A new way of Doing Justice


Restorative justice is, quite simply, better justice. It has the potential to transform our justice system by enabling people to ‘Do Justice’ themselves, rather than simply having it done to them, by:

- putting victims and communities, the people really harmed by a crime, centre stage, giving people the right to their say, to communicate, to get answers and justice that means something
- challenging offenders with something that court alone rarely offers - an insight into the real human impact of their crime, the chance to take responsibility and the motivation to change
- providing personalised justice, with the back-up of the courts and the advice of criminal justice professionals, restorative justice (RJ) provides justice that means something, that works for the people directly affected by a crime, including the offender themselves
- reclaiming justice for communities by building community ownership of justice outcomes

Restorative justice is effective justice – for victims, offenders and communities. It is also efficient justice; cost savings have been demonstrated at every stage of criminal justice. On an individual level, RJ restores the victims and communities who take part. Mainstreamed, as it has been in Northern Ireland Youth Justice, it restores much needed balance to the Criminal Justice System, which for too long has alienated the victims of crime and shut them out.

The Government has made clear its commitment to developing the use of restorative justice at all stages of the Criminal Justice System (CJS). We commend the breadth of vision for restorative justice in *Breaking the Cycle*, and encourage the Government to be radical in statutory reform, giving all victims of crime – both victims of adult and young offenders – the option of participating in RJ whenever an offender pleads guilty. This Restorative Justice Council1 response to *Breaking the Cycle*, on behalf of all RJC members, covers 6 key issues:

1. Restorative justice – effective justice
2. Restorative justice – efficient justice
3. First Principles
4. Assuring quality outcomes, for victims communities and offenders, through quality delivery
5. What’s needed now
6. A new way of doing justice – conclusion and key recommendations
1. **Restorative justice – effective justice**

1.1 There has been longstanding acceptance of the international evidence that RJ meets the needs of victims. The independent evaluation of restorative justice by Professor Joanna Shapland, showed that:

- 70% of victims of serious offences by adult offenders chose to participate in a face-to-face restorative conference when this was offered to them
- 85% of victims who participated said they were satisfied with the process; RJ reduced the post-traumatic stress symptoms for victims of serious crime
- In Northern Ireland, where RJ is the normal response to youth offending, 80% of restorative conferences have a victim present; 70% of the community support RJ as an effective and appropriate response to youth offending

1.2 By engaging victims and communities in the response to crime, RJ builds local ownership and confidence that justice is being done. National and local media coverage is increasing public understanding of how RJ challenges offenders and meets the needs of victims, and the fact that RJ is rarely used as a stand-alone intervention – RJ leads to reparation, and motivates offenders to engage with the other elements in their sentence.

1.3 The development of RJ in this country has been held back by a lack of consensus around whether RJ reduces re-offending. Despite publishing the evidence that RJ reduces the frequency of re-offending, leading to £9 savings for every £1 spent on RJ, under the previous Government the line was that the evidence on RJ was ‘inconclusive’. This was because the sample size was too small to show an impact on the binary measure (did the offender re-offend at all or not?), although the results on this were positive; and because although the evidence showed RJ reduces the frequency, or volume, of re-offending, it didn’t say by how much. Despite accepting the very strong evidence for victim benefits, the view that the evidence in relation to re-offending was ‘inconclusive’ was used to justify inaction.

1.3 With the arrival of the Conservative-Liberal Democrat Government and the Coalition’s *Programme for Government* (May 2010) Ministers directed Ministry of Justice analysts to go back to the raw data behind the Shapland 4th Report, to run a further meta-analysis of the data. This shows that restorative justice, when used with serious offences, committed by adult offenders, led to a reduction of 14% in the frequency of re-offending. That is 14% less crime, 14% fewer victims following RJ. This finding was published in the evidence report published alongside *Breaking the Cycle*.

