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Implementing restorative justice schemes (Crime Reduction Programme) A report on the first year

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The views expressed in this report are those of the authors, not necessarily those of the Home Office (nor do they reflect Government policy).

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Summary

Introduction

The report focuses on the processes of development and setting up of the three restorative justice schemes funded by the Home Office under its Crime Reduction Programme from mid-2001: CONNECT, the Justice Research Consortium and REMEDI. It describes in detail the aims and content of the schemes and their early efforts to become established. The process of setting up the schemes has taken more time than expected and some schemes did not reach what they would see as their normal, routine working until summer 2002. This report provides a record of the important initiation and implementation stages of this project. Subsequent reports will focus on the process of restorative justice, the subsequent development of the schemes and the outputs and outcomes of restorative justice, with the evaluation finishing at the end of 2006.

The definition of restorative justice adopted has been that by Marshall (1999): 'Restorative justice is a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future'. Restorative justice is an umbrella concept for a number of slightly different practices, including direct and indirect mediation and conferencing. Direct mediation is where victim and offender meet face-to-face, with a facilitator/mediator, whilst indirect mediation involves the passage of information between victim and offender, via the mediator. In conferencing, the victim and offender are brought together by the facilitator at a meeting, with their supporters/family etc. and possibly other people affected by the offence also present.

CONNECT, run jointly by NACRO and the Probation Service in London, has been working with two magistrates' courts in inner London, taking cases involving adult offenders between conviction and sentence, after sentence, or if sentence is deferred. CONNECT offers a wide range of mediation and restorative justice services, from indirect mediation to conferencing, over a wide range of offences involving personal victims.

Justice Research Consortium (JRC) has been working on three sites, in London, in Northumbria and in Thames Valley. JRC undertakes conferencing, using an experimental model in which cases are randomly assigned to conferencing or to a control group. In London, after an initial phase at magistrates' courts, JRC has been working with adult offenders pre-sentence at the Crown Court. In Northumbria, JRC has been working with adult offenders at the pre-sentence phase in the magistrates' court, with young offenders given final warnings, and, though not using random assignment, with adult offenders who are cautioned. In Thames Valley, JRC has been working with adult offenders suggested for or given community sentences and with prisoners near release from prison. JRC is dealing with a variety of offences at different sites, with an emphasis on assault, robbery and personal theft offences.

REMEDI provides mediation services, both direct and indirect mediation, in South Yorkshire, with several offices spread over the whole county. REMEDI has been working with both adult and youth offenders at several different stages of criminal justice, with an emphasis on adults and youths given community sentences, youths given final warnings, and adults in prison. REMEDI works with a wide range of offences, including both violence and property offences.

Evaluation methods

This action research evaluation includes:

- working with the schemes to develop databases of cases to ensure basic data is available on all offenders and victims;
- talking to those involved in the schemes from very early on with more formal interviews with scheme personnel and key agencies taking place in summer 2002, to be repeated near the end of the funding period;
- attending steering group meetings, training sessions and workers' meetings;
- observing direct meetings between victims and offender and conferences, with 102 JRC conferences having been attended during the period of this report;
- undertaking pre-mediation or pre-conference interviews or using questionnaires for victims and offenders for some schemes; and
- undertaking post-restorative justice and control group interviews with offenders and victims.

CONNECT

Up to 31 August 2002, 59 cases had been referred to CONNECT, with 37 cases having been completed, in 12 of which there had been indirect or direct mediation.

Key difficulties and developments

- The main difficulty for CONNECT has been maintaining an adequate flow of cases, primarily because of the low numbers of relevant cases at the courts concerned.
- The area has a high volume of drug-related crime and a high proportion of indictable-only cases. Custody was, therefore, often an option, leaving few cases for CONNECT to deal with.
- Referrals from sentencers were fewer than expected and, by the end of the period, CONNECT found referrals from probation to be key, as well as cases they have picked up themselves from attendance at court. CONNECT have become well known at court, although attendance took up a lot of time. To attempt to obtain more cases, the scheme has also expanded to include the adjacent magistrates' court area.
- The offenders in the cases CONNECT has taken on are older on average than those of the other schemes, and a greater proportion of cases involve previous convictions and social problems, as well as more 'difficult' circumstances.
- Victim contact has also been problematic.

Justice Research Consortium

The Consortium is working at three sites: London, Northumbria and Thames Valley, using a conferencing model of restorative justice.

JRC London

There were 271 referrals to JRC London up to 31 August 2002, with 73 offenders having had conferences take place.

Key difficulties and developments

- There were initial problems with recruiting police officer facilitators and finding accommodation.
- Case flow from the original areas of Haringey and Lewisham was lower than expected because of attrition between arrest and court appearance. There were also problems with youth cases as the YOT were reluctant to use random assignment.
- There were difficulties with taking cases at an earlier point than a guilty plea, so the referral point was changed to this, with restorative justice now taking place pre-sentence with adults only.
- By late autumn 2001, JRC had switched from magistrates' court cases to Crown Court centres, with the randomised controlled trials (RCTs) being 100 cases for street crime from the Crown Court pre-sentence, and 100 cases for burglary. There was a lengthy preparation phase, with randomisation starting in July 2002.
- Despite problems, the scheme has achieved a high rate of 'converting' referrals to cases with agreement from both offender and victim that a conference could take place.

JRC Northumbria

Up to 31 August 2002, 287 cases had been referred to JRC Northumbria, with 73 conferences having been held.

Key difficulties and developments

- As in London, JRC changed to pre-sentence rather than pre-charge cases.
- There was low case flow from the magistrates' courts and youth court, due to difficulties in setting up referral paths. The scheme moved to extracting relevant cases from adjournments for pre-sentence reports.
- On the youth diversion side, low numbers of cases meant the scheme was expanded to six police stations, focusing on final warnings.
- Youth pre-sentence cases were dropped because of potential confusion with other restorative justice outcomes in the youth court. Shop theft cases were also dropped because of the lack of an individual victim.
- At the end of the first year, there were, therefore, three RCTs, all combining assaults and property crime involving an individual victim. The first is pre-sentence in magistrates' courts (adults), the second youth final warnings, and the third adult cautions.
- As in London, the need for a relatively lengthy setting-up stage has meant the randomisation phase has been shortened. But also as with London, the scheme has ensured relatively low rates of offender/victim refusal or non-contact.

JRC Thames Valley

As at 31 August 2002, there had been 374 offenders whose cases were worked on by JRC Thames Valley. Of these, 287 were completed, and 41 conferences had been held. Thames Valley have continued to work with two stages of criminal justice for violent offences, both with adults: pre-release from prison/YOI and with those given community sentences by the courts. Initial proposals to have separate RCTs for facilitators from different professional backgrounds have been dropped, so that the final RCTs are the prison trial and the community trial.

Key difficulties and developments

- Difficulties have arisen in gaining offender consent in the community sample post-sentence. RJ can now be imposed as a condition of sentence by the court (having been discussed with the offender pre-sentence).
- The scheme has been expanded to include further custodial establishments and is working over a wider geographical area.
- Obtaining victim contact details has also been problematic.
- Working with a large number of part-time facilitators has required greater specification of the many tasks involved in taking a case to restorative justice and regular communication/co-ordination. Developing protocols and practices for safe and productive conferencing for these very serious cases has taken some time. There is a written set of procedures agreed with participating agencies.

REMEDI

REMEDI provides mediation services, focusing on criminal justice cases. Expansion of the REMEDI scheme from Sheffield to include all of South Yorkshire has gone well. Team formation and integration has been smoother than expected.

In the first year, case volumes and outcomes have varied considerably between the different offices and types of referral. Overall there have been 485 adult referrals, of which 369 have been completed and 12 have completed direct mediation. There have been 347 youth referrals, of which 279 have been completed and 95 have completed direct mediation.

Key difficulties and developments

- Juggling different types of referrals and work has been challenging: different offices have found very different referral sources, depending upon the keenness of local referrers in relation to restorative justice. Good contacts with probation offices and YOTs are key.
- Obtaining adequate referrals for some types of work has been problematic – the automatic referral system from probation staff has not gone smoothly for all offices and has not led to many instances of mediation. In contrast, self-referrals from prisoners and youth work related to referral orders and community sentences have provided useful sources.
- Obtaining victim contact details is difficult. The police see it as necessary for people based at or employed by the police to do all initial contact.
- There have been pressures on the focus of the project due to funding opportunities (particularly those relating to victim awareness) and funding decisions.

Emerging issues from the first stage of the evaluation

Three key issues have emerged from the evaluation of the setting up of the schemes. These are:

Achieving referrals: This has been a difficulty for all three schemes. All of them have found that a number of elements are important in achieving and maintaining case flow, including:

- making sure there are enough cases and a sufficient case flow available to begin with (and, if necessary, if this was not done at the initial stages, expanding the geographical area until it does produce sufficient case flow);

- getting to know all the relevant agencies, through personal contacts and visits, spending time in relevant criminal justice environments (such as being at court, talking to team meetings of probation officers), using steering committees, etc.;
- developing and maintaining an image as a reliable partner, which includes developing and maintaining service level agreements and other formal inter-agency mechanisms, as well as developing and maintaining reliable and effective data systems on cases handled;
- trying to manage a place within agencies' performance measures - where restorative processes or outcomes have not figured within each relevant agency's performance measures for that time, it has been difficult for agencies to justify putting effort into that activity.

The problems over case flow have been such that all three schemes have moved towards extracting relevant cases from data generated for other criminal justice purposes (such as lists of adjournments for pre-sentence reports, court listing sheets or prison records), rather than depending upon referrals of individual cases by sentencers, police or probation (although individual referrals and indeed self-referrals have been accepted). Though this has proved a more reliable method for schemes, it does have the disadvantage that only cases with that criminal justice element (such as cases being referred for a pre-sentence report for other reasons) will be considered for restorative justice.

The relationship between restorative justice and criminal justice: The schemes have shown that restorative justice within the criminal justice process can work to aid a key criminal justice decision (for example, CONNECT, JRC in all three sites), or as part of a package of measures post disposal, as a service to victims and offenders (for example, JRC Thames Valley, some of REMEDI's work).

The dominance of criminal justice: In both these ways, however, it is clear that restorative justice is operating within the criminal justice culture. Consequently all three schemes have needed to negotiate and operate within a framework of procedures, precautions and values developed for criminal justice (ensuring, for example, that defence legal advisors are aware of restorative justice initiatives). Obtaining victim contact information for all cases and within the time period needed has also been problematic, with schemes not based within the police having particular and recurring difficulty. These three new initiatives, mostly working without statutory backing, have found it hard to insert themselves into the existing arrangements and cultures of criminal justice agencies' and courts' patterns of working. There have, for example, been few consequences for either individual criminal justice staff or their agencies if restorative justice referrals were not made or facilitated, though many individuals have been enthusiastic and helpful. However, the pressure of work and the fact that cases at that stage of their process through the system form only a small part of the workload of key criminal justice staff on any one day, has impacted on their ability to help schemes. There are corresponding implications for implementation of any future initiatives, including the need to sort out how best to allow victims the possibility of learning about restorative justice; the need for statutory backing; and allowing sufficient time for the start-up phase (as well as sufficient staffing to allow continuing contact and negotiation with criminal justice agencies). None the less, significant numbers of cases have proceeded through restorative justice processes, even in this first year of operation of the schemes.

1. Introduction

The initial steps

In 2001, the Home Office decided, after receiving bids from schemes, to fund three schemes to develop restorative justice under the Crime Reduction Programme. The Programme, which was launched in 1999, is intended to explore in a systematic way the potential of a variety of approaches to reducing crime. One of these is restorative justice. As a first stage, the Home Office commissioned a study of some existing schemes (Miers *et al.* 2001), which provided very useful pointers to the development of restorative justice, but which found that existing schemes were often small-scale, struggling to find sufficient referrals, and primarily dealt with younger offenders. The three new, or expanded, schemes were hence to look at the potential for restorative justice with adult offenders and using a range of offences, especially 'volume' crimes such as burglary.

The schemes which it was decided should be funded in April 2001 were CONNECT,¹ the Justice Research Consortium (JRC) and REMEDI. A detailed description of their original proposals to develop restorative justice services and how these proposals have changed as the schemes have been operationalised is contained in the subsequent chapters. CONNECT and JRC were entirely new developments, whereas REMEDI envisaged continuing to expand from its original work in Sheffield to cover fully the rest of South Yorkshire.

All projects funded under the Crime Reduction Programme are required to be evaluated independently. A tender for this evaluation was produced in May/June 2001 and we were selected in July 2001, though the contract for the evaluation was not finally signed until late October 2001. The evaluation is designed to run until the end of 2006, with the emphasis at first being on the work of the schemes themselves and the perceptions of offenders and victims, later turning to analysing reconviction data. The schemes themselves commenced work between April and September 2001. This report covers approximately the first year of the schemes, up to the end of August 2002. It focuses on the ways in which the schemes have set themselves up and the challenges they have faced in developing their mandate. These are key areas for the development of restorative justice within the framework of criminal justice. The three schemes have had very similar experiences in terms of problems and difficulties in becoming fully operational. The findings of this first year, summarised in the last chapter of this report, would, we think, apply to any new restorative justice scheme being set up in England and Wales.

Developing restorative justice

The definition of restorative justice, set out originally by the Home Office for both schemes and evaluators, was that of Marshall (1999) 'Restorative justice is a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future'. This is also the most commonly accepted definition of restorative justice.

It contains a number of elements which we have needed to unpack in order to consider which of the activities of the schemes could be seen to be restorative justice and to fall within the evaluation. As Shapland (2003a) has commented, it is very difficult to draw hard boundaries round

¹ The bid in relation to CONNECT was put forward by NACRO, in partnership with the Inner London Probation Service (now part of the National Probation Service) and was originally called 'London Probation Area (LPA)/NACRO'.

what would or would not be seen as restorative justice. The outcomes - contents of agreements reached by the parties - of restorative justice initiatives such as conferencing or mediation are not in themselves peculiar to restorative justice. They can contain standard criminal justice elements such as supervision by probation officers, treatment for mental health or substance abuse problems, or even periods in custody, as well as more reparative elements such as financial payments to, or work for, victims. To be seen as restorative justice, therefore, both process and outcome are important:

'The parties must come together and must collectively resolve how to deal with the offence: the process dimension. The resolution itself provides the outcome aspect, rather than any external authority imposing a different outcome. However, this outcome is defined as necessarily having a future dimension - it should look forward to the implications that the offence has for the future - as well as dealing with the past, the aftermath of the offence.'

(Shapland 2003a)

In practice, many restorative justice schemes have blurred some of Marshall's concepts. So, for example, much mediation in England and Wales has taken the form of indirect mediation, where victim and offender do not meet face-to-face at any point, but information, views and suggestions for the future are carried from offender to victim and back again by a third party, the mediator, in what Shapland (2003a) has termed a form of shuttle diplomacy. For the purposes of this evaluation, we have drawn the boundary of restorative justice as comprising the sending and receipt of such information between victim and offender, which does not need to be accomplished in a face-to-face meeting. Hence we have included indirect mediation and also the sending of a letter of apology which is agreed to be received by the victim. We have excluded as restorative justice, the writing of a letter of apology which is never sent, and approaches by either the offender or victim where the other party could not be contacted or refused to participate. We have of course included all forms of direct mediation (face-to-face meetings between offender and victim) and conferencing (a term normally used to imply that others besides the offender, victim and facilitator are present).

The three schemes funded under the Crime Reduction Programme differ from much previous restorative justice activity in the UK in three key respects.² The first is that they are intended to involve a substantial proportion of adult offenders, rather than the young offenders with whom restorative justice practice in England and Wales has chiefly been developed, through the work of YOTs, youth offender panels and mediation schemes.³ The second parameter is that the cases are intended mainly still to be within the criminal justice system and, often, at active decision points within it. So cases may be referred between conviction and sentence, or prior to prison release, or during a community sentence, or, for young people, at the pre-prosecution stage as part of the final warning system. The third parameter is that this is not intended to be a small, minority, 'tag-on' element to the main flow of criminal justice in those areas, involving minor offences only. Where cases are eligible for acceptance for restorative justice, then it is intended that they should be referred to the scheme. The combination of the first parameter, adults, and the third, a major flow of referrals, is that the kinds of cases referred include serious offences, such as robberies, burglaries and grievous bodily harm. The effect of these parameters is that, for these three schemes, restorative justice and adult and youth criminal justice are in close contact and, necessarily, sometimes rubbing against each other.

² See Marshall (1999), Miers *et al.* (2001) and JUSTICE (1998) for reviews of previous UK restorative justice activity which has been related to criminal justice and Dignan and Lowey (2000) and Kurki (2003) for reviews of restorative justice internationally.

³ Though there has been notable work with adults previously, particularly by the Leeds mediation scheme (JUSTICE 1998) and, in relation to pre-trial initiatives, by the Northamptonshire Diversion Unit and its predecessor, the Kettering Adult Reparation Bureau.

During the latter part of the first year of the schemes, there has been active interest nationally in the potential for developing restorative justice within criminal justice, following on from the recommendation of the Auld report. Lord Justice Auld (2001) said:

'I have always been of the view that we expect too much of the courts as a medium for reducing crime, for remedying wrongs to victims and society and for rehabilitating criminal offenders'

para. 58)

(p. 387,

Restorative justice, he felt, might provide 'a more sensitive and sustained attention than most courts are presently equipped to give, if reduction in crime, reparation and rehabilitation are to have a chance'. He saw at least six stages within criminal process, from pre-charge diversion to after sentence, at which restorative justice could be employed, and recommended:

'the development and implementation of a national strategy to ensure consistent, appropriate and effective use of restorative justice techniques across England and Wales'

(p. 391 para. 69)

We would argue that any such strategy needs to take into account the fit between the needs of the current model of criminal justice in England and Wales, and the needs of restorative justice, and to take action to remedy the places where the shoe is rubbing too tightly, if restorative justice schemes for adults are to have a chance. The results of the first year of operation of the three funded schemes provide, we think, some key lessons for the development of any such strategy.

The evaluation

The evaluation has been designed specifically as action research, so that we have developed all our instruments in close consultation with the three schemes and have tried regularly to feedback to them our ongoing findings. The schemes themselves have been funded from spring 2001 until 2003/4, a total time of some 24 - 36 months. The evaluation is intended to run from August 2001 until December 2006, with reports after 12 months (this report), in autumn 2004, at the end of 2005 and a final report in December 2006.

Though the methods we have adopted are very similar over all three schemes, we need to evaluate them according to their own aims. In this report, we have analysed schemes' original aims, as set out in their proposals to the Home Office. We also asked about aims in our interviews with those leading schemes, facilitators/mediators and key agencies in summer 2002. During those interviews, we first asked a general question about aims and then asked people to say which of the following aims they felt applied to that scheme:⁴

A	Meeting the needs of victims
B	Securing reparation for victims
C	Reintegrating offenders into their communities
D	Preventing or reducing the risk of further offending

⁴ The list has been developed from the list of aims of restorative justice set out in the report of the Review of Criminal Justice in Northern Ireland (Criminal Justice Review Team 2002). Interviewees were told the aims are in no particular order.

E	Repairing relationships/reducing the likelihood of future conflicts between victims and offenders
F	Increasing the participation of victims and offenders in working out what to do about the offence
G	Meeting the needs of offenders/dealing with offenders' problems
H	Involving/strengthening families
I	Involving/strengthening communities
J	Providing a fair and just response and outcome in relation to the offence

Interviewees were then asked if anything is missing from that list and then which three aims they would see as most important for their scheme. A summary of the results is provided in the following chapters.

We have been working with schemes to create databases of the operation of the schemes so that schemes and the evaluation can use them. Sometimes schemes have written their own databases (in a variety of programmes), sometimes we have written them. The details are provided in the following chapters. We want to obtain basic data on all offenders and victims for all cases in the schemes for both restorative justice and control groups. We have been obtaining regular downloads of these data, to tie up with our observations and interviews.

We have been talking to those involved with the schemes from very early on in the evaluation, to follow through the decisions they have needed to take and the way in which the case flow has developed. The more formal interviews in summer 2002 with scheme personnel and key agencies have focused on how schemes have been set up and are developing and what the start-up costs are. Each interview has taken around 40 minutes to two hours. The results of interviews with 77 people (nine for CONNECT, 59 for JRC and nine for REMEDI) from that wave of interviews are included in this report. We are repeating these interviews at the end of the scheme funding period to look at more routinised operation and costs. We have also been attending steering group meetings, training sessions, workers' meetings etc.

Where schemes are using direct meetings between victim and offender or conferences, we have been observing such meetings and have developed a substantial observation schedule, very much helped by work previously done by the evaluations of the RISE experiments in Canberra (see, for example, Strang *et al.* 1999), the work of Kathleen Daly in South Australia (Daly 1998; 2001), and the evaluation in England and Wales by Miers *et al.* (2001). We have attempted to observe all conferences and direct mediations of which we have been notified, except where it was the first conference for a particular JRC facilitator or prison, where we have agreed with JRC there would be no observers. At the time of initially writing this report, we had attended and observed a total of 102 conferences for JRC (58 from Phase 1, the start-up phase, and 44 from Phase 2, the experimental, random-allocation phase).

For CONNECT and REMEDI, and during Phase 1 for JRC, we have drawn up pre-mediation or pre-conferencing interview schedules or questionnaires for victims and offenders, in consultation with the schemes, looking at the information people had received about the scheme, their expectations of the process and their reasons for getting involved. Completed questionnaires from these offenders and victims have been returned to us using a FREEPOST envelope. We have also developed post-restorative justice and control group interview schedules for use with offenders and victims (providing they're happy to talk to us), to see what people's expectations, views and experiences were with restorative justice interventions and criminal justice processes. For JRC, the sites and ourselves have also jointly developed a short questionnaire for victims and offenders, which JRC staff/facilitators have been using to telephone participants at conferences (and for London also control group offenders and victims) during the week after the conference (or

randomisation out into a control group). These have been operational for Phases 1 and 2 in Thames Valley. They are operational for London and Northumbria for Phase 2.

