

Supporting Notes – Standardise the Sharing of Information

"A National Data Sharing Agreement would be useful for several reasons. Firstly, it would cut down on duplication. Secondly, it would give police forces confidence that the measures put in place were consistent across other areas. Thirdly, often cases can cross police borders so information sharing between different RJ providers is necessary. Fourth, the RJ providers themselves can be confident in other providers adhering to the same information sharing requirements. Finally, in having a clear data sharing agreement with set standards across the board would give organisations providing RJ clear guidance on what they need to do to comply and meet these standards". (Commissioned RJ provider)

We received 41 responses to the survey. Of those responding, 36 were from Police and Crime Commissioner or Mayoral areas. 2 were from Scotland and 3 were from Prisons. The three responses for Prisons, all came from private prisons. There was no response from HMPPS. Not all respondents answered all questions.

Who delivers the RJ Service? 24 RJ services were delivered externally and 11 in house within the Police or the Office of the Police and Crime Commissioner. 1 additional service is delivered in house with some commissioned staff. Scotland, who are in the developmental phase of RJ, submitted a strategic response in addition to a response from the National Hub for RJ for cases of Sexual Harm in Scotland.

Who can refer to the RJ Service? 32 of those surveyed received referrals from all services. 4 areas only accepted from specified organisations, Police, Probation or Prisons. Five areas did not respond to this question.

Are formal Information Sharing Agreements in Place? In 22 areas, formal ISA's are in place. In eight areas, which were all, internal within the Police, no ISA was in place/needed. Five external services did not have an agreed and signed formal ISA in place. Of those where ISA's were in place, nine were based on consent, 4 on public task and the remainder used a mixture of consent and public task. There has been support for a model that is based on both public task and consent. There are issues with just a consent-based approach. *"We have heard the Information Commissioner's Office, talk about the benefit of using both routes. Relying on consent only, relies on getting informed consent, because it needs to be*

informed consent from someone who might not be in the right place, shall we say, to give that consent, but it also really relies on the person who is describing the offer of restorative justice to that person to understand precisely what restorative justice might involve. That is not always going to be the case. If you've got, particularly if you've got an externally commissioned provider, if the data can't get across to the externally commissioned provider for their experts to talk to the service user being a victim or an offender, does the person that's having the conversation have enough knowledge to allow the person to make an informed decision about consent?" (Commissioned RJ provider).

Are there any challenge to Information Sharing? Just under half (20) of those surveyed felt that there were challenges with data/information sharing. Four areas highlighted that negotiating ISA's with information governance was difficult and getting partners on board. *"There have been challenges with getting all relevant agencies to sign"* (Commissioned RJ provider). Four areas felt that accessing offenders in prison and working with Re:hub had caused issues. *"The biggest thing is probably the communication and response to and from prisons. I have lost many a case this year, as that is that process, and it just has just not come through. In addition, in fact, in some instances, we actually cannot find them. Communication is definitely an issue sometimes I think"* (Northamptonshire).

For prisons who have offenders from different areas, new ISA's have to be developed for each new case, which can be time consuming. *"If a new area approaches us – a data sharing agreement will ask to be signed and agreed to before proceeding to plan"* (RJ Lead in Prison).

Lack of correct information including demographics and the completion of referrals forms, caused some areas problems. It was noted throughout the responses, that information on risk of service users was problematic. Most external providers were not provided with any warning markers related to the individual or address that they would visit.

Would a national Data Sharing Agreement be useful? 37 respondents felt this would be beneficial. Three areas did not support the need, of these, two areas were internal RJ services within the Police and they did not see any

benefit. Those that supported a national DSA felt it would build confidence between agencies, providers and areas.

"I think the concept of obviously, a national sharing agreement is a bit of a no brainer that is the whole concept of this APPG piece of work, to try and sort of create that more consistent footing across the country. I think, obviously, a national information sharing agreement to go alongside that would be perfect". (RJ Lead in Police)

The majority of services highlighted that cross border working, was the biggest catalyst in needing a national data sharing agreement. *"We receive a number of referrals where the offence occurred out of our force area. As RJ, services operate differently in each area and are not always linked to the area police force it can sometimes be difficult to obtain the information relating to the offence. It can also be difficult to jointly facilitate a case with another area when they have different information sharing procedures in place than we do in Sussex. Some areas do not have an RJ service at all so joint working is not an option"* (Internal RJ Service).

It was also noted by a Commissioner, *"the benefits would then allow for more efficient contact with victims following the harm caused by the crime/incident. By doing this, victims could potentially get support at the earliest point possible during the criminal justice process"*.