1.4 Our CJS agencies – Police, Probation, Prison Service, Crown Prosecution Service and the Courts – now have the evidence they need that RJ reduces re-offending by at least 14%. This is complemented by a growing evidence base from restorative policing and from Northern Ireland, of reductions in recidivism following RJ. On this basis, CJ agencies can have confidence in transferring resources at local level into delivering RJ to reduce crime, meet the needs of victims and local people and, critically at the present time, save CJS resources longer term.
2. Restorative Justice - efficient justice

2.1 In addition to the strong, and growing, evidence-base that restorative justice is uniquely effective in meeting the needs of victims, offenders and communities, there is also growing evidence that RJ provides more efficient justice, delivering cost-savings at every stage of the Criminal Justice System.

2.2 Professor Joanna Shapland’s Fourth Report showed that, through reductions in re-offending alone, RJ saved £9 for every £1 spent on RJ. This cost-benefit calculation was based on the Home Office model for the full cost of crime, including costs to the criminal justice system, health service and employers, as well as to individual victims.

2.3 The Youth Restorative Disposal evaluation (unpublished, 2010) found that a YRD saved £400 every time it was used instead of a Reprimand. ACC Garry Shewan, ACPO lead on restorative justice, surveyed all the forces currently using restorative justice. Forces across the country reported equivalent savings when using RJ as an alternative to caution for adult offenders.

2.3 The Community Justice Panel in South Somerset takes 29% of its cases referred as an alternative to prosecution from Avon and Somerset Police. In Northern Ireland, where RJ is the mainstream response to youth offending, 52% of all youth conferences are cases referred straight to RJ by the prosecution service.

2.4 Case law and research evidence suggests that, delivered pre-sentence for adult offenders, restorative justice leads to changes in sentencing patterns. The Restorative Justice Council and Victim Support have shown that, used in just 70,000 cases with serious offences (burglary, robbery and violence) by adult offenders, RJ would lead to cashable cost savings to the CJS of £600 million over two years. Post-sentence restorative justice has also been shown to deliver parallel reductions in re-offending as well as the potential for impacting parole decisions.

2.5 Restorative processes have also been shown to reduce post-traumatic stress symptoms for victims of serious crime; the cost-benefits of this reduction for employers and the NHS have yet to be calculated. Restorative justice provides more effective justice, and has also been shown to deliver more efficient justice at every stage of Criminal Justice from low-level offences within our communities to pre- or post-sentence for more serious crime. Given its potential to radically transform our justice system, putting power back in the hands of victims and communities, with statutory agencies providing oversight, we now turn to four key principles which must underpin reform.
3. First Principles

3.1 In thinking about building in access to restorative justice at all stages of the criminal justice system, it is helpful to establish some key first principles about what Government wants to achieve. Establishing these at an early stage is important, as they help to guide and underpin reform. Echoing and articulating many of the messages in the Green Paper, we would argue these should be:

1. **Victims should have access to restorative justice – the right to meet and communicate with the offender**, subject to safety checks, no matter what the criminal justice sanction, or decision applied to the offender. Similarly, access to RJ should not normally be limited to particular offences, courts, or sentences. Whilst at this stage it may be necessary to place some limitations on access, the principle of universal victim access to RJ should be the long-term aim.\(^{15}\)

2. Where a victim wants to participate, there should be a presumption of inclusion for all offenders, again subject to safety considerations. Every offender should be given the opportunity to take responsibility for the impact of their actions and make amends to the people most directly harmed by them. Again, this would imply making access to restorative justice as wide as possible, not limited to particular offence types or offences of a particular level of seriousness.

3. A third **key principle is that of voluntarism**. Victims must always be clear that the choice to participate in restorative justice is theirs. Decisions about the criminal justice outcomes of the case must always lie with the CPS or sentencing judge, not with the victim. Similarly for offenders, participation in an RJ process must depend on acceptance of responsibility and informed choice. There is a risk of re-victimisation if offenders are ‘sentenced to restorative justice’ without being informed and their consent obtained to what this entails – meeting the victim and making amends for their offence.