This report reflects schemes' progress up to 31 August 2002, at which point we downloaded data for analysis. It therefore provides a picture of the activities and challenges facing schemes over their first year of operation. We focus on the ways in which schemes have developed since the ideas set out in their original proposals to the Home Office in early 2001. All the schemes, as we shall see, have needed to adapt their practices and procedures to fit in with the operation of criminal justice in their geographical areas and at the stages of the criminal justice system at which they have tried to operate. The processes of adjustment and of sensitising criminal justice to restorative justice have taken some time. As a result, some schemes did not reach what they would see as their normal, routine working until summer 2002. Hence we are not able to provide many details of how restorative justice is working and its outputs and outcomes in this report. Our second major report, in autumn 2004, will concentrate on what happened during restorative justice itself, with the third report at the end of 2005 looking at victim and offender reactions, and the final report addressing the issue of reconviction.

2. CONNECT

The aims of CONNECT

The original proposal for CONNECT envisaged it offering restorative justice services to one magistrates' court covering two boroughs in Inner London, subsequently firmed up as Camberwell Green magistrates' court (Inner London Probation Service 2000). Most types of offences would be covered where there was an identifiable victim (apart from domestic violence and sexual offences), though CONNECT was originally attempting to avoid cases going into custody. It aimed to operate on the basis of deferred sentencing for adult offenders only, whereby, after conviction, the bench would remand the case for up to four weeks and the scheme would contact victim and offender to ascertain their willingness to take part in restorative justice. If both agreed to take part, then the bench would pass a deferred sentence for up to six months, during which time 'a restorative activity' would be undertaken, with the prime form envisaged as being group conferences. However, the precise form of restorative justice would depend on the individual case, with apologies, direct and indirect mediation, all being seen as possible, though the major form of restorative justice envisaged was family group conferences. The intervention would hence initially be pre-sentence at the magistrates' court, but most of the restorative work would take place after the initial sentencing occasion, enabling time to be spent on that work, with the results of the restorative justice intervention feeding back into the final sentencing decision. CONNECT started on 6 August 2001 and 'went live' on 15 October 2001.

The original aims emphasised:

- reducing re-offending;
- enabling the victim to ask questions and receive information from the offender;
- enabling the victim to receive reparation and/or an apology from the offender;
- increasing a sense of responsibility by the offender for the offence; and
- leaving the victim and offender with a greater sense of satisfaction about the criminal justice process.

When we interviewed people in summer 2002, all the aims from our own list (see Chapter 1) were mentioned by one or more interviewees, with the following set of aims receiving the greatest emphasis from scheme personnel:

- Meeting the needs of victims.
- Preventing or reducing the risk of further offending (though people commented that, in an experimental project, they could not directly know they were doing this - though they could increase victim awareness).
- Repairing relationships/reducing the likelihood of future conflicts between victims and offenders.
- Meeting the needs of offenders/dealing with offenders' problems.
- Providing a fair and just response and outcome in relation to the offence.

Implementing the scheme

The mode of operation of the scheme has not changed fundamentally during implementation. However, difficulties with ensuring an adequate flow of cases and case referrals have led to the ambit of the scheme being significantly expanded. Deferred sentencing was clearly not providing referrals, because of sentencers' differing views on its usefulness, and because it was seen by

both probation and sentencers to be running counter to the pressure to sentence quickly. Though there has been very good co-operation with the judiciary and the courts, it also became clear early on that Camberwell Green, as a site, was producing a difficult environment in which to introduce restorative justice. The flow of cases was very small, so CONNECT workers started attending court regularly to see if cases were 'missed' and to improve contact with offenders, as well as because it proved to be very difficult to set up a scheme whereby probation would reliably refer individual eligible cases to CONNECT.⁵ The problem in terms of referrals was found to be twofold: the small volume and the types of cases reaching sentence;⁶ and realising that the judiciary were not selecting and referring cases, so the key source of information about cases needed to change to be probation, with CONNECT being sent or collecting the forms requesting pre-sentence reports (PSRs).

Camberwell Green, as an inner London residential area, has a relatively high volume of drug-related crime, with defendants often having quite high rates of previous convictions. It also has a relatively high proportion of indictable only cases. Custody was therefore an option in many cases, leaving the scheme few with which to work. We undertook an analysis of the *Criminal Statistics 2000* for CONNECT, which confirmed their own impressions (Shapland 2001a).⁷ It showed that, of the 5,776 defendants appearing at either Camberwell Green or Tower Bridge, nearly 20 per cent were committed for trial at the Crown Court. Adults to be sentenced at the magistrates' courts were around 2,705, of whom 23 per cent received a custodial sentence, 20 per cent (530) received a community sentence, 43 per cent were fined, 13 per cent received a discharge and two per cent another sentence. Looking at specific offences, there were just 15 adults given a community sentence for assault occasioning actual bodily harm in the whole year, 60 for common assault, six for burglary in a dwelling, 57 for theft and 22 for unauthorised taking of a motor vehicle. Not all of these particular cases would have been suitable for CONNECT's work, so the referral base was small.

It was decided that, despite the strains this would put on staff in dealing with two courts, it was necessary to expand in April 2002, to take in Tower Bridge magistrates' court, which forms part of the same petty sessional division as Camberwell Green. Tower Bridge has many of the same problems as regards case type and defendants, but it would provide a bigger pool. As from early 2002, the emphasis was also put on pre-sentence work via requests for PSRs, with CONNECT's work going on in parallel to the PSR being written (unlike that of JRC, which is prior to PSR writing). CONNECT also decided to take on board a request from Inner London Probation, who had, in their post-sentence work with victims of serious offences, received a few requests from victims to meet up with their offenders.

All of these decisions were taken in consultation with their steering group, meeting every three to four months, on which probation, the judiciary, the court clerks, the police, the Home Office and NACRO were represented. CONNECT have found the steering group helpful in relation to exploring difficulties, allaying fears and working out how to respond, but some have felt it has, on occasions, slowed the pace of necessary change to the referral base. Any further expansion within the area would mean taking more serious cases, sent to the Crown Court, and this was resisted in the early stages of the scheme.

⁵ Though later a system of printing off an extra copy of the request for a pre-sentence report has obviated the need for the referral of specific cases.

⁶ As discussed below, cases at Camberwell Green tend to involve a relatively substantial proportion of offenders with drug or mental health problems, and with previous convictions, leading sentencers to consider custody or committal for sentence to the Crown Court in many cases.

⁷ The *Criminal Statistics 2000* unfortunately only break down case flow by petty sessional division, which means that we only had figures for Camberwell Green and Tower Bridge magistrates' courts combined.

As CONNECT has become known at court and recognised by magistrates, clerks and probation, they have found it easier to work within the constraints of a small staff complement. They have not been able to attend every courtroom, so: 'if they're in another court they (probation) can come and get you or ask for an usher to come and get you if a suitable case comes along. We support them if they have to go out to talk to someone for a PSR or an SSR, we can take stuff down and then update their list' (CONNECT staff member). It has taken considerable time to 'become part of the fabric' - to arrange for an office to meet staff or make calls, to get known, to arrange for lists to be provided by the courts: in other words, to become what Paul Rock (1993) would term 'insiders'. There were still some difficulties at the time of writing this report, interestingly less so in the court where they started work earlier. Periodic problems were cropping up with protocols and agencies' resources (including confusion over the different methods of operation of CONNECT and JRC in the same geographical area). All the links needed to resolve these problems are person-related - they depend upon personal contact and presence. Hence they are potentially fragile as personnel change. A similar process has occurred with obtaining victim contact details, where a considerable amount of negotiation was necessary with the police.

As well as daily contact with the courts and probation, CONNECT have needed to distribute information about the scheme to a large number of agencies and individuals, all of whom are important to the success of restorative justice in individual cases. They include initial distribution of information packs to magistrates, court clerks, the Crown Prosecution Service (CPS), probation, and defence lawyers, as well as meetings with probation and district judges.

In comparison with the work to secure referrals, the work in doing restorative justice and running the scheme has not posed so many implementation difficulties. There has been no difficulty associated with the funding being provided by the Home Office, and it has been important in securing access to courts.

As the work has progressed, staff have developed their skills in telling offenders and victims about the scheme and about restorative justice and say they now feel much more confident about this key aspect of the work. However, the work involved in preparing people for restorative justice has been much more intensive than originally thought, and has meant them, at the end of this first 12 months, cutting down on caseloads. They had tried one or two cases in which there were initial not guilty pleas, but found these did not really work in relation to mediation, because of remaining issues between offender and victim about the offence (though CONNECT did provide victim support). CONNECT staff have also become more confident about presenting reports at court, which our initial interviews with court staff indicate have been well received.

CONNECT staff working with victims and offenders have found that many offenders from this area do not have many family members or others to act as supporters, often being isolated individuals. Offences have been more serious than they originally expected, though offenders have been keener to participate. Many victims they have found do not want direct mediation, preferring information to be passed by CONNECT staff, or to receive an apology from the offender. Cases have mostly been assaults, thefts and driving accidents, reflecting, we think, the use of custody for more serious cases at these courts.

NACRO provided some training for CONNECT staff at the beginning of the scheme, supplemented later with two days' training from an experienced restorative justice practitioner on managing serious cases. CONNECT themselves provided training for magistrates and probation.

On the IT side, there were problems setting up the database for the scheme and this took a long time, only resolved through personal contacts. This is a common problem in the voluntary sector, where expertise in writing bespoke databases is rare. The database itself, after a few teething problems, has functioned well.

CONNECT at the end of the first 12 months

CONNECT has, therefore, found it necessary to expand to two magistrates' courts and taken on a few additional referrals as well, purely to gain sufficient cases and work. It is a continuing struggle to achieve a reasonable case flow, one which requires very considerable dedication and effort by the staff. In retrospect, starting in a different part of London might have been more advisable.

The staff appointed to the scheme were those initially envisaged in the proposal, with a full-time project manager, two full-time project officers, and a part-time project administrator.⁸ This is quite a small team. The difficulties in securing case flow and referrals have meant that all the staff have needed to spend a considerable amount of their time in the magistrates' courts, getting court lists, liaising with probation staff, and sitting in court to find relevant cases and to approach possible offenders. The move to using two magistrates' courts has of course nearly doubled this court-based work. Staff have needed to juggle the work of finding cases, working with cases which have been referred, writing reports back to the court, and overall liaison with relevant agencies. Having a small team makes this process vulnerable to any staff absences, whether through illness or holidays.

As the scheme has progressed, it has become clearer that referrals via the probation service and requests for pre-sentence reports are key. There have been extremely few deferred sentences, partly, we think, because of the small number of cases in the 'custody/just possibly not' band in these courts, partly because sentencers differ on their preference for deferred sentences. However, the pressures on the National Probation Service, particularly in Inner London, have impacted on the number of PSRs probation staff can do. If there is no probation officer and no CONNECT staff in that courtroom, with no PSR being requested, CONNECT is not getting the details nor having the time to try restorative justice, with sentencers resorting to stand-down reports and immediate sentencing. Sentencers have not been referring cases themselves. Essentially, CONNECT has been dependent upon *either* the resources probation have to undertake pre-sentence work themselves *or* being at court to pick up cases.

Once a case has been referred and checked for eligibility, the offender is contacted to obtain his or her agreement to restorative justice. Obtaining victim contact details is done via a police liaison officer or the arresting officer and the project worker will then contact the victim and ascertain whether any restorative justice process is possible. All of this normally has to be accomplished within the standard PSR adjournment period. CONNECT writes reports back to the court (separate from the PSR, but given in with it) in time for the date of sentencing and may, on occasion, attend court to speak directly to the sentencer. After sentence, CONNECT will contact the victim and offender again to give them details of the sentence and what has happened and answer any questions. This may be the first information the victim has about sentence. Equally, victims involved in CONNECT cases have often not had support from Victim Support.

Case flow and outputs

The first section in Table 2.1 shows the population of cases referred to CONNECT in each quarter. Almost all cases involved only one offender, but a minority had more than one victim. As CONNECT went 'live' on 15.10.2001, the referrals in the first quarter are obviously fewer. We can see the relatively small number of referrals, though this has picked up considerably in the fourth quarter, as referrals from Tower Bridge have finally kicked in. It shows the length of time it takes to become known at a new site.

⁸ There is provision for part-time sessional workers in the budget, which is likely to be taken up in the second 12 months.

The cases which CONNECT has taken on cover a wide range of offenders, including a higher proportion of older offenders than other schemes. This tends to mean that CONNECT may be dealing with more 'difficult' cases, with previous convictions and social problems, and certainly this is borne out by the description of the progress of cases by staff and by the risk ratings. CONNECT staff have been having to work hard to attempt many contacts with offenders by a variety of means, to reach people who have quite chaotic lifestyles and can have mental health or drug problems. This is as true of the female offenders as the male and CONNECT is dealing with quite a considerable number of female offenders.

Few details are given for victims, largely because victim contact was problematic and victim details were often only obtained if the case has proceeded past offender consent to restorative justice. However, there is a proportion of corporate victims - out of 29 cases overall where we have details, 17 per cent were individuals victimised at work, 14 per cent shops and 14 per cent other corporate victims.

The range of offences for which offenders were referred to CONNECT is quite wide, making each referral and the work to be done on it unique (Table 2.2). We did not at the time of writing have details for all cases of the sentences people were eventually given,⁹ but for the 20 cases we have, seven were given prison sentences, eight community punishment orders, one a community reparation order, one attendance centre, two fines and one a conditional discharge. CONNECT is clearly operating at the custody/community sentence borderline in terms of seriousness of offences - not with trivial cases.

Table 2.1: Case flow and types of cases referred to CONNECT in particular time periods

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02	Total
Total offenders by date of referral	7	12	10	30	59
Offender age range (%):					
18-24	0	33	67	33	36
25-29	25	0	22	16	14
30-39	25	33	11	24	24
40-49	50	25	0	20	20
50-59	0	8	0	22	6
Average offender age	28.2 yrs	33.3 yrs	23.1 yrs	31.7 yrs	30.2 yrs
Gender of offenders (no and %)					
male	6 (86%)	10	8 (89%)	22	46
female	1 (14%)	(83%) 2 (17%)	1 (11%)	(88%) 3 (12%)	(87%) 7 (13%)
Ethnic origin of offenders (no. and %):					
White	3	5	2	8	18
Asian	0	0	2	0	(62%)
Black	3	0	3	2	2 (7%)
Other/dk	0	0	0	1	8 (28%) 1 (3%)

⁹ All but two closed cases were pre-sentence, with one being a referral from probation and the judge post-sentence and one being a deferred sentence. Note that these are the sentences for all cases, not just cases in which mediation occurred.

Courts referring cases (no. and %)					
Camberwell Green MC	6	12	7	12	37
Tower Bridge MC	1	0	2	16	(65%)
Inner London CC	0	0	1	0	19
					(33%)
					1 (2%)
Cases: total number of completed cases referred in that time period	6	8	6	17	37
Case progression for offenders (no. and %):					
case unsuitable	0	2	1	2	5 (14%)
offender not able to be contacted	0	0	1	5	6 (16%)
offender dropped out	0	0	0	0	0 (0%)
offender refused mediation	0	0	0	4	4 (11%)
offender agreed but case could not proceed (V refused/uncontactable)	2	3	1	4	10
indirect mediation	3	2	3	2	(27%)
direct mediation	1	1	0	0	10
					(27%)
					2 (5%)
Case progression for victims (no. and %):					
case unsuitable	0	2	1	2	5 (14%)
closed before victim contact point	0	0	1	9	10
victim not able to be contacted	2	3	1	1	(27%)
victim refused	0	0	0	3	7 (19%)
offender dropped out before mediation	0	0	0	0	3 (8%)
indirect mediation	3	2	3	2	0 (0%)
direct mediation	1	1	0	0	10
					(27%)
					2 (5%)
Total offenders completing mediation/conference (no. and %)	4	3	3	2	12
					(32%)
Total cases where victims completed mediation/conference (no. and %)	4	3	3	2	12
					(32%)

The second part of Table 2.1 shows the progress of cases which have been closed. We would not expect many cases in the fourth quarter to be closed, particularly as CONNECT was quite slow at closing off cases, especially if there was still the opportunity to contact a victim to tell them about the result of the case. Two factors need emphasising. One is that CONNECT has been quite successful in getting referred cases through to restorative justice, with the difficulties being in contacting offenders and victims, rather than them refusing. However, there is a definite relationship between worker caseload and obtaining consent. As referrals and workloads increased in the fourth quarter, the proportion of cases in which consent was obtained decreased. We need to bear in mind here that almost all work is pre-sentence, and so is very much subject to criminal justice timetables.

Table 2.2: Main offence

	1.9.01 - 28.2.02	1.3.02 - 30.4.02	1.5.02 - 31.7.02	1.6.02 - 31.8.02	total
Assaults	2	5	2	7	16 (27%)
Theft/taking vehicle	2	5	2	7	16 (27%)
Burglary	0	0	0	5	5 (8%)
Public order	0	1	2	2	5 (8%)
Driving offences	3	0	1	0	4 (7%)
Criminal damage	0	1	1	9	11 (19%)
Other	0	0	2	0	2 (3%)
total	7	12	10	30	59 (100%)

The second is that the type of mediation/conferencing that has been undertaken in the majority of cases is indirect mediation, with one or the other party not wishing to meet. In this case, CONNECT essentially acts as a go-between, passing information from one party to another, such as the circumstances of the offence, its consequences for the victim, an apology from the offender, or what the offender is now trying to do. It has also been very conscientious about trying to contact the victim (and sometimes the offender as well) after sentencing. Some CONNECT staff would argue that important restorative processes can occur without a direct meeting between victim and offender:

'I think there's actually something about the restorative process involving much more than a meeting, realising that it's the assessment, it's listening to people, getting victims' views... it's restorative in itself so restorative justice isn't just about the meeting, it's about getting voices heard ... it's also them finding out what's going on ... reducing the harm. Even if nothing happens, reminding them there is a victim... the meeting is one possible end but it's not the most important part of the process'.

Table 2.3: Average time periods for closed cases

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02
Referral to last date of intervention (days and no. of cases)	51 (n=6)	23 (n=7)	29 (n=6)	15 (n=17)
Referral to sentencing (days and no. of cases)	45 (n=5)	33 (n=5)	25 (n=4)	25 (n=5)
Offence to referral (days and no. of cases)	26 (n=7)	90 (n=12)	44 (n=10)	79 (n=30)

Finally, we can look at the average time periods cases were taking over the last year (Table 2.3). Because CONNECT's data base does not record a date of closure per se, we have calculated the average time from referral to the last date on which CONNECT staff made an intervention.¹⁰ We can see that CONNECT staff were working on many cases right up through PSR adjournments and beyond.

¹⁰ Clearly, only faster cases from the last two quarters will be closed by the time of analysis, so the average time appears to decrease in the last quarter.

3. Justice Research Consortium

The aims of the Justice Research Consortium

The proposal from the Justice Research Consortium (JRC) was for experimental introduction of restorative justice conferencing with both adults and young people in three areas in England and Wales, using random assignment between an experimental and a control group for each randomised controlled trial (RCT). The model was very much influenced by the previous work of the directors, Professor Larry Sherman and Dr Heather Strang, on the RISE project in Canberra, Australia (Sherman *et al.* 1997), and elsewhere. The Justice Research Consortium is based at the Jerry Lee Center of Criminology at the University of Pennsylvania, in partnership with the Australian National University.

The experiment was to take place at several sites in order to look at the effects of restorative conferencing at different stages of the criminal justice system and with different populations of offenders and offences, with an emphasis on its use with serious adult offences. The sites are London (with the key partner being the Metropolitan Police and with police officer facilitators), Northumbria (Northumbria Police with police officer facilitators), and Thames Valley (National Probation Service Thames Valley, HM Prison Bullingdon, Oxford Community Mediation and Thames Valley Police, with probation officer, prison officer and community mediator facilitators). In each site, partner agencies have been brought together with the researchers/developers, with the partners facilitating the conferencing. It was always intended there would need to be a period of preparation, training and fine tuning of the model and of the conferences themselves (Phase 1), before moving to the random allocation, experimental phase (Phase 2). It was hoped that a uniform database would be developed for all three sites, available to the evaluators as well. It was envisaged that research ethics approval would need to be sought from Pennsylvania State University before moving to Phase 2.

JRC work hence emphasises face-to-face meetings (conferences) with the offender(s), victim(s) and their supporters, facilitated by a facilitator who has carefully prepared all parties for that meeting, and using a standardised 'script'. Most RCTs would require the victim to be actually present at that meeting (and so the victim's consent), though a few 'victim absent' RCTs were initially planned. Large numbers of offender supporters were also thought helpful. The minimum size for a RCT would be 100 (50 conference cases, 50 controls), with randomisation occurring after screening for eligibility, offender and victim consent. Six months after the initial conference, a second, reintegration conference would be held when the terms of the reparation agreements had been met.

The aims, as set out in the original proposal, were the same for all three sites and emphasised:

- the experimental nature of the RCTs, aiming at high levels of consistency between sites and, certainly, within RCTs, but specificity between RCTs;
- reducing offender re-offending; and
- providing benefits to victims, in particular, an opportunity for participation where their views count, fair and respectful treatment, the right to be kept informed, and material and emotional restoration.

