

**Working with black, Asian
and minority ethnic children
in the youth justice system:
A guide for restorative justice
practitioners**



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About the Restorative Justice Council

The Restorative Justice Council (RJC) is the independent third sector membership body for the field of restorative practice. It provides quality assurance and a national voice advocating the widespread use of all forms of restorative practice, including restorative justice. The RJC's vision is of a society where high quality restorative practice is available to all. The RJC's role is to set and champion clear standards for restorative practice. It ensures quality and supports those in the field to build on their capacity and accessibility. At the same time, the RJC raises public awareness and confidence in restorative processes. The ultimate aim of the RJC is to drive take-up and to enable safe, high quality restorative practice to develop and thrive.

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Introduction

This brief guide for practitioners is based on the findings from the eight-month research project entitled Restorative justice and black, Asian and minority ethnic children in the youth justice system (YJS). Funded by Barrow Cadbury Trust, this study aimed to explore black, Asian and minority ethnic (BAME) children's access to, and experiences of, restorative justice. One of the aims of the project was to develop an evidence-based set of recommendations for the effective use of restorative justice with BAME children who have offended, with a view to increasing the number who access restorative justice and improving the experiences of those who do.

More details about the research, and the full findings, are contained in the research report, which is available on the RJC's website. Some of the findings, however, had particular relevance for frontline practice, and this document specifically highlights those recommendations. It is intended to be helpful for practitioners who are managing restorative justice cases that involve BAME children in order to foster effective and ethical working approaches.

Context and background

There are acknowledged problems in the way data about ethnicity is collected and reported within the YJS. Despite limitations in the available data, it is widely accepted that BAME children are over-represented in the YJS. BAME children are more likely to be arrested than their white peers, accounted for 18% of all first-time entrants into the YJS in the year ending March 2015 compared to 15% in the year ending March 2010, and are more likely to be tried at Crown Court rather than the Magistrates' Court. In the decade to 2015, the proportion of BAME children remanded or sentenced to custody rose from 25% to almost 45%. Research also suggests that BAME groups have poor experiences in the criminal justice system.

There are also differences in the types of offence that children enter the YJS for across ethnic groupings. Black boys and boys of mixed ethnicity are, for example, more likely to be arrested for robbery than white boys, while black girls are more likely to be detained for robbery than white girls. Black and mixed race children are more likely to receive a disposal for an offence of violence against the person compared to other groups. BAME children in the YJS may also have specific needs. A greater number of BAME children in the YJS come from a low-income family, live in poor housing and are disengaged from education, for example, while black children are more likely to have mental health issues than their white counterparts.

Treatment of BAME children by the YJS, or their perceived treatment, can lead to a mistrust of the police and the system as a whole. Mistrust of the justice system may contribute to the fact that BAME children who have offended are less likely to plead guilty than white children and are also more likely to give 'no comment' interviews when arrested. This may mean that BAME children are not offered diversionary opportunities. It may also have an impact on participation in restorative justice, which requires the offender to admit guilt before they can participate.

There are, however, a range of further issues that may impact on the extent to which children, and BAME children in particular, are able to access restorative justice. There is, for example, a lack of clarity within the YJS about what constitutes restorative justice.

Parental attitudes towards restorative justice within BAME communities may also have an impact on whether children who have offended agree to take part, while the issue of shame may also be significant (particularly, potentially, for BAME girls from certain cultures).

The research study, through interviews with practitioners and children who had offended, explored these issues in more depth and looked to ascertain the extent to which they impacted on BAME children's access to and experiences of restorative justice. The findings are summarised below.

Findings: Practitioners' perspectives and experiences

The perception among most practitioners was that BAME children have the same opportunities to access restorative justice interventions as non-BAME children. For those practitioners who did feel that there were particular issues in engaging BAME children in restorative justice, however, a number of issues were identified.

The first was mistrust of the YJS as a whole and of the police in particular. Linked to this, practitioners also suggested that BAME children were being advised by their legal representatives not to comment during police interviews and not to plead guilty in court (an issue discussed in the report of Charlie Taylor's recent review of the YJS). This may be a barrier to accessing restorative justice.

Potentially linked to the issue of trust is the under-representation of BAME people in the YJS workforce. The interviews with practitioners suggested that in areas where there is a high BAME demographic, this is reflected in the workforce but in areas with a lower proportion of BAME people in the population, this is also reflected in the composition of the workforce and leads to fewer BAME staff. In the latter areas, interviewees suggested that this might have a negative impact on their work with BAME children. All practitioners recognised the need for cultural awareness, however, and practitioners suggested that a lack of staff diversity could be addressed, at least in part, by providing staff with training to give them the skills and confidence to work with BAME children and their families.