It was noted that there would need to be consideration for services operating slightly differently, e.g. any DSA in Wales would need to take account of WASPI (Welsh Accord on the Sharing of Personal Information). A Victim Service who delivers RJ felt that "given that services vary hugely and some do not follow correct standards and processes, a national governance framework would need to be in place too".

Equality, Diversity and Inclusion – It was acknowledged that as with a lot of organisations, there are issues with data quality, especially on ethnicity, and so services struggle particularly for data from the Police. Most organisations try to capture this data from referrals forms.

Supporting Notes - Review Ring Fenced Funding for Restorative Justice Practices

Evidence collected as part of the All Party Parliamentary Group's (APPG) inquiry into the current state of Restorative Practices in England and Wales showed that the annual funding for adult Restorative Justice Services varied from as little as £5,000 up to £375,000 in the year 2021/22. This equates to a range of less than 1% up to 26% of the overall Victim's Grant received by commissioners from the MoJ in each area.

A number of respondents did not identify their annual budget. These respondents were usually services within police forces or as part of wider commissioned victims' services, and were unable to disaggregate this information.

The total amount of funding for adult RJ in 2020/21 or 2021/22, as stated by commissioners either in response to this consultation or in their annual returns to the MoJ was £5.15m/annum.

% of overall Victims' Grant	< 10%	11-15%	16-20%	Over 20%	No information provided
Number of commissioner areas	20	11	6	2	3

Per annum funding for Restorative Justice services 2020/21 or 2021/22

These figures contrast starkly with the indicative budgets for RJ provided to all commissioners by the MoJ in 2014/15 – those figures totalled £12.8m and equated to 21% of the overall Victim's Fund provided by the MoJ in every area.

Services that responded to the inquiry reported varying levels of contract length. Three year contracts, with varying options to extend by one, two, or three years were the most common followed by annual contracts. Those with annual contracts were most often services based within constabularies. The majority of externally commissioned services

(73%) had secured their contracts through an open tender procurement process.

A number of respondents noted that the implementation of a minimum three year (preferably five year) funding cycle should become the standard as this allows services to become fully embedded and effective in delivery, in part because of improved referral pathways through the development of partnerships. This is well demonstrated in Hampshire, whose three year contract with an option to extend by two years, has enabled them to work on different projects each year in order to raise awareness of the service and generate referrals, which have increased every year. Longer funding cycles are also important to ensure minimal case disruption, particularly in complex cases which can take a considerably longer time to facilitate.

There was a desire among most of the services (63% of respondents) for their budget to be increased. An increased budget would assist in sustainability, and enable services to invest in promotion of their service and in RJ practitioners with a strong skill base (for instance, complex and sensitive case training) and allow for practitioners' salaries to reflect the skill and standard of practitioners' work.

Some respondents expressed a need for the core funding from the Ministry of Justice to be reviewed, and for RJ to be funded as a standalone, rather than absorbed into the Victims' Grant. A third of service respondents noted that RJ budgets should be ring fenced. This would, in turn, ensure consistent RJ delivery nationally, maximise value and capacity of volunteers from the community and to ensure take up across all protected characteristics and maintenance of national standards.

There was a desire amongst prisons that returned evidence to the inquiry to receive a dedicated RJ budget which would allow prisons to employ an RJ Coordinator. They would act as the point of contact to facilitate better communication between RJ organisations who may be trying to engage an offender for a victim who wishes to pursue RJ.

Relationships with Probation services and RJ services varied but it was uncommon for Probation to contribute to the funding or the delivery of RJ. Cross funding of RJ services by PCCs/Mayors and HMPPS would be beneficial in moving towards more sustainable funding.

Supporting Notes – End to Blanket Bans

“No victim should be barred from RJ by the virtue of type of offence, location or time of offences. Or whether reported to the Police or not”.

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Who delivers the RJ Service? 24 RJ services were delivered externally and 11 in house within the Police or the Office of the Police and Crime Commissioner. One additional service is delivered in house with some commissioned staff. Scotland, who are in the developmental phase of RJ, submitted a strategic response in addition to a response from the National Hub for RJ for cases of Sexual Harm in Scotland.

What criteria is used to decide eligibility and suitability?

There are marked differences across the different RJ services/providers around eligibility for RJ and the criteria for accepting referrals. 32 of those surveyed could accept referrals from any organisation. Four areas could only accept referrals from Police, Prison or Probation. Five areas did not respond to the question.