In our interviews in summer 2002, similar themes appeared, with, of our aims, 'meeting the needs of victims' and 'preventing or reducing the risk of further offending' obtaining by far the greatest support (86% and 94%) and 'reintegrating offenders into their communities' (59%), 'repairing relationships/reducing the likelihood of future conflicts between victims and offenders' (65%) and

'increasing the participation of victims and offenders in working out what to do about the offence' (71%) also having significant support (though all the aims attracted at least some support when we asked people to specify their three most important aims for JRC from the list). It has been key for schemes at all three sites to implement restorative justice within criminal justice.

Preliminary work started in April 2001, with the contract being signed in June 2001. Over the summer, University of Pennsylvania students spent time in the courts to look at case flow. The tender for training facilitators was awarded to Transformative Justice Australia, and their model has been followed throughout JRC, with facilitators needing to attend a training session before taking a conference. We can say that JRC Thames Valley went 'live' from around mid-July 2001, with London and Northumbria following in mid-October 2001. It has not proved possible to have a uniform database across all sites. JRC was awarded a grant from the Esme Fairburn Foundation to support the administration involved in getting VIP observers to observe Phase 2 conferences. The idea of holding a second reintegration conference was dropped in autumn 2001.

Implementing JRC conferencing in London

The original proposal envisaged cases for conferencing in London being drawn from two London boroughs, Haringey and Lewisham, with 17 RCTs totalling 1,700 cases. RCTs (each 50 conferences, 50 control cases) would take adult cases from the magistrates' courts (charged cases, with offenders who had made admissions) for assaults, street crime (including robbery) and burglary, with an additional victim-absent conferencing RCT for assault. Similarly, RCTs would take cases from the youth courts for the same offences. There would also be RCTs for adult caution cases (taken at the point of caution) for assault and youth reprimand/final warning cases for assault.

Initial difficulties centred around delays in recruiting the six (subsequently seven) police officer facilitators and releasing them from their previous posts, problems with premises and case flow. Finding suitable accommodation in London has proved to be a continuing headache. Initially both North and South London teams, together with JRC staff, were based in one office in Highgate, which needed considerable alterations from its previous use. The South London offices only opened in their final location in July 2002, with repairs still ongoing.

By far the most major difficulty has, however, been with case flow and working at the stages of criminal justice initially envisaged. It became apparent in late autumn 2001 that the levels of case flow from the two boroughs were not going to be at all sufficient to support RCTs of 100. JRC had initially worked from police figures, but had not appreciated the rate of attrition between police arrest and charging, that due to prosecution decisions not to prosecute, or the extent of initial not guilty pleas at court. From our own analyses of the *Criminal Statistics 2000*, passed onto JRC, we can confirm that the numbers of adult offenders sentenced at the relevant magistrates' courts were not enough to produce RCTs for those offence groups (Shapland 2001b). So, for example, the total number of adults sentenced at Haringey magistrates' court in 2000 was only 914, with just 175 given community sentences. The number sentenced for assault occasioning actual bodily harm was only 20 over the whole year, with those for common assault being 98, burglary in a dwelling 12, and theft (not including shop theft) 69. The figures for Greenwich/Woolwich are rather higher (a total of 2,033 adults sentenced in 2000), but Greenwich/Woolwich magistrates' courts cover a far wider area than the police borough of Lewisham and the police felt that they could not cover several boroughs with the number of facilitators they had.

At the same time, difficulties arose in relation to taking youth cases in London. Over the time period during which the proposal was being considered and initial steps taken, restorative justice was becoming a far more important option for youth justice, with referral panels commencing work nationally in April 2001, adding to the work associated with reparation orders, final warnings and

ISSPs. The Youth Offending Teams became less happy to take part in an experimental process with random assignment, since they wished to be able to offer restorative justice to all appropriate young offenders. We think this is an important lesson for new projects - it is very difficult to implement a new localised (or pilot) project at the same time as national initiatives are occurring at the same point in criminal justice, particularly if they involve performance targets or national standards.

The number of adult caution cases for these offences was also found to be very few, if domestic violence and other ineligible cases were omitted. Difficulties were also becoming clear in autumn 2001 in relation to taking adult cases at an earlier point than a guilty plea, so that the point of referral was changed to a guilty plea and restorative justice hence took place pre-sentence. The scheme was very quickly changed to permit any guilty plea case to be taken, even if there had been an initial not guilty plea or indication (since if prosecution evidence is not disclosed to the defence at an early point, it is highly likely a not guilty plea will be entered in order to acquire it - Shapland *et al.* 2001). There are legal and evidential difficulties in running restorative justice conferences on the basis of an admission by the offender to the police, rather than a guilty plea having been entered (since the offender can easily still plead not guilty). All London cases, therefore, have, after the first few, required a guilty plea.

These difficulties were to resurface in spring 2002 in relation to co-defendants, because the police felt that if one defendant was to take part in a conference (after a guilty plea), if a known co-defendant had not also been found guilty (because the case was pending, or the person had not been caught), then the conference proceedings, which focus on the offence, would 'taint' any subsequent trial because the victim or other witnesses would have been exposed to the defendant's etc. potential 'evidence'. They were not willing for this risk to be taken in relation to any serious offence, because of the effect media publicity might have. In addition, it was found that cases with co-defendants were taking far longer to bring to conference. Hence, in Phase 2, cases with co-defendants are being screened out in London.

By late autumn 2001, with only a small stream of adult magistrates' court cases in play in London, JRC, after a very positive meeting with the Crown Court judiciary, decided to switch to the Crown Court and drop magistrates' court cases. Partially, this was the result of wishing to concentrate on street crime (for which offenders were generally obtaining considerable custodial sentences), as well as more serious offences in general. Partially, it was the view expressed by some of the Crown Court judiciary that, if restorative justice was to be taken seriously within criminal justice, to acquire public trust, to have integrity and legitimacy, and to acquire the right image, then it needed to be overseen by the Crown Court. JRC hence moved in London in early 2002 to preparing for RCTs based on five Crown Court centres, taking guilty plea cases from all of them. The 'final' RCTs in London are 100 cases (50 conference cases, 50 control group) for street crime, including robberies, from the Crown Court pre-sentence and 100 cases for burglary. Only 'victim-present' conferences will be attempted (i.e. where victim consent has been obtained), because JRC has become convinced from experiences in Thames Valley (see below) that victim-absent conferences could be harmful.

The move to working at five Crown Court centres spread over London has meant a considerable amount of negotiation of protocols with the Crown Court (judiciary and court administrators), prisons, the probation service and defence solicitors. Most cases start with the defendant remanded in custody for sentence and so most conferences are taking place in prison. Arrangements have needed to be made with each prison and Young Offenders Institution serving the Crown Court at London. Continuing liaison has been necessary with the judiciary, court administrators and probation managers. In London, however, JRC has worked without a steering group, preferring to liaise separately with each professional grouping.

JRC has found very similar problems to CONNECT in terms of acquiring 'referrals'. Though judges have been supportive (and have been kept in touch with developments with regular meetings with JRC), the number of members of the judiciary sitting at these courts is very large. As JRC have said, 'Everything depends on personal relations'. Getting judges to refer cases in court pre-sentence has mostly not been possible.

Hence JRC have been picking up cases from the warned lists for the Crown Court, contacting defence solicitors, checking cases for eligibility, checking the 'dead list' (cases heard that day), then obtaining offender consent, then victim consent, then trying to arrange a conference (often in a prison), then getting a copy of the conference agreement to the probation service - all before the date set for sentence. Though some initial preparation work with offenders can precede the guilty plea, effectively almost all the restorative justice work is being done within the 14-21 days before the probation service need to prepare their pre-sentence report (which is completed after the conference, taking the results of the conference into account). This has meant very considerable pressure on facilitators and JRC research staff, with the latter acting as constant 'quality checkers', pursuing the extraction process from Crown Court records, reviewing the ongoing six to seven cases per facilitator every second day, and trying to create consistency. Team meetings have been held every week, and between London sites every month, to discuss difficult cases and to reach common solutions. There is a continuing tension between police officers' normal freedom to use discretion in how they run cases and the need in an experimental restorative justice programme to have uniform solutions. In many professional groups working with new programmes (not using restorative justice), this has been resolved by the use of written 'standards', though this has only impinged on certain areas of police work. It may be that such standards would be helpful for restorative justice programmes.

These shifts in proposed RCTs in London substantially prolonged Phase 1, so that the initial 'trial', pre-Phase 2 random allocation cases only started in early July 2002 and Phase 2 itself started on 21 July 2002. The London JRC sites, with some input from ourselves, have developed Excel spreadsheets from autumn 2001 (subsequently Access databases) to track their cases operationally, and our analyses are based on downloads from these.¹¹

Case flow and outputs in London

JRC London work since it went 'live' in mid-July 2001 is, therefore, a mixture of magistrates' court and Crown Court work, initially from Haringey and Lewisham, then with the gradual addition of Crown Court centres, up to five such centres at the end of the first 12 months, covering the whole of central London. The offence mix is similarly varied.

We can see from Table 3.1 how the case mix has changed over the first year of the project, with Crown Court cases starting to come in in the second quarter and Phase 2 cases starting in the fourth quarter¹². As the case mix has changed, however, there has been little difference in the age profile of offenders. The population of offenders referred in London has remained largely either in the 18-24 age group, or those in their 30s. Unfortunately, there are too much missing data to give an accurate picture of offenders' ethnicity, but in each quarter the sample has included between seven and nine offenders whose ethnic origin is black. Overall, there have been few female offenders - 21 per cent of the cases for which we had gender details in the first quarter

¹¹ After negotiation of a relevant data protection protocol with the Metropolitan Police. Unfortunately, the spreadsheets for the North London and South London sites and for each phase of development (magistrates' court sample, Phase 1 and Phase 2) were slightly different, which has complicated our analysis.

¹² The unit for Table 3.1 is one offender, with one offender potentially being linked to more than one victim. JRC London piloted working with random assignment before the 'official' start of Phase 2, in order to work out how to work with control group victims and offenders. There is, therefore, a larger number of control group cases than would normally be expected in the fourth quarter.

(n=14), none in the second quarter (n=15), eight per cent in the third quarter (n=48) and 14 per cent (n=29) in the fourth quarter.

Table 3.1: Cases worked on by JRC London

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02	Total
Total offenders by date of referral	20	30	109	112	271
Offender age range (%):					
18-24	56	40	41	33	
25-29	11	20	15	21	
30-39	28	32	35	36	
40-49	6	8	9	8	
50-59	0	0	0	2	
Average offender age	26.5 yrs	27.9 yrs	28.7 yrs	29.3 yrs	28.7 yrs
Courts referring cases (no.)					
magistrates' court	20	20	-	-	40
Crown Court Phase 1	-	10	101	41	152
Crown Court Phase 2	-	-	-	71	71
Held in custody					
from magistrates' court	7 (35%)	6 (30%)	-	-	13 (33%)
from Crown Court	-	8 (80%)	68 (62%)	86 (77%)	162 (73%)
Cases: total number of completed cases referred in that time period	20	30	109	109	268
Case progression for offenders (no. and %):					
case unsuitable	4 (20%)	6 (20%)	30 (28%)	35 (32%)	75 (28%)
offender not able to be contacted	2 (10%)	3 (10%)	8 (7%)	2 (2%)	15 (6%)
offender dropped out	0 (0%)	1 (3%)	1 (1%)	0 (0%)	2 (1%)
offender refused conference	0 (0%)	0 (0%)	13 (12%)	14 (13%)	27 (10%)
offender agreed but case could not proceed (V refused/uncontactable)	0 (0%)	2 (7%)	29 (27%)	24 (22%)	55 (21%)
conference held	14 (70%)	18 (60%)	24 (22%)	17 (16%)	73 (27%)
(of which victim absent conference)	(8)	(9)	(5)	(0)	(22)
control group	-	-	4 (4%)	7 (6%)	11 (4%)
Case progression for victims (no. and %):					
case unsuitable	4 (20%)	6 (20%)	30 (28%)	35 (32%)	75 (28%)
closed before victim contact point	2 (10%)	3 (10%)	31 (28%)	21 (19%)	57 (21%)
victim not able to be contacted	0 (0%)	2 (7%)	1 (1%)	2 (2%)	5 (2%)
victim refused	5 (25%)	8 (27%)	19 (17%)	17 (16%)	49 (18%)
offender dropped out before conference	0 (0%)	1 (3%)	1 (1%)	0 (0%)	2 (1%)
victim dropped out before conference	2 (10%)	0 (0%)	0 (0%)	0 (0%)	2 (1%)
conference didn't happen (other)	1 (5%)	1 (3%)	4 (4%)	0 (0%)	6 (2%)
conference held	6 (30%)	9 (30%)	19 (17%)	17 (16%)	51 (19%)
control group	-	-	4 (4%)	17 (16%)	21 (8%)
Total offenders agreeing to conference and not dropping out (no. and %)	14 (70%)	20 (67%)	53 (49%)	41 (38%)	128 (48%)
Total offenders completing conference (no. and %)	14 (70%)	18 (60%)	24 (22%)	17 (16%)	73 (27%)
Total victims agreeing to conference and not dropping out (no. and %)	7 (35%)	11 (37%)	24 (22%)	17 (16%)	59 (22%)
Total victims completing conference (no. and %)	6 (30%)	9 (30%)	19 (17%)	17 (16%)	51 (19%)

What has changed over the year is the extent to which offenders have been in custody, reflecting both the greater likelihood of offenders from the Crown Court being remanded in custody and also the success of JRC in negotiating protocols with more custodial establishments. For Phase 2, we must expect that around three-quarters or more of offenders (and hence conferences) will be in custodial establishments. The growing number of custodial establishments participating can be seen in that, in the first and second quarters, offenders in custody were only from Pentonville prison and Feltham YOI. By the third quarter, offenders additionally were in Chelmsford, Holloway, Belmarsh, Brixton, Highdown and Wandsworth, as well as in hospitals. By the fourth, Highpoint, Wayland and Woodhill had also provided offenders. More Crown Court centres also joined in with conferencing, with Southwark Crown Court providing 80 per cent of the sample in the second quarter, but the fourth quarter having 26 per cent from Southwark, 21 per cent from Woolwich, 15 per cent from Snaresbrook, 16 per cent from Wood Green and 21 per cent from Blackfriars, so that all five Crown Court centres were well represented. By the fourth quarter, the predominant method of referral had moved from being direct referrals from probation or judges (as in the second and third quarters) to extracting cases directly from the court dead list.

The main offence for each offender is shown in Table 3.2. Throughout the year, burglary cases have been important, but, as JRC moved from the magistrates' court to the Crown Court, thefts have tended to drop out and robbery cases have become more frequent. The number of physical assaults being referred or extracted has, however, always been quite small. Unfortunately, we have very few details of victim characteristics (except for cases which have proceeded to conference).

Table 3.2: Main offence (number of cases)

	1.9.01 - 28.2.02	1.3.02 - 30.4.02	1.5.02 - 31.7.02	1.6.02 - 31.8.02	total
ABH/common assaults	4	5	10	2	21 (8%)
GBH/GBH with intent	1	1	6	1	9 (3%)
Burglary	10	7	44	76	137 (52%)
Robbery	1	2	41	26	70 (26%)
Theft/theft from mv/TWOC	4	8	8	7	27 (10%)
Criminal damage	0	1	0	0	1 (0%)
total	20	24	109	112	265 (100%)

Sentencing details are available for the magistrates' court sample and (for conferenced or control cases only) at the Crown Court.¹³ At the magistrates' court, community sentences (community punishment orders, community rehabilitation orders, community punishment and rehabilitation orders, drug treatment and testing orders) predominated. It suggests that restorative justice was seen as relevant for moderately serious cases. In the Crown Court, the predominant sentence has been immediate custody in all three quarters (59% overall for those cases for which we have sentencing details), with most of the rest being community sentences, and a few (5%) being deferred sentences. For London JRC in Phase 2, therefore, we have to expect that most cases, even though conferences have been held, will still receive custodial sentences. This has significant implications, both for the type of conference agreement that can be made and also for our evaluation of reconviction rates.

¹³ It has proved quite time-consuming for JRC to obtain permission from the Lord Chancellor's Department to acquire sentencing details on Crown Court cases.

We can now look at the overall progress of cases (Table 3.1) and the average time periods different types of cases took (Table 3.3). There was an extremely high rate of cases proceeding through to conferences, particularly at the start of Phase 1. However, at that time, cases were being recruited by a variety of means, including JRC researchers or facilitators approaching offenders at court. Where this occurred, only cases where offenders potentially showed interest would be recorded on the database, for obvious reasons. Hence we cannot see the first two quarters' figures as representing a normal referral or extraction process. None the less, it is clear that victim refusal figures are relatively low and that this has persisted throughout both magistrates' court and Crown Court phases. In the third and fourth quarters, which used probation or judge referrals, or extracted cases from the dead list, there were also very low offender refusal rates. The key to bringing cases to conference, given the skills facilitators have honed, is clearly obtaining a supply of suitable cases. Even with these very serious offences, the proportion of cases dropping out has been very low.

Table 3.3: Average time periods for completed cases for JRC London

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02
Duration of case (days and no. of cases)				
magistrates' court cases	36 (n=14)	65 (n=12)	-	-
Crown Court cases Phase 1	-	34 (n=10)	24	16 (n=39)
Crown Court cases Phase 2	-	-	(n=108)	22 (n=66)
Referral to likely sentencing day (days and no. of cases)				
magistrates' court cases	54 (n=18)	35 (n=15)	-	-
Crown Court cases Phase 1	-	42 (n=8)	36 (n=90)	30 (n=28)
Crown Court cases Phase 2	-	-	-	34 (n=61)
Referral to conference (days and no. of cases)				
magistrates' court cases	36 (n=14)	31 (n=10)	-	-
Crown Court cases Phase 1	-	35 (n=8)	35 (n=24)	32 (n=8)
Crown Court cases Phase 2	-	-	-	30 (n=8)
Conference to likely sentencing day (days and no. of cases)				
magistrates' court cases	25 (n=14)	6 (n=10)	-	-
Crown Court cases Phase 1	-	12 (n=7)	13 (n=19)	19 (n=7)
Crown Court cases Phase 2	-	-	-	6 (n=7)

Moreover, the conferencing process has been completed within short time periods. From Table 3.3, Crown Court cases have been completed within an average of 16-24 days, with a further average 6-19 days then from conference to the likely sentence date.¹⁴ The average time from referral to a completed conference is only 30-35 days. We should remember that JRC have been operating using a sequential, rather than simultaneous, conferencing/PSR preparation mode, so this further length of time is necessary for pre-sentence reports (PSRs) to be completed. Completing all of this within such a short time span has clearly put considerable strain on JRC staff. They are time frames imposed by criminal justice. We do not know yet whether they have also put strain on victims, offenders or their supporters, or whether it is better for them to complete conferencing within a short burst of time. It is a question we shall obviously pursue in our interviews with victims and offenders. The difficulty with lengthening the time span, however, is that

¹⁴ The likely sentence date is the date on which JRC expected that the person would be sentenced, which may not be the same as the date on which they were actually sentenced.

these are primarily cases where the offender is in custody, so one would be lengthening the period of time an offender spent in custody before sentence (though given the prevalence of custodial sentences, it is not clear how onerous a longer time span would be).

There are some data recorded by JRC staff as to the length of time they have spent on cases, though there are also quite a lot of missing data. The average time spent on a case which is then found to be unsuitable has been around five hours, with a similar time where offenders refuse. Where victims have refused, cases have taken an average of about 15 hours. Completed conference cases with both victim and offender present (up to the point of conference) have taken an average of 18 hours, control group cases about eight hours. Given the amount of travelling involved in working over such a large part of London and in needing to contact offenders in prison, these are relatively low times.

Implementing JRC conferencing in Northumbria

Initially, the RCTs in Northumbria were planned to mirror those in London, to allow comparisons between the two sites. There were 18 RCTs set out in the original proposal, with assault cases, burglaries and shop theft at the magistrates' court post-charge stage for adults and in the youth court for youths, and assault cases for adult cautions and youth reprimands/final warnings. One victim-absent RCT was planned for adult assault, post-charge cases. Originally, two police stations were to be the key geographical sites, Sunderland City and Gateshead West. Cases where the defendant was in custody were not to be included for purely practical reasons. JRC quickly found that the same pressures as in London governed the decision to change pre-charge cases into pre-sentence cases and to take all cases where defendants had pleaded guilty.

Northumbria, unlike inner London, is typical urban and semi-urban England, though it is one of the poorest regions in the UK. The police stations and courts at Sunderland and Gateshead have a considerable case flow of offenders with a fairly average offence profile. There are both drugs and alcohol problems, as would be found in many urban areas of England. The major problem faced in Northumbria during the implementation period was low case flow from the magistrates' courts and youth court. This was not due to a lack of suitable cases, as in London, but to difficulties in setting up adequate referral paths.

Though liaison with the courts and the CPS was started quite early on in late spring 2001, it proved very difficult to translate support and co-operation at the institutional level into individual decisions by the CPS prosecutor to remember to mention the possibility of restorative justice, or by the clerk to advise the magistrates of its possibility when they were considering adjourning for reports. People at the courts, which were under pressure through increases in case flow, just did not have the space and time to remember a new initiative which applied to just some cases (even though highly visible forms were put on files). Though JRC responded to this lack of referrals by visiting the courts, they did not feel able to spend time at the courts each day to become visible, with only JRC researchers, rather than police facilitators, undertaking this court work. Instead, JRC decided to widen the geographical scope of the work and to change the study to concentrate more on referral paths the police felt they could control themselves - cautions and final warnings/reprimands.