4. Fourth, and finally, the evidence and practice developments show increasingly clearly when and how restorative processes work. A clear definition\(^{16}\) and service-delivery model for restorative justice are essential to ensure that what is offered to victims and offenders is what works. **Quality assurance is critical**, for the safety of all involved; to ensure public confidence in the process; and because the evidence shows that the strongest outcomes (both in terms of victim satisfaction and reductions in recidivism) are found when restorative processes are delivered to a high and consistent standard\(^{17}\).
4. Assuring quality outcomes, for victims, communities and offenders, through quality delivery

4.1 The evidence shows that it is not the agency, nor the professional background of the facilitator, nor the offence type, that leads to positive outcomes, but the quality of facilitation, including the quality of preparation and follow up with all participants. Both volunteers and employees in a wide range of agencies can deliver a good restorative process, if their initial training is good and the skills and ethos of their work are supported and maintained by the agency.

4.2 Restorative processes, managed and facilitated well, meet the needs of everyone most affected by a crime or incident of harm; done poorly, there are real risks of re-victimisation. The evidence also shows where RJ can go wrong when, for example, the facilitator is not impartial; where risk and safety have not been managed well; where communication difficulties, or disagreements about the facts of a case, have not been dealt with during preparation for a meeting; where there is a lack of follow-up to support the offender in completing the plan; or where there is a lack of feedback to the victim.

4.3. For restorative practice to be effective it must be ethical, evidence-based, and rooted in the expertise of practitioners in a constantly evolving and innovating field. Quality assurance is essential, to ensure that the positive outcomes shown in research are replicated on the ground. As the independent third sector membership body for the field of restorative practice, the RJC has for 15 years worked to develop the quality assurance framework, including:

- the *RJC Principles* document – the ethical framework for restorative practice
- the RJC Trainers Code of Practice, re-published in 2011, and our Trainers Register
- developing, with Skills for Justice, the 2010 National Occupational Standards (NOS) in Restorative Practice and the pilot of a new Level 4 Diploma, based on the NOS
- publication of *Best Practice Guidance for Restorative Practice* 2011, based on the academic and practitioner expertise of an international review team, and endorsed by the Ministry of Justice, NOMS, ACPO, the Youth Justice Board, Victim Support et al
- development and creation of a National Register of Restorative Practitioners, searchable online, to ensure practitioners continuing professional development and to provide the public with transparent information and the re-assurance they look for that RJ will be a safe and positive process to engage in. Following our current consultation we will launch the register in 2011

4.4 Government can continue to support the growth of quality restorative practice, by:

- recommending that agencies use a training provider on the RJC Register
- continuing to endorse and champion the *Best Practice Guidance 2011*
- encouraging all practitioners to register with the RJC, providing the ongoing badge of their professional competence and transparent quality assurance to the public
5. What’s needed now:

i) Restorative Policing (response to Q57 and Q45)

5.1 Restorative policing has taken off across the country. Many forces are now using RJ as part of their neighbourhood policing approach, giving officers the skills to resolve conflict and low-level crime informally on the street. Garry Shewan, ACC at Greater Manchester Police and the ACPO lead on Restorative Justice, surveyed all police forces in 2010, and found that, two thirds of forces across the country are already using restorative justice in some way\textsuperscript{25}.

5.2 Evaluations from forces around the country have found that, when used as an alternative to reprimand or caution, police use of restorative justice delivers victim satisfaction, low levels of re-offending, and cost-savings to the police. The Youth Restorative Disposal evaluation found that RJ saved £400 in officer time on average, by comparison with a reprimand\textsuperscript{26}.

5.3 The police are also key partners in referring cases on to community based restorative justice providers – Community Justice Panels and Community Mediation Services. Some forces are also training officers to deal with more serious offences, including with prolific and priority offenders post-sentence.

