directly or indirectly victims of crimes perpetrated by adult offenders. These child victims do not come to the attention of the YOS RJ/Victim Workers and receive no assessment of their needs or support. With the ever decreasing public purse such children are increasingly less likely to receive support from Social Welfare organisations, who are having to constantly focus decreasing resources.

Frustration was expressed widely by RJ/Victim Staff at the imbalance of service provision by partner agencies to victims and offenders. Generally, YOS agreements with local Child and Adolescent Mental Health Services (CAMHS), who provide both psychiatric and emotional health services to children, including counselling, only allow the referral of young offenders to those services. Locally, one of the services involved in the project is currently renegotiating their agreement with CAMHS

to include equal access to their services for both victims and offenders. Whilst this would improve the current situation it would not fully address the deficit in support provisions for child victims.

In 2007 "Hoodie or Goodie", a piece of research conducted by the British Market Research Bureau on behalf of Victim Support, identified that children and young people who experience crime, present as having a higher risk of going on to become offenders themselves. Those working within Youth Justice will be more than familiar with young people who have committed offences of retaliation or of possessing offensive weapons, which they disclose they carried for their own protection. "Hoodie or Goodie" highlighted the need for better provisions and funding for child victims of crime.

At a national level, Victim Support are committed to supporting child victims of crime. More on which is addressed under component 5 of the report.

### Pre-Sentence Restorative Justice

Pre-sentence Restorative Justice (PSRJ) occurs post conviction, but before sentence. The legal provision for PSRJ to occur is set out in Section 1 to 1D of the Criminal Courts (sentencing) Act 2000 and empowers the Court to defer passing of sentence for up to 6 months. In addition Part 2 of Schedule 16 of the crime and Courts Act 2013 inserts a new Section 1ZA into the 2000 Act making it explicit that the Court can use its existing powers to defer sentence post conviction to allow a restorative activity to take place. The consent of both the victim and offender is required in order for such a deferment to be made. In practice adjournments are appearing to be the preferred course, rather than deferment.

*"This was a good outcome for me as I had my questions answered and reassurance that it wasn't the person I thought it may be."*

*Victim*



Following a conference where a young person met all three of his victims he stated.

“I felt relieved to speak to them directly, to let them see I am not a bad person, and to be able to do something for them to make things up. I felt bad, but it has helped me. I won't do something like this again.”

*Offender*

Nationally 10 Crown Courts have been identified to participate in a Pathfinder Pilot for a 12 month period commencing November 2014. The purpose of the Pilot is to test the delivery of PSRJ and scope the level of opportunity to apply it. The Pilot is dealing predominately with adult offenders and is being jointly funded by the Ministry of Justice and a private family trust fund. Restorative Solutions, a not for profit Community Interest Company, in conjunction with Victim Support, has been commissioned to deliver the Pilots. The ten Crown Courts involved are Bristol, Cardiff, Croydon, Durham, Lincoln, Manchester, Preston, Truro, Wood Green and Worcester. The project is being monitored by a national steering group consisting of representatives from Ministry of Justice, Her Majesty's Court Service, National Offender Management Service, the Restorative Justice Council, Institute for Criminal Policy Research and a senior presiding Judge.

Enquiries with Youth Offending Teams falling within the relevant Courts catchments have revealed that, with the exception of Worcester, Youth Offending Teams are not participating in the Pilot. In relation to Worcester Crown Court, West Mercia Youth Offending Service, has agreed to explore, and where appropriate deliver, PSRJ in cases of youths who are jointly awaiting sentence with an adult who is engaging in PSRJ.

At a local level in November 2014 one of the Youth Offending Teams involved in the project provided PSRJ in the case of young offenders, all of previous good character, convicted of a serious offence at Crown Court. The opportunity arose because the Court adjourned for a longer than usual period between conviction and sentence to allow a specialist assessment to be completed on one of the defendants.

Letters of explanation were written by the co-defendants, which were shared with the victim. The victim appreciated their explanations and apology's for their behaviour and wrote back to them, but declined to meet them face to face. The defendants received custodial sentences, It is not however possible to identify the contribution the PSRJ had on the length of those sentences.

A number of learning points and issues requiring clarification were identified by the YOT involved following this event:

- The decision to offer an assessment for PSRJ came from a case coordination discussion between managers and staff involved in the case.
- The opportunity to provide PSRJ in this case was made possible due to the longer than usual adjournment for other specialist reports on one of the defendants.
- The RJ/Victim worker offered some guidance to the young people involved regarding the form of their letters to the victims. Again clear parameters need to be agreed as to the level of support that is appropriate.
- There is no format or guidance available regarding the format of the report to the court. A common template would serve to inform both future instances where PSRJ occurs and ensure consistency of approach.
- For PSRJ to occur in the future, a clear format for the early identification of suitable cases, coupled with guidance for YOS staff into effectively promoting PSRJ involving lengthier, than are usual, adjournments needs developing.



In response to these developments the Heads of Service for the seven Youth Offending Services involved in this project have been briefed and at the time of publishing are considering a West Midlands decision regarding the future provision of Pre-Sentence RJ in relation to young offenders, pending the conclusion of the Pathfinder project and decisions regarding the delivery of Pre-Sentence RJ by Government.

## Component 2

Form a working group with representation from the seven Youth Justice Services which will provide user participation and inform the professional leading the project.

The working group or "Focus Group" as it has come to be known has consisted mainly of the RJ/Victim workers from across the seven Youth Offending Services. The delegated Team Managers from two of the seven services also attended some of the meetings. The group have met regularly as need required, generally at three week intervals and have discussed a range of subjects relating to the project.

The group agreed that a clear definition of what constitutes RJ within the Youth Justice context would provide clarity to everyone involved. Such a definition would provide clearer parameters of which practices delivered by YOTs in relation to RJ and victims fall within the definition of RJ, and which do not. This would assist the identification of what additional data, to that which is currently recorded, needs to be gathered in order to focus services as effectively as possible. The definition the group considered best encompasses YOTs approach to RJ and supporting victims is one identified in the Literature Review:



*"Restorative Justice is a process to involve, to the extent possible, those who have a stake in a specific offence and to collectively identify and address harms, needs and obligations, in order to heal and put things as right as possible"*

Zehr H & Gohar A, 2003 "The Little Book of Restorative Justice".

They considered the key questions the Literature Review identified for future research and how they might be adopted. Key points identified were:

- The need to be able to gather and analyse statistical information relating to victims, the type of offence they experienced, sentence imposed and the experience of the YOTs involvement for both the victim and offender.
- The need for a greater and more meaningful focus upon the rights and needs of victims throughout the RJ system.
- The need for RJ to be promoted more holistically within YOTs, rather than being the responsibility of RJ/Victim staff.

The group also discussed the implications relating to the delivery of Pre-Sentence RJ in the Youth Justice setting. Particular concerns were voiced regarding:

- Timescales of potential adjournments whereby a young person's perception of time is far shorter than that of an adult (six months is a considerable period of time for a child).
- Issue of maturity and a young person's perceptions of right and wrong, guilt and culpability. It was the view that any report to the Court would need to assess and highlight this issue.
- The timescales allowed, conflicting with the need to avoid further victimisation of victims and to address any learning needs of the young offender regarding their full acceptance of responsibility for their behaviour.
- Resource implications for YOTs in order to deliver PSRJ effectively.
- The lack of any report format.

The group were particularly concerned at the lack of any provisions to support child victims of crime. All of the members related examples of child victims who had been seriously traumatised by their experiences and required support beyond the scope of YOT RJ/Victim staff. The only recourse was to advise their parents to approach their GPs. The group shared the view that the provision of a specialist service provided by an independent organisation, or the provision of specialist YOT worker within the YOTs, with specialist knowledge of child development, the effects of crime on children and counselling skills, are urgently required.

The group also shared material and examples of good practice and considered possible learning points identified from other YOTs around the country that have been identified as providing quality RJ and victim service.

Overall attendance has been high and, particularly given that some of the staff work part time, demonstrated a real commitment to RJ, victims and this project. An unexpected response that was expressed was the mutual feeling of RJ/Victim workers of sometimes feeling to be a lone voice of RJ within their teams. The opportunity for these staff to meet, discuss RJ and particularly examples of good practice was something they all stated they would like the opportunity to continue to do beyond the term of the project.



## Component 3

Develop a specification and information base for local academic research and evaluation of RJ.

Firstly, the research identified that there is still no single, agreed, universal and operational definition of restorative justice, though the researchers did identify and make use of several working definitions in the review. Hence a commonly accepted and understood definition of RJ relating to youth crime, that is relevant to all those having a stake in the process and in line with the underpinning principles and values of restorative practice, needs to be agreed.

Secondly, is the importance of being aware of the potential challenges of delivering RJ in a Criminal Justice context, particularly:

- Maintaining a balance between procedures and the integrity of the restorative process itself so that interventions don't become 'paper' exercises.
- Clarifying what the theoretical rationale is for the intervention and how it is expected to have an impact.
- Paying attention to the appropriate skills, knowledge and training of RJ facilitators.
- Being clear about the methods chosen to deliver RJ, why they were chosen and what the target group is.