Hence, the original two police stations were gradually expanded to six over spring 2002, with Gateshead, South Shields, Houghton le Spring and Farringdon joining the original two. This caused significant problems, because in Northumbria, unlike all other scheme sites, all conferences have been held in police stations and so a room has had to be booked in the relevant station for each conference. Some of the available rooms have been rather small and cramped for the numbers attending the conference. We are not sure whether the police station could be seen as a 'neutral' environment for both parties, but are of course testing this through interviews with victims and

offenders (see below). In order to try to reduce problems relating to offenders not turning up at the last moment, Northumbria have tried to 'screen' cases by deliberately 'testing' offenders' ability to turn up in a small number of cases where facilitators were concerned about this (rather than using officers' own judgments of the reliability of offenders, which they felt might sometimes be prejudicial). They have asked offenders to come to interviews or preparatory meetings at the police station where they have any doubt about reliability, abandoning cases where offenders regularly do not show or are late.

By spring 2002, Northumbria decided to abandon youth pre-sentence cases, because of the difficulties in obtaining referrals and because of the potential confusion with other restorative justice outcomes in the youth court, which it was felt by JRC might 'contaminate' the control group. They also dropped shop theft cases, because they felt that restorative justice required an individual victim. They put much of their energies into the youth final warning/reprimand sample, where potential cases were collected directly from the police station and then worked on in consultation with the YOT as part of the final warning package. Meanwhile, though eligible cases continued to be notified to the courts for potential individual referral, they moved to try to extract in addition relevant cases from those cases in which a PSR was ordered. By May 2002, the number of adult court cases started to rise to acceptable levels for a RCT, though the difficulty of losing a substantial proportion of cases being sentenced immediately by magistrates without adjournment remained. At this point there was still a problem with adult caution cases, not because of the lack of cautions being referred (since this could be followed up within the police service), but because a caution does not *require* the offender to do anything else except attend the official cautioning session. There was little impetus for offenders to participate. In that sense, it is similar to post-sentence cases in other sites and schemes. Offenders were refusing to participate. However, by July 2002, numbers of cases were increasing and it was decided to include such a RCT in Phase 2 (though this was later abandoned in the second year).

Northumbria JRC personnel themselves would acknowledge that too many assumptions about case flow (particularly the ratio of charge rate to guilty plea rate) were made initially from police arrest data and not properly tested for a while.¹⁵ There was initially some distance between the police and courts, with police officers not having had much day-to-day contact with court personnel. Personal relationships had to be forged and this took a considerable time. In Northumbria, it is felt that having a steering group of senior agency and court personnel has been important to show the commitment of agencies, though it has not taken action itself. The operations group (of less senior personnel), however, has been vital to make contacts and to try to iron out problems, but in relation to the courts, it has been found necessary to move even further beyond this and to create relationships with individual court clerks. The steering group and operations group include the police, magistrates, clerks, probation, Victim Support, JRC and the YOTs. Presentations were also made to magistrates, clerks, court user groups, probation, YOTs and Crime Reduction partnerships, and a major Northumbria launch was held in October 2001. Northumbria JRC, like many other criminal justice initiatives unrelated to restorative justice, has found it very difficult to make contact and retain contact with defence solicitors, largely because of meeting times and their availability.

The final RCTs for Northumbria for the start of Phase 2 are 100 cases (50 conference cases, 50 control group) for combined assaults and property crime, involving an individual victim, at the pre-sentence stage in the magistrates' court (adults); 100 cases for youth final warnings; and 100 cases for adult cautions (subsequently abandoned). The first two went 'live' in late July 2002, the last on 2 September 2002. Again, only 'victim-present' conferences will be attempted (i.e. where

¹⁵ Northumbria did a survey of guilty plea cases in Sunderland and Gateshead in December 2001/January 2002.

victim consent has been obtained at the point of randomisation).¹⁶ Northumbria is including cases with co-defendants. Northumbria JRC staff have themselves created a database to monitor cases using Lotus, but, because of the particular configuration of Northumbria Police systems, it has not proved possible to download data and so, to provide these analyses, data have had to be re-inputted by ourselves into an Access database written by us and then taken through and analysed using SPSS.¹⁷

Case flow and outputs in Northumbria

The scaling down of proposed numbers for the RCTs in Phase 2 should not lead readers to conclude that very few conferences have been held, or that the history of restorative justice schemes in the UK as having a very low case flow and ultimate numbers (see JUSTICE 1998), has been repeated with JRC. A very large number of conferences have in fact been held in Northumbria in Phase 1, with relatively low rates of offender or victim refusal or non-contact.

In the analyses reported below, we have, where appropriate, looked at the adult court (pre-sentence) sample, the final warning sample and the adult caution sample separately.¹⁸ Where no separate figures are given, there was little difference between them.

We can look, first of all, at the kinds of offenders and cases which were worked on by Northumbria JRC in the first 12 months (Table 3.4, in which the unit is an offender - a case might have more than one victim). We only have access at this stage to completed Northumbria cases, so the table does not include cases in progress. Overall, as many as 287 offenders' cases have been worked on by Northumbria JRC staff, with 107 (37%) from the adult court pre-sentence sample, 76 (26%) from the adult caution sample and 100 (35%) from the youth final warning/reprimand sample. Cases were slow to build up until around March 2002, with the last two quarters being a more representative picture of ultimate case flow. Offenders were, as would be expected, predominately male, with all three samples showing a similar minority of women. The court sample are slightly younger than the CONNECT and London JRC samples, with the adult caution group being considerably older. The final warning group had very similar proportions of referrals from all the year age groups between 12 and 17, so there was no 'bulge' around 15/16, as might be expected from offending rates.

Sentencing details are only relevant for the court sample and only available for completed cases, where eight were given prison/YOI sentences, one a deferred sentence, 13 community punishment orders (or community service), 23 community rehabilitation orders, seven discharges, two fines and three other sentences. This suggests that Northumbria court cases relate to less serious offences than JRC London, Thames Valley or CONNECT cases, as would be expected given their location in the magistrates' court and the exclusion of cases remanded in custody. None the less, these are not trivial matters.

¹⁶ Although, if a victim drops out after randomisation, or does not turn up at the conference, JRC will, in all sites, attempt to continue to hold the conference.

¹⁷ Following a data protocol agreed between ourselves and Northumbria Police.

¹⁸ There are sometimes missing data, particularly in the early stages, for a few cases, as to exactly which cases fell in which sample.

Table 3.4: Cases which were worked on by Northumbria JRC

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02	Total
Total offenders	3	38	158	88	287
adult court pre-sentence sample	3	16	58	30	107
adult caution sample	0	0	47	29	76
youth final warning/reprimands sample	0	21	51	28	100
Offender gender:					
male (%)	100	88	82	70	
female (%)	0	12	18	30	
Offender age range (%):					
10-17	0	52	33	33	
18-24	67	36	34	25	
25-29	0	6	9	14	
30-39	33	0	13	20	
40-49	0	6	7	5	
50+	0	0	5	2	
Average offender age (all Northumbria)	26.0 yrs	19.4 yrs	24.4 yrs	24.1 yrs	
adult court pre-sentence sample	26.0 yrs	24.8 yrs	24.9 yrs	24.6 yrs	24.8 yrs
adult caution sample	-	-	34.6 yrs	33.8 yrs	34.3 yrs
youth final warning/reprimands sample	-	14.4 yrs	14.6 yrs	14.5 yrs	14.6 yrs
Type of referral (no. and %):					
reprimand	0 (0%)	6 (16%)	0 (0%)	0 (0%)	6 (2%)
final warning	0 (0%)	15 (41%)	51 (33%)	28 (32%)	94 (33%)
adult caution	0 (0%)	0 (0%)	47 (30%)	29 (33%)	76 (27%)
by CPS at court	0 (0%)	2 (5%)	1 (1%)	0 (0%)	3 (1%)
pre-sentence	3 (100%)	14 (38%)	57 (37%)	30 (34%)	104 (37%)

We have victim details for only some cases, as they were only entered if victims were contacted. Overall, for the court group, of the 115 main victims for whom we have details, almost all were individuals, with just one being an individual victimised at work, four being shops and eight being other corporate victims, confirming the move away from corporate victims in Northumbria. Forty-five per cent of main victims were female. All main victims in the adult caution group were individuals and 52 per cent were female. For the final warning group, only eight were corporate victims out of 72 for whom we have details, and 55 per cent were female. A significant proportion of main victims for the final warning group were under 18 (40% of those for whom we have details of age), but smaller proportions of the others (16% for caution sample, 10% for court sample).

We can now turn to look at the case progression for Northumbria (Table 3.5). The table shows the progression for completed cases referred in each time period.

Table 3.5: Case progression for completed cases referred in each time period

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02	Total
Cases: total number of completed cases referred in that time period	3	37	155	88	283
adult court pre-sentence sample	3	15	56	30	104
adult caution sample	-	-	47	29	76
youth final warning/reprimands sample	-	21	50	28	99
All Northumbria					
Case progression for offenders (no. and %)					
case unsuitable	0 (0%)	1 (3%)	30 (19%)	6 (7%)	37 (13%)
offender not able to be contacted	0 (0%)	4 (11%)	11 (7%)	10 (11%)	25 (9%)
offender dropped out	0 (0%)	7 (19%)	4 (3%)	2 (2%)	13 (5%)
offender refused conference	0 (0%)	2 (5%)	25 (16%)	34 (39%)	61 (22%)
offender agreed but couldn't proceed (V refused/uncontactable)	1 (33%)	8 (22%)	48 (31%)	17 (19%)	74 (26%)
conference held	2 (67%)	15 (41%)	37(24%)	19 (22%)	73 (25%)
(of which victim absent conferences:)	(0)	(0)	(1)	(0)	(1)
Case progression for victims (no. and %):					
case unsuitable	0 (0%)	2 (5%)	30 (19%)	6 (7%)	38 (13%)
closed before victim contact point	0 (0%)	7 (19%)	37 (24%)	45 (51%)	89 (31%)
victim not able to be contacted	0 (0%)	4 (11%)	5 (3%)	1 (1%)	10 (4%)
victim refused	1 (33%)	1 (3%)	34 (22%)	14 (16%)	50 (18%)
offender dropped out before conference	0 (0%)	6 (16%)	4 (3%)	1 (1%)	11 (4%)
victim dropped out before conference	0 (0%)	1 (3%)	3 (2%)	0 (0%)	4 (1%)
conference didn't happen (other)	0 (0%)	1 (3%)	6 (4%)	2 (2%)	9 (3%)
conference held	2 (67%)	15 (41%)	36 (23%)	19 (22%)	72 (25%)
Adult court pre-sentence cases					
Case progression for offenders (no. and %)					
case unsuitable	0 (0%)	1 (7%)	13 (23%)	0 (0%)	14 (14%)
offender not able to be contacted	0 (0%)	1 (7%)	8 (14%)	5 (17%)	14 (14%)
offender dropped out	0 (0%)	4 (27%)	1 (2%)	1 (3%)	6 (6%)
offender refused conference	0 (0%)	0 (0%)	8 (14%)	11 (37%)	19 (18%)
offender agreed but couldn't proceed (V refused/uncontactable)	1 (33%)	4 (27%)	16 (29%)	9 (30%)	30 (29%)
conference held	2 (67%)	5 (33%)	10 (18%)	4 (13%)	21 (20%)
(of which victim absent conferences:)	(0)	(0)	(0)	(0)	(0)
Case progression for victims (no. and %):					
case unsuitable	0 (0%)	2 (13%)	13 (23%)	0 (0%)	15 (14%)
closed before victim contact point	0 (0%)	2 (13%)	16 (29%)	16 (53%)	34 (33%)
victim not able to be contacted	0 (0%)	1 (7%)	2 (4%)	0 (0%)	3 (3%)
victim refused	1 (33%)	1 (7%)	9 (16%)	7 (23%)	18 (17%)
offender dropped out before conference	0 (0%)	3 (20%)	1 (2%)	1 (3%)	5 (5%)
victim dropped out before conference	0 (0%)	1 (7%)	1 (2%)	0 (0%)	2 (2%)
conference didn't happen (other)	0 (0%)	0 (0%)	4 (7%)	2 (7%)	6 (6%)
conference held	2 (67%)	5 (33%)	10 (18%)	4 (13%)	21 (20%)

Adult caution sample					
Case progression for offenders (no. and %):					
case unsuitable	-	-	7 (15%)	3 (10%)	10 (13%)
offender not able to be contacted	-	-	1 (2%)	2 (7%)	3 (4%)
offender dropped out	-	-	2 (4%)	0 (0%)	2 (3%)
offender refused conference	-	-	13 (28%)	14 (48%)	27 (36%)
offender agreed but couldn't proceed (V refused/uncontactable)	-	-	16 (34%)	8 (28%)	24 (32%)
conference held	-	-	(1)	(0)	(1)
(of which victim absent conferences:)					
Case progression for victims (no. and %):					
case unsuitable	-	-	7 (15%)	3 (10%)	10 (13%)
closed before victim contact point	-	-	15 (32%)	16 (55%)	31 (41%)
victim not able to be contacted	-	-	2 (4%)	1 (3%)	3 (4%)
victim refused	-	-	12 (26%)	7 (24%)	19 (25%)
offender dropped out before conference	-	-	2 (4%)	0 (0%)	2 (3%)
victim dropped out before conference	-	-	1 (2%)	0 (0%)	1 (1%)
conference didn't happen (other)	-	-	1 (2%)	0 (0%)	1 (1%)
conference held	-	-	7 (15%)	2 (7%)	9 (12%)
Final warning/reprimand sample					
Case progression for offenders (no. and %):					
case unsuitable	-	0 (0%)	9 (18%)	2 (7%)	11 (11%)
offender not able to be contacted	-	3 (14%)	1 (2%)	3 (11%)	7 (7%)
offender dropped out	-	3 (14%)	1 (2%)	1 (4%)	5 (5%)
offender refused conference	-	2 (10%)	4 (8%)	9 (32%)	15 (15%)
offender agreed but couldn't proceed (V refused/uncontactable)	-	4 (19%)	16 (32%)	0 (0%)	20 (20%)
conference held	-	9 (43%)	19 (38%)	13 (46%)	41 (41%)
(of which victim absent conferences:)		(0)	(0)	(0)	(0)
Case progression for victims (no. and %):					
case unsuitable	-	0 (0%)	9 (18%)	2 (7%)	11 (11%)
closed before victim contact point	-	5 (24%)	5 (10%)	13 (46%)	23 (23%)
victim not able to be contacted	-	3 (14%)	1 (2%)	0 (0%)	4 (4%)
victim refused	-	0 (0%)	13 (26%)	0 (0%)	13 (13%)
offender dropped out before conference	-	3 (14%)	1 (2%)	0 (0%)	4 (4%)
victim dropped out before conference	-	0 (0%)	1 (2%)	0 (0%)	1 (1%)
conference didn't happen (other)	-	1 (5%)	1 (2%)	0 (0%)	2 (2%)
conference held	-	9 (43%)	19 (38%)	13 (46%)	41 (41%)
All Northumbria					
Total offenders agreeing to conference and not dropping out (no. and %)	3 (100%)	23 (62%)	85 (55%)	36 (41%)	147 (52%)
Total offenders completing conference (no. and %)	2 (67%)	15 (41%)	37 (24%)	19 (22%)	73 (26%)
Total victims agreeing to conference and not dropping out (no. and %)	2 (67%)	22 (59%)	46 (30%)	22 (25%)	92 (33%)
Total victims completing conference (no. and %)	2 (67%)	15 (41%)	36 (23%)	19 (22%)	72 (25%)

First, we should note the relatively low levels of offender and victim refusal overall and the relatively high proportion of cases which made it through to a full conference. Larry Sherman (2002) has likened the process of undertaking restorative justice to peeling an onion, in which each layer (suitability, offender consent, victim consent, practical arrangements etc.) has to be

accomplished in order to hold a conference. Rates of over 20 per cent of referred cases in the third and fourth quarters leading to a conference being held at which both the offender(s) and the main victim were present are impressive.

There are, however, clearly significant differences between the groups. The lowest attrition rates were found with the youth final warning sample, where there were higher contact rates and agreement rates, and fewer dropped out.¹⁹ The adult caution group had particular difficulty with offenders refusing (for the reasons cited above - basically, that there was no real practical advantage for offenders in proceeding), and also a higher victim refusal rate, largely, we believe, because in these assault cases, victims and offenders tended to know each other. The adult court group had significant difficulties in contacting offenders, possibly because the contact details were collected longer ago in time, possibly because some of these were offenders with a more chaotic lifestyle and drug or alcohol problems. However, the offender and victim refusal rates are not much higher than for the youth sample. This runs against perceived wisdom that victims in adult cases will be significantly less likely to agree to conferencing.

Finally, we can look at the average times for each sample (Table 3.6). Cases were activated (by being allocated to a facilitator) almost immediately they were received.

Table 3.6: Average times to complete particular stages for completed cases

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02
Referral to activation (days and no. of cases)				
adult court pre-sentence sample	0 (n=3)	0 (n=15)	1 (n=53)	0 (n=29)
adult caution sample	-	-	0 (n=45)	0 (n=26)
youth final warning/reprimands sample	-	0 (n=21)	0 (n=48)	0 (n=28)
Referral to closure (days and no. of cases)				
adult court pre-sentence sample	109 (n=3)	51 (n=14)	23 (n=56)	13 (n=24)
adult caution sample	-	-	20 (n=47)	16 (n=27)
youth final warning/reprimands sample	-	40 (n=20)	25 (n=48)	12 (n=26)
Referral to sentence/caution/FW (days and no. of cases)				
adult court pre-sentence sample	26 (n=3)	35 (n=13)	30 (n=40)	18 (n=7)
adult caution sample	-	-	17 (n=43)	15 (n=25)
youth final warning/reprimands sample	-	29 (n=16)	26 (n=27)	16 (n=17)
Offence to referral (days and no. of cases) ²⁰				
adult court pre-sentence sample	148 (n=1)	46 (n=9)	73 (n=33)	56 (n=16)
adult caution sample	-	-	24 (n=32)	50 (n=16)
youth final warning/reprimands sample	-	42 (n=12)	15 (n=24)	39 (n=14)
Referral to conference (days and no. of cases)				
adult court pre-sentence sample	25 (n=2)	19 (n=6)	24 (n=12)	19 (n=5)
adult caution sample	-	-	22 (n=8)	24 (n=2)
youth final warning/reprimands sample	-	40 (n=11)	27 (n=20)	15 (n=13)

¹⁹ Suitability rates are similar for all three groups, but also depend considerably on the adequacy of the initial data received by JRC, so it is difficult at this stage to make any comparisons here.

²⁰ Data were not available for all these time intervals for all areas, because REMEDI was not provided with the data by criminal justice agencies/courts.

The time from referral to closure has in fact been running at very similar rates for each sample throughout the last year. As we have noted before, the fourth quarter's closed cases are not complete, with only the quicker outcomes showing up by the time of analysis, so the third quarter's figures are more reliable. The similarity between samples tends to suggest that the times needed for contact, preparation etc. are constant throughout Northumbria's work, i.e. that they are the times needed for the restorative justice process, rather than being influenced by particular types or sources of referral, whether an adult or a youth is involved, etc. However, there are longer times, not surprisingly, when a particular sample first starts. The similarity also suggests that Northumbria has geared itself up to cope with the pre-sentence adjournment period (normally 28 days, with the occasional further adjournment - from the referral to sentence times for pre-sentence cases) and is not relaxing on cases where time limits are not so critical. An additional pointer in the same direction is that the referral to conference times are very similar to the referral to closure times, suggesting that much of the 20-28 days is taken up with securing consent and preparation. There are several advantages to this uniform approach to different samples. One is that final warnings and cautions, normally given after the restorative justice process has reached closure, are not unduly delayed. Another is that there is no build-up of less urgent cases, which could then continue to get lesser priority.

There are significant differences, however, in the offence to referral times. Adult cases seem to be taking longer to reach referral than youth cases, possibly because Northumbria has piloted several measures to reduce avoidable delays in youth cases.²¹ Hence, on average, youth cases would reach referral around two to five weeks after the offence and a conference, if that occurred, around four to nine weeks after the offence. Adult pre-sentence cases, however, would reach referral about eight to ten weeks after the offence and a conference about eleven to thirteen weeks after the offence. Young people's perceptions of time tend to be more elongated than adults', so a faster approach is preferable. We shall need, though, to bear these time differences in mind when considering offenders' and victims' reactions to conferencing in Phase 2.

Implementing JRC conferencing in Thames Valley

Although all JRC restorative justice uses a very similar conferencing model and, indeed, the same 'script' for conferences, the RCTs planned for Thames Valley in the original proposal were intended to explore quite different criminal justice scenarios. Given the previous experience in Thames Valley of piloting restorative justice as a diversionary measure and in youth justice (Hoyle *et al.* 2002), the aim now was to look at the use of restorative justice post-sentence, both in custodial and community settings, to work with offenders and victims at those points, but also to impact on the working culture of criminal justice institutions. The lead agency is the National Probation Service Thames Valley, rather than the police. Thames Valley RCTs would involve any of a range of violent offences, from threat to murder through grievous and actual bodily harm, possessing an offensive weapon and assault on police, robbery, arson, public order offences, to common assault and drunk and disorderly. Offenders would come from the population of Bullingdon Prison (near Bicester) convicted of offences within this list and based in the Thames Valley area, or from adults convicted by Oxfordshire courts, based in the area, and given sentences involving community supervision (primarily community punishment orders or community rehabilitation orders). Victim Support was an integral part of the proposal from the beginning, with workers from Oxfordshire Victim Support undertaking victim liaison work. There would be five RCTs, each of 100 cases, involving probation officer facilitators, community mediator facilitators from Oxfordshire Mediation or prison officer facilitators at Bullingdon, and probation officer or community mediator facilitators for the community sentences. A victim absent group of mixed

²¹ Northumbria has been a pilot site for both the 'Narey' reforms to youth and adult justice and for statutory time limits in youth cases (Shapland *et al.* 2001), though the areas involved in the JRC scheme are not entirely coterminous with those for statutory time limits.

cases was seen as a potential fall-back if victim agreement proved difficult. Initial staff arrived in Thames Valley at the end of June 2001, with training of facilitators in July 2001 and the first conference in October 2001, with Phase 2 starting in July 2002.