The use of the term 'restorative justice' was itself identified as a potential barrier, with children either not understanding it or associating it with punishment. In order to address this, practitioners reported that they are using alternative ways to describe the process. The person within the YJS who makes the offer of restorative justice is also significant. There may be particular issues with the police, and practitioners felt that restorative justice is better offered by YOT workers, as children are more likely to trust them. In addition, there may be benefits in YOTs and the police developing partnerships with non-statutory providers of restorative justice with links in local BAME communities to form an additional route for children who might otherwise fail to engage.

The timing of the offer is also important. Overall, practitioners suggested that restorative justice should be offered at the earliest possible opportunity, while retaining flexibility to ensure that it is not offered before the child who has offended and their victim are ready to take part. This flexibility requires sufficient resources, however, and some practitioners questioned whether all YOTs are dedicating sufficient resources to the provision of restorative justice.

A further issue highlighted by the practitioners for children taking part in restorative justice is a fear of meeting their victim. If the practitioner cannot allay these fears, then restorative justice is unlikely to take place and where BAME children do not trust the system or the person making the offer, it may make it more difficult to do so. Victims may also be reluctant to engage in restorative justice. This may be in part because the majority of victims of children are also young and may know the perpetrator, potentially making them embarrassed about taking part or fearful of reprisals. These issues will be compounded where the victim or offender is involved in gang activity, which carries specific risks and can be a barrier to participation. Practitioners should be wary, however, of unfairly associating BAME children with gang membership.

Parents are also likely to play a significant role in whether children take part in restorative justice. Practitioners reported that some parents are positive about restorative justice and others discourage their children from taking part. Some thought that parents were reluctant to let their child take part because they were reluctant to accept that they had been responsible for causing harm, while others felt that they had already been punished by formal YJS measures. In some cases, parental shame was seen as a barrier to taking part but in others it was seen as a reason to do so.

In order to address misconceptions and concerns – of parents, children who had offended and victims – about the restorative justice process, some practitioners felt that there was a need for more effective promotion of the benefits of restorative justice. It was suggested that this should include work with specific minority communities, as well as the more widespread use of restorative approaches within schools and children's services.

Practitioners also reported a lack of robust statistical data on the use of restorative justice in both pre-court and formal youth justice disposals. It was felt that it would be beneficial if this data was collated and analysed nationally in order to identify ways in which the use of restorative justice could be improved. The criticism of the current categorisations used by the Youth Justice Board (YJB) for recording ethnicity was also shared by practitioners and it was suggested that the collection and analysis of data be improved in order to effectively monitor the outcomes and impact of restorative justice used with BAME children in the YJS.

Findings: BAME children's perspectives and experiences

An important part of the research study was interviewing BAME children who had offended about their views on restorative justice. This was frequently challenging but, as the interviews progressed, they expressed strong opinions, with most children feeling that every young person should be offered restorative justice. For many, however, there were multiple obstacles to them taking it up, some but not all of which may relate to their ethnicity.

Most of the children interviewed had some knowledge of restorative justice. Many did not feel, though, that they had a good understanding of what it entailed or its potential benefits. The majority felt that when restorative justice was offered to them, there was so much else going on that they could not take it in properly. If children are being offered restorative justice but do not understand what is involved or its benefits, this will clearly be a barrier to take-up.

This suggests that the offer of restorative justice needs to be made in a way that differentiates it from other interventions, while the children interviewed also felt that parents or carers need to be engaged so that they could talk it through together. This highlights a need for resources on restorative justice for children who have offended and their parents, with the specific needs of BAME children considered in their development. In addition, some children suggested that restorative justice should be promoted by people who had already participated and that someone from a similar background would be best placed to explain restorative justice to them.

Some children felt that access to restorative justice should depend on the seriousness of the offence committed, although there was not a consensus on which types of offence are best suited to participation. Misconceptions about the use of restorative justice in response to different types of offence therefore clearly need to be addressed. As discussed previously, victim engagement is a barrier to participation, although many of the children interviewed saw participation primarily as for the victim's benefit.

As with the practitioners, a theme throughout the interviews with children was who is best placed to make the offer of restorative justice. Only one of the 25 children said they would have preferred their YOT worker or restorative justice practitioner to be of a particular ethnicity, or the same ethnicity as them, reflecting that in general the children did not cite their ethnicity as having a bearing on their opinions. There was, however, a general mistrust of, and hostility towards, the police and the majority felt the offer should be made by their YOT caseworker. This reflected the fact that in general it was clear from interviews that the children had a strong, trusting relationship with their caseworker.