The researchers identified some key questions that could usefully be considered by any future research undertaken into the delivery of RJ with Young Offenders:

- The extent to which reduced recidivism is regarded as a sign of success (McAlinden, 2011).
- What other indicators are relevant and realistic, for example, outcomes for participants other than the offender or the success of the restorative process (Rossner, 2013). For example, what do victims want from the process? How might this be found out?
- What outcomes are recorded and how (Doolin, 2007)? Are they short-term outputs (within or emerging from the meeting) or are they they medium-term and longer-term which tend to be harder to evaluate reliably? (Hipple and McGarrell, 2008; Calhoun and Pelech, 2010).



- How to evaluate the process which is a particular challenge in relation to RJ (Choi et al, 2011) not least because of the confidentiality of the process itself.
- Where to focus the evaluation, at a broader macro-level or the micro-level of particular elements of the process.
- How to identify and evaluate what the core values of a scheme are and what skills and methods mediators use.
- How far RJ interventions address diversity including race/culturally related matters. It is for some surprising that when models, often derived from culturally-specific indigenous practices, have been adopted more widely. Race and culture have rarely been explored in their own right and tend to be treated as side issues (Vieille, 2013; Gavreilides, 2014).
- How to uncover what the impact is of the facilitators' abilities, skills and knowledge (Choi et al, 2010; Rix et al, 2011; Hipple and McGarrell, 2008).

The research team also provided a potential framework to assist any future evaluation of future RJ projects within the West Midlands based upon the key issues emerging from their work. This framework would form the basis of a model to enable more detailed audits of RJ and victims of youth crime in the future. These were elements that were echoed by the Focus Group in their examination of the document and its recommendations.

## Component 4

Collaborate with the West Midlands Police lead person for RJ and work towards an integrated approach to the roll out of the Police RJ pilot.

During the term of the project regular meetings have occurred between the Police lead for RJ and the project consultants.

Currently the Police entirely administer all first Community Resolutions to offenders under the age of 18 years. Face-to-face restorative justice meetings are an agreed method of administering the community resolution, although not the only method. Subsequent Community Resolutions, with the exception of those occurring in Sandwell, are also administered entirely by the Police. Although there is an expectation that offenders will only be offered more than one community resolution in exceptional circumstances: re-offending normally results in an escalation of sanction to Youth Caution/Conditional Caution or charge. However, in Sandwell young people receiving a subsequent Community Resolution can be referred to the Youth Offending Service for a short intervention. The Victims of all such cases are contacted by the Youth Offending Teams RJ/Victim Worker, who explores and delivers any RJ activity. All seven services deliver interventions with young people receiving Youth Cautions and contact their victims to seek their views, explore restorative activities and provide support.

The Police Inspector tasked with leading RJ currently attends a Police and YOS board where consideration is being given to the adoption of a common approach across the West Midlands, thus optimising opportunities for the delivery of restorative justice for cases dealt with by out of Court approaches.



*"I have found everything helpful. Being listened to, getting my phone back, the mediation meeting, just the whole experience and feeling that someone cares. The Victim Worker really helped me to move on from my experience."*

*Victim of Knife point robbery*



## Component 5

Work closely with the Regional Victim Support team in order to establish both generic and specific needs of victims in relation to the Youth Justice System. In particular, to hear the voice of young victims of crime.

A meeting was held with the Victim Support Regional Manager, in August 2014. The purpose of the meeting was to explore opportunities for collaboration between the seven Youth Offending Services involved in the project and Victim Support to offer all victims, but in particular young victims, as effective support as possible. The regional Manager explained that Victim Support in the West Midlands does not work with child victims, but added that Victim Support would be happy to consider submitting a tender to deliver such a service if requested.

Enquiries have also been made with Victim Support's National Office. Amanda Nailor, who leads on Victim Support's youth policy explained that they are currently delivering a number of specialist projects supporting child victims, some with Youth Offending Services, some independently, and has provided a range of material and reports relating to working with child victims for consideration. Amanda also explained that Victim Support would be happy to support any future project or specialist provision for child victims provided in the West Midlands.

Luton Youth Offending Team, who have commissioned Victim Support to deliver a service to young victims were contacted, but were unable to provide any feedback due to the project still being in the development stage.

As addressed earlier in this report, the lack of provision, beyond that which YOT staff are able to provide for young victims of crime, is an issue requiring urgent consideration.

“Engaging in RJ is a positive process which helps to bring closure to a horrible ordeal.”

*Victim*





## Component 6

Based on the information found in the initial fact finding work, propose an RJ framework that could be used to model the approach taken with adult offenders, particularly in the 18 to 24 year old age group.

Historically the Probation Service has only embraced RJ in a limited capacity. Generally RJ has been delivered by staff working in Victim Units and has involved perpetrators of serious offences who have received custodial sentences. Often any RJ activity has been delivered during the custodial element of sentences in conjunction with prison staff.

Readers of this report will be aware of the recent reorganisation of community based interventions for adult offenders with the development of the National Probation Service (NPS) working in conjunction with regional Community Rehabilitation Companies (CRC).

The project consultant has regularly met with the Integrated Offender Management Coordinator (IOMC) for Staffordshire and West Midlands (SWM) CRC, who also has a responsibility for the development of RJ with adult offenders across Staffordshire and the West Midlands. The Police lead for RJ has also attended these meetings

In Wolverhampton and Walsall the CRC is currently coordinating a multi-agency pilot response to restorative justice delivery, incorporating the training of local prison staff, local councils, Police Offender Managers, Victim Support and CRC/Probation staff. Its main source of work so far has been through prison establishments and/or those victims who want to seek restoration and now have somewhere to seek that which was not available before.

The SWM CRC is looking to expand this project across the West Midlands area by:

- Providing RJ with strategic governance and operational oversight in each of the seven Local Authority areas through their Integrated Offender Management arrangements.
- the development of multi-agency RJ practitioners groups in each LA area where cases can be referred, risk issues can be discussed/managed and agreement can be

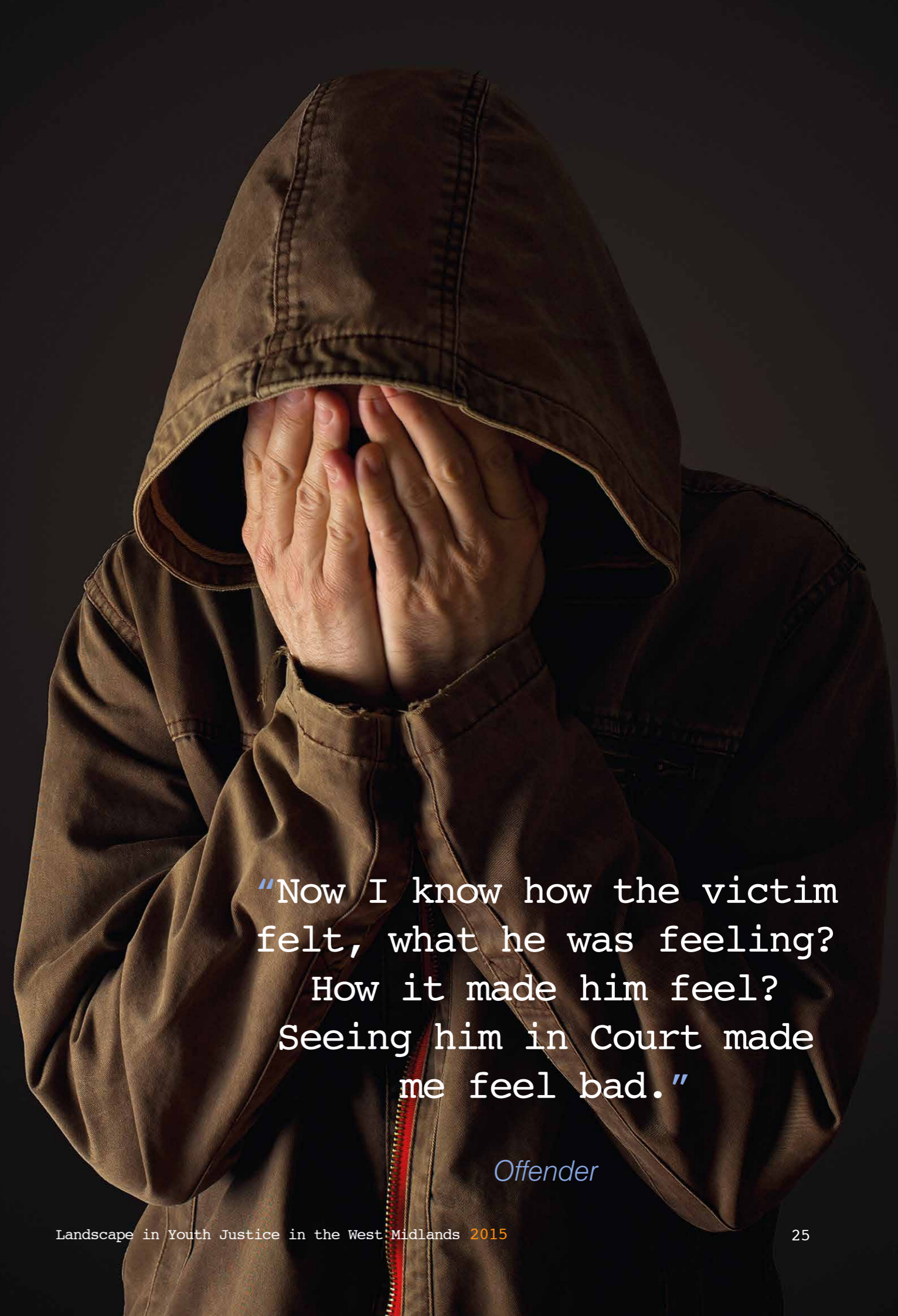
reached as to who facilitates each case. It is hoped that these meetings will also act as a source of support and development for RJ practitioners.