There has been very much less of a problem of referrals in Thames Valley than in London or Northumbria. Researchers from Pennsylvania State University went through the prison list at Bullingdon in summer 2001 and sorted out relevant cases in terms of offence type, providing the scheme with a large pool of potential cases, with all the relevant data they needed, which they have worked through in order of release date. Subsequently, administrative staff at the prison have added new arrivals who would be eligible. Because the Probation Service has been the lead agency, finding out who has been sentenced to a community sentence has also been relatively unproblematic. Thames Valley JRC, though not assigned a specific JRC researcher for Phases 1/2, has also been staffed as a stand-alone unit, with a co-ordinator and administrator seconded from the Probation Service, so that facilitators have not been burdened with referral tasks.

The difficulties have come in securing offender consent in the community sample, in obtaining victim contact details (in general), in working with a considerable number of part-time facilitators, in working within the prison system, and in working out how and when to undertake conferences at this stage of criminal justice. Because the prison sample, particularly, has been engaged with very serious offences, there has been a need to develop protocols and practices which provide the means of undertaking conferencing safely and productively, which has taken a long time. There is now a written set of procedures etc., drawn up by Thames Valley, which has been agreed with participating agencies and which is regulating Phase 2.

Looking first at implementation in the community sample, it became clear in autumn 2001 that obtaining offender consent post-sentence was not a very helpful way of proceeding. Offenders given community sentences are subject to a considerable number of regulations, driven by National Standards, and backed by the possibility of breach proceedings, which have to be explained to them at their initial meetings with their probation officer. After those initial meetings, offenders have often been referred to a variety of programmes run by different groups aimed at addressing their offending behaviour and their problems, so contact then would be problematic. Introducing restorative justice during the initial period of the sentence was just overwhelming offenders and making them feel that they certainly didn't want to take on anything new, which might well put an additional burden on them. Offender consent rates were low, probation officers felt there was little time to talk about restorative justice.

Initially, JRC thought to respond to this by adding in referrals from Buckinghamshire probation offices, as well as Oxfordshire - essentially, the same idea of widening the geographic reference base as had been adopted elsewhere.²² Subsequently, however, they began to reconsider whether it was most appropriate to make the main introduction to the idea of restorative justice post-sentence. Though the offender had been given a leaflet about restorative justice and minimal explanation by the PSR author before sentence, with a 'permissive' requirement for restorative justice being included in community sentence orders for relevant offences by sentencers, the first time the offender met a facilitator and could talk with them about restorative justice was post-sentence at the first interview. The first interview is a very busy time, when offenders may have low motivation to take on anything extra - and they were being asked to 'opt in' to the idea of restorative justice, then to be followed by a full preparation interview and a possible conference (both of which would be subject to National Standards for probation work and on which the

²² However, Buckinghamshire cases did not become 'on line' until 2003.

offender could be 'breached').²³ So the offender was being asked effectively to sign up for something which could lead to additional conditions.

Thames Valley JRC decided to move to a position where offenders would be seen by JRC earlier, at the PSR stage, and assessed for suitability and their agreement then, with the presumption that they would take part if suitable. A binding requirement was then proposed to the court by the PSR writer and then implemented if the order was made by the sentencer. This of course would mean that, like other conditions placed on community orders, restorative justice would not be 'voluntary', in the sense of offenders being able to pull out without consequences at any stage, since offenders would be sentenced to this as a condition by the court.²⁴ After a considerable debate, and after agreement by the steering committee, this was agreed and came into force in May 2002, prior to Phase 2. Imposing restorative justice as a binding condition of sentence is a controversial step. Currently, JRC would see it as successful. We shall be looking at offender and victim views and at the content of conferences in our later reports on this evaluation.

In Bullingdon prison, the difficulties were not, perhaps surprisingly, in obtaining offender consent, but in obtaining prison officer time, in contacting victims, in working with both offender and victim over a series of meetings (which could take time to arrange, given the wide spread of victims' geographical locations) and then arranging conferences within a reasonable time, preferably pre-release. The large pool of cases included many with quite long-off release dates so, in order to provide a sufficient case flow, it was decided in spring 2002 to include Reading YOI in addition. Some cases have been taken from Reading, but information acquisition, in the sense of obtaining details of relevant cases, has been problematic and, after a slight hiatus, active cases resumed in autumn 2002. There were difficulties, particularly initially, in obtaining sufficient prison officer time at Bullingdon to undertake facilitation - not because prison officers could not, or did not want to, be facilitators, but because the prison was short-staffed and, at the beginning of the project, subject to unrelated industrial action. Rotas just did not allow enough space for facilitators to do the work and their assigned duties. Prison officers had to undertake restorative justice in their own time (some of it paid, as agreed with the governor). It is another example of the relative inflexibility of current criminal justice systems. However, from 1 September 2002, there was agreement for one prison officer to work one day a week on conferencing. It was not possible in the first 12 months to get restorative justice integrated into the sentence planning process.

Another challenge throughout the implementation has been to make the best use of the staff from different backgrounds. The initial idea was to use full-time seconded staff from each agency, to form a new body similar to a YOT with four full-time facilitators. However, it proved difficult to recruit full-time probation staff in a time of shortage and Oxfordshire Mediation also decided that using its current pool of trained, experienced part-time mediators was better. Hence JRC Thames Valley, unlike London and Northumbria, was staffed initially entirely by part-time facilitators,²⁵ with two full-time victim liaison officers, and the full-time co-ordinator and administrator. Though having a larger pool means that holidays, illness etc. are not such a problem, it also brought more work in ensuring communication and in training everyone up, as well as in allocating cases. It has also meant staff developing their skills in motivating people to take part in restorative justice in a

²³ This means that failure to attend either of these two meetings would be followed up and, if unacceptable, could lead to breach proceedings being taken at court and a possible penalty being imposed.

²⁴ Though it has to be said that the idea of 'voluntariness', when applied to offenders subject to the criminal justice process and subject to discretionary decisions on prosecution, sentencing or licence conditions, must be seen as a relative concept. Making participation in restorative justice conferences compulsory does not remove the necessity for full information to be given to participants and good preparation to be done. Agreements reached as a part of the restorative justice process are not subject to possible breach proceedings and are not affected by National Standards requirements on offenders.

²⁵ There were four part-time prison officers, three part-time probation officers (for whom JRC work was their sole probation work) and five self-employed community mediators, with a lot of mediation experience, but little criminal justice experience, paid by the session (adding up in total to 4fte). A challenge in allocating cases is to ensure staff have the time to take them on.

criminal justice setting - a process which has taken time and in which interaction between staff and discussion of cases has been important.

Obtaining victim contact details from the police has been a continuing difficulty, despite the police's strong support for the project - one that has only been solved through the influence and work of the steering group. Though probation has some victim contact details (for those in prison for over 12 months), it did not automatically have them for other cases. Again, personal contacts have been vital. Working with victims in these difficult cases has also taken time and victim contact skills can only be acquired over a period. JRC centrally felt that JRC Thames Valley was taking longer to bring cases through to conference, so that the active caseload was higher and the victim liaison workers were working with a large number of cases. By late spring 2002, it was decided to pool resources, so that victim liaison workers would also act as facilitators, whilst facilitators would do victim contacts.

In early 2002, Thames Valley also felt it needed to introduce follow-up telephone calls to all key conference participants by facilitators, to ensure that people had received the conference agreement, and that there had been no post-conference intimidation, fears or adverse effects, and also to seek feedback on improving future conferences. These were to be done in the first few days after the conference, if possible. Thames Valley approached us and together, we designed a short questionnaire, which facilitators could use and fill in. The completed questionnaires have subsequently been sent to us and we have analysed them and fed back results. We have suggested the adoption of a similar questionnaire, as good practice, for all JRC sites when dealing with very serious offences, essentially as a safety measure, and this has been adopted by JRC London and Northumbria during Phase 2.

The steering group has been very important in the development of JRC Thames Valley. Thames Valley took some time at the beginning to 'scope' the key agencies and key stakeholders for restorative justice conferencing and ensure they were on the group, which has input from the National Probation Service (NPS), Thames Valley police, magistrates, the prisons, the clerk to the justices, Victim Support and Oxford Mediation: 'It oiled the wheels, facilitated and delivered on critical bits'. JRC sought out the people who 'have the power levers for that agency'. Presentations have also had to be done to key groups such as probation officers and sentencers, as well as the Probation Board and the Home Office. Thames Valley would see restorative justice as very important to the future of the probation service, because it provides a way for the NPS to create links with its local communities.

Thames Valley has developed its own Excel spreadsheets for its prison and community samples, as a management tool and to provide relevant information for the evaluation (subsequently taken through into Access databases).

The final RCTs for Thames Valley show relatively little change from those proposed initially. The proposed five RCTs have been merged into two within the first 12 months, each of 100 cases - one for the custody sample (Bullingdon, Reading and possibly, in the future, Woodhill Prison at Milton Keynes) and one for the community sentences sample, with restorative justice as a condition of the sentence. All the three original types of facilitators will work on the prison sample, together with victim liaison officers; all except prison officers on the community sample. Co-defendants are still being taken where possible. It was the experience of Thames Valley facilitators as to the perceived lack of success in an initial few victim absent conferences, together with the results of our analyses of the follow-up interviews and results from the RISE evaluation (Sherman 2002) which were instrumental, at a conference of Thames Valley JRC staff, in coming to the decision only to conference cases with victim consent, so that the maximum number would be victim-present conferences.

Case flow and outputs in Thames Valley

Bullington Prison

From Table 3.7, we can look at the kinds of cases which Thames Valley JRC have been dealing with at Bullington Prison. Though this is an adult prison (for offenders generally aged 21 and over), the offenders taking part in the conferencing process have been generally relatively young, with the average age being under 30. The majority were white, though there was a significant minority of black prisoners. Offenders have come from a wide range of towns and cities across the whole of Thames Valley and beyond to London. The courts at which they were sentenced were primarily Crown Courts, rather than magistrates' courts - not surprising given the sentence lengths, with Oxford, Reading and Luton Crown Courts providing most of the sample. The mean sentence length for offenders allocated to facilitators was 42 months in the first quarter, 37 months in the second, 30 months in the third and 40 months in the fourth, with the overall mean being 37.2 months (just over three years, encompassing 120 offenders). The overall population has not changed very much over the first year of operation of the scheme.

Victim details were only available if the process had reached past the offender agreeing, so we only have some details. Very few main victims for whom we had details were female (13%), possibly reflecting the violence offence pattern. We could not obtain good details on victim age or ethnicity.

The main offence for which the offenders were sentenced is shown in Table 3.8. JRC Thames Valley are taking a considerable range of offences in which violence is used or threatened. In this prison sample, robbery and the more serious forms of physical assault have predominated. 'Other offences' include arson with intent to endanger life, offensive weapons and threats to kill. We should stress that, in the Bullington sample, the kinds of offences in which conferencing is being used are very serious - as shown both by the offence and the sentence length.

Given this serious profile, which overlaps considerably with the offences for which the Probation Service has a remit with victims of crime, it is interesting to look at the extent of offender and victim consent to the idea of conferencing (Table 3.7). Again, we should stress that the fourth quarter's results are not complete and so the more 'typical' pattern would be shown by the third quarter or the overall results.

About a quarter of cases which had been completed by our analysis point were, on further investigation, seen as ineligible. Reasons included that they were domestic assaults, the risk of conferencing was too high, or victims were too remote. Only relatively few cases then dropped out because the offender did not agree to the idea of conferencing - about another quarter. Difficulty in obtaining victim contact details, difficulty in contacting victims and victim refusal were the prime source of cases dropping out, but in fact a very consistent percentage - between 12 per cent and 15 per cent of cases - did go through to a conference, with 20 conferences being held during the year. If we look at it from the victim's point of view, then about half the cases dropped out before the possible victim contact point, with another 30 per cent of victims refusing.

Table 3.7: Cases worked on by Bullingdon Prison Thames Valley JRC

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02	Total
Total offenders with date of allocation	28	40	54	83	205
Offender age range (%):					
10-17	0	0	0	0	
18-24	25	45	39	40	
25-29	39	13	24	24	
30-39	29	33	25	27	
40-49	7	10	10	9	
50+	0	0	2	0	
Average offender age	28.6 yrs	28.7 yrs	29.3 yrs	28.2 yrs	28.6 yrs
Ethnic origin of offenders (no. and %):					
wWhite	15 (54%)	27 (68%)	28 (52%)	60 (72%)	
Asian	3 (11%)	3 (8%)	5 (9%)	8 (10%)	
Black	6 (21%)	6 (15%)	10 (19%)	14 (17%)	
Other/dk	4 (14%)	4 (10%)	11 (20%)	1 (1%)	
Cases: total number of completed cases allocated in that time period	26	38	48	43	155
Case progression for offenders (no. and %):					
case unsuitable	4 (15%)	11 (29%)	12 (25%)	14 (33%)	41 (26%)
offender not able to be contacted	0 (0%)				0 (0%)
offender dropped out	1 (4%)	0 (0%)	0 (0%)	0 (0%)	2 (1%)
offender refused conference	11 (42%)	1 (3%)	0 (0%)	0 (0%)	40 (26%)
offender agreed but couldn't proceed (V refused/uncontactable)	7 (27%)	10 (26%)	9 (19%)	10 (23%)	54 (35%)
conference held	3 (12%)	11 (29%)	7 (15%)	14 (33%)	20 (13%)
		5 (13%)		5 (12%)	
Case progression for victims (no. and %):					
case unsuitable	4 (15%)	11 (29%)	12 (25%)	14 (33%)	41 (26%)
closed before victim contact point	12 (46%)	10 (26%)	9 (19%)	10 (23%)	41 (26%)
victim not able to be contacted	0 (0%)		3 (6%)		6 (4%)
all victims refused	7 (27%)	1 (3%)	17 (35%)	2 (5%)	46 (30%)
offender dropped out before conference	0 (0%)	10 (26%)	0 (0%)	12 (28%)	1 (1%)
conference held	3 (12%)	1 (3%)	7 (15%)	0 (0%)	20 (13%)
		5 (13%)		5 (12%)	
Total offenders agreeing to conference and not dropping out (no. and %)	10 (38%)	16 (42%)	29 (60%)	19 (44%)	74 (48%)
Total offenders completing conference (no. and %)	3 (12%)	5 (13%)	7 (15%)	5 (12%)	20 (13%)
Total victims agreeing to conference and not dropping out (no. and %)	3 (12%)	5 (13%)	7 (15%)	5 (12%)	20 (13%)
Total victims completing conference (no. and %)	3 (12%)	5 (13%)	7 (15%)	5 (12%)	20 (13%)

Table 3.8: Bullingdon offence profile

	1.9.01 - 28.2.02	1.3.02 - 30.4.02	1.5.02 - 31.7.02	1.6.02 - 31.8.02	total
ABH/comm. ass.	7	6	9	9	31 (15%)
GBH	8	11	15	17	51 (25%)
s18	6	4	5	7	22 (11%)
Public order	0	2	3	4	9 (4%)
Robbery	4	9	18	34	65 (32%)
Other	3	8	4	12	27 (13%)
total	28	40	54	83	205 (100%)

We should stress that this sample is different from many of the London and Northumbria cases, in that, for some of the offenders, there is no criminal justice decision coming up which is likely significantly to affect the offender. Conferencing may affect licence and parole decisions, by informing decision makers of issues about risk to victims but, for many of these determinate prison sentences, it is unlikely to affect the actual release date. For victims, these conferences are occurring a considerable time after the offence. Victims may be nervous about the offender's release, but many may have 'put the offence behind them' in some sense. What the conferences themselves, however, have shown is that the offender and the victim in these serious violent offences may well have some links, in terms of living nearby or knowing people in common, and that these are issues which people wish to have the opportunity of exploring. We know that victims contacted by the Probation Service as part of their victim remit have often previously been left in ignorance of criminal justice system decisions and that their views may sometimes be used more to help criminal justice system decisions than to provide victims themselves with the information they seek (Crawford and Enterkin 2001). The significant rate at which victims take up conferencing in the Bullingdon prison sample needs to be seen in the light of this research.

We can also look at the time frame of conferencing at Bullingdon (Table 3.9). Cases were being allocated in the first three quarters at around seven to eight months before the anticipated release date, though this increased in the fourth quarter as more new cases were brought into the sample (to around ten months). The overall time which the conferencing process itself took decreased, as one would expect, from the first quarter, when things were being developed, to around three months. It took about two weeks to find out whether the case was suitable. Here we have to bear in mind that Thames Valley were using mostly part-time facilitators. Ascertaining whether the offender would consent was normally complete within about a month. Obtaining victim details and victim consent was the really time-consuming business, as facilitators and victim liaison officers have themselves commented to us in our interviews with them. Hence cases going to conference, which have to go through all these stages, took significantly longer than cases which dropped out at the consent stage, with the average time to conference being around three to four months, but some conferences taking much longer than this and coming very close to, or just after, release. If this remains the time scale for prison work, then it is important to start the conferencing process at least nine months before release, so that the conference can feed into the release process.

Table 3.9: Average time periods for Bullingdon prison sample Thames Valley JRC

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02	overall
Allocation to release date from prison (days and no. of cases)	211 (n=28)	219 (n=40)	240 (n=48)	443 (n=78)	312 (n=194)
Allocation to closure/abandonment:					
for unsuitable cases	25 (n=4)	18 (n=10)	24 (n=11)	5 (n=13)	16 (n=38)
for cases where the offender refused	37 (n=11)	24 (n=10)	28 (n=9)	10 (n=10)	25 (n=40)
for cases where the first victim refused	131 (n=11)	139 (n=12)	61 (n=18)	34 (n=11)	88 (n=52)
overall	78 (n=26)	72 (n=37)	50 (n=48)	22 (n=40)	53 (n=151)
Allocation to conference	91 (n=3)	101 (n=5)	81 (n=7)	66 (n=5)	84 (n=20)

Having, as one JRC scheme person would put it, 'built the machine' during the development phase in the first 12 months, described here, the challenge for Thames Valley is to 'get the production line up to speed' during Phase 2. Phase 1 was to get all the processes working, described and catalogued (towards future accreditation), to show they work and that they can be replicated. However, Thames Valley cases cannot be pigeonholed, because they are violent offences: 'more than in most crimes there are personal elements to them ... there are issues around relationships ... and there are issues surrounding prisoners' release.' Some of the Bullingdon cases have been extremely serious cases, the most serious short of homicide.

Reading Young Offenders Institution

In order to obtain more cases, at the beginning of 2002, Thames Valley also started exploring the possibility of conferencing at Reading YOI, with younger offenders, but the same range of offences. A total of 27 cases were allocated, with an average offender age of 19.5 years. Offenders came from the Thames Valley area, rather than the rather wider geographical area for Bullingdon. Most offenders had been sentenced at Reading or Oxford Crown Court, with a few from magistrates' courts. Offences were primarily grievous bodily harm (39%) and robbery (36%), with a few other more and less serious physical assaults, a similar picture to the Bullingdon sample.

Of these 27 cases, 22 had been completed by our analysis point, though our analysis here must be regarded as very tentative, since cases were primarily from the third and fourth quarters and conferences had not necessarily yet been completed. Overall, only two cases had resulted in conferences (9%). Unlike the Bullingdon sample, the main reason for cases dropping out was offender refusal (45%), with 36 per cent being ineligible or not suitable and just four proceeding to the victim contact stage, in two of which victims refused. There are some very preliminary indications as well from REMEDI's work that offender refusal is a problem in the young adult offender age group for violent offences and certainly it appears at present that conferencing is more likely to be welcomed by the older, prison sample.

Community sentence sample

The Thames Valley community sentence sample was being drawn at the same time as the Bullingdon and Reading samples and we can see the kinds of cases and their progression in Table 3.11. Over the whole year, the cases of 169 offenders were referred by the probation service to JRC and allocated to a facilitator.²⁶ The ages of offenders from the community sample were overall very similar to those for Bullingdon prison, with an overall mean age of 28.3 years, though there was a significant 'tail' of older offenders. Offenders were male, but we have no details of their ethnicity, nor many details for victims. Most offenders who had been sentenced by our analysis point had been given a community rehabilitation order (CRO - 45%), with 32 per cent having a community punishment order (CPO), 14 per cent a community punishment and rehabilitation order (CPRO) and a very few a fine or conditional discharge.

Table 3.10 shows the main offence for which people were sentenced. As we would expect from the lower sentence profile, most offences were less serious physical assaults, such as assault occasioning actual bodily harm or common assault (52%) or public order offences (17%). There were only very few of the robberies and grievous bodily harm cases which characterised the Bullingdon and Reading samples.

Table 3.10: Community sentences sample main offence

	1.9.01 - 28.2.02	1.3.02 - 30.4.02	1.5.02 - 31.7.02	1.6.02 - 31.8.02	total
ABH/common. ass.	3	28	31	25	87 (52%)
GBH	1	4	2	4	11 (7%)
s18	0	0	0	0	0 (0%)
Public order	5	8	10	6	29 (17%)
Robbery	0	1	1	5	7 (4%)
Other	2	8	17	5	32 (19%)
total	11	49	61	45	166 (100%)

If we look at case progression for the community sentences sample (Table 3.11), we see that 132 of the 169 cases allocated were completed before our analysis point, but again we must not place much reliance on the fourth quarter's figures. Overall, some 17 per cent of cases reached conference, with 22 offenders taking part in a conference, and 19 conferences being held. This is actually a slightly higher percentage and number than with the Bullingdon sample.