Only five areas had no eligibility criteria. Seven areas did not detail their criteria. The remaining services had an array of criteria, which is used to ascertain the eligibility for RJ. 15% of those with exclusions specified that the victim had to live within the County to access the service. 10% stated that the offence had to have occurred in that county to access RJ (regardless of where the victim or offender resided) and an additional 10% specified that either the victim or offender had to live in the county or the offence needed to have taken place there. *“There are no exclusionary time frames or specific offence types. Residency of victim within the force boundaries is a current criteria. It should also be noted that crimes don't necessarily have to be reported to the Police but the harmer must accept their behaviour to*

participate"(Commissioned RJ provider). 66% of areas did not detail any specific criteria related to location.

What other restrictions are in place for referrals? There were additional restrictions in some areas, such as it had to be victim initiated only, it could only take place for adult offenders post-conviction and in one area, no sensitive and complex cases could be accepted due to lack of staff training. 24% stated that the case needed to be finalised within the Criminal Justice System before the service could progress with RJ. Most offered support to the victim whilst awaiting this outcome.

In 27% of responses, services would only accept victim initiated referrals for domestic abuse. No service specifically stated that they accepted offender initiated referrals for domestic abuse; rather there was no mention in their responses. Three areas were prohibited from accepting any referrals for domestic abuse. *"Domestic Abuse (intimate partner violence) is excluded due to ACPO guidance 2011 and this is a significant blocker to good practice"*(Internal RJ Service in the PCC). *"Exclusions are DV, cases where a restraining order is in place and sexual offences"*(HMP)

Just under half, highlighted that they could work with non-reported crimes, crimes that were not reported to the Police. The remaining services needed the crime to be reported to the Police to access the service.

One area detailed that they were unable to accept out of Court disposals for Hate Crimes for adult offenders but could for young people. *"DPP has given dispensations I think it's only to three forces to use restorative approaches for hate crime. We now understand that they are going to wait until those three are evaluated before they make a formal decision on whether they're going to give that dispensation across all forces"*(Commissioned RJ provider).

The vast array of different eligibility criteria demonstrates the need for universal access to services, with the removal of any restrictions. No victim should be barred from RJ by the virtue of type of offence, location or time of offences. Or whether reported to the Police or not.

Equality, Diversity and Inclusion – services that responded wanted to ensure that everyone could access the service. *"I think our approach would always be in any of our services to incorporate the widest diversity of referrals that we can, in reality, getting referrals is the issue". It was acknowledged that the quality of data of those accessing services can be difficult and therefore presents issues in measuring this information. "It's not only the difficulty of getting people to complete every box on a on a form or system which is always difficult. Then you get into the issues of no self-declaration, or, you know, Officer perception and that kind of thing as well. Therefore, although, you know, every department can produce data, the quality of it may vary as well. So it can be both difficult and easy at the same time".*

Supporting Notes – Youth Restorative Justice

Overview:

The passion for restorative justice of all those attended evident and the depth and scope of restorative justice provision in the youth justice sector is impressive (although it is possible that the enquiry attracted those most committed). There is a clear overlap with restorative justice in schools, social care and community/neighbourhood settings as many YOT restorative justice staff reach out beyond the young people and families directly under YOT supervision to deliver training and restorative interventions. *'As a service we work with victims of youth crime and offer a service to schools and local authority children's residential homes.'*

Restorative justice in youth justice operates in a different context to restorative justice in the adult criminal justice system. Since the formation of YOTs in 2000, restorative justice has been more consistently applied in youth justice than for adults. All YOTs have someone in the team responsible for contacting victims and a restorative approach including practical reparation is expected in most cases on the YOT caseload. Restorative justice is almost exclusively delivered by specialist staff rather than volunteers, although the Referral Order provides a specific context in which volunteer panel members chair meetings which may involve the victim, with the restorative justice practitioner supporting the process.

Restorative Justice in the youth justice arena did not achieve the foot hold it did simply because of some form of belief in or passion for restorative justice but rather because there was a stated expectation from a National Standards, Key Elements of Effective Practice and Inspection Criteria that required

Youth Offending Teams to develop Restorative Justice as part of their operations. As practice became embedded within the youth justice arena and the efficacy and positive impacts of the service were able to be seen then clearly belief and support expanded extensively and gained many passionate and deeply committed supporters within the youth criminal justice workforce. There was early legislation and guidance from the Youth Justice Board to incorporate restorative justice within the operational remits of the Youth Offending/ Youth Justice Services and this has, in many locations, been an extensively developed area of practice.