- expanding on the current pilot by ensuring that all Community Orders, Suspended Sentence Orders and where appropriate all Licences managed by the CRC, will have an activity within them that has restorative justice principles within it, starting from victim empathy sessions to face to face RJ conferencing
- following the progress of the 10 pathfinder PSRJ pilots in order to prepare for the delivery of PSRJ in the West Midlands when requested to do so.
- exploring opportunities to work with the "Through the Gate" project to develop RJ activities with offenders in custody and when released who will now be subject to periods of licence and supervision. Some local prisons are in a good position with trained staff willing to work with partners.
- with Integrated Offender Management there may also then be provision to offer RJ to non-statutory cases e.g. PPO (Priority and Persistent Offender) who is no longer on an Order or Licence perhaps.

The victim will remain at the heart of the process and will be able to be involved in it as much as they want to or as little as they wish, if at all.

The CRC are hopeful that greater publicity of the project will generate wider interest from victims of adult offenders, thus enabling them to resolve the impact crime has had upon them, that in the past has not been readily available to them. The CRC is also exploring how they can offer RJ training to the National Probation Service and also possibilities of delivering RJ to a wider range of victims of adult crime on their behalf.

Two key areas for the CRC is the lack of funded training and whether there is a scope for an RJ coordinator role.



"Now I know how the victim felt, what he was feeling? How it made him feel? Seeing him in Court made me feel bad."

*Offender*



# Conclusion and Recommendations

This investigation looked into the extent to which Restorative Justice and Restorative Practices are being delivered in the youth justice setting in the West Midlands. The project team found that there has been a good start, but that there is some way to go to achieve an appropriate victim offender balance. Regional consistency of practice, inter agency working and the plight of young victims are the stand out areas identified as requiring improvement by this investigation.

The delivery of RJ as well as the wider involvement and support of victims of youth crime is well embedded in the day to day practices of all seven YOTs serving the West Midlands PCC area. The development of an appreciation of the impact that the criminal behaviour of young people has had for their victims, society and their own families, form an integral element of the interventions delivered by YOTs.

The process, whereby victims are contacted, the impact the offence has had upon them, and their wishes, are listened to and inform the work with the offender is unique to YOTs and is a practice, as yet, not widely available for the victims of adult offenders.

Whilst the numbers of victims and young offenders engaging in RJ, as defined by the Restorative Justice Council remain low, acknowledgment of the wider benefits provided to victims by YOT staff should not be ignored. It is also significant that cases where both victim and offender embrace a face to face meeting early in the process are exceptional. More often victims need time to consider their own thoughts and feelings, and to witness positive progress on the part of the offender to want to address their behaviour.

The ability for YOTs to deliver Pre-Sentence RJ have been tested by one of the YOTs involved in the project and proved to be beneficial to both the victim and perpetrators of the offence involved.

The teams that have achieved high levels of victim contact and engagement have attributed their success to robust management oversight and monitoring of their services to victims.

The teams that under achieved have identified the causes for this have already introduced measures to improve performance.

There is considerable scope for further improvement within the youth justice service delivery context. The opportunity to promote and increase the use of RJ activity within the youth justice landscape rests on solid foundations, but will require a holistic commitment from YOS staff at all levels, positive promotion of RJ in every appropriate case and acceptance across the wider Criminal Justice system. Our investigation has identified a strong commitment from advocates of RJ throughout the agencies involved in youth justice. This commitment needs to continue to be promoted and exploited at all levels in order to increase both awareness of and the adoption of opportunities to deliver RJ.

The existence of a clear operational definition of RJ in the youth justice context would provide clarity to all involved, as would a regional victim policy for YOTs. Also a regional approach, as has been initiated through this project, would assist the promotion and delivery of RJ across the West Midlands conurbation.

The development of RJ with cases involving out of court disposals through Community resolutions, Youth Cautions and Conditional Youth Cautions, are placing an increasing burden on YOT victim resources as well as much shorter time scales in which their work has to be delivered and will need to be monitored closely.

In the wider context both the Police and those working with adult offenders are implementing measures and practices to enable and promote the use of Restorative Justice approaches.

Of most concern is the lack of any specialist support for all victims, but particularly child victims of crime who have been seriously traumatised by their experiences. This is an issue requiring urgent resolution.

As a result of this project the following recommendations are put forward for consideration:

- The urgent investigation to identify resources to support child victims of crime, either through the seven Youth Offending Teams, or as the result of an invitation to tender from other sources.
- Consideration should also be given to the agreement of both a regional Victim Charter and RJ policies and procedures to support victims and promote the delivery of Restorative Justice.
- Restorative Justice and the support of victims of youth crime should be adopted as a standing item on all Youth Offending Team Management Board, and Regional Management meeting agendas. This would serve to ensure the necessary focus upon RJ is maintained at the highest levels.
- Consideration should be given to focusing the duties of RJ/Victim staff to specifically supporting victims and delivering RJ and relieving them of other wider duties with their service.
- The creation of a RJ working group consisting of both managers and practitioners. The focus of whose work would be to take forward the work identified in the key questions identified in the Literature Review.
- Consideration should be given by the Heads of Service for the seven YOTs to achieve the Restorative Justice Councils quality mark.
- The development and adoption of a performance monitoring/management system across the West Midlands YOTs to assist:
  - The ongoing development of the use of RJ within Youth Justice and consistency of delivery.
  - Enable meaningful and detailed evaluation of RJ performance in the region.

- Consideration should be given to the benefits of the provision of regular reports to the PCC on progress, achievements and outcomes relating to the delivery of RJ and other provisions which support victims.
- In the wider context of promoting RJ and the support of all victims of crime across the justice system consideration should be given to the creation within the PCC Office of a "Victims Champion".

## Acknowledgements

The Project Team would like to extend their gratitude to everyone who has contributed to this project. We applaud the late Bob Jones, who saw fit to highlight the crucial contribution RJ has to make within the Justice System through his support of this project. We are also indebted to David Jamieson, the current PCC for his commitment to child victims of crime.

*"Everybody helped my daughter above and beyond any expectations, excellent support and assistance throughout, outstanding thank you."*

*Victims Parent*



# Useful Contacts

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## **Sandwell Targeted Youth Support**

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# Appendices

## Appendix A – Statistical Data Submitted

Statistical returns for the 7 YOTs involved in the Project

| Measure  | YOT 1 | YOT 2  | YOT 3  | YOT 4 | YOT 5 | YOT 6  | YOT 7 | Overall     |
|--|-------|--------|--------|-------|-------|--------|-------|-------------|
| RJ is regularly discussed at YOT Board               | Yes   | No     | Yes    | No    | No    | Yes    | Yes   |             |
| • Staff RJ trained                                   |       |        |        |       |       |        |       | 115         |
| • Panel member RJ trained                            |       |        |        |       |       |        |       | 110         |
| • Manager trained on RJ                              |       |        |        |       |       |        |       | 23          |
| <b>Victims identified</b>                            |       |        |        |       |       |        |       | <b>1220</b> |
| Adult  |       |        |        |       |       |        |       | 349         |
| % that were adults                                   |       | 60.5%  | 56.6%  | 41.5% | 35.3% | 65.1%  |       | 50.3%       |
| Children   |       |        |        |       |       |        |       | 227         |
| % that were children                                 |       | 19.7%  | 32.1%  | 50.3% | 33.8% | 25.0%  |       | 32.7%       |
| Corporate  |       |        |        |       |       |        |       | 116         |
| % that were corporate                                |       | 19.3%  | 11.3%  | 8.2%  | 30.8% | 9.1%   |       | 16.7%       |
| <b>Victims contacted</b>                             |       |        |        |       |       |        |       | <b>911</b>  |
| % all identified victims contacted                   | 72.7% | 100.0% | 66.0%  | 94.5% | 30.0% | 40.9%  | 70.2% | 74.7%       |
| Adult  |       |        |        |       |       |        |       | 467         |
| % that were adults                                   | 46.9% | 60.5%  | 52.9%  | 43.9% | 60.0% | 66.7%  | 50.0% | 51.3%       |
| Children   |       |        |        |       |       |        |       | 267         |
| % that were children                                 | 27.0% | 19.7%  | 31.4%  | 47.4% | 25.0% | 16.7%  | 32.5% | 29.3%       |
| Corporate  |       |        |        |       |       |        |       | 175         |
| % that were corporate                                | 26.0% | 19.3%  | 15.7%  | 8.7%  | 15.0% | 16.7%  | 17.5% | 19.2%       |
| <b>Victims engaging beyond initial contact</b>       |       |        |        |       |       |        |       | <b>579</b>  |
| % identified Victims engaging beyond initial contact | 56.1% | 64.9%  | 17.8%  | 57.4% | 15.8% | 15.9%  | 26.3% | 47.5%       |
| Adult  |       |        |        |       |       |        |       | 349         |
| % that were adults                                   | 62.0% | 60.8%  | 78.9%  | 46.7% | 76.2% | 85.7%  | 66.7% | 60.3%       |
| Children   |       |        |        |       |       |        |       | 169         |
| % that were children                                 | 32.6% | 20.9%  | 5.3%   | 38.1% | 14.3% | 14.3%  | 26.7% | 29.2%       |
| Corporate  |       |        |        |       |       |        |       | 60          |
| % that were corporate                                | 5.3%  | 18.2%  | 0.0%   | 15.2% | 9.5%  | 0.0%   | 6.7%  | 10.4%       |
| <b>Victims engaging in face to face RJ</b>           |       |        |        |       |       |        |       | <b>198</b>  |
| % identified Victims engaging in face to face RJ     | 34.0% | 8.3%   | 3.7%   | 5.5%  | 0.8%  | 2.3%   | 7.0%  | 16.2%       |
| Adult  |       |        |        |       |       |        |       | 127         |
| % that were adults                                   | 61.0% | 79.0%  | 100.0% | 60.0% | 0.8%  | 100.0% | 75.0% | 64.1%       |
| Children   |       |        |        |       |       |        |       | 66          |
| % that were children                                 | 40.0% | 21.1%  | 0.0%   | 0.0%  | 0.0%  | 0.0%   | 0.0%  | 33.3%       |
| Corporate  |       |        |        |       |       |        |       | 5           |
| % that were corporate                                | 0.0%  | 0.0%   | 0.0%   | 40.0% | 0.0%  | 0.0%   | 25.0% | 2.5%        |