5.4 A key recommendation in the Youth Restorative Disposal evaluation was the need for consistency in approach across police forces, to ensure that quality is maintained in both informal (street RJ) and formal restorative processes (eg conferencing)\textsuperscript{27}. To this end, police in Norfolk and in Kent, including Police Officers and PCSOs, are taking the new Skills for Justice Diploma in restorative practice as part of the pilot of the new award.

5.5 Restorative practice is taking off in policing because police officers and PCSOs can see with their own eyes that it works, providing them with more effective ways to deal with low-level crime, saving them time and giving better outcomes for victims and communities. To encourage the further growth of restorative policing, the Government must ensure that the performance framework is reformed to ensure that officers are encouraged to use their discretion, and empowered to use RJ wherever it has the potential to deliver the best outcome for the victim and prevent further offending.

5.6 The current performance framework values detections over outcomes, and encourages a formal sanction, for example in relation to hate crimes. The performance framework must of course be transparent and encourage the accurate recording of all disposals, both formal and informal. Monitoring outcomes and victim satisfaction with restorative disposals, to ensure they are delivered well and consistently, is essential to ensure that quality is maintained and that victim and public confidence in the process continues to grow. But the performance framework must also encourage officers to use their discretion as to when a formal sanction is needed, and when instead an informal RJ resolution can best meet the needs of the victim and prevent further offending.

5.7 The Conditional Caution framework should be revisited to ensure that this can be an effective vehicle to deliver RJ for adult offenders with the backup of prosecution for those who fail to comply with the process or agreed outcomes. At present there are no incentives for officers to use a conditional caution over a simple caution, or informal RJ resolution, simply due to the weight of bureaucracy surrounding it.
ii) Community-based justice and multi-agency partnerships (response to Q56)

5.8 We greatly welcome the Government’s commitment in *Breaking the Cycle* to pilot the use of Neighbourhood (or Community) Justice Panels (CJPs), based on the experience of the first few CJPs, in South Somerset and in Sheffield. This restorative justice model provides community-based RJ, as the panel members are all local volunteers trained as restorative justice facilitators, giving community ownership of justice outcomes.

5.9 Since its inception, the South Somerset Community Justice Panel has taken cases referred by the police, local authority, and housing associations. Through strong partnership working, and the confidence and vision of Avon and Somerset Police, in the last year alone, 29% of the cases referred to the South Somerset Panel were cases diverted from prosecution. Using the conditional caution as the legislative underpinning for referrals allows the back-stop of a prosecution where necessary. *Breaking the Cycle* asks what type of cases should be dealt with by Neighbourhood Justice Panels. In our view local police and CPS should be encouraged to refer to the CJP any case which they believe can be more effectively resolved through a restorative justice process.

5.10 In many areas across the country, Community Mediation Services also provide volunteers trained in community mediation to resolve crime and conflict in their local communities. Across the country, strong partnerships exist between statutory agencies and community mediation services. For example, in Kent the Community Mediation Services work with the Police, Youth Offending Team, and Probation to deliver restorative processes in the most sensitive cases, even those resulting in death. In Bromley, the police refer domestic incidents to Bromley Mediation Service’s rapid response mediation unit. In Southwark the police refer hate crimes to Southwark Mediation Centre, recognising their expertise in this area, and that for many of these offences a restorative process can deliver what a prosecution alone cannot – improved understanding and outcomes that are meaningful to both victim and offender.

5.11 In many areas, including Hull, Norfolk and Kent, restorative practice is being spread throughout the local area through multi-agency partnerships. In Hull, for example, 3,500 professionals working with children and young people have been trained in restorative practice to ensure that young people get a consistent approach to discipline and building better relationships within their community, whether inside or outside school. *Breaking the Cycle* recognises the value of restorative practices as part of prevention but the value and growth of restorative practice in schools, despite excellent results, is overlooked in November’s Education White Paper. We ask Government to champion these joined-up approaches to working with children and young people in Whitehall, as they are developing at local level.