Data Sharing:

All of the YOTs surveyed have restorative justice provision, all provided in-house by specialist staff (not volunteers) apart from three YOTs (6% of those surveyed) that use the commissioned provider Remedi. *'Restorative Justice Workers are part of the Youth Offending Service as a whole and not funded separately.'* *'In my Youth Offending Service, we deliver in house, it's myself, my manager that deliver RJ, we do offer training as well to police and schools.'* In line with GDPR and the VCOP, YOTs take great care with the management and retention of sensitive data, which is shared with police, probation, other YOTs, victim services and children's services. Sensitive information is shared to manage risk, when children move areas (including with county lines), with transitions to adulthood, when a case involves an adult co-accused, and to signpost people to victim support. Often there is an overlap between offending and being a victim and young people can over between the two. Working within a council and having seconded police, probation officers and social workers in-house hugely simplifies data sharing for YOTs and most respondents said that there are few issues in this area. *'I do all the RJ work. We've got to seconded police officers within the youth justice team... I go through the police officers for victim contact details. They obviously pass those through to me, then I make contact with the victims, ... So that's not an issue at all.'* The biggest concern is around securing consent from victims, which is typically discussed and recorded by the OIC. About a third of respondents found that information about victim consent was missing, inaccurate or delayed. Relying on the skills of the officer to request consent can be a barrier to restorative justice, and as a tick box system isn't appropriate there may be a training issue for the police. *'Obtaining victims' details from the Police for the purposes of offering RJ to victims can be challenging. Whilst victims have a right to be offered RJ, the Police have to seek their consent before passing on their details to RJ Practitioners. That means RJ Practitioners have to*

rely on the Police to explain what RJ is all about to the victims and that in itself can be a barrier to victims giving their consent for RJ Practitioners to contact them.' One suggestion would be for the victim to opt out of rather than opt into the offer of a restorative justice service. There was a cautiously positive response to the idea of a national data sharing protocol with police to address this issue, which would also help with joined up working when children move areas, for example through involvement in county lines. *'I think services currently work very well around data sharing. And I think I would want a national agreement to complement what we do rather than hinder.'* In contrast to England and Wales there is no consistency of provision for restorative justice in Scotland, with pockets of restorative justice within local authorities, some bringing in other organisations such as SACRO to deliver RJ in the youth sector. A pan information sharing arrangement would allow for standardisation to avoid a situation where the request for consent from a victim depends on the personality or opinion about restorative justice of the person making the request.

Funding:

All of the YOTs surveyed have dedicated staff delivering restorative justice, and many have trained case managers and other staff and volunteers in restorative practice. Some areas have whole teams with a restorative justice manager and several restorative justice practitioners able to do preventative work, whilst some smaller YOTs have a lone worker (sometimes part time) who may juggle several roles in addition to restorative justice including reparation, volunteer co-ordinator and case management. That can be tough and feel isolating. YOTs vary from small city boroughs to huge rural counties. *'Although I my YOS do have a full-time and a part-time RJ Worker funded by the council, further training and relevant positions would help to improve the service in a field where the YP involved are coming from more and more complex situations in terms of conflict.'* Two thirds of YOTs giving evidence felt that their funding for restorative justice is adequate, whilst a third are struggling, some having faced reductions in staff. This can lead to variations in the delivery of restorative justice by geography: due to differences in funding and a lack of national standards/KPI's, there are currently different offers for children who commit crime and victims of their crime in different areas, and it may not always be seen as a priority by management or the YJB. *'So funding is massive, when he when you talk about giving the best service to victims and making sure the young person gets the full intervention package that might be protracted over a period of time to get the best result.'*

Investment and support from management is key, and in general the feeling is that restorative justice is better embedded than it has been historically - no longer seen as a 'bolt on' service - and that there is a commitment from YOTs to hearing the voice of the victim. One respondent said that the restorative approach can also be seen as a lens to transform services.

YOTs are acutely aware of the complex needs and issues faced by some victims (including mental health issues). YOTs can make use of their existing resources including SALT, psychologists, counselling, and training and expertise in trauma informed practice to offer a holistic service which extends far beyond a simple restorative justice provision. The fear is that funding constraints will impact on this ad hoc work, which can bring cost benefits in the longer term.

YOTs also reach out to other agencies, offering training in restorative practice to schools, care homes, police and prisons and working directly with families and communities. This kind of preventative partnership work is also squeezed when budgets are tight.

Blanket Bans:

Delivering restorative justice is a statutory duty for YOTs. Restorative justice is offered at all stages of the criminal justice system from community resolutions through to custodial sentences for the most serious offences (although cases where the sentence is a fine or conditional discharge may not be picked up, and some but not all YOTs offer pre-sentence restorative justice). *'All harmed people are given the opportunity to participate in a restorative intervention. They have a right to information, learn about the progress of the child who has offended against them.'* Cases might not always progress, for example if it isn't possible to gain consent, or a case is so old that people are no longer interested. One YOT limits its victim contact to a phone call for OOC cases due to the number of cases and capacity.