| Measure  | YOT 1   | YOT 2 | YOT 3 | YOT 4 | YOT 5 | YOT 6 | YOT 7  | Overall    |
|--|---------|-------|-------|-------|-------|-------|--------|------------|
| <b>Victims involved in indirect RJ</b>                     |         |       |       |       |       |       |        | <b>280</b> |
| % identified Victims engaging in indirect RJ               | 26.7%   | 34.2% | 17.8% | 25.1% | 5.3%  | 4.5%  | 5.3%   | 23.0%      |
| Adult  |         |       |       |       |       |       |        | 138        |
| % that were adults   | 21.6%   | 74.4% | 94.7% | 52.2% | 5.3%  | 50.0% | 100.0% | 49.3%      |
| Children   |         |       |       |       |       |       |        | 97         |
| % that were children                                       | 53.6%   | 14.1% | 5.3%  | 37.0% | 0.0%  | 50.0% | 0.0%   | 34.6%      |
| Corporate  |         |       |       |       |       |       |        | 45         |
| % that were corporate                                      | 2480.0% | 11.5% | 0.0%  | 10.9% | 0.0%  | 0.0%  | 0.0%   | 16.1%      |
| <b>Victims involved in reparative activity</b>             |         |       |       |       |       |       |        | <b>178</b> |
| % Identified Victims involved in reparative activity       | 22.0%   | 24.1% | 0.0%  | 0.0%  | 15.0% | 0.0%  | 0.0%   | 14.6%      |
| Adult  |         |       |       |       |       |       |        | 104        |
| % that were adults   | 61.2%   | 58.2% | 0.0%  | 0.0%  | 45.0% | 0.0%  | 0.0%   | 58.4%      |
| Children   |         |       |       |       |       |       |        | 44         |
| % that were children                                       | 25.2%   | 18.2% | 0.0%  | 0.0%  | 40.0% | 0.0%  | 0.0%   | 24.8%      |
| Corporate  |         |       |       |       |       |       |        | 30         |
| % that were corporate                                      | 13.6%   | 23.6% | 0.0%  | 0.0%  | 15.0% | 0.0%  | 0.0%   | 16.9%      |
| <b>Victims attending/meeting Panel Meetings</b>            |         |       |       |       |       |       |        | <b>56</b>  |
| % Victims attending panel                                  | 8.1%    | 1.8%  | 4.7%  | 2.2%  | 0.8%  | 0.0%  | 7.0%   | 4.6%       |
| Adult  |         |       |       |       |       |       |        | 43         |
| % that were adults   | 5.5%    | 1.8%  | 4.7%  | 2.2%  | 0.8%  | 0.0%  | 5.3%   | 3.5%       |
| Children   |         |       |       |       |       |       |        | 12         |
| % that were children                                       | 2.3%    | 0.0%  | 0.0%  | 0.0%  | 0.0%  | 0.0%  | 1.8%   | 1.0%       |
| Corporate  |         |       |       |       |       |       |        | 1          |
| % that were corporate                                      | 0.2%    | 0.0%  | 0.0%  | 0.0%  | 0.0%  | 0.0%  | 0.0%   | 10.0%      |
| <b>Victims who's views were shared with Panel Meetings</b> |         |       |       |       |       |       |        | <b>139</b> |
| % Victims involved in reparative activity                  | 4.7%    | 5.7%  | 32.0% | 6.6%  | 20.3% | 11.4% | 45.6%  | 11.4%      |
| Adult  |         |       |       |       |       |       |        | 72         |
| % that were adults   | 2.1%    | 3.5%  | 12.3% | 3.3%  | 12.0% | 4.5%  | 29.9%  | 5.9%       |
| Children   |         |       |       |       |       |       |        | 42         |
| % that were children                                       | 0.4%    | 1.3%  | 16.0% | 1.6%  | 6.0%  | 6.8%  | 10.5%  | 3.4%       |
| Corporate  |         |       |       |       |       |       |        | 16         |
| % that were corporate                                      | 0.2%    | 0.9%  | 3.8%  | 1.6%  | 2.3%  | 0.0%  | 5.3%   | 1.3%       |



“It is a privilege to be able to contact all victims of youth crime and offer support according to their wishes.

No two cases are the same and as a result things never get boring!

I am proud that we are able to offer a tailored service to support referrals to other agencies, as appropriate and just to be there as a ‘listening ear’.

One frustration is that this work is sometimes not reflected in the ‘statistics’.”

*RJ Worker*



## Appendix B

Literature Review  
Conducted by  
School of Social Policy,  
Birmingham University

Kathryn Farrow, Gill Kelly and Bernadette Wilkinson  
School of Social Policy

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# 1. Introduction: Purpose, Methodology, Scope and Limitations

## i. Purpose

To undertake a review of literature regarding:

- Definitions, common understandings and principles, of restorative justice (RJ) in youth justice (YJ)
- The range of activities/techniques (particularly those aimed at young people who offend) that fall within the RJ domain
- The findings of evaluative studies and the challenges of and current methods used in evaluation

On the basis of this review to:

- Identify examples of good practice
- Suggest practical implications for this project: questions to be explored, potential evaluative measures

## ii. Methodology

a) Databases within the University of Birmingham on-line library were searched, initially applying the following search terms: *Restorative Justice and young offenders; restorative justice; restorative justice methods; reparation; victim offender mediation; community resolution*

The search was applied to peer-reviewed papers.

The initial searches produced 1024 papers.

b) Limiters were then applied to include only the following topics:- *Restorative justice and Juvenile justice; juvenile offenders; youth justice; diversion*

193 papers were selected

c) Limiters were then applied: *Publication since 2002; in English*

180 papers selected.

d) An abstract read was undertaken and paper selected on the basis of relevance to this project

53 papers went forward for 'full text read'

e) A further 5 studies were eliminated from the review during the initial reading process because they were not directly relevant to this project. Several were retained for a later review concerned with the wider field of restorative justice with adult offenders.

f) In addition we accessed the following websites:  
 - Youth Justice Board (Effective Practice Library)  
 - The Barrow-Cadbury Trust  
 - The Restorative Justice Council

We also read other additional papers cited in the literature reviewed but not falling within our search criteria (for example, Marshall, 1999, which is frequently quoted but was published prior to 2002).

"During the RJ sessions I managed to understand how the other person felt and what stress/trauma it had caused him, I knew I had an obligation to make it up to that person. I also realised the effect of my action which the victim handled well. I offered an apology which was accepted. Through our joint love of music we worked on a project together for 10 consecutive months. This built up a good bond between us. The RJ project helped me a lot by showing me the consequences of what my action has caused and also by allowing me to make amends with the victim."

*Offender*





## 2. The Literature: Key Content

### iii. Scope and Limitations

Whilst this report is directed towards RJ as delivered in a YJ context, it does draw upon wider literature about RJ which includes theoretical studies, some studies which relate to RJ in the adult criminal justice (CJ) context and broader RJ approaches, for example, in schools.

48 papers were read in full, of these 29 papers focused upon specific types of RJ programme for young offenders. The remainder related more widely to RJ, although work with young offenders is referred to frequently in this more general literature. In addition, 2 books, 3 longer publications and 2 further papers (including Marshall, 1999, widely cited in many later papers) were also read <sup>1</sup>

The majority of studies which focussed on specific projects tended to be qualitative in design, with one or two significant and longstanding projects (RISE in Australia and a VOM project in the mid-west of the USA) providing a source of harder statistical evidence, including recidivism data. Qualitative studies tended to consist of case studies, participant questionnaires and observational data. The challenges for research and evaluation are discussed in more detail later.

As we also discuss later, there is still no single, agreed, universal and operational definition (see discussion in Hayes et al, 2014). We do identify and make use of several working definitions in the review. One of the outcomes of the evaluative work within the West Midlands might be to agree a generally relevant and acceptable operational definition.

<sup>1</sup> These longer publications included the UN Handbook on Restorative Justice Interventions (2006) and publications by the Restorative Justice Council relating to Best Practice (2011) and Standards (2014). All of these are useful practical resources but do not directly relate to RJ practice with young people who have offended.