There were clearly initial problems with referrals, with a large proportion of cases being discovered to be ineligible or unsuitable, which includes cases where it was not possible to make proper contact with report writers etc. in time. There was also a greater problem of offender refusal than in the prisons sample, but a low rate of victims refusing if the case got to that stage. Overall, therefore, about a quarter of offenders for allocated cases in the community sentences sample agreed to conferencing, with 16 per cent completing a conference. This compares with nearly half the offenders in the Bullingdon sample agreeing to conferencing, but 13 per cent completing a conference.

²⁶ Cases which were referred but obviously ineligible through their offence type etc. are not, therefore, included in the tables. There were very few of these.

Table 3.11: Thames Valley community sentences sample

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02	Total
Total offenders with date of allocation	11	49	63	46	169
Offender age range (%):					
10-17	0	2	0	0	
18-24	36	43	53	57	
25-29	9	6	5	17	
30-39	45	36	32	19	
40-49	9	13	8	5	
50+	0	0	2	2	
Average offender age	30.3 yrs	29.5 yrs	28.4 yrs	26.3 yrs	28.3 yrs
Cases: total number of completed cases allocated in that time period	10	47	60	15	132
Case progression for offenders (no. and %):					
case unsuitable	7 (70%)	23 (49%)	22 (37%)	5 (33%)	57 (43%)
offender not able to be contacted	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
offender dropped out	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
offender refused conference	1 (10%)	7 (15%)	19 (32%)	8 (53%)	35 (27%)
offender agreed but couldn't proceed (V refused/uncontactable)	1 (10%)	1 (2%)	8 (13%)	2 (13%)	12 (9%)
abandoned (unknown reason)	0 (0%)	3 (6%)	3 (5%)	0 (0%)	6 (5%)
conference to be held (of which control group)	1 (10%)	13 (28%)	8 (13%)	0 (0%)	22 (17%)
			(1)		(1)
Case progression for victims (no. and %):					
case unsuitable	7 (70%)	23 (49%)	22 (37%)	5 (33%)	57 (43%)
closed before victim contact point	1 (10%)	7 (15%)	19 (32%)	8 (53%)	35 (27%)
victim not able to be contacted	1 (10%)	0 (0%)	0 (0%)	0 (0%)	1 (1%)
all victims refused	0 (0%)	1 (2%)	8 (13%)	2 (13%)	11 (8%)
offender dropped out before conference	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
abandoned (unknown reason)	0 (0%)	3 (6%)	3 (5%)	0 (0%)	6 (5%)
conference to be held (of which control group)	1 (10%)	13 (28%)	8 (13%)	0 (0%)	22 (17%)
			(1)		(1)
Total offenders agreeing to conference and not dropping out (no. and %)	2 (20%)	14 (30%)	16 (27%)	2 (13%)	34 (26%)
Total offenders completing conference (no. and %)	1 (10%)	13 (28%)	7 (12%)	0 (0%)	21 (16%)
Total victims agreeing to conference and not dropping out (no. and %)	1 (10%)	13 (28%)	8 (13%)	0 (0%)	22 (17%)
Total victims completing conference (no. and %)	1 (10%)	13 (28%)	7 (12%)	0 (0%)	21 (16%)

If we look now at the time periods that conferencing took (Table 3.12), the major change in mode of operation in Thames Valley is clearly shown. In the first two quarters, most allocation of cases was after sentence. By the third quarter, however, the change was being made to work with the offender pre-sentence, but contact the victim immediately post-sentence, with the conference being an integral part of the sentence.

The time periods for the conferencing process were again longer for the first few cases, as people worked out procedures and honed skills. Overall, it was taking, for these community sentences, about a month to see if the case really was suitable, to obtain consent or not from the offender and to see whether a relevant sentence was made. The initial victim contact problems for these cases seemed to have been resolved by the time that work with the offender moved pre-sentence, so that victim consent was then not taking much more time. The time to get to conference was running at about three to four months. We need to bear in mind that some of these community sentence orders can be quite short, though most run for around a year, so it is important not to delay too long before the conference is held, since any work agreed in the conference agreement should preferably be done whilst the order is still running. For victims, conferences were happening about seven to eight months after the offence.

Table 3.12: Average time periods for JRC Thames Valley community sentences sample

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02	overall
Allocation to closure/abandonment: for unsuitable cases	57 (n=7)	35 (n=35)	28 (n=22)	13 (n=5)	34 (n=34)
for cases where the offender refused	28 (n=1)	41 (n=7)	28 (n=21)	11 (n=9)	34 (n=38)
for cases where the first victim refused	60 (n=2)	46 (n=4)	25 (n=6)	19 (n=2)	49 (n=14)
overall	76 (n=10)	63 (n=47)	39 (n=59)	21 (n=16)	48 (n=132)
Allocation to conference (days and no. of cases)	124 (n=1)	106 (n=13)	65 (n=7)	-	93 (n=21)
Allocation to order made (days and no. of cases)	7 (n=11)	16 (n=48)	-10 (n=61)	-14 (n=45)	-
Offence to allocation (days and no. of cases)	-	213 (n=2)	65 (n=5)	127 (n=24)	123 (n=31)

JRC after the first 12 months

The original plans of JRC envisaged testing out restorative justice conferencing at most of the criminal justice stages in which it could be envisaged to be introduced. In addition, comparisons were built in between adult and youth offenders and between different sites. The experience of the first 12 months has significantly shrunk those aims, so that many of the original comparisons will now not be able to be made.

More significantly, it has come to be realised that the potential for restorative justice conferencing is more easily realised at certain criminal justice stages. Experience in different sites has led to similar conclusions. The first reaction to difficulties in obtaining case flow was to widen geographical boundaries of schemes, or to include more courts. This brings in its train, however, tensions as staff are stretched more thinly over more sites and communication and liaison with agencies become more burdensome. The second reaction was to focus on more profitable criminal justice points. We can divide these up into three types:

- Points where conferencing contributes directly to criminal justice decisions and is fed into those decisions, but where conferencing then needs to accept the rigorous timetables fostered by current criminal justice agreements and its lack of power to change these. These RCTs are the London pre-sentence Crown Court trials, the Northumbria pre-sentence magistrates' court trial and the Thames Valley community sentences trial.
- Points where conferencing is offered to victims and offenders of serious offences, with limited feedback subsequently into criminal justice decisions: the Thames Valley prison trial.

- Points where the referral source is largely under the control of the agency leading the RCT and cases can be extracted easily, with little need to spend time on obtaining case flow: the Northumbria final warning and adult caution trials.

All restorative justice, as we shall see in Chapter 5, has always had some problem in obtaining referrals and maintaining an adequate case flow. The design of RCTs exacerbates this problem, because half the cases in the active, Phase 2 part of the scheme are destined to become control group cases, rather than conferenced cases. Referrals have thus become a serious source of anxiety and concern and the process of settling into the most productive criminal justice niche has, we think, been shortened. It has been found that restorative justice is not easily introduced into current criminal justice at court pre-conviction, or linked to prosecution decisions (as opposed to police decisions). The number of cases which could easily be obtained from individual magistrates' courts or Crown Court centres is relatively small.

The pressures of obtaining case flow have precipitated moves to situations where the supply of case information is not dependent on others - where the scheme's task is not to respond to others' requests or referrals, but to extract data and decide itself what it will take on. The current process of case acquisition for JRC is a matter of extraction from a universe of data, not responding to referrals.²⁷ In London, that universe is the Crown Court case lists. In Northumbria it is lists of referrals for pre-sentence reports from sentencers and automatic referral of cautions and final warnings within the police. In Thames Valley it is the whole prison list of offenders.

There are potential or actual downsides to all of this. One is that having one's own universe of data from which to select may remove the conferencing process slightly away from criminal justice, so that its outputs may be more likely to be ignored. Another is that personnel will spend less time being seen around in normal criminal justice habitats and so be less familiar with normal practices, with which offenders and victims themselves have to deal. A third is that the accidents of how those data universes were obtained have removed the comparability elements initially built into the design. The fourth is that the time needed to realise the problem and make these adjustments has eaten very considerably into the whole time allocated for the project, so that the time available for the experimental Phase 2 has decreased. We need to explore all of these in the next stages of the evaluation.

What is missing from these descriptions of problems and challenges, however, is much mention of difficulties about conferencing itself. The difficulties have been with criminal justice, not with restorative justice. There has been a substantial degree of both offender and victim consent, even in relation to serious offences and adult offenders. This degree of welcoming restorative justice could not, we think, have been predicted. Moreover, there has been very little mention of any difficulties with conferences themselves. Any dire predictions of explosive conferences, intimidation or coercion have not been borne out. Producing safe conferences which happen according to the script seems, surprisingly, to be the part which has been easier than expected.

²⁷ The only possible exception is the Thames Valley community sentences RCT, where obtaining details of PSR requests, even though from within the same agency, is still somewhat problematic. This may explain why there was nervousness about proceeding to full-out Phase 2 working for this RCT.

4. REMEDI

The aims of REMEDI

REMEDI, previously called the South Yorkshire Victim Offender Mediation Service, has grown out of a South Yorkshire Probation initiative from the early 1980s, initially to provide mediation services in Sheffield. It has worked across a wide range of situations in which mediation might be valued, most recently primarily within criminal justice. The proposal to the Home Office says that:

REMEDI aims to assist in restoring and rebuilding communities throughout South Yorkshire by providing access for all offenders of crime and their victims in the area, and those who work with them, to a high quality, free and confidential mediation service. Such a service will provide a direct and constructive response to the effects of crime by enabling victims to express their needs and feelings and offenders to take responsibility for their actions. It provides a forum to discuss how to put right the effects of the offence, where possible, and aims to assist victims in recovering from the effects of crime and to help reintegrate offenders into the community. REMEDI believes that mediation may have a role to play, along with other interventions, in supporting offenders to cease or reduce their offending behaviour.

Its aims thus cover several of those set out in our list of aims in Chapter 1. It differs from our other initiatives, however, in that it specialises in mediation (direct and indirect), rather than conferencing, and that it works primarily after criminal justice decisions have been taken. Hence, at the time the Home Office funding started, it was working, with adults, post-sentence during community sentences²⁸ or whilst an offender is serving a custodial sentence, and with young people who are the subject of a final warning.

In our interviews, REMEDI staff indicated that all our list of aims might be applicable to REMEDI, but there was considerable concurrence over the most important three, more so than with other schemes. The three selected were:

- Repairing relationships/reducing the likelihood of future conflicts between victims and offenders.
- Increasing the participation of victims and offenders in working out what to do about the offence.
- Providing a fair and just response and outcome in relation to the offence.

of which the first was given priority. This ties in with REMEDI's work in providing opportunities to victims and offenders, generally outside the framework of criminal justice decision making.

²⁸ If an adult case is received pre-sentence, work does not normally commence until it has been heard that sentence has been passed.

Implementing the scheme

Because REMEDI is a long-established scheme, the funding for the Home Office was used to enable substantial expansion of its services, rather than to start something entirely new. REMEDI was, for example, registered with Mediation UK and a provider of NVQ training on mediation prior to the start of this new funding. Though REMEDI had moved out from its initial work in Sheffield to provide services throughout South Yorkshire before the Home Office funding started, with offices in Sheffield and Doncaster, the new funding enabled it to set up offices in Rotherham and Barnsley and to appoint co-ordinators and, in some offices, full-time mediators for each area. At the end of the first 12 months, offices had been established in Barnsley (adult and youth cases), Doncaster Thorne (adult cases), Doncaster Balby (youth cases, housed with the Youth Offending Team (YOT)), Rotherham (adult and youth cases), Sheffield (adult cases, also allocation of youth cases) and Sheffield (youth cases, based at the YOT), as well as there being a South Yorkshire office in the same place as the Sheffield adult office (which necessitated relocation within the same building during the period). Each office had a considerable degree of local autonomy in terms of acquiring its workload and was encouraged to raise funds locally, though there were very regular meetings of co-ordinators in which each new development was discussed. Recruitment and training of volunteers, together with major fund-raising, appointment of staff and acquiring equipment, had a much larger central, South Yorkshire input. The central/local balance was being continuously negotiated as possibilities arise.

The process of expansion has not caused significant difficulty for REMEDI - although the pace has been a bit breathless at times. Our interviews indicate that what has been easier than people expected has been team formation and integration of new staff in each office and that they have enjoyed setting up and managing this expansion. After a number of difficulties with their previous Access database, we wrote and installed a common database in all REMEDI offices ourselves and, from the interviews, this seems to serve both the scheme's and the evaluation's purposes without major difficulty. The key difficulties have been juggling different types of referrals and work, obtaining adequate referrals, and obtaining victim contact details.

REMEMEDI as a whole has a steering group, with representation from probation, police, youth justice and individuals, which it has found very valuable in getting difficulties sorted out and initiatives under way. Each local office also had its own steering group, which met approximately quarterly and was a focus for ironing out any problems and also discussing fund-raising possibilities. Presentations have been made to many agencies, including probation, Victim Support, YOTs, crime reduction partnerships and prisons, but it is found that these have to be repeated at intervals, because of staff turnover, particularly with probation.

In the first 12 months, each office has developed somewhat different patterns of referrals and work. This process illustrates the key role that personal contacts and personnel in different statutory agencies play in creating restorative justice opportunities. Even though REMEDI's aims and type of mediation are common across South Yorkshire, the actual work being done, as we shall see below, has been somewhat different in different localities. As a result, we are presenting the case flow for each office separately, with the relevant tables being in the Appendix.

Automatic referrals of adults from the National Probation Service

In the original proposal, it was indicated that REMEDI were already operating at a level of some 600 referrals per year and that this could be raised to 800 per year through the newly agreed protocol for the automatic referral process from the National Probation Service of adults sentenced to sentences including rehabilitation work (CROs and CPROs). As part of their package of inputs on this rehabilitation work, REMEDI agreed to do one session (of the 12 sessions) on victim awareness. During this one-to-one session, REMEDI would, if the person was suitable, introduce

the topic of mediation. If the offender was interested, victim contact would then be sought and mediation might proceed. Attendance at the one session is compulsory and breach proceedings can be brought under the national standards. Attendance at any subsequent mediation is entirely voluntary.

It is important to note that the figure is a figure of referrals, not cases which will result in mediation. The automatic referral system has had some difficulties over the first 12 months, with some success in three offices, but only a very low level of referrals in another. Initially, REMEDI were to be given copies of pre-sentence reports (PSRs) and then informed if a relevant sentence was passed. However, due to worries about data protection, it was then decided that offender consent needed to be obtained by probation in order to pass on offender details to REMEDI (even though it was part of the order made by the court). Hence probation case managers needed to talk to offenders about REMEDI, obtain their consent and make an appointment for REMEDI to do the victim awareness work. For some case managers, this has been seen as too much extra work (particularly in one town) and so referral rates fell considerably in these areas. The support of the senior probation officer in charge of the team has been crucial. Where referral rates have been re-established, it is clearly because of good contacts between REMEDI staff and probation in those sites, together with greater awareness of the usefulness of the victim awareness skills that REMEDI staff have. Victim awareness by itself cannot be seen as falling within our definition of restorative justice (see Chapter 1), although it is very useful work, because it does not include the victim. It is only if it has led to mediation that we can include it in our definition of restorative justice.

Negotiating and adjusting the protocol and practices for these referrals and for other referral paths took a considerable amount of time. The lessons from the last year are summarised by one of our interviewees:

Get the protocols and agreements in place first. Start small and work up to full potential. Don't assume that because agencies are keen they will refer and knock your door down.

Offering mediation to other adult populations

Mediation itself is offered by REMEDI to anyone within criminal justice who wants it and is suitable, but obviously the take-up depends upon how information is sent out and whether it is discussed with the offender by other criminal justice personnel. As one of our interviewees said, 'Mediation is a new concept for people'.

In Doncaster and Barnsley, all offenders sentenced to prison in this period received a pack from the National Probation Service, containing details about their probation officer, licence arrangements etc. In that pack was information about REMEDI and a form which prisoners could fill in and return direct to REMEDI, indicating an interest in mediation. These self-referrals from prison have been particularly significant for Doncaster, which has four prisons within its catchment area, but has provided cases for all four offices. However, it only reaches those prisoners in contact with probation, which means primarily those sentenced to over 12 months.

Another initiative has been to work with the resettlement probation teams. Again in Barnsley and Doncaster, information has been given out by resettlement officers and they have referred prisoners to REMEDI. As from October 2002, it was intended that there would be automatic victim awareness for those prisoners being resettled on licence in Barnsley, in a similar fashion to the victim awareness sessions for those on CROs. This one, required session allows the subject of mediation to be introduced by REMEDI.

There were other means of referrals as well for adults. Information was being given out by some probation officers to those receiving community punishment orders, as well as by those doing

rehabilitation work. There were also a few victim self-referrals as well, some via Victim Support. Where victims indicate to Victim Support that they would like to meet with the offender, then the case may well be referred to REMEDI.

Restorative justice with youths

REMEMDI was also working significantly with the new youth justice opportunities for restorative justice in Barnsley, Doncaster and Sheffield. Each YOT is of course a separate entity, so there is no overall South Yorkshire policy, as with adults and probation. Hence REMEDI has needed to negotiate separately with each YOT. The opportunities and the workloads over the first 12 months have varied considerably, with the views of the YOT managers and team being very important in how the work has developed.

In Doncaster and Sheffield, REMEDI became very much involved over the first 12 months with referral panels and their operation. REMEDI has trained panel members and was contracted to contact victims, obtain their views about attending panels, support them if they do attend and, if the victim is not able to or does not wish to attend, provide their views to the panel. This victim support work, which is very significant, particularly in Doncaster, is not included at present on our database. However, it could be argued that it does fit within our definition of restorative justice in that referral panels are themselves potentially restorative fora if victims attend or their views are presented. We shall be analysing this work in future reports.

Referral panel work may then itself lead on to further restorative justice, in that panels can require offenders to undertake victim awareness (and some seemed almost automatically to do so) with REMEDI. This session, either one-to-one or occasionally a group session, may itself give rise to mediation. Alternatively, offenders may say in the panel meeting that they would wish to write a letter of apology to the victim and it may be given to REMEDI to oversee this. We have counted letters of apology which were sent to victims as falling within our definition of restorative justice. It is possible that, within the referral panel system, restorative justice can occur with one offender at several points (and this has happened).

In Barnsley and Sheffield, REMEDI has also been managing indirect reparation for the YOTs, though this community reparation does not fall within our definition, because it does not involve the victim of that offence. Sheffield youth REMEDI was providing supervision for Intensive Supervision and Surveillance Programmes (ISSPs), a court order which targets more serious and prolific offenders, as well as working with young people released on licence from Young Offender Institutions. It therefore had a small, but significant and growing, input with very serious offending by young people, some of which is victim awareness and some of which involves or leads onto mediation. There are also some referrals from case managers where offenders have been sentenced to action plan orders, reparation orders or supervision orders, but there is as yet no 'automatic' system in place here, so referrals have depended upon YOT staff being aware of the potential of REMEDI services. Sheffield and Doncaster are also interested in working with schools in tackling bullying, moving more into community mediation related to crime.²⁹

It has been clear over this period that different YOTs contain different working practices and cultures and that they seek different services from REMEDI, thus leading to different REMEDI offices doing different kinds of work. Where the YOT culture has been less positive about restorative justice (two offices), with staff having more traditional views about working mainly with offenders, there has been a much lower flow of work. Close contacts have been vital, so that workers are aware of what REMEDI does and so that REMEDI workers can chase up any

²⁹ Sheffield has a separate community mediation service, Mediation Sheffield, or MESH, which developed from the initial projects in the 1980s.

difficulties. Basing REMEDI staff in YOT premises has been beneficial, though it can result in pretty cramped conditions!

Balancing the workflows

We can see that REMEDI has been involved with a large number of different avenues by which people may approach mediation and restorative justice, as well as with work on victim awareness, community/indirect reparation and victim contact for referral panels which cannot be said to fall directly within our definition of restorative justice. The challenge for the offices has been to balance these different streams of work. The tensions have been:

- the Home Office funding has been the major source of REMEDI funding over the last year,³⁰ which is primarily for mediation work with adults;
- but the pressure is to take on work which is already part of statutory services (victim awareness for probation, referral panels, indirect reparation etc.) for either probation or YOTs, because these provide a more stable funding base;
- youth justice work is clearly expanding, as are the opportunities for it;
- however, many of these new activities do not encompass mediation or other forms of restorative justice, which has been seen as the central plank of REMEDI's existence.

Essentially, the problem is that REMEDI is a voluntary body, which has always needed to twist and turn to accommodate to funding options in order to exist. It is now the major supplier of mediation and restorative justice skills and work to criminal justice agencies in South Yorkshire. It also has significant victim contact skills, which are being sought. The funding for the project we are evaluating is the first substantial funding for restorative justice work with adult offenders, yet it is occurring at the same time as youth restorative justice work is developing fast on a stable, statutory basis. REMEDI has been pulled in several directions, with its limited resources. The danger is that, after the Home Office funding ceases, the skills acquired for work with adult offenders will start to be lost as priorities turn to other work. They can only then slowly be re-acquired.

Difficulties with victim contacts

All areas in REMEDI have had very significant problems with obtaining victim contact details over the last year. Sometimes this has resulted in cases where offenders are keen on mediation having to be closed because it has taken months to contact victims:

There's quite a lot of indirect mediation going on, but often because of the problems with data protection, we have a letter of apology from the offender, we even know where the victim is, but because the address information of the victim has come from another agency and the police haven't been able to get us permission to contact, we have to say, that letter will lie on file awaiting things developing.

