



Barriers and Solutions to Restorative Justice delivery in England and Wales Report summary – October 2015

The report aims to set out the barriers to Restorative Justice in order to inform policy, stimulate good practice and propose workable solutions. Why me? has compiled it with the intention of developing and debating the following points with politicians, practitioners and crime victims in order to contribute to our wider aim: increasing access to Restorative Justice for every victim that wants it.

We have grouped the barriers into four main themes, which are summarised here along with associated recommendations

1. Data, statutory obligations and legislation

1.1 Data sharing

For the Restorative Justice (RJ) process to start, contact details and important information about both parties is needed. This information usually needs to be provided by offender agencies or Police Forces to the RJ provider.

All too often this doesn't happen because of historical restrictions or a lack of trust between the agencies. The result? Too many opportunities to provide RJ are lost and victims miss out.

We recommend the setting up of a national data-sharing template endorsed by the Ministry of Justice and promoted internally in major agencies, and externally by the Restorative Justice Council.

1.2 Lack of reliable information and training

Sometimes Police Forces and offender agencies, which hold the data, offer to make initial contact with a victim to ask if they want to participate in RJ. While this is done with the best of intentions, evidence has shown that if the call is made by a trained facilitator, the take up rate is much higher.

We recommend that the Ministry of Justice (MoJ) continues to fund third sector organisations to address this skills and awareness gap, especially in relation to the existing Victim Code and in order to leverage statutory investment in RJ.

1.3 Underdevelopment of referral systems

There is a lack of understanding and clarity about what stage in the criminal justice system restorative interventions can be used. RJ can easily get “lost” resulting in inefficiency and missed opportunities.

We propose the setting up of distinct and clear referral systems to show how RJ can be used at each stage of the criminal justice process.

1.4 Lack of clear responsibilities for Criminal Justice Agencies

RJ is in danger of getting sidelined because there is no obligation on Criminal Justice agencies to refer. There is a risk that Government money and investment in RJ could be wasted.

We recommend further research into what mechanisms can be introduced to ensure RJ is offered whether through policy changes or secondary legislation.

2. Public understanding and victims of crime

2.1 Inadequate and insufficient information and support for victims

Many bodies – including Why me? – have worked hard and with some success for increased recognition of the benefits to victims from taking part in RJ. Myths and misconceptions are prevalent and many victims are blocked, when they request it.

We propose that the right to information about RJ be embedded in a Victims’ Law, and that a sustained public media campaign is used to promote good news stories.

2.2 The difficulties in reconciling protection of victims with their right to know about RJ

Some victims agencies in seeking to protect victims from further harm have been reluctant to offer RJ and have been oppositional to the process. This has especially been the case with domestic violence and sex offence cases. Without the best training and information, RJ can be viewed as a risk for victims and appear to be all about the offender’s needs.

We recommend that the MoJ funds training and awareness courses for victim agencies and that services working with victims of domestic violence and sex offences be involved in developing best RJ practice and in deploying it. And that contractual obligations to inform and engage victims in RJ are introduced to victim agency contracts.

2.3 The impact of Transforming Rehabilitation on Restorative Justice rollout

Challenges presented by the introduction of Transforming Rehabilitation

New people in post in the restructured National Probation Service and Community Rehabilitation Companies may not be trained or understand about RJ referrals.

We recommend that the MoJ commissions an annual independent monitoring report on RJ provision by the PCCs, the National Probation Service and CRCs.

2.4 Professional silo-working as a barrier to information and knowledge about RJ

RJ works best where different agencies collaborate. People are less likely to proceed with RJ if they feel they're being passed from agency to agency.

We recommend that the MoJ establish guidance on success factors for RJ in PCC regions and that they provide expert advice and funding to PCCs to establish RJ partnerships.

2.5 Funding-led restrictions on which agency can provide victim-led and offender-led RJ

RJ money goes to PCCs for victims and to CRCs for offenders. These need to be joined up.

We recommend that the MoJ expert group consider the consequences of this and make recommendations to Ministers.

2.6 Lack of understanding in Criminal Justice agencies about working with victims

Working with victims of crime is not traditionally been the domain of the Criminal Justice sector. The holistic TR approach challenges this and may yet bring innovative approaches which will address victims' needs. In the meantime, there is a danger that victims will be revictimised if not handled sensitively by trained staff.

We recommend that targeted communications directed at professionals about dealing victims are produced and that the MoJ funds development of victim awareness RJ courses aimed at Police Forces, prison staff, CRC and probation staff.

3. The role of Police Forces and Police and Crime Commissioners

3.1 Challenges of implementation in PCC regions

RJ provision is patchy across PCC regions and can be confused with Community Resolutions. Some PCCs are still at commissioning stage.

We recommend that the MoJ continue to make the small but useful central investment in RJ implementation and awareness support for PCCs for a further year. We also recommend that the post dedicated to promoting RJ to PCCs remains filled.

We also recommend that multi-agency collaboration is promoted to PCCs and that senior PCC and police leadership buy-in is secured by MoJ and third party agencies.

3.2 Police Forces using RJ incorrectly as Community Resolutions

"Painting fences and saying sorry". It's not RJ.

We recommend a public awareness campaign about how RJ works (see above) and support by the MoJ for the education and awareness of PCCs and police staff.

For the full report, please download a copy from our www.why-me.org website or email lucy.jaffe@why-me.org.