One or two papers reviewed here adopt a critical stance towards the implementation of RJ in the CJ system (for example, Ruggiero, 2011 which takes an abolitionist stance; Greene, 2013 which questions the real value of RJ and its limitations in the wider CJ system; Smith, 2011 who suggests that the certainty associated with the implementation of RJ in contemporary contexts 'glosses over' some significant problematic issues about restorative approaches). However, the majority tend to start from a positive standpoint, seeing RJ as potentially valuable both for offenders and victims and increasingly shown to be effective in terms of its impact upon offending. Rodriguez (2007) and Calhoun and Pelech (2010) cite a number of studies related to recidivism, particularly a meta-analysis (Latimer et al, 2005) which showed that RJ programmes were more effective than traditional correctional supervision programmes in reducing recidivism. Calhoun and Pelech (2010) also argue that:

There appear to be few studies of the variables presumed to lead to longer term outcomes. Understanding more about the variables that lead to these outcomes would not only facilitate nuanced discussion about restorative justice theory, but may also contribute to enhanced program design and delivery. (Calhoun and Pelech, 2010, p. 291)

As well as grappling with challenges of arriving at some theoretical clarity, the studies reviewed here (particularly in relation to young offenders) tend to focus upon those variables which can enhance outcomes and increase longer-term effectiveness.

These two elements (concepts and practice) form the basis of the next two sections and constitute the core of this literature review.

### i. Principles/ Rationale: Theoretical Issues

It is now an accepted truism to say that restorative justice is an 'umbrella concept', sheltering beneath its spokes a variety of practices, including mediation, conferencing, sentencing circles and community panels, and with no universally acclaimed definition. (Shapland et al, 2006, p. 506)

Shapland et al (2006) highlight the challenges of pinning down what RJ is, what it consists of and what it is intended to achieve. This also presents difficulties for researchers in making choices about where to focus their attention: what constitutes success for the individuals or groups concerned in the process and for the wider community in terms of the positive reintegration of offenders and reductions in recidivism (discussed in Rossner, 2013).

It is important to understand some of the key aspects of the conceptual debates as they will influence the nature of practice and the forms of evaluation of practice that take place. Key debates across the literature relate to:

- Defining RJ
- Delivering RJ within traditional retributive Criminal Justice systems
- Why and how RJ has an impact upon offenders and victims
- The range of RJ interventions.

### a) Defining Restorative Justice

The UN Handbook on Restorative Interventions (2006) offers a broad definition. 'Restorative justice is a way of responding to criminal behaviour by balancing the needs of the community, the victims and the offenders (2006, p. 6). It then goes on to argue that the definition is 'an evolving concept that has given rise to different interpretation in different countries, one around which there is not always a perfect consensus' (2006, p.6). The Handbook then offers more focussed definitions linked to specific aspects of RJ – its programmes and processes. There continues to be debate about what the precise definition should be and what its key aims are (Hayes et al, 2014). They acknowledge the importance within research of trying to identify the distinguishing features of restorative as opposed to more traditional, retributive approaches to justice. Hayes et al (2014) argue that most would agree that 'restorative justice represents a distinct alternative to traditional forms of justice administered by youth courts'. By contrast with adversarial retributive forms of justice RJ views crime as:

A violation of persons and relationships that require 'repair' and 'restoration' and Justice is done in a way which places decisions about how best to deal with the offence on those most affected (victims, offenders and communities) and gives primacy to their interests. (Hayes et al, 2014, p. 111)

Crime is seen as a conflict between people that results in injuries to specific victims and to offenders and the state and RJ emphasises the goal of the justice process as being to repair the harm created by the crime and to create peace between the involved parties.

Most writers recognise the need to live with debates about precise definitions, some arguing, that like RJ itself, definitions can be refined and improved if linked to specific, localised contexts (Stahlkopf, 2009). One widely cited definition is Marshall's (1999):

*"What it is like working as a YOT Victim Officer? Frustrating and hard work given the service is offender lead rather than victim lead."*

*RJ Worker*



Restorative Justice is a problem-solving approach to crime which involves the parties themselves and the community generally, in an active relationship with statutory agencies.

Marshall goes on to argue that 'it is not any particular practice, but a set of principles which may orientate the general practice of any agency or group in relation to crime'. This fits with Zehr's assertion that 'restorative justice is a compass not a map' (Zehr and Gohar, 2003, p.8) and on that basis to a revised working definition:

Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense to collectively identify and address harms, needs and obligations in order to heal and put things as right as possible. (Zehr and Gohar, 2003, p.40)

Zehr's definition does allow for some flexibility and practical realism in both in terms of who should be involved in the process and what is defined as 'right' in relation to outcomes. For those wishing to undertake and then evaluate RJ interventions this presents initial challenges. In the light of Zehr's definition, it will be important to be clear and realistic in designing and evaluating services about:

- Who has an interest in a particular offence including potentially the offender, the community and the victim (Rodriguez, 2007)?
- The relevant underpinning principles and values of the RJ intervention (Hipple and McGarrell, 2008). This will be linked to the aims of the intervention.
- In the short-term these aims might include developing clarity about:
  - How harms are to be repaired, e.g. within the process, via apology, for example (Choi et al, 2009) or via a range of post-meeting reparative activities; financial, physical, symbolic (Stahlkopf, 2009) to be included in contract or agreement at the conclusion of any meeting

- How the needs of both offender and victim are to be met (Strand et al, 2005)
- What the respective obligations of those involved both before during and after the intervention (for example, Hayes et al, 2014, examine the use of contracts as means of representing the obligations of different parties to the intervention).

- In the longer-term it will be important to clarify how the intervention might contribute to the reduction of re-offending and to the protection of the community (Calhoun and Pelech, 2010).
- What the balance is to be between the needs of the victim and that of the offender (Strang et al, 2005; Shapland et al, 2006; Gal and Moyal, 2011)
- Any key elements of the process aimed at supporting the collaborative/collective process and demonstrating RJ values and principles, including the place of negotiation, mediation, victim empowerment and reparation. A range of papers look at how RJ is delivered and the role of facilitators For example, Choi and Gilbert (2010) who look at the skills of mediators; Hipple and McGarrell (2008) who make links between theory base, facilitator training and the conference process.

*"I am very sorry for what I done, I didn't think about the victims or the harm I caused. I'm sorry for upsetting my family and the victims. I didn't think about it at the time."*

*Offender*

## b) Delivering RJ interventions within Criminal Justice systems

In a criminal justice context a commonly-used range of outcomes (Marshall, 1999) include;

- Addressing the victims' needs.
- Prevention of offending through reintegration of the individual into his/her community.
- A positive impact on the offender (including taking responsibility and desistance from offending).
- A working community is recreated, in other words that the community has some investment in the process. Gherkin (2012) questions how far this actually happens in practice and outlines some of the challenges of ensuring that it does.
- More cost-effective justice, for example, with reduced costs to the legal and wider CJ system.

Marshall (1999) argues that to achieve these outcomes RJ interventions involve the personal involvement of those involved in the offence (notably the victim, the offender and the community). They also require:

- A holistic view of events, including each individual's personal narrative so that the offending is understood as a problem within the individual's social context
- A forward-looking (or preventative) problem-solving orientation (linked to current thinking about desistance approaches (Robinson and Shapland, 2008))
- Flexible or creative practice.

When delivered as part of the CJ system, RJ will be influenced by this system's policies and procedures. These will inform the methods used, determine who is to be involved and then how interventions are delivered. RJ interventions are likely to vary depending on the point at which the offender is in the sentencing process and the legal procedures associated with this (Robinson and Shapland, 2008). Interventions within the CJ system can range from brief 'on the street' interventions often delivered as a diversionary measure by police officers (Meadows et al, 2012; Rix et al, 2011) through to victim-offender mediation conferences undertaken in prison settings with higher risk offenders (described in Rossner, 2013).

Several writers have described and debated the dangers of RJ being skewed by its association with the CJ system (Evans, 2006; Shapland et al, 2006; McAlinden, 2011; Smith, 2011; Vandering, 2011) and the risks of state-imposed RJ programmes (Doak and O'Mahoney, 2011). McAlinden (2007) argues that the positive outcomes of RJ programmes are now such that policy-makers will need to integrate restorative approaches more closely into mainstream justice, that in effect, restorative and punitive approaches are not mutually exclusive. Shapland et al (2006, p.523) suggest that whilst pure forms of RJ may not be possible within the criminal justice setting 'there may still, however, be the opportunity to influence and even slightly moderately transform criminal justice'.

Being aware of the potential tensions between restorative and punitive approaches, others emphasise the importance of procedural fairness/justice for offenders and victims (Gat and Moyal, 2011) especially in achieving positive longer-term outcomes such as reduced recidivism. It is proposed that transparent procedures that are understandable to all concerned are important in establishing the legitimacy of the process and its outcomes (Jones and Roberts, 2006). There may be a danger, in aiming for such procedural fairness, of encouraging over-routinised, standardised



practice and a potential disconnect between implementation and RJ values (Stahlkopf, 2009; Smith, 2011; Ruggiero, 2011; Newbury, 2011)

There is therefore a balance to be struck between procedural fairness (transparency and consistency if not standardised practice) and the integrity of the restorative process itself, the quality of which needs to be maintained if interventions are not to become a paper exercise (Rix et al, 2011).

Lokanan (2009, p. 290) suggests that 'restorative Justice still lacks an anchoring theory' and Zernova (2009) argues for the need to be clear about what, from a theoretical perspective, the distinguishing features of restorative interventions are and also how far these interventions coincide with and can complement offence-focused work, often based upon rehabilitative theory and principles. 'Failure to distinguish the treatment paradigm from the restorative justice paradigm only adds to the confusion as to the parameters of restorative justice as a genuine alternative'. (McCold, 2000, p. 389, cited in Zernova, 2009).