Overall, the children interviewed agreed with practitioners that restorative justice should be made available as early as possible, and preferably during the court proceedings. The tendency for BAME children to be less likely to plead guilty may, however, make this more difficult to achieve. Some of the older children interviewed also suggested that restorative justice may be more effective with younger people as they were still more easily influenced.

Among the children interviewed the main motivation for taking part was to make amends to the victim. Others wanted to use it as a way of moving forward from the offence they had committed. Some boys also mentioned the impact of their offending behaviour on their mothers and how restorative justice was also a way for them to make their mothers happy. Some children who had not taken up restorative justice, however, felt that it was 'weird' and not for them, while others felt they had already been punished enough. These perceptions indicate a lack of understanding of the purpose and benefits of restorative justice.

Many of the children interviewed felt that their parents had encouraged them to take part. This highlights a need to ensure that parents have a clear understanding of restorative justice in order to encourage more children to take up the opportunity when offered. It is also important, however, for practitioners to ensure that children are not being coerced into taking part when they do not genuinely want to do so.

For those children interviewed who had taken part in restorative justice, all had found the experience to be positive. They had felt well-supported by the practitioners involved, and this was a significant factor in making the experience a positive one. The benefits of participating in restorative justice, from their perspective, included not only the opportunity to be diverted from the YJS, but also emotional and psychological benefits, including feeling relief and increased feelings of empathy for their victim.

Conclusion and recommendations

All the practitioners and all the children who had taken part in restorative justice who were interviewed for the research study felt that restorative justice has significant benefits. Some of the children who had not participated had wanted to and felt that it would have helped them. Children's awareness of restorative justice was, however, often very limited and practitioners recognised that not enough BAME children are currently participating.

Specific barriers to accessing restorative justice identified by this research are, in line with the findings of previous work, multiple and complex. Some do not relate specifically to the child who has offended and of those that do many impact on all children who have offended, regardless of ethnicity. But some have particular implications for BAME children, such as cultural attitudes towards shame or relationships with the police.

It is essential that practitioners are equipped to recognise and respond to these additional layers of complexity so that they can provide a differentiated response and thus increase engagement. With this in mind, the findings suggest that more needs to be done to ensure that the needs of BAME children are met when offering and facilitating restorative justice. The findings from this study highlight areas that need consideration by policy makers and practitioners.

Implications for practice

The following recommendations are particularly relevant for frontline practice:

Recommendations for YOTs and youth justice agencies

1. Restorative justice should routinely be made available to all children who have offended (and admitted the harm caused) as part of diversionary measures and at every stage of the justice process, including pre-sentence for those cases that go to court. For out of court disposals the restorative justice practitioner (or YOT caseworker, where no restorative justice practitioner is available) should discuss the restorative justice process with the child at the initial police meeting. If the case is going to court the restorative justice practitioner (or YOT caseworker) should discuss the restorative justice process at the pre-sentence report interview. In either case, this initial discussion should involve the practitioner gaining an understanding of the child's commitment to taking part in restorative justice and motivation for doing so.
2. Restorative justice should be offered to children who have offended as early as possible in their time in contact with the YJS, but flexibility must be retained to ensure that both the offender and their victim are ready to take part. Offering restorative justice at the earliest opportunity is important for the child in raising awareness and understanding of its benefit to them. The victim should also be involved as early as possible to ensure there are no missed opportunities for taking part in restorative justice.
3. Where restorative justice has been offered early in the justice process it should be discussed again at a later point, to ensure the offer has been understood and properly considered. It may be necessary to raise the subject on several occasions before the child – and potentially, their parents or carers – fully

understands the process and is willing to take part. If the opportunity to take part is initially rejected, carrying out victim awareness work with the child may make them more receptive to restorative justice if it is raised again.

4. Wherever possible, restorative justice should be offered to BAME children who have offended by practitioners from agencies other than the police. Mistrust of the police, which may also apply to parents and carers, can present a barrier to participation if they initially raise the subject of or offer restorative justice.

Children are more likely to trust their YOT worker, and as such information on restorative justice should ideally come from them. If the offer does come from the police, practitioners should provide as much support as possible and remain closely involved in the process.

5. YOTs and the police should consider developing partnerships with non-statutory providers of restorative justice with links in local BAME communities and support them to manage suitable cases involving BAME children on their behalf and to provide additional support to BAME children participating in restorative justice.

This should not be seen as an alternative to statutory agencies having the skills and expertise to work effectively with BAME children. It is, however, a way of ensuring that there is an additional line of support for children who are hard to engage.