The problem appears to be that the police see it is necessary for people based at or employed by the police to do all initial victim contact and ascertain victim willingness for their cases to be referred to REMEDI. Allocating police resources has been difficult, as it has not been a major police priority - and it could not be said that restorative justice ever can be a major police priority

³⁰ REMEDI is also paid directly through negotiated contracts with probation and YOTs for its work on victim awareness, community reparation etc., but the sums involved have been much smaller.

for all areas at any time. Solving these problems has again been a matter of making personal contacts. In some areas, some dedicated police (civilian) time has been found. In others, REMEDI is paying for sessional time. However, not all police civilian staff are suitable (or trained and skilled) to undertake victim contact work. The most useful approach might eventually be that REMEDI staff are seconded to the police, but this would require a different financial basis.

Case flow and outputs

There have been very different rates of referral and types of work done by the various REMEDI offices over the first 12 months. We have, therefore, to consider the workload of each office separately. The tables for each office are given in the Appendix.

Work on cases with adult offenders

Starting with the case flow for the work with adult offenders, there were very different rates of referral in Barnsley (181 adult offenders referred during the year, with the numbers growing substantially each quarter - see Table A.1), Doncaster (59 adult offenders - see Table A.2), Rotherham (128 adult offenders - see Table A.3) and Sheffield (117 adult offenders - see Table A.4).

We do not always have sentencing details, but for Barnsley 43 per cent of offenders for whom there were details were from custodial establishments. There were very few details of victims for any office, since victim details were only obtained if offenders had agreed to mediation (and in those adult offender sites where there was more mediation, there were serious problems in victim contact). In Doncaster, the proportion of offenders in prison was much higher, reflecting the concentration of custodial establishments around the office (we have sentencing details for 32 of the 36 completed cases (89%), showing that 29 of the offenders (91%) of the offenders were in prison. In Rotherham, sentencing details were available for 60 offenders, with 72 per cent being on a CRO, three per cent on a CPRO and five per cent in prison. In Sheffield, of the 64 cases for which we have sentencing details, 25 per cent were serving custodial sentences in prison or a YOI, 64 per cent had been given a CRO and eight per cent had been given a CPO.

Most adult cases in Barnsley had been completed by our data analysis point (91% of those referred). The overall number of cases ending up in some form of mediation was, however, very low (2%). The reason is that most offenders were being referred by the automatic referral route from probation and that, though they completed victim awareness (91% completed their victim awareness session), they did not take up the offer of mediation. So 70 per cent of offenders refused mediation. Though about a quarter of offenders did agree to possible mediation, when their victims were contacted, the victims tended to refuse. The result is an extremely low rate of mediation (just 2% of cases led to mediation).

The number of completed cases in Doncaster was much lower (only 61% up to our data analysis point), reflecting difficulties in victim contact. However, the overall number of mediations accomplished was in fact, however, slightly higher. The reason is that Doncaster adult cases were primarily self-referrals from prison, so offender refusals were very low, though there were some difficulties in contacting offenders in other prisons. The key point at which cases tended to drop out was in contacting victims, with a fifth not being able to be contacted and about a third refusing.

Rotherham cases were almost all adult offender cases, as youth offender work was only just starting in autumn 2002, because of difficulties in liaison with the YOT. As in Barnsley, the cases were primarily post-sentence work with offenders on probation-related sentences, using automatic referral. Again, though there had been a considerable number of referrals, with most cases

completed (78%), there had clearly been difficulty in obtaining offender agreement to mediation - though cases which were still open at our analysis point were, of course, far more likely to be those still in the process of mediation. This parallels the experience of Barnsley with automatic referral and that of JRC working post-sentence in Thames Valley.

Automatic referral was not really operational in Sheffield in 2002. As a result, there was much more of a mixture of referrals here, often self-referrals or probation referrals on the initiative of individual probation officers. The rate of referral, given the much larger population, was smaller. Sheffield cases were much slower to be completed (only 58% completed before our analysis point), so it is difficult to judge the eventual rate of mediation, but it looks relatively similar to that for the other adult offender offices.

The average age range for the adult offenders at all offices, at around 25-29 years, was the same, however, for all offices. In Barnsley and Sheffield, about a fifth of offenders were female, but those for Doncaster were almost entirely male, and somewhat younger than in the other sites.

Work on cases with youth offenders

We can now turn to look at the youth offender cases, bearing in mind that many more of these cases will have been subject to some order of the court specifying victim awareness or mediation. The workload in Barnsley with young offenders increased substantially in the last quarter, reflecting the onset of work with referral orders (Table A.5) and producing a total of 104 referrals over the 12 months. The numbers of referrals for Doncaster and Sheffield, in comparison, were 221 and 22, showing the very considerable effect of different YOT views and liaison.

There was a wide variety of orders under which young offenders were to work with REMEDI. They included action plan orders, attendance orders, supervision orders, community service orders, community rehabilitation orders, combination orders and ISSPs, as well as referral orders (which only became operational in the third and fourth quarters).

In Barnsley, the offenders who were referred were primarily male and in the older youth age range, with the average age being about 15-16 years. Most cases had been completed by the end of our analysis period (77%). There was a much higher rate of offender agreement to mediation in this population, reflecting, we think, the statutory basis of the work, though it is possible there is a youth effect. Very few offenders could not be contacted, relatively few refused to consider mediation. This meant that only about a third of cases dropped out before the victim contact point. However, at this point, the difficulties over victim contact clearly surfaced, with nearly 40 per cent of victims unable to be contacted. In these cases, offenders could only complete victim awareness work. None the less, the number of mediation cases resulting, though low, was still higher than with the adult samples.

The Doncaster youth offender cases show what can happen with very good co-operation between YOT and scheme and with a statutory basis for referral. The number of offenders referred was very high, with 82 per cent being completed by our analysis cut-off point. We have disposal details for 163 cases. A substantial proportion were referred as part of a final warning package for victim awareness and possible mediation (50%). The rest were almost all referred post-sentence. The age range was very similar to that in Barnsley. Doncaster cases were mostly from those with little previous criminal justice experience (final warnings and referral orders), with a smaller proportion of much more serious offenders (supervision orders and ISSPs). As in Barnsley, few cases dropped out before the victim contact point, with few offenders refusing. Victim contact was again a major problem, made even more poignant given that there was a substantial number of victims who were not individuals (19% of the 182 victims for whom we have details were shops and 19% other corporate entities; 2% were individuals victimised at work). Relatively few victims refused.

Nearly half the cases completed, however, led to some form of restorative justice within our definition, with 31 per cent resulting in indirect mediation (shuttle mediation between victim and offender, passing information between them), ten per cent in letters of apology written by the offender and sent to the victim, and as many as five per cent in direct mediation.

The story was rather different in Sheffield, where there were difficulties in achieving referrals. Only 22 cases overall were referred, with 77 per cent being completed. We have disposal details for about half, of which eight were final warnings and the others mostly post-sentence. There was only one case in which restorative justice had been achieved. In the others, difficulties lay in locating offenders and victims, including victim contact problems.

Referrals to REMEDI

The overall number of referrals to REMEDI in the first year has in fact been considerable, with a total of 485 adult offender cases and 347 youth offender cases being referred. However, referrals do not necessarily mean cases going forward to mediation. For a whole host of reasons, to which we have referred above, there was very considerable attrition in the adult cases, with the number of cases resulting in mediation or restorative justice of some form being just 12 by the point we undertook the analysis (though it will increase to some extent, as mediated cases take longer than cases dropping out). On the youth side, the figures look rather different, with 95 cases resulting in mediation or restorative justice by our analysis point.

We should not conclude from these figures that there has been little positive achieved. First, a large amount of victim awareness work has been undertaken with offenders by staff who have active and continuing contact with victims and can put across the impact of crime on victims. Secondly, if referrals are made post-sentence or post-disposal, have (on the adult side) no statutory basis, and are not related to any particular criminal justice decision, then there are no concrete and obvious attractions for offenders. Nor is the criminal justice system indicating to victims that it considers that it would be helpful if they participated. Mediation is a new concept to most of those who are approached and one which has not been in the mainstream of criminal justice thinking. Mediation, for REMEDI, is a service to be offered to victims and offenders. They are entirely free to turn down that offer. We suspect that if it is intended that restorative justice should have high take-up figures, then this will not occur if it is only offered post-sentence. It does not indicate that the offer should not be made.

Average time intervals for cases to complete their various stages

Finally, we can look at the lengths of time cases took to be completed during the first year, again bearing in mind that the longer cases from the third and fourth quarters were not finished at the time of analysis (Table 4.1). After a few difficulties in the first quarter, cases were being allocated to mediators quickly. The length of time which cases were taking overall, however, was quite different for different offices, reflecting the types of referral. The longest cases on average were for adults, particularly in Doncaster, which had primarily prison referrals. The overall time span for youth cases, taking the second quarter's figures as the most representative, was about six weeks, with that for adults varying up to four months. We can also see that the length of time before referral is significantly different for adults than youths. Many adult cases were around a year old before referral, with Doncaster cases even older, with consequent difficulties in finding victims. Times from sentencing to referral were also quite long for adult cases, making the case (except for prison pre-release cases) relatively stale for offenders as well.

Table 4.1: Average time intervals for cases completed by 31.8.02 referred in particular time periods (in days)

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02
Referral to activation (days and no. of cases)				
Barnsley adults	1 (n=19)	0 (n=51)	0 (n=40)	3 (n=54)
Doncaster adults	49 (n=9)	6 (n=12)	2 (n=11)	13 (n=2)
Rotherham adults	3 (n=43)	0 (n=41)	0 (n=12)	0 (n=4)
Sheffield adults	11 (n=31)	6 (n=21)	2 (n=13)	13 (n=4)
Barnsley youth	8 (n=17)	9 (n=14)	0 (n=22)	0 (n=27)
Doncaster youth	9 (n=56)	7 (n=38)	7 (n=56)	9 (n=32)
Sheffield youth	12 (n=7)	6 (n=2)	8 (n=5)	3 (n=3)
Referral to closure (days and no. of cases)				
Barnsley adults	51 (n=19)	30 (n=51)	21 (n=40)	14 (n=54)
Doncaster adults	90 (n=11)	110	95 (n=11)	31 (n=2)
Rotherham adults	124	(n=12)	47 (n=12)	27 (n=4)
Sheffield adults	(n=43)	37 (n=41)	46 (n=13)	42 (n=4)
Barnsley youth	93 (n=31)	72 (n=31)	41 (n=22)	23 (n=27)
Doncaster youth	35 (n=17)	58 (n=14)	39 (n=56)	27 (n=32)
Sheffield youth	40 (n=56)	48 (n=38)	79 (n=5)	43 (n=3)
	54 (n=7)	87 (n=2)		
Sentencing/decision to referral (days and no. of cases)				
Barnsley adults	82 (n=2)	25 (n=6)	68 (n=3)	109 (n=22)
Doncaster adults	290 (n=5)	231 (n=4)	83 (n=4)	622 (n=1)
Rotherham adults	18 (n=18)	14 (n=18)	146	186 (n=4)
Sheffield adults	138	186 (n=9)	(n=11)	171 (n=3)
Barnsley youth	(n=14)	171 (n=2)	192 (n=9)	24 (n=12)
Doncaster youth	14 (n=10)	-	18 (n=14)	17 (n=4)
Sheffield youth	125 (n=3)	4 (n=1)	16 (n=6)	130 (n=2)
	40 (n=5)		50 (n=2)	
Offence to referral (days and no. of cases) ³¹				
Doncaster adults	618 (n=6)	469 (n=7)	204 (n=7)	194 (n=1)
Rotherham adults	110 (n=4)	127 (n=2)	345 (n=5)	589 (n=2)
Sheffield adults	215	223 (n=8)	320 (n=8)	348 (n=3)
Barnsley youth	(n=15)	109	93 (n=3)	86 (n=1)
Doncaster youth	113	(n=10)	16 (n=24)	64 (n=15)
Sheffield youth	(n=12)	60 (n=28)	28 (n=1)	85 (n=1)
	57 (n=34)	-		
	92 (n=1)			
Referral to direct mediation meeting (days and no. of cases)				
Doncaster adults	-	181 (n=1)	-	-
Rotherham adults	-	-	-	-
Sheffield adults	-	46 (n=1)	-	-
Barnsley youth	-	171 (n=1)	-	-
Doncaster youth	28 (n=3)	-	41 (n=5)	48 (n=2)
Sheffield youth	-	-	-	-

³¹ Data were not available for all these time intervals for all areas, because REMEDI was not provided with the data by criminal justice agencies/courts.

5. Evaluating the fit: restorative justice and criminal justice

The interaction between criminal justice and restorative justice³²

One of the key new elements of these restorative justice schemes is that they were designed to implement different forms of restorative justice for adult offenders, closely associated with mainstream criminal justice. The major question for this first year report is: what happens when someone tries to start up restorative justice within a criminal justice framework in a particular area of the country? We think there are three key implications of doing restorative justice within criminal justice. The first is that the cases for restorative justice need to come out of the criminal justice process itself, rather than, normally, from self-referrals, hotlines, housing agencies, schools or other institutions. It's the problem of referrals and, specifically, trying to ensure that the right cases and all of the right cases, are referred from a criminal justice agency. The second need is to consider carefully the relation between restorative justice and criminal justice: is the scheme designed to feed into a key criminal justice decision, or is it a service offered to victims and offenders within the context of criminal justice, but not designed to affect criminal justice decision making? The third implication is to realise that restorative justice has to operate within the framework of procedures and values set up for criminal justice. We shall take these in turn.

Achieving referrals

In order to acquire referrals, restorative justice schemes have needed to develop procedures and practices which allow them to exist alongside criminal justice. We would venture to argue that the culture and nature of criminal justice in England and Wales is currently one in which it is extremely difficult for any new initiative, whatever it be, to set itself up and be operative as a substantial new player quickly. In addition, it is very difficult to implement a new localised (or pilot) project at the same time as national initiatives are occurring at the same point in criminal justice, particularly if they involve performance targets or national standards. Restorative justice, which has the potential to influence many stages in criminal justice, is always likely to fall foul of other changes being introduced at some point in the system, unless it is given the same weight as they, which is likely to mean having statutory effect.

Our view that it is currently very difficult for any new initiative to set itself up as a substantial player in criminal justice is a major charge against the system and we need to substantiate it carefully. We shall be drawing on published evaluations of several new initiatives set up in the last few years, particularly the major changes in youth justice, many of which have involved the potential for restorative justice work, as well as the experiences of our three restorative justice schemes.³³

³² Much of the material contained in this chapter was originally given as a paper to the Workshop on Restorative Justice at the British Criminology Conference, Keele University, 16 July 2002. It had previously been shown to and commented upon by the schemes, as well as shown to the Home Office. It also draws upon work on services to victims (Shapland 2003b).

³³ Recent evaluations of new initiatives in criminal justice include the pilot to evaluate the introduction of victim personal statements (Hoyle *et al.* 1998); the pilot of the One Stop Shop (Hoyle *et al.* 1998); the introduction of Youth Offending Teams and their rollout throughout the country, including their programmes of work to address offending behaviour, increase victim awareness and increase the use of reparation and restorative justice (Holdaway *et al.* 2001); the introduction of the final warning and reprimand, to replace cautioning of young people, part of which could involve restorative justice with victims (Holdaway *et al.* 2001; Dignan 2000); the introduction of reparation orders as a mainstream sentence for young people, to

Achieving referrals has been the Achilles heel of almost all restorative justice schemes, apart from the semi-mandatory referral order (Davis *et al.* 1987; Dignan and Lowey 2000; Miers *et al.* 2001). Acquiring and then maintaining referrals seems to us, looking at all three schemes, to involve a number of elements: making sure there are enough cases there to begin with, getting to know all the relevant agencies, developing protocols with agencies to allow work to begin, developing and then maintaining an image as a reliable partner, trying to manage a place within agencies' performance measures, and just simply keeping noticed in what could be called the 'multiplicitous bustle' of criminal justice in England and Wales.

Mapping the environment for referrals

Lets take these stages one at a time. The first thing is to find out whether there are sufficient cases from any one court to provide a suitable stream of referrals to a restorative justice scheme. This kind of environmental mapping is, we think, a key stage for schemes - and funders - but one which has not always been undertaken before the scheme is proposed or set up. The consequences of scheme and funder not undertaking such analysis very early on can be that schemes find they have to enlarge the geographical area in which they are operating, or change the points at which they are seeking referrals. We have seen this in the current evaluation in relation to all our schemes. Both reactions mean more work in bringing on board new courts or police stations and new partners - and they also tend to create delay.

There are some excuses for schemes' and funders' lack of analysis prior to setting up. It is surprisingly difficult, given the long history of criminal justice statistics in England and Wales, actually to discover the numbers of cases at each stage of criminal justice in each court. There are, of course, readily available statistics on the number of cases for different types of offence coming before each magistrates' court (though not individual Crown Court centres, strangely) in the supplementary volumes of the *Criminal Statistics*.³⁴ Schemes do need, we think, to treat these kinds of musty volumes as key initial sources of information on whether they need to operate in one court, or two, or more and this is one area where we have needed to feed in information. But these statistics do not separate out individual magistrates' courts, as opposed to petty sessional divisions.

There is, however, a big gap between the number of people coming before the court and the number being sentenced. The charges may be dropped by the CPS and some of these defendants, if young people, may be diverted from court to a police disposal such as a reprimand or final warning. There may be a not guilty plea, followed by acquittal, or no evidence being offered on that charge (but the person being sentenced on a more serious charge) or on all charges. There are no national figures available, as far as we are aware, of pleas entered, cases going to trial or final guilty pleas for all courts, only the results of specific research studies (such as Brown, 2000; Shapland *et al.* 2001). If one is operating a restorative justice scheme pre-sentence, which requires the offender to have admitted his or her guilt (i.e. pleaded guilty), then it is simply not possible from currently available published sources to deduce the likely case flow to the restorative justice scheme. Special research exercises are required. We ourselves and some of our schemes have undertaken these.

allow reparation work to be undertaken to the community or directly to victims (Holdaway *et al.* 2001); the introduction of referral orders as the main sentence for young people for their first appearance before the courts, which was supposed to involve offenders and victims discussing with a lay panel what should happen as a result of the offence (Newburn *et al.* 2002); the pilot of modernising the youth court, to improve discussion about youth offending behaviour and encourage parents and others to be involved (Allen *et al.* 2000); the introduction of statutory time limits in pilot youth courts; the evaluation of probation work with victims, to provide information about release of offenders from custodial establishments (Crawford and Enterkin 2001); and the evaluation of existing schemes trying to provide restorative justice opportunities related to criminal justice in England and Wales (Miers *et al.* 2001; Hoyle *et al.* 2002) and in Northern Ireland (O'Mahoney *et al.* 2002).

³⁴ Part IV for the *Criminal Statistics* (2001).

Getting noticed

The second need is to get to know and be known by all the relevant statutory agencies. This is a major task:

'Something we've learnt was you've got to be in court all the time, making your voice known, with your CONNECT badge on, lurking around the court concourse, visible, sweatshirt, you've got to be known as that's the CONNECT worker.' (scheme worker)

For other schemes, the task was to get known by all relevant main grade probation officers, or by YOT staff, or by CPS, or by court clerks. The lesson from previous evaluations is that it is a long, slow process to try to institute change in criminal justice - and instituting referral paths for restorative justice means creating change. Typically, each recent initiative in youth justice has taken at least a year to pilot and get working in most areas (for example, the creation of YOTs (Holdaway *et al.* 2001), the introduction of statutory time limits in pilot areas (Shapland *et al.* 2001) and the rolling out of Narey initiatives in adult courts (Brown 2000)).

Why is culture change difficult? Partly it is because we all like to go on working in the same way we have, an aspect which shines out of the descriptions of the lower courts in the United States from the very early work of Sudnow (1964), whose description of courts is still very recognisable in magistrates' courts in England and Wales today. People try to routinise how they deal with cases, to speed the flow and to cope with workloads. If possible, people try to accommodate and adapt to change, and where necessary modify the change, rather than letting that change radically affect their working lives.

Partly, we think it is because the work of criminal justice is so complex, an aspect which has perhaps not been brought out clearly in previous studies. Each of the many changes in youth justice in England and Wales in the last few years, for example, has affected some cases in a few ways. Referral orders are meant for certain cases, reparation orders for others. 'Narey' reforms have impinged considerably on the first court appearance of a case, sentencing reforms on sentencing. But if we think about the work of a court clerk, a magistrate, or a YOT member, then they are confronted every day by lots of different cases, all at different stages in their criminal justice progress - the 'multiplicitous bustle' of everyday criminal justice. Each change only affects a very small proportion of one practitioner's work daily. So they can only afford a limited amount of time to deal with that aspect and only have experience of it in a minority of their work. Moreover, they may only have adequate training in some of these initiatives - the priority that necessarily had to be accorded to the training of magistrates in human rights prior to the coming into force of the Human Rights Act 2000, for example, rather displaced training on the youth justice reforms, including restorative justice (Holdaway *et al.* 2001, p. 64).³⁵

A new referral system to restorative justice will only impinge on a few cases per court list. Hence culture change is difficult and it is only slowly accomplished. It needs the constant presence of reminders of restorative justice presence (such as the brightly coloured slips and stickers used by some of our schemes) and the visibility of restorative justice personnel at court or in the station. It needs restorative justice schemes to set up systems so they know which cases are being missed for referrals and for them then, politely, to feed that back to referring agencies.