5.12 We welcome the Government’s proposal to pilot the further use of Community Justice Panels, and encourage them to ensure investment at local level into these and other community based models of RJ. Volunteer based agencies can provide high quality and cost-effective RJ with community ownership – but they do not come free. Investment in infrastructure – management, training, overheads – is essential, to ensure that a quality service is maintained. We encourage Government to learn from the existing CJPs, to ensure that new CJPs grow on solid expertise, and existing community-based models of restorative justice, the embodiment of the Big Society in relation to Criminal Justice, have their funding secured and maintained at local level.
iii) Reforming Youth Justice, learning from Northern Ireland (response to Q49)

5.13 We welcome the Government’s proposal to increase and improve the use of restorative justice within our Youth Justice System, learning from Northern Ireland’s Youth Conference Service. The success of the Northern Irish model has been highlighted both by the Prison Reform Trust and the Independent Commission on Youth Crime. Youth Conferencing was brought in by the Justice (Northern Ireland) Act 2002, and since then almost all youth crime in Northern Ireland is dealt with through a restorative justice process, the Youth Conference.

5.14 There are many advantages to the Northern Ireland model. The Youth Conference is available both as a diversionary option and as the default option for almost all youth offending in the courts. Therefore, the principles of giving all, or almost all, victims of crime access to a restorative process, and of requiring all offenders to take responsibility and make amends, are immediately met. Youth Conferencing is an evidence-based approach, providing the same high quality of service to victims and offenders irrespective of crime type and irrespective of whether a case is diverted from prosecution or sent to court. It enjoys the confidence of the judiciary, as they see, amend if necessary, and approve all court-ordered youth conference plans.

5.15 Through excellent preparation work with both victims and offenders, victim participation rates (including direct victims, family representing the victim, and business/community representatives) in Northern Ireland Youth Conferencing are 70%; this compares with an average of around 10% victim participation in Referral Order Panel meetings in England and Wales.

5.16 In policy advice provided earlier this year with the Prison Reform Trust and the Independent Commission for Youth Crime, we pointed out that the simplest and most effective way to build the strengths of the Northern Irish approach into our Youth Justice System would be to adopt provisions in the Justice (Northern Ireland) Act 2002 wholesale, delivering diversionary and court-ordered youth conferences through our Youth Offending Teams (YOTs). The only significant amendment we would propose is that the role of volunteer community Panel Members should be maintained and built upon either as Panel chairs/facilitators (see below), or to represent the views of the local community at the panel meeting. This would give England and Wales legislation that is fit for purpose rather than, as many restorative justice practitioners in youth justice feel they have to do at present, having to ‘make the best of a bad job’ under our existing legislation.

5.17 If Ministers choose instead to adapt our existing legislative framework for youth justice in England and Wales, significant changes to legislation and guidance will be needed to mirror the quality of restorative justice provided in Northern Ireland. The necessary reforms would include:

- Widening CJS entry points to Referral Orders by ensuring that a) CPS or the Police can refer cases directly to the panel, enabling diversionary use of restorative justice, and b) that the Courts can give a Referral Order in any case with a guilty plea, not just first or second time offences

- Clear guidance and requirements from MoJ around a) the training of Referral Order Panel Chairs (which could either be the YOT professional or the Community Volunteer – the key requirement should be the training standard) and b) panel practice, for example making clear the requirement for face-to-face preparation with
both victims and offenders prior to panel meetings, and follow-up with both victim and offender after panel meetings (as in Northern Ireland)29

- Building on the role of panel volunteers, either as Panel Chairs (facilitators) where their training and time available allows them to facilitate the whole restorative process; or, where they only have the time or training to attend the meeting itself, to represent the wider community at the panel meeting. This replaces the role of the police officer within the NI model, and builds on the existing role of panel members as community representatives