Victims' wishes may be included in decision making in OOC panels. Some YOTs are able to offer restorative justice for other disputes including young people on the cusp of offending, such as preventative work for ASB or criminal exploitation and diversion from the CJS for young people in care to avoid placement breakdown and criminalisation.

None of the YOTs have blanket bans for specific offence types. YOTs consider each case on an individual basis and undertake careful risk assessments, taking into account

risk of further harm, issues of neurodiversity and trauma (including secondary trauma) and the motivation of those wishing to be involved. *'We do not exclude any young people based on the offence or type of intervention, however in relation to offences of domestic violence or sexual violence, in addition to seeking the views of the victim, the Restorative Practitioners would be expected to consult with their manager as to the appropriateness. This could also include consultation with case managers and other agencies. A risk assessment would also be completed to support decision-making.'* Rather than excluding a crime of DA, for example, there would be a higher level of risk assessment to identify the potential of the process being used for coercive control, rather than precluding the restorative intervention without exploring its potential benefit. Sensitive and complex cases require training; some YOTs have good capacity, whilst one or two could do with further specialist training to manage HSB and DA cases, for example. YOTs work in partnership with organisations such as Victim Support and Probation's Victim Liaison service to ensure that there is no duplication for victims.

YOTs are hugely creative, offering a range of innovative restorative processes going far beyond just delivering restorative meetings, and it is recognised that the pandemic brought in fresh ideas. This might include reparation, victim awareness work, using a pseudo victim, victim circles and groupwork and widening the view of victim to offer restorative justice for families and the community. One YOT starts with a restorative family meeting for every child coming into the service. YOTs are aware of potential benefits of restorative justice in terms of increasing community cohesion, victim satisfaction, reduced offending and victim closure.

EDI:

'Questions around equality, diversity and inclusion are central to the restorative risk assessment process in ensuring that victims and young people can fully participate in a restorative process.'

YOTs are quite good at addressing issues of equity, diversity and inclusion. They recognise the damage caused by discrimination based on a person's identity, and note that people with protected characteristics often report having poor experiences of the criminal justice system in general. They are informed by reports by the Restorative Justice Council and HMIP into the experiences of black and minority ethnic children in the criminal justice system and are aware of the issue of disproportionality. Practitioners aim to be respectful and meet the diverse needs of both young people and

victims, for example a Welsh YOT that offers a service in both English and Welsh Inclusion and accessibility for all are seen as key principles of restorative justice, and YOTS seek to remove any barriers to accessing their service. Restorative practitioners can access relevant training and work to VCOP and RJC standards and guidance, and most report having the resource to do this well. *'Over the past years we strived to ensure our service is fair, inclusive, neutral and balanced. If we cannot provide the service to meet the individuals needs we aim to find the people who can and invite them to be a part of that process.'*

YOTS aim for their workforce and volunteers to reflect the diversity of the community they serve, which is not easy. Many have just one restorative practitioner and can't select a worker, for example by ethnicity or gender to match a client's needs. They may not always know the ethnicity and vulnerabilities of the victim when contacting them initially, including their preferred language and recognise the risk that services will work with those who are easier to reach. They try to adopt creative ways of working that engage with seldom heard communities and individuals where there may be trust issues or lack of understanding of restorative justice. They recognise that further practice is needed to improve skills in reaching out to communities and cultural groups to involve them in restorative work. *'[My] YOS is working hard to reach out to the borough's*

diverse cultural groups and involve them in restorative work. However further practice is needed to improve our skills to reach people from various background and be able to communicate the positive effects of RJ.'

YOTS consider diversity in the widest sense, adopting a neuro-diversity and trauma informed approach leading to thorough assessments and practice tailored to those needs, for example managing the expectations of both parties to avoid further harm if a participant has limited communication skills. They can draw on a wide range specialist services including CAMHS, Speech and language therapists, victim services, community groups, social care, youth work and translation services which can provide support during and after the restorative process. *'The delivery of the service is always influenced by equity, diversity and inclusion to ensure that any barriers to accessing the service are identified and addressed, taking into account legislation and safety measures.'*

Some but not all YOTS collate data on diversity in relation to restorative justice and are able to look at patterns of offending, to better understand the needs of different people and offer support to encourage engagement in restorative interventions. There isn't consistency in data collection and its use in relation to EDI.