There are some tensions and fit with other criminal justice theories which seek to explain offending and the impact of measures intended to reduce it. Theories which chime with RJ include:

- Cognitive-behavioural theories, particularly in relation to developing empathy (Choi et al, 2011);
- Theories about human and social capital (Shapland et al, 2006; Barnes and Prior, 2007; Robinson and Shapland, 2008) which link to positive reintegration;
- Desistance theory (Robinson and Shapland, 2008) which, like RJ, promotes a process of desisting from offending by adopting a future-oriented, strengths-based approach.

Braithwaite's theory of Reintegrative Shaming (1989), which has been the theoretical basis of the RISE projects in Australia, contains elements of these strands of theory.

"Working with victims, has been quite positive, with some good engagement. It is fulfilling to be a RPW in this area of the city, as it is a very diverse area, however, in general victims tend to think, as the media etc, seems to portray, that all support is directed towards offenders and that the court tends to deal with them lightly."

*RJ Worker*



### c) Why and how does RJ have an impact?

Questions are raised about the how and why RJ interventions work for the different participants (Stahlkopf, 2009). These include questions about who is intended to benefit from the intervention and on what basis (Lokanan, 2009); how far the process is linked to reduced offending and how far it is a service to victims and whether punitive and restorative measures are mutually exclusive as models of intervention (Marshall, 1999). There are two dimensions that might be helpful here: theoretical perspectives on why RJ is likely to have an impact upon offending and the importance of how the restorative process is conducted in order to achieve results.

Theories relating to the impact upon victims are, according to Gal and Moyal (2011), under-developed and consequently whilst research consistently pays attention to what victims want out of RJ interventions and points to high levels of satisfaction when they are involved in the process, explanations about what works for whom and in what conditions are limited. They and others have nevertheless proposed some relevant theories relating to:

- Understanding post-traumatic stress (Angel, 2005 cited in Gal and Moyal (2010) and Rossner (2013).
- Psychological concepts such as apology and forgiveness.
- Empowerment (Choi et al, 2010).

There is an interesting body of research which describes and explores the effectiveness of wider restorative practice in CJ settings (Campo et al, 2011 -the penal juvenile justice setting; and in other settings where the behaviour of young people may be an issue: McCluskey et al, 2008 – in schools; Littlechild, 2009 – in residential care). This material is generally concerned with the skills that are associated with restorative practice – conflict resolution techniques (Yannay and Borowski, 2013), positive behaviour management (Littlechild, 2009) and mediation skills (Campo

et al, 2011). Such skills are also likely to be applicable within formal RJ settings since as Choi, amongst others, argues the process within formal meetings/conferences can be an outcome of itself (Choi, 2009). Furthermore, much of the research covered by this review is qualitative and focuses upon elements of that process - personal participation, community involvement, problem-solving and flexibility (Marshall, 1999).

The importance of knowledgeable and trained practitioners/community representatives is also discussed in terms of the professional challenges of delivering RJ effectively, especially within a traditional CJ setting. For example, incorporating a victim perspective into a traditionally CJ focussed organisation and also involving the community in a meaningful way (Evans, 2006; Robinson and Shapland, 2008; Yannay and Borowski, 2013), developing an appropriate professional culture (Hipple and McGarrell, 2008; Lokanan, 2009; Bradt et al, 2014) and training staff in the skills for actively engaging young people and victims and avoiding power imbalances (Stahlkopf, 2009; Rix et al, 2011; Choi and Gilbert, 2010; Campo et al, 2011).

Theories relating to process which might provide a lens through which to understand what works and to what purpose include:

- Ritual theories which are associated with the emotional content of interventions; these are the focus of Rossner's book (2013) and are also discussed by Gaardner and Hesselton (2012) in relation to interventions with young female offenders.
- Administrative and organisational theory (Stout and Salm, 2010) which would link efficacy with the degree to which the organizational context fits the purpose of the practice.
- Procedural justice theory which is associated with the notion of the legitimacy of processes, particularly those ordained by the state (Doak and O'Mahoney, 2011). Legitimacy, as captured by the notion of fairness, is a principle particularly valued by young people.

#### d) RJ, risk and public protection

This review did not find any specific research which considered the concept of risk and public protection in relation to restorative interventions. However, implicit in some of the material was a sense that RJ interventions, whilst not primarily concerned with recidivism-reduction (and by association risk-reduction), can be regarded as tools in reducing crime, promoting community safety and encouraging individual desistance from offending (Robinson and Shapland, 2008).

Hannem (2011: 270) argues that 'while the concept of community protection is not contradictory to the aims of restorative justice, it is commonly associated with conservative and punitive attitudes toward crime and punishment'. The author then goes on to describe the Circles of Support Model which is now a well-established approach used with the highest risk adult offenders and based upon restorative principles. A recent review of the use of 'Circles' in the UK (McCartan et al, 2014, p.4) describes this approach as 'as a restorative intervention, with a focus on offender accountability and support, safe community reintegration, and where possible behaviour change'. Thus, here, RJ is associated with safety in terms both of general reintegration and of individual behaviour change.

Newell (2007), in discussing adult violent offenders, argues that RJ can work effectively by both helping victims to make sense of events and move on as well as enabling the individual and their families to take some shared responsibility for future safety of all concerned. There is some evidence (Rossner, 2013) that the emotional impact of RJ is most significant for offenders and victims who have experienced more serious harm.

Given that RJ, in relation to young people who offend, tends to be reserved for individuals early in their offending career and often for offences which are not serious enough to warrant custody, there may be an argument for considering, in the design of interventions, what level of harm the young person has caused or may cause and how this might affect the process of facilitating meetings and the intensity of subsequent interventions (See discussion in Evans, 2006).

"I felt the Victim Officer to be very interested concerned about not only the offence against me but my feelings and emotions. She was very informative and I felt she showed equal concern for myself and the future for the young person concerned. I was left with the impression that she had taken a great deal of time to gather her information. It was extremely satisfying to be treated with such respect. Thank you."

*Victim*

#### e) Range of RJ interventions

Despite differences over the precision of definitions of RJ, its core values of providing restitution to victims and the community, rehabilitating offenders, improving the safety of victims, and providing relief to communities are generally agreed upon (McAlinden, 2011). These core values are represented by a range of models for delivering restorative interventions which may differ to the extent that the community or individual victims are represented and by the outcomes which take priority.

The interventions, specifically for young people who offend, represented in the literature reviewed differ in terms of:

- the extent to which victims, offenders and community are involved in the process
- the extent to which it is embedded in the legal process
- the intended outcomes of interventions

Some interventions/models explicitly make the victim-offender interaction central to the process:

- VOM - victims and offenders meeting face-to-face in order to express their feelings directly to each other, and develop a new understanding of the situation. With the help of a trained facilitator, they can reach an agreement that will help them both bring closure to the incident (Choi et al, 2011; Choi and Gilbert, 2010; UN Handbook). 6 studies related to Victim-Offender Mediation; 5 studies, by Choi and colleagues, drew upon the same primary data; Yanay and Borowski, (2013) provide a detailed evaluation of a local VOM scheme in Israel which was then 'rolled out' nationally.
- Family Group Conferences (FGCs) - A meeting between the offender, accompanied by his or her supporters, and the victim, also accompanied by his or her supporters. These meetings are organized and run by a trained facilitator and include a discussion of the incident and the harm brought to both the victim and all the

supporters. These meetings usually end with a reparation agreement, where the group as a whole decides what the offender needs to do in order to repair the harm he or she caused (Hipple and McGarrigle, 2008; Mutter et al, 2008).

- Peace/restorative circles - Contemporary circle models have their roots in traditional indigenous cultural practices. They use circle ritual to involve the victim, victim supporters, the offender, offender supporters, judge and other court personnel, and interested community members in a shared search to understand the event, and identify the steps necessary to heal affected parties and prevent future harm. Contemporary examples include Circles of Support for the management of serious adult offenders. The study of interest here focuses upon the relevance of the model to a gender-sensitive RJ approach for young female offenders (Gaarder and Hesselton, 2012).
- Others may involve more generalised reparative activities where the relationship with those harmed by offending can be less direct. These could include formal reparative sentences such as Community Punishment and Reparation Orders. A reparative element is often a requirement of the supervision of young people. The history of and rationale for these measures, along with a critique of any move to make these more visible within the wider community is provided in Pamment and Ellis (2010).