- Ensuring that in all court-ordered Referral Order Panels, the court has the option to see, where necessary, amend and agree the plan/contract reached with the young offender. This would mirror the Northern Ireland model and, along with the improvements to delivery outlined above, give sentencers greater confidence in the Referral Order as a robust disposal

- Strengthening Referral Orders by making it clear in legislation that the victim has the right to attend, and that, when used with more serious offences, the content of the agreed conference plan/panel contract for the young offender may mirror that of a Youth Rehabilitation Order. This will ensure that plans are robust and effective in reducing re-offending as well as repairing harm

- Considering a change of name for Referral Orders and Referral Order Panels to reflect the extent to which this process has been strengthened to make them genuinely restorative

- The legislative framework to deliver youth conferencing more widely through the Youth Rehabilitation Order already exists as an option with the Activity Requirement, which ‘may consist of or include an activity whose purpose is that of reparation, such as an activity involving contact between an offender and persons affected by the offences’. However, being optional, this is currently rarely used. Making this a default option within the YRO for all cases with a guilty plea would mirror the legislation in Northern Ireland

- Where the court chooses a Youth Rehabilitation Order with Youth Conferencing, it should be made clear that all the existing requirements of the YRO would be available as options for the conference plan, and that as in Northern Ireland, the YOT staff would provide professional advice on the most effective options suitable for the contract. This would ensure that the integrity of the conference in drawing up the conference plan/panel contract is retained, whilst giving sentencers confidence in the conference plan content. The proposed mechanisms, set out above, for the reformed Referral Order could also be utilised here: agreed plans/contracts could be returned to court for sentencer amendment/approval; and youth offending teams could utilise the same panel of volunteers to deliver conferences under the YRO. Consideration should also be given to the development of youth conferencing for victims of young offenders who receive custodial sentences.
iv) Restorative justice for victims of adult offenders (response to Q3, 32 and 44)

5.18 Although in recent years police forces have started to use restorative disposals as a response to low-level crime by adult as well as young offenders, in general, provision of restorative justice for victims of adult offenders has lagged well behind provision in the Youth Justice System. Despite excellent provision in some areas of the country, overall, we estimate that at present less than 1% of victims of adult offenders currently have access to restorative justice. We welcome the fact that Breaking the Cycle sets out proposals to increase the use of RJ with adult offenders (p22).

5.19 Breaking the Cycle envisages developing the provision of restorative justice for victims of adult offenders at three key points in the system: as an informal police-led disposal for less serious offences (see 5 iii of this response); as an alternative to prosecution; and pre-sentence, to inform sentencing.

5.20 For victims of adult offenders, pre-sentence RJ should be the primary delivery point for offering RJ in the adult criminal justice system. This is because RJ as an alternative to prosecution – which should still be an option for the CPS/Police (eg to refer to a Community Justice Panel) – is currently likely to be acceptable to society only for more minor offences by adults, whereas diversion from Court for young offenders (which we recommend above) has widespread support in Northern Ireland.

5.21 Offering RJ at the pre-sentence point for more serious offences makes it clear to the public and to the judiciary that these offenders will still come back to Court and receive an appropriate sentence, and that the final decision about their sentence remains squarely with the judiciary. Unlike with Youth Conferencing, pre-sentence RJ for adult offenders would not seek to replace the sentencing options before the Court, but to inform sentencing decisions. Decision-making about use and length of custody should always remain at the discretion of the Judge.