6. All YOT staff, not just restorative justice practitioners, should undergo restorative justice awareness training to encourage them to recognise the benefits of restorative justice and support its potential use with children who have offended, even where they have complex needs or challenging backgrounds. Using trained restorative justice practitioners from within the YOT, a peer to peer approach can be very effective in terms of raising awareness and ensuring continuity when staff members leave and new people come in.
7. YOTs should recruit former participants in restorative justice from BAME communities to act as mentors to children who are (or are considering) taking part in restorative justice, including those who are still under the supervision of the YOTs. Children are potentially more receptive to information delivered by their peers and for the mentors, this can form part of their engagement with the YOT and contribute to their rehabilitative work. Children who have been mentored can then go on to become mentors creating a cyclical process within the YOT.

Peer mentors should, where possible, be given the opportunity to co-design the form their interaction with other children should take, including developing resources and workshops. Where a mentoring structure of this kind is working effectively, it can also be shared with YOTs in other areas.

8. YOTs should build relationships with influential figures in their local communities, and particularly BAME communities, to gain their support in promoting the benefits of restorative justice to children who have offended. This interaction would also raise awareness within BAME communities, which may help in overcoming a more general inherent mistrust of the criminal justice system.

Along with community and faith leaders the YOTs should engage youth groups and sports clubs along with local residents associations and neighbourhood watch groups to promote the benefits of restorative justice.

9. YOTs should build links with schools and other children's services in their area and hold sessions with children attending them to raise awareness of restorative justice. This may also utilise the peer mentoring structures outlined in recommendation 7. This will help with raising awareness of restorative justice among children and their parents, which in turn may also help in gaining the trust of certain BAME groups where there is an inherent mistrust of the criminal justice system. Practical and interactive workshops with the children on restorative justice should be offered by YOTs.

Recommendations for practitioners

10. Practitioners should consider the terminology used when discussing the opportunity for restorative justice with children who have offended and potentially find alternatives to the word 'justice'.

It is essential that the restorative justice process is explained clearly from the outset as misconceptions and lack of clarity can provide a barrier to the child taking part. Many children, however, associate the term 'restorative justice' with punitive formal measures, which in itself can be a barrier. It can, therefore, be beneficial to describe the process before giving it a label. Similarly, it is important to avoid using 'victim' and 'offender' labels. 'Person affected' and 'person responsible', or similar alternatives, carry less stigma and may more accurately reflect the way children see themselves.

11. Practitioners should recognise higher levels of mistrust of the justice system among BAME children and consider how to overcome them in the offer of restorative justice. As outlined in recommendation 4, the offer should not come from the police where possible. In some cases, the child may associate YOT staff with the justice system, which is why partnering with non-statutory providers of restorative justice with links in local BAME communities may be effective (as per recommendation 5).

In other cases, the child's mistrust of the justice system may be overcome by explaining that restorative justice can provide an alternative to traditional YJS interventions, and that it can have significant benefits for both the child who has offended and the person harmed. For this reason, clearly explaining the process at the outset (as per recommendation 10) is very important.

The issue of mistrust of the justice system among BAME children can also potentially be overcome by peer mentoring, as outlined in recommendation 7.

12. Practitioners should recognise that not guilty pleas are more common among BAME children and take that into account when deciding whether and when to offer restorative justice. Where a not guilty plea has been initially entered it may be difficult for the child to reverse it and their parents may also be reluctant for them to change their plea. The practitioner needs to work with the child in recognising their part in the offence and help them to identify any responsibility they have towards the person harmed. Once this has been achieved the initial discussions about restorative justice can begin.

13. Practitioners should build relationships with the parents of BAME children to ensure they have a clear understanding of restorative justice and that their influence over their child's participation, if any, is a positive one. In general most parents of all ethnicities will encourage their child to take part in restorative justice where they fully understand the process and its potential benefits. Generating this understanding is the responsibility of the practitioner (or YOT caseworker) and is as equally important as explaining the process fully and clearly to the child.

As outlined in recommendation 1, the best time to initially raise the subject is at the pre-sentence report interview stage or at the police interview stage, as parents may attend these interviews with their child. If the parents want to be involved as a restorative justice intervention progresses, home visits can be arranged to discuss the process further.

These recommendations are intended for frontline restorative justice delivery services and practitioners. The RJC has also proposed a series of national recommendations for the YJB and the Ministry of Justice, including developing training and resources for YOTs and practitioners working with BAME children who have offended.

These are available on the RJC's website within the research report Restorative justice and Black, Asian and Minority Ethnic children in the youth justice system. As and when these recommendations are implemented they should provide further support and help to ensure improved access to, and a positive experience of, restorative justice for BAME children in the YJS.



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