Finally there are other models of delivering RJ which may be a combination of both. These often take the form of what might broadly be described as community justice panels that can involve offenders, their families, victims, representatives of the community (usually trained) and other relevant professionals. The outcomes of these conferences may be relatively short-term, such as some form of apology or longer-term, for example, participation in reparative programmes and ongoing work addressing the issues associated with offending. Within the literature reviewed



here, examples of such measures included:

- **Community Panels:** Doak and O'Mahony (2011) write about experiences in Northern Ireland and raise the issues of voluntarism in terms of the impact of the process on all concerned and also the rationale and value of targeting RJ interventions at lower risk offenders as tends to be the case in England and Wales. Calhoun and Pelech (2010) (writing about Calgary Community Conferencing) and Rodriguez (2007) (writing about Community Justice Committees in Maricopa County, Arizona) consider the impact upon recidivism and both studies, whilst suggesting that these respective projects do reduce recidivism, argue that it is difficult to be precise about what produces the positive impact since, with multiple variables, cause and effect is hard to establish.
- **Referral Orders in the UK:** Common themes in the research include tensions between how panels are perceived by offenders and how to serve the interests of victims and how to encourage representative community involvement (Newburn et al, 2002; Evans, 2006; Stahlkopf, 2009; Newbury, 2011; Jones and Roberts, 2006). Similar legislated conferencing arrangements exist in other jurisdictions. For example, Hayes et al (2014) provide a detailed review of experience in Australia where legislated conferencing is now in operation across all states. Their focus is upon the link between formal agreements and post-conference impact/recidivism.
- **The Reintegrative Shaming Experiments (RISE):** This is one of the most long-standing projects which focuses upon the conferencing approach (including both adults and young people) and continues to provide data for researchers. This project involved both adults and young people. The data, gathered between 1995 and 2005, has provided a range of comparative data in relation to RJ and recidivism (data

is discussed in Strang et al, 2005 and Kim and Gerber, 2012), young offenders' perceptions (Kim and Gerber, 2012) and the involvement, perspectives and impact on victims, particularly child victims (Gal and Moyal, 2011).

- **Youth Restorative Disposals:** These are measures for use by the police in the UK and which are intended to be a quick and effective means for dealing with low-level, anti-social and nuisance offending, offering an alternative to arrest and formal criminal justice processing. When the pilot projects were evaluated it was found that most YRDs were carried out 'instantly', 'on the street'. In most cases the outcome of a YRD was a verbal or written apology and occasionally financial compensation was also included (Rix et al, 2011).



## ii. Designing and Delivering RJ Interventions

The literature gives some indication of key points to be borne in mind when planning RJ interventions:

- **Context and procedures**

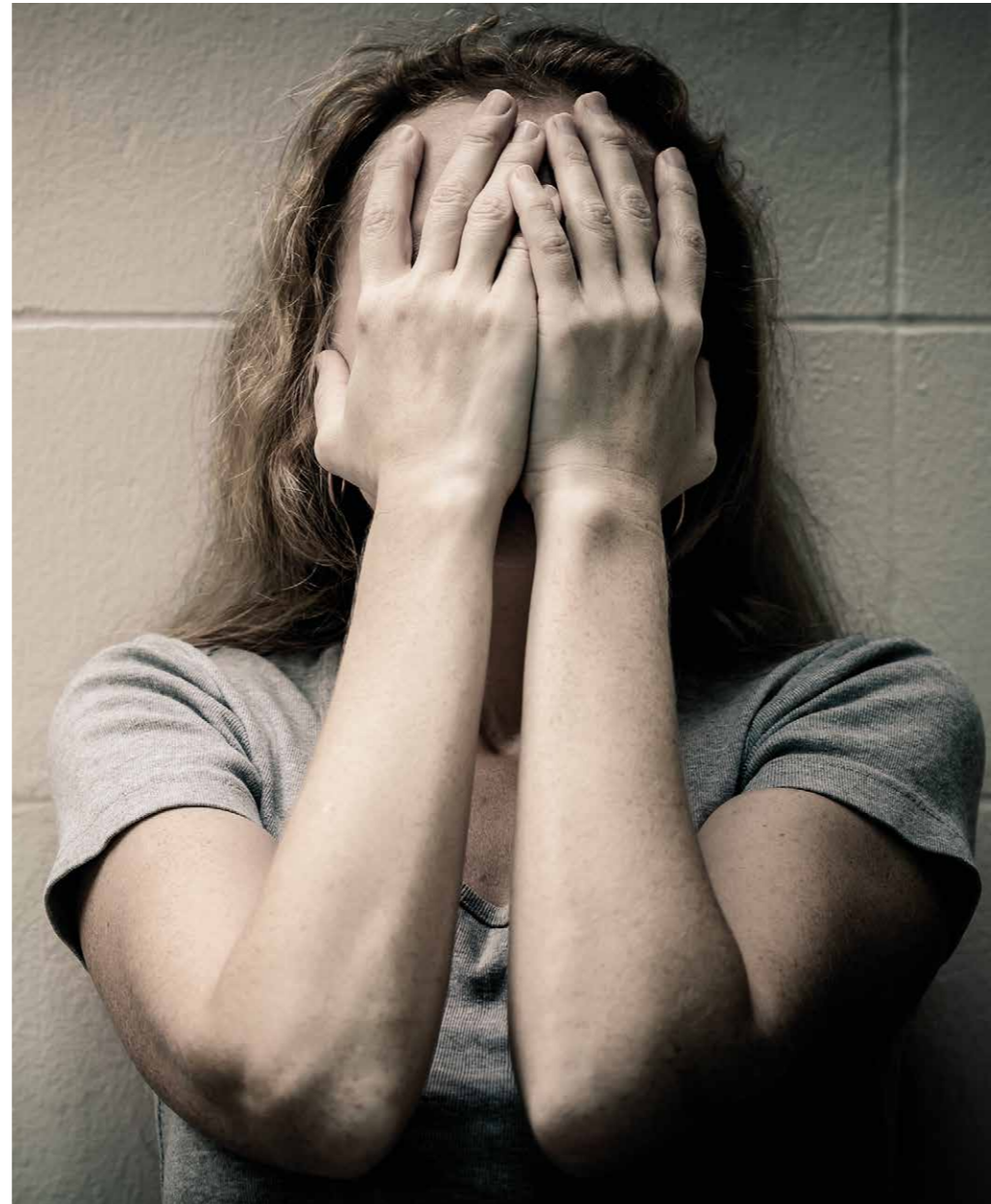
- To what extent is RJ embedded in the court process? There are debates about how far RJ interventions should be independent of the court process (Evans, 2006; Doak and O'Mahoney, 2011) and whether the association with CJ distorts the restorative process (Greene, 2013) or is mutually exclusive to punishment (Lokanan, 2009; McAlinden, 2011). Research drawing upon the RISE data (Gal and Moyal, 2011) suggests that the legal process can be reassuring for victims of crime. Jones and Roberts (2006) argue that formality and clarity of process enhance the legitimacy of the intervention for offenders.
- Within a formal setting, there is a place for voluntarism, especially in relation to the outcomes of meetings/conferences. In discussing apologies, for example, Choi et al (2009) indicate that voluntariness is associated with genuineness.
- There is some evidence that interventions are more likely to be effective and restorative if they are localised responses which takes account of the uniqueness of situations for both offender and victim (Calhoun and Pelech, 2010). If interventions lose the connection with the context of the offending behaviour (Yannay and Borowski, 2013) there may be less access to local resources to support integration (Smith, 2011; Gherkin, 2012).
- There remains some debate over what type of young person and their offending responds best to what

type of RJ intervention. Rodriguez (2007), discussing Community Justice Committees, suggests that girls and first-time offenders respond best in terms of reduced recidivism possibly because of the holistic and collaborative approach which, it is argued, would be less effective with 'chronic' offenders. On the other hand heightened 'restorativeness' of the process itself is associated with offences which have a higher emotional impact on both victim and offender (Rossner, 2013) and such emotions are often associated with more serious offences.

- There is need for clarity about aims, principles values and theory base (Zehr and Gohar, 2003; Rodriguez, 2007; Lokanan, 2009; Stout and Salm, 2011) which then is linked to the purpose of the intervention, its intended outcomes and how it is delivered.
- Decisions about who should be involved in the process and why and then how they should be involved (Strang et al, 2005; Rodriguez, 2007). For example, victims may be involved directly or indirectly (Doak and O'Mahoney, 2011).
- **Practical arrangements and processes**
  - Attention needs to be paid to the timing, frequency and length of interventions (Stahlkopf, 2009; Rix et al, 2011)
  - Pre-meeting preparation and groundwork is essential to the successful outcome for all concerned (Hayes et al, 2014; Gaarder and Hesselton, 2012; Choi et al, 2012; Newbury, 2011).
  - The 'Black Box' of RJ: processes in the meeting: Umbreit (2002, p. 44 and cited in Choi et al, 2009) argues that the process of restorative justice is now a 'black box' because what constitutes service delivery has not been shown to outsiders, leaving a void in identifying how restorative justice works in practice.

Important elements of the process which need attention from facilitators (professional or from the community) may include:

- Emotional content of RJ and power in meetings who is at the centre (Rossner, 2013)
- How far the processes are consistent with RJ values, principles and theory (Evans, 2006; Lokanan, 2009) and how might these be expected to work in each individual case
- Alertness to individual differences which may be influenced by age and maturity<sup>2</sup> as well as culture and ethnicity. Del Campo et al (2012) see within broader restorative approaches the potential to put individual, culturally-influenced experiences at the heart of the communication process but stress the need to develop and apply theories and skills associated with inter-cultural communication. Whilst girls seem to respond well to RJ interventions generally there are nevertheless concerns about the gender-sensitive nature of the conferencing process and an argument for considering particular approaches, such as restorative circles, for young female offenders (Gaardner and Hesselton, 2012)



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<sup>2</sup> T2A (2013)

### iii. Evaluating RJ

As suggested earlier, the difficulty in distinguishing the distinctive RJ paradigm 'adds to the confusion as to the parameters of restorative justice' (McCold, 2000: 389, cited in Zernova, 2009) and is therefore one of the most significant methodological challenges to research and evaluation. Potentially, research should be a means of discerning what are the distinguishing aspects of RJ and those which enhance its efficacy. However, there is still no unifying body of research which provides robust examples of good practice. What the research does suggest are elements of the RJ interventions which can enhance efficacy and some questions for future research.