5.22 In modelling provided to the Government in 2010, the Restorative Justice Council and Victim Support showed that, based on the MoJ/Shapland evidence, if restorative justice was provided pre-sentence for victims of serious offences – burglary, robbery and violent offences – it would lead to £185 million cashable cost-savings to criminal justice agencies through reductions in re-offending alone. Further savings would be made through changes in sentencing patterns.30

5.23 Pre-sentence restorative justice has been shown, both by the Northern Ireland Youth Conference Service and through the MoJ/Shapland research, to be entirely workable both in adult and youth justice. The Irish Government Commission on restorative justice examined the international evidence and legislative arrangements for RJ. Its final report recommended that RJ be delivered primarily at the pre-sentence stage for adult offenders, with post-sentence restorative justice available as a back-up.31

5.24 At present a restorative process is available in a few areas post-sentence through the pioneering work of the Thames Valley Restorative Justice Service, as an activity requirement of community sentences in Thames Valley; and in Gloucester Prison for offenders sentenced to custody. Some Probation Victim Liaison Units offer restorative processes as part of their statutory service to victims of offenders sentenced to more than 12 months in custody; in some areas Probation Services will refer cases to local Mediation Services. Organisations like Prison Fellowship, SORI, and the Forgiveness Project provide courses in prisons based on restorative principles, which
often lead to offenders wanting to make amends to the victims of their crimes; restorative processes are also used to resolve conflict within custodial settings. There is huge potential to expand the use of RJ in custody.

5.25 Post-sentence RJ should be available in custody and alongside community penalties for all cases where the victim requests it and where RJ is not possible at the earlier point, including for victims whose offender only accepts responsibility for their actions post-sentence and for victims for whom pre-sentence was too early in their recovery process (e.g., victims of the most serious crimes).

5.26 Police-led RJ for minor offences has taken off without the need for legislation or targets because the police can see for themselves its effectiveness, and cost-savings are immediate and direct to the police. At later stages in the CJS the benefits are spread across agencies – cost-savings from pre-sentence restorative justice for example are spread across police, prison, probation, CPS and the Courts. The cost-incentives to deliver RJ are system-wide, rather than falling to a single agency. Therefore, legislation is needed to incentivise the delivery of RJ for more serious offences.

5.27 New legislation should provide victims with the right to be offered a restorative process whenever an offender pleads guilty at Court and is willing to participate. Legislation could take the form of a distinct Act, or clauses within a wider criminal justice Act, with the particulars of responsibilities and delivery mechanisms defined in secondary legislation. This statutory duty on local criminal justice areas to offer RJ to victims of crimes where the offender pleads guilty would leave local areas free to determine their own delivery mechanisms appropriate to their own context and locality, building on existing arrangements and partnerships and encouraging community ownership and engagement. Referral to an RJ provider would be triggered by a CJS agency (police or probation) when an offender pleaded guilty/admitted responsibility for the offence.

5.28 An enactment clause should enable trials of new legislative provision first in areas with a strong track record of delivering restorative justice, allowing time for evaluation, lessons to be learned and services developed to quality standards in other areas, before national enactment. Clear guidelines and training will be needed for the judiciary to ensure understanding of restorative processes, and clarity about how restorative processes and outcomes should be taken into account in sentencing. Case law and experience internationally can guide these developments. The RJC welcomes the opportunity to work with Government to shape new legislation and guidance, in consultation with the judiciary, to underpin the development of pre-sentence restorative justice.

5.29 Given the evidence published by the Government for the impact of RJ in reducing re-offending, local provision for restorative processes should be included in all area service level agreements with NOMS. The NOMS Service Delivery Model for restorative processes should be the same, whether RJ is provided pre- or post-sentence.

5.30 Breaking the Cycle asks about the development of the payment by results model (response to Q26 and 27). There is scope to develop provision of restorative justice through the payment by results model, given the strong evidence base for reductions in re-offending. However, a payment by results model, which only captures the impact on re-offending, will miss two thirds of the benefits of restorative processes. As the payment by results model is developed we would strongly suggest that, if it is to be used for restorative justice, to maintain the ethos and benefits of RJ, payment should be for victim and community satisfaction results, as much as for reductions in re-offending. This is where RJ has something so unique to offer by comparison with other interventions.
6. A new way of Doing Justice – conclusion and key recommendations

6.1 Restorative justice should no longer be seen as an optional add-on to Criminal Justice, but the way we do justice in this country – giving victims and communities a voice in justice whenever they want to take part. Restorative justice – giving victims a role and a voice in justice – is not optional; it is real, effective justice that means something to the people most impacted by crime.