Key research questions include:

- The extent to which reduced recidivism is regarded as a sign of success (McAlinden, 2011).
- What other indicators are relevant and realistic, for example, outcomes for participants other than the offender or the success of the restorative process (Rossner, 2013). For example, what do victims want from the process? How might this be found out?
- What outcomes are recorded and how (Doolin, 2007)? Are they short-term outputs (within or emerging from the meeting) or are they they medium-term and longer-term which tend to be harder to evaluate reliably? (Hipple and McGarrell, 2008; Calhoun and Pelech, 2010).
- How to evaluate the process which is a particular challenge in relation to RJ (Choi et al, 2011) not least because of the confidentiality of the process itself.
- Where to focus the evaluation, at a broader macro-level or the micro-level of particular elements of the process.
- How to identify and evaluate what the core values of a scheme are and what skills and methods mediators use.

- How far RJ interventions address diversity including race/culturally related matters. It is for some surprising that when models, often derived from culturally-specific indigenous practices, have been adopted more widely. Race and culture have rarely been explored in their own right and tend to be treated as side issues (Vieille, 2013; Gavreilides, 2014).
- How to uncover what the impact is of the facilitators' abilities, skills and knowledge (Choi et al, 2010; Rix et al, 2011; Hipple and McGarrell, 2008)

*"I find Restorative Justice difficult to implement into a YOT system due to the ambiguity of its definition and time constraints. Where time and resources allow however, I believe it can be a powerful tool in repairing harm and allowing restoration."*

*RJ Worker*



### 3. Summary, including implications for practice and evaluation in the West Midlands

There are two themes emerging from this review which have relevance for the design and implementation of RJ interventions in the West Midlands.

Firstly, it is important to arrive at a commonly accepted and understood working definition of RJ that is relevant to all of those who have a stake in the process and in line with the underpinning principles and values of restorative practice. Such a definition should then lead to clarity about RJ interventions and how they can contribute to the reduction of reoffending, balance the needs of victims and offenders and the elements of a collaborative/collective process.

Secondly, it is important to be aware of the potential challenges of delivering RJ in a criminal justice context including the need to:

- Maintain a balance between procedures and the integrity of the restorative process itself so that interventions don't become 'paper' exercises.
- Clarify what the theoretical rationale is for the intervention and how it is expected to have an impact.
- Pay attention to the appropriate skills, knowledge and training of RJ facilitators.
- Be clear about the methods chosen to deliver RJ, why they were chosen and what the target group is.

We provide a potential framework for evaluating individual projects in the West Midlands in the Appendix. This is based upon key issues which emerge from this review of the literature, particularly Sections 2.ii and 2.iii above. There will also be questions which are very specific to different local communities and local arrangements.

KF/GK/BW  
October 2014

*Summary of a victim mediation I did last year. It was two young girls aged 17 who both knew each other. The victim was really vulnerable even before the offence which was one of robbery of a mobile phone. In mitigation for the offender she was in an abusive relationship and her boyfriend was sending her out to rob in order to buy drugs for himself. The case got worse for the victim as she started getting bullied from friends of the offender via social media.*

*After some work with both parties a victim mediation meeting took place at a youth club away from where they both lived. It went really well with the victim giving her side of the story and the effect it had on her wellbeing after months of worrying. The two girls hugged at the end of it and lots of tears were shed by both of them.*

*The victim told me the next day:*

*"That it was a load of her mind and she slept well last night for the first time in months."*

*I then saw the offender the following week who said:*

*"I am so glad I got the chance to meet her and say sorry for what I did. I did not realise how much I had upset her by committing this offence."*

*RJ Worker*

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“Working in restorative justice can be rewarding, challenging and frustrating. I feel there is the opportunity for positive change for young people who offend and those they offend against. However I feel this requires restorative YOT’s rather than YOT’s that do restorative justice.”

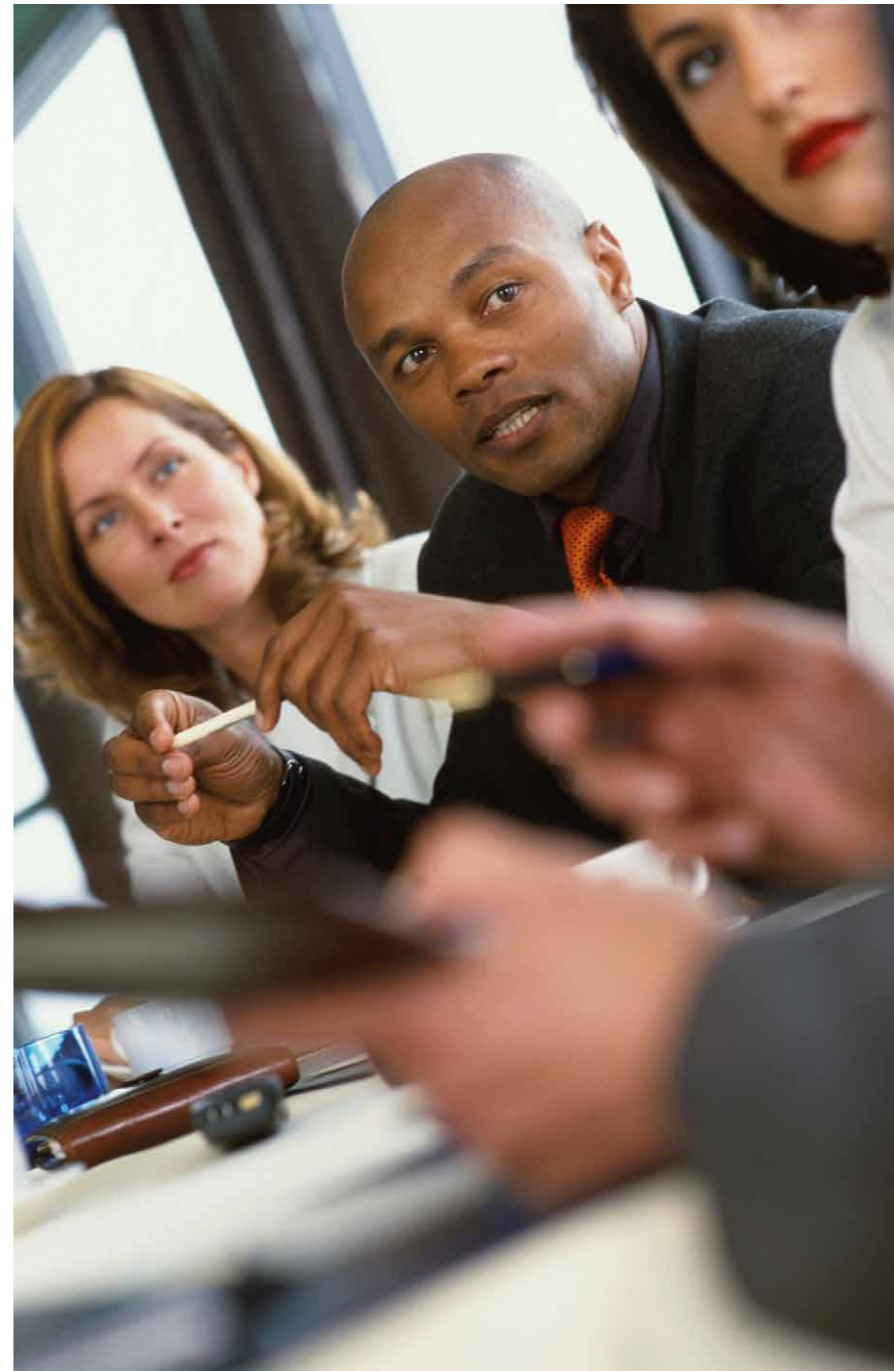
RJ workers



# Appendix

## Restorative Justice Activity Record – Template (with some suggested questions to ask practitioners)

1. Activity number/name (for reference purposes)
2. At what stage in the CJ process does the RJ take place?
  - diversion
  - post sentence community
  - post sentence: custody
  - on release
3. Type of programme  
*For example*
  - Victim- Offenders Mediation
  - Family Group Conference
  - RestorativeCircle
  - Reparation
  - Referral Order
  - Community Panel
  - Youth Restorative Disposal
  - Other
4. Methods/Activities  
*If so...*
  - Who is the main target group?
  - Who is the main referrer?
  - How are young people selected/assessed?
  - Are there any individual young people who would not be suitable?
  - Any consideration given to gender, age, race and culture?
5. 'Rationale'
  - Is there a clear statement of the value base and purpose of the project?
  - To what extent do staff understand the value base and purpose?
  - Can they articulate these?
6. Intended outcomes
  - What are the intended outcomes for: victims?  
Offender?  
Wider community?



7. How do you measure success?  
*Short term outcomes:*
  - letters of explanation,
  - satisfaction surveys of victims and young people
  - Agreements/contracts
  - Referrals on to other agencies,
  - Attendance at meetings (young people, victims, carers)  
*Longer term outcomes: (which might be based on information from official sources, from follow up interviews with victims or offenders, views of stakeholders including community groups)*
  - Re-offending rates
  - Impact on victims
  - Impact on the community
8. What is hindering or helping to achieve aims?  
*Here you might include:*
  - staffing issues,
  - training
  - community resources
  - level of active community and/or victim involvement



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