6.2 The Government’s vision is for a transformed Criminal Justice System. *Breaking the Cycle*, and Ministers themselves, have made clear that their aim is for restorative justice and restorative principles to be embedded in the criminal justice system as a whole and operating at every part of the criminal justice system. Our response highlights the particular questions in *Breaking the Cycle* where RJ has something to offer; but we would emphasise that this is about system-wide transformation – RJ has something to offer at every stage of justice.

6.3 There are four key things that Government needs to do now to bring that vision to reality:

- First, Government must abandon the performance and target culture which stopped police officers from using their discretion to find solutions that meet victim’s needs, and prevent future offending. We need a performance culture which encourages police to use their discretion, whenever RJ can provide a better outcome.

- Second, to encourage community-based justice the Government must ensure that local and community based agencies – including Community Justice Panels – are given the infrastructure funding and support to grow. Volunteer and community based RJ are the essence of the Big Society vision in the Criminal Justice arena – but can only grow with secure funding for infrastructure at both national and local level.

- Third, our Youth Justice legislation needs radical reform to bring it into line with that of Northern Ireland, and make restorative justice the normal response to youth offending. Legislation should make clear that RJ, delivered to national standards, is the default option, and should be offered to all victims whenever the young person pleads guilty and agrees to participate in the process. CPS/Police should also have the option to refer straight to RJ as soon as an offender accepts responsibility for the offence, as in Northern Ireland.

- Fourth, for victims of adult offenders, legislation must place a duty on CJJ agencies to offer restorative justice, delivered to national standards, to all victims of crime pre-sentence, whenever an offender pleads guilty and agrees to participate in the process. Government should also ensure that victims have access to restorative justice post-sentence.

6.4 The Restorative Justice Council is the independent Third Sector membership body providing quality assurance and the national voice for restorative practice. Our members are the agencies and practitioners delivering restorative justice across the country, and their expertise informs this response and all our work. On behalf of RJC members, we welcome this Government’s commitment to developing restorative justice, and look forward to working with Government, and with our members and partner organisations nationally and at local level, to bring the vision of a new way of doing justice, outlined in *Breaking the Cycle*, into reality.
The Restorative Justice Council is the independent third sector membership body, providing quality assurance and the national voice for restorative practice. Our website is www.restorativejustice.org.uk


8. Independent academic exerts believe the impact of RJ to be even higher – an alternative form of meta-analysis, with a p-value of 0.06 (94% likely to be replicated) showed the impact on re-offending as a 27% reduction in the frequency of re-offending.


10. Op cit 7


15. The evidence shows that RJ works equally well if not better for women as well as male offenders; for victims and offenders of different ethnicities; and perhaps particularly well for women victims of serious offences. Sherman, L.W.

16 Restorative Processes bring those harmed by crime or conflict and those responsible for the harm into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward.


18 Shapland Third Report op cit 2

19 Ibid


23 Best Practice Guidance. Op cit 17


25 Op cit 12

26 Ibid

27 ACPO advised on and has endorsed the RJC 2011 *Best Practice Guidance for Restorative Practice*; and the RJC has contributed to the forthcoming ACPO toolkit – which will set the performance framework for police use of restorative practice.


29 Guidance for panel practice should be based on the 2010 National Occupational Standards and 2011 RJC Best Practice Guidance for Restorative Practice. Panel Chairs (whether YOT professionals or volunteers) should be supported to take the new Skills for Justice Diploma in Restorative Practice and register with the RJC as a Restorative Practitioner, to ensure the ongoing quality of restorative practice in panel meetings.