For restorative justice operating at court, there can be additional problems. Referral actually during court business means referral with the active participation of the judge or magistrate. Yet

³⁵ There are, of course, many other reasons why culture change is difficult. Where there are many simultaneous initiatives from government or agencies, it can be difficult for practitioners to prioritise the changes for themselves. Some initiatives can also be in tension with others, for example, the pressure to reduce delay in youth cases and also to allow time for victim-centred initiatives (Dignan 2000a; 2000b; Shapland *et al.* 2001).

the judiciary in our schemes did not feel that they could ask the defendant in open court whether they would wish to participate in the scheme. Equally, scheme workers did not feel they could stand up in open court and initiate such deliberation, because it was not part of the culture of the adult court:

'People don't sort of pop up with bright ideas in the adult court in the same way as they do in the youth court where they've thought there's a better way of solving this case.'
(scheme worker)

Part of this reluctance was because the schemes were new and experimental, without a statutory base. Part of it, however, was because a judge asking whether an offender would participate would put very considerable pressure on that offender, particularly if there had not been preparation and discussion beforehand. Hence schemes had to rely on previous discussions with agencies during preparation of the case. Given the extent of change of personnel between preparation and presentation,³⁶ the short time between preparation and presentation for the prosecution, and the multitude of factors which can affect cases on the day,³⁷ this is a very uncertain route.

Any change in criminal justice procedures seems to be difficult to institute. Where the change involves the introduction of an extra element or agency into the already complex process, rather than being a mainstream change affecting an existing procedure or stage, it is extremely difficult. Some of our restorative justice schemes are new or relatively recent voluntary sector agencies. Their experience mimics that of, for example, the introduction of witness services at court (JUSTICE 1998). Voluntary agencies tend to have to work hard and to be around for some time to gain a 'place' or 'standing' in the process and, more practically, in court premises (Shapland and Bell 1998).

In order to obtain such a standing in the process, a new agency also has to secure its place in writing. In a criminal justice context, the scheme will have to negotiate formal protocols for its relations with statutory agencies: how will it get information, what will it do with people referred, how will it report back, what service delivery standards will be adopted, how will security and data questions be sorted. The move to formal protocols and service standards is one driven by governmental philosophies stressing best value and trying to change and control the plethora of agencies in criminal justice.³⁸ They are excellent ideals. But they also place major burdens on new struggling, pilot initiatives, particularly from the voluntary sector, especially since the statutory agency can insist that protocols are negotiated, signed and come into force before restorative justice work can commence. This is the difference shown between the relatively rapid introduction of referral orders, using new lay youth offender panels, as sentences for youth cases (a mainstream, required, statutory change) (Newburn *et al.* 2002) and the very low referral rates experienced by the previous small, existing restorative justice schemes which depended upon referrals from the police, the courts or the probation service (Miers *et al.* 2001).

The lesson from previous evaluations is also that, if one wants change, there also have to be consequences - consequences difficult to ignore - if the change doesn't happen. So, for example, sentencing changes are all-or-nothing: sentencers can ignore new sentences by not using them, but they cannot continue to use repealed sentences. They have to alter their sentencing pattern

³⁶ Probation officers preparing reports are unlikely to be those presenting them or acting as liaison officers at court.

³⁷ Such as different solicitors representing the defendant, problems in prison production etc.

³⁸ However, agencies, such as YOTs or prisons, can largely be left to formulate their own protocols with a minimum of guidance and direction from central government relating to the type and nature of those protocols, even on the basis on which the new restorative justice interventions should be delivered. A restorative justice scheme working across several YOT areas or prisons is, therefore, faced with different expectations of protocols and their content in different areas, as JRC has found with prisons and REMEDI with YOTs in our evaluation.

and think through how they will adjust to the new range of possibilities. The introduction of reparation orders and referral orders was accompanied by statutory and case law changes which ensured that the new orders were rapidly introduced (Holdaway *et al.* 2001; Newburn *et al.* 2002). Similarly, social services professionals who previously worked in youth justice now work in YOTs with police officers and others - there was no possibility of them working in the old way.

But in relation to restorative justice, there have normally been no clear consequences to statutory agencies and the courts of not providing the service. If the change is being evaluated, there is of course the possibility of a bad evaluation report - though it is not always clear how much attention is paid to evaluation results, or whether there are any consequences for not co-operating with the initiative or the evaluation. But, generally, if a sentencer decides to sentence immediately, rather than adjourn to try restorative justice, or if community reparation, rather than direct reparation, is ordered, there will be no or few consequences either for that individual sentencer or YOT member, or for the courts or the YOT as an agency.

Moving to extraction, not referrals

So, if the change is a bother, or difficult, *and* if there are no consequences, it is highly likely that only motivated individuals will try to undertake the new task, or make the referrals. As a result, by the end of the first year, many of our schemes had effectively given up on the likelihood of many individual referrals. Though they kept this route open for instances where individual clerks, probation officers or YOT workers saw advantages in restorative justice, they had decided they could not afford to wait on this difficult, uncertain process to obtain referrals. They moved to organise acquisition of agencies' or courts' records of forthcoming cases and to a process of *extraction*, rather than *referral*, of cases.

Hence CONNECT moved towards acquiring requests from sentencers for pre-sentence reports from probation, to propose restorative justice interventions in conjunction with sentence. JRC in London acquired the warned and dead lists of cases in the Crown Court. Northumbria JRC used lists of PSR referrals from the magistrates' courts and looked over all cases which were to receive final warnings or cautions from the police. Thames Valley JRC worked from prison lists. REMEDI has set up automatic referral from probation, is working with referral panels and is sending out information to prisoners and to those about to be involved with rehabilitation work. All the schemes have concluded that the key is for the schemes themselves to extract relevant cases from normally available criminal justice lists.

In many ways this is very sensible, since the schemes are far more likely to be able to screen relevant cases than to train criminal justice personnel as to what are relevant cases. It does, however, have two major consequences. One is that the work and burden involved in extraction and screening has passed from criminal justice to restorative justice. Much of the time, and hence funding, of the schemes is taken up in finding relevant cases, rather than in working with referred people. Secondly, it means that the only cases which the schemes can use are those contained on such lists routinely already produced by criminal justice for another purpose. Prisoners sentenced to less than 12 months are not normally part of probation's work inside prisons and so are not necessarily receiving information about REMEDI. Defendants sentenced immediately do not reach either CONNECT or JRC Northumbria.

Working with victims

Another aspect of restorative justice which adds to these problems of referral is the lack of experience many criminal justice agencies have in working directly with victims. As a result, criminal justice agencies have not, everywhere, already set up efficient victim contact services which could then be used by new restorative justice schemes. We have seen in previous chapters

that all our schemes have had difficulties with victim contact. The same feature has emerged from several previous evaluations. The evaluation of the pilot YOTs (Holdaway *et al.* 2001; Dignan 2000a) provided the first inklings that, though the introduction of inter-agency teams for youth justice was, despite some major teething problems, a remarkable success, YOTs were shying away from working with victims. In YOT work, victims were often not contacted to ask about whether they would appreciate direct reparation. Defendants were asked to write letters of apology to their victims in victim awareness sessions, but in several of the pilot areas these apologies were not then sent to the victims, but just filed (Dignan 2000).

Similarly, Newburn *et al.* (2002) found that the involvement of victims and particularly their attendance at discussions with referral order panels was lower than originally anticipated. The difficulties seemed to centre around the ways in which meetings were organised, lack of appropriate victim contact procedures or time devoted to preparing victims for such meetings, and a culture amongst workers which minimised the need for victims to attend. The usefulness of REMEDI in its referral panel work is precisely because existing agencies were aware that their staff did not have developed victim contact skills.

Working with victims is clearly difficult for mainstream criminal justice - and not working with victims has previously carried few or no adverse consequences for criminal justice agencies or individual practitioners (Shapland 2003b). The result is that mainstream criminal justice has tended to minimise it and try to ignore it. Victim contact work for our restorative justice schemes was difficult *because* victim contact procedures in criminal justice had not previously been developed and implemented. These difficulties of working with victims are of course ones which restorative justice schemes themselves have had to address. They are one of the new skills which schemes are acquiring - and one of the aspects of restorative justice which would add considerably to criminal justice, as Auld (2001) has commented.

Will restorative justice affect criminal justice decision making?

Our second implication is that, *if* the case is referred in order to aid in a key criminal justice decision (such as sentence), then the restorative justice process needs to end in a report to that criminal justice agency, possibly with a recommendation (such as a sentencing package), certainly with knowledge that what is said in that report will affect that key decision. If so, then the timetable for that reporting has to be sufficiently flexible to enable victim consultation and preparation for restorative interventions to be completed before the criminal justice decision is made. These are the constraints felt by CONNECT and by the London, Northumbria court and Thames Valley community sentence elements of JRC. They did not impinge so closely on REMEDI or on the Thames Valley prisons work of JRC.

The general movement of our schemes is to stages of criminal justice where the output of restorative justice is likely to have an input into criminal justice decision making. It is a movement towards mainstreaming, rather than diversion; towards incorporation, rather than separation. Examples of that movement are JRC London's now complete concentration on pre-sentence work, and CONNECT and JRC Thames Valley's community RCT movement towards pre-sentence work (though for both, the restorative justice input will come post-sentence). Where this is the aim, the constraints are, and will necessarily remain, fixed by criminal justice system parameters of time. A balance will need to be struck between restorative justice's need for time to work with victims and to talk with offenders³⁹ and the need not to keep offenders subject to bail or custody constraints longer than necessary.

³⁹ Talking with victims and offenders is an aspect of justice which conventional criminal justice in England and Wales, pre-sentence, has particularly squeezed out in the drive to process cases efficiently and swiftly (Shapland *et al.* 1995).

Other restorative justice work, however, is not designed to feed directly into criminal justice decision making. Particularly for serious offences, there could be major benefit in offering restorative justice services to victims and offenders - in order to answer victims' questions, in order to reduce fears, and in order to prepare for offenders' release from custodial sentences. Both REMEDI and JRC Thames Valley are operating in this mode, with some extremely serious offences. The ethos behind their work is very similar to the one which propelled the introduction of probation work with victims of serious offences - but in the case of restorative justice, it is the process, as well as the outcome, which is likely to be significant.

In a similar way, restorative justice can be part of a package of measures post-disposal, though here the focus is often more offender-oriented, designed to indicate to the offender the consequences of offending on victims, though with some reparative or restorative aims as well. What the first year of our schemes has shown, however, is that if the scheme is operating post-sentence/disposal, unless it is almost an 'automatic' component of such disposals (as with victim awareness elements of referral orders, or in final warnings), then there can be significant problems of offender refusal.

We can see restorative justice operating within criminal justice in both ways. Some schemes, at some stages of criminal justice, will feed into criminal justice decision making. Others will be a service offered to victims and offenders, not bound to future criminal justice decisions. It is important, however, to distinguish these two scenarios carefully. Where coercive decisions are involved, then human rights values will need to come into play. Where there are no set consequences for offenders or victims, then there may be a lower take-up rate.

Operating within the criminal justice culture

The third implication we proposed, is that restorative justice is needing to operate within a framework of procedures, precautions and values which have primarily been developed for criminal justice, particularly if it leads into future criminal justice decision making. There are, of course, similarities between the values that criminal justice and restorative justice would aspire to when dealing with people. Many of the human rights points which criminal justice would take are paralleled by the ethics statements of, for example, the Restorative Justice Consortium (1999) or Mediation UK.

Where restorative justice schemes have had to think more carefully is, for example:

- ensuring that legal advisors are aware of restorative justice initiatives (JRC, particularly, have taken this on board in London);
- thinking hard about what informed consent means in a context (for example, pre-sentence or during referral panel deliberations) where voluntary consent is a very unclear concept - and so building in safeguards to ensure that what is agreed to during restorative justice is doable, clear and fair (a major point for both CONNECT and for Thames Valley community sentence JRC, both of which have been working in a pre-sentence context);
- considering carefully the suitability of cases where there is a possibility of intimidation, reprisals or a significant power imbalance from either party, both in the context of people's safety at the restorative justice event and in terms of follow-up after the event;
- recognising that a conference, for example, can be a very emotional experience and so that offenders in prison - and also victims - may need people to talk to after a conference.

For criminal justice, the more difficult and new elements include:

- ensuring that statements made in the context of a restorative justice process are not subsequently picked up and used as evidence in a conventional trial;
- starting to work with victims as major people involved with the case, and so keeping and passing on appropriately, victim contact data. As we indicated above, we are very concerned that one of the key difficulties schemes have had is obtaining victim contact details. This is not problematic for the police, and hence for police-based schemes. However, it is extremely difficult for other statutory agencies in practice and even more difficult for the voluntary sector. There are, of course, data protection issues in passing on personal details - unless, of course, consent is obtained. However, we do not see why the data protection question is any more problematic in relation to victims than offenders. So the question then comes down to whether those who have data necessary for restorative justice are prepared to take the time and trouble, or put in the processes necessary, for individuals to be able to be approached to see whether they would like to take part. It is actually very patronising to refuse to let a victim, or an offender, have the information on which they themselves could decide whether they would wish to participate.
- trying to keep victims informed of what is happening to a matter in which they have been involved during a restorative justice phase of the process, but may not be aware of what is happening subsequently in criminal justice terms.

The implications for restorative justice schemes and funders

What are the implications for those embarking on working on restorative justice within criminal justice - and for those funding such work? It is clear that one must expect new restorative justice schemes to have quite a long period of lead-in and developmental work - months, not weeks - before referral/extraction paths are working properly. This is not just for the normal processes of training and appointing workers, and making the prescribed visits to senior criminal justice people. It is primarily to work on the ground to get to know the local criminal justice people, to sort out protocols, and to work out how cases can be maximised with least difficulty to those making referrals or providing lists - and most consequences if this doesn't happen. During this time, the initial environmental scan on likely numbers may make enlargement of the operating area of the scheme or changes to its referrals points essential. This also takes time. And all of this is quite apart from developing the restorative justice itself.

The implications for funders are that short-term funding to set up schemes initially, or expand them considerably, is not a sensible strategy. For evaluation, one needs a reasonable period (at least a year) during which the scheme is out of the developmental phase and before it starts winding down, because the funding end is near. Moreover, short-term funding tends to make other agencies start to feel that schemes can come and go, so why should we change our working practices? We think funding for evaluated schemes intending to take substantial numbers of referrals in new ways or new geographical areas needs to be for around 24-30 months - 9-12 months for development, 12 months for evaluated operation, and three months to sort out what happens then. The developmental phase is much longer than we think many funders have appreciated. If there is to be a national strategy for incorporating restorative justice at different points in criminal justice, it will require that kind of time to sort out how best to do it locally.

We also think that these findings have implications far beyond restorative justice. The difficulties of developing restorative justice are merely a more extreme version of the difficulties facing any new initiative in criminal justice, more extreme because restorative justice, as set up in these three schemes, depends for its cases on criminal justice and is working at several criminal justice points.

We wonder whether inter-agency working in criminal justice and attempts to create a more joined-up, coherent system, though laudable and indeed essential in themselves, have resulted in the creation of an assault course for any new initiative. Statutory agencies and the courts have responded to the call for a more efficient, coherent system by creating liaison groups (such as court user groups, liaison groups for crime prevention under the Criminal Justice Act 1998, and the quaintly named TIGlets)⁴⁰ and by creating formal protocols, customary working agreements or negotiated understandings of the ways in which cases will be passed between agencies or joint work will be undertaken, which we could call 'bonds'.

After the first few, sometimes painful, months of these working understandings, many of which were created during the implementation of the Narey reforms and recommendations of the Glidewell report in the late 1990s, the new bonds tend to become normal working practices and set in stone. A new scheme, particularly a non-statutory scheme or a statutory agency working outside its normal remit, has to break the bonds of the current arrangements in order to find enough space to ease in itself. The advantage of the new inter-agency ethos is that, once the bonds have been broken and remade, the new working arrangements should continue. The disadvantage is that the bond reforming process can be so difficult and take so long that initiatives might give up, fold, run out of funding, be judged as ineffective or otherwise fail to be implemented. The concerns we have about inter-agency working in criminal justice in England and Wales is that the mechanisms which are creating a more communicative, effective system may also simultaneously be producing a system in stasis, into which new initiatives find it hard to emerge and become established. If Lord Justice Auld's (2001) proposals for restorative justice⁴¹ to become established throughout the country for adult offenders - as part of criminal justice and at several different stages of criminal justice - are to become a reality, then considerable effort will need to be put in as to how favourable conditions for such initiatives can be realised. It is a tribute to our schemes that so many restorative justice cases have been undertaken during their first 12 months.

⁴⁰ TIGlets were the local manifestations of the Trial Issues Group, set up as a coordinating and developmental committee by the Home Office, Lord Chancellor's Department and Attorney General's Department to improve effectiveness and efficiency in criminal justice. TIG has overseen the Narey (1997) initiatives to reduce delay, improvements in disclosure practice etc. Some TIGlets have been merged with court user groups and currently rationalisation between TIGlets, user groups and criminal justice consultative groups is being undertaken.

⁴¹ Discussed in Chapter 1.

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Appendix

Case flow for REMEDI offices in the first 12 months

For each office, we present the case flow for adult and youth offenders separately. The offices in Barnsley, Doncaster, Rotherham and Sheffield dealt with adult offenders, whilst there were youth offender offices in Barnsley, Doncaster and Sheffield.

Table A.1: Barnsley adult offender cases: cases referred during each time period

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02	Total
Total offenders referred in that period	20	51	45	65	181
Offenders:					
male (%)	80	73	91	82	
female (%)	20	27	9	18	
Offender age range (%):					
18-24	44	35	46	49	
25-29	11	22	27	14	
30-39	33	24	17	22	
40-49	6	11	2	10	
50-59	6	9	7	5	
Average offender age	28.7 yrs	29.9 yrs	28.2 yrs	28.4 yrs	
Cases: total number of completed cases referred in that time period	20	51	40	54	165
Case progression for offenders (no. and %):					
case unsuitable	1	3	3	0	7 (4%)
offender not able to be contacted	1	0	2	0	3 (2%)
offender dropped out	2	0	1	0	3 (2%)
offender refused mediation	5	39	30	41	115
victim awareness only (V	8	8	3	13	(70%)
refused/uncontactable)	1	0	1	0	32 (19%)
letter of apology not sent	0	0	0	0	2 (1%)
letter of apology sent	2	1	0	0	0 (0%)
indirect mediation	0	0	0	0	3 (2%)
direct mediation					0 (0%)
Case progression for victims (no. and %):					
case unsuitable	1	3	3	0	7 (4%)
closed before victim contact point	8	39	32	41	120
victim not able to be contacted	0	2	3	0	(73%)
victim refused	9	6	2	13	5 (3%)
offender dropped out before mediation	0	0	0	0	30 (18%)
letter of apology received	0	0	0	0	0 (0%)
indirect mediation	2	1	0	0	0 (0%)
direct mediation	0	0	0	0	3 (2%)
					0 (0%)
Total offenders agreeing to mediation (no. and %)	18	9	5	13	45 (27%)

Total offenders completing victim awareness only (no. and %)	14	47	34	54	150 (91%)
Total offenders completing mediation (no. and %)	3	1	1	0	3 (2%)
Total victims agreeing to mediation (no. and %)	2	1	0	0	3 (2%)
Total victims completing mediation (no. and %)	2	1	0	0	3 (2%)

Table A.2: Doncaster adult offender cases: cases referred during each time period

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02	Total
Total offenders	12	18	15	14	59
Offenders:					
male (%)	92	100	100	100	
female (%)	8	0	0	0	
Offender age range (%):					
18-24	83	35	62	57	
25-29	0	47	15	7	
30-39	8	0	23	36	
40-49	8	12	0	0	
50-59	0	0	0	0	
Average offender age	23.6	26.4	24.5	27.1	
Cases: total number of completed cases referred in that time period	11	12	11	2	36
Case progression for offenders (no. and %):					
case unsuitable	1	0	0	0	1 (3%)
offender not able to be contacted	2	3	3	0	8 (22%)
offender dropped out	3	0	0	0	3 (8%)
offender refused mediation	0	1	0	0	1 (3%)
victim awareness only (V	0	4	5	1	10 (28%)
refused/uncontactable)	5	1	3	0	9 (25%)
letter of apology not sent	0	0	0	1	1 (3%)
letter of apology sent	0	2	0	0	2 (6%)
indirect mediation	0	1	0	0	1 (3%)
direct mediation					
Case progression for victims (no. and %):					
case unsuitable	1	0	1	1	3 (8%)
closed before victim contact point	4	4	2	0	10 (28%)
victim not able to be contacted	2	2	3	0	7 (19%)
victim refused	3	3	4	0	10 (28%)
offender dropped out before mediation	1	0	1	0	2 (6%)
letter of apology received	0	0	0	1	1 (3%)
indirect mediation	0	2	0	0	2 (6%)
direct mediation	0	1	0	0	1 (3%)
Total offenders agreeing to mediation (no. and %)	6	8	8	2	24 (67%)
Total offenders completing victim awareness only (no. and %)	5	9	8	1	23 (64%)
Total offenders completing mediation (no. and %)	0	3	0	1	4 (11%)
Total victims agreeing to mediation (no. and %)	1	3	1	1	6 (17%)
Total victims completing mediation (no. and %)	0	3	0	1	4 (11%)

Table A.3: Rotherham adult offender cases: cases referred during each time period

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02	Total
Total offenders	45	42	29	12	128
Offenders:					
male (%)	80	81	79	75	
female (%)	20	19	21	25	
Offender age range (%):					
18-24	53	46	54	10	
25-29	24	17	19	30	
30-39	18	22	15	50	
40-49	5	15	4	10	
50-59	0	0	8	0	
Average offender age	25.5 yrs	28.5 yrs	26.9 yrs	32.1 yrs	
Cases: total number of completed cases referred in that time period	43	41	12	4	100
Case progression for offenders (no. and %):					
case unsuitable	4	0	3	0	7 (7%)
offender not able to be contacted	29	29	0	0	58 (58%)
offender dropped out	4	0	0	0	4 (4%)
offender refused mediation	3	9	5	3	20 (20%)
victim awareness only (V	2	1	4	0	7 (7%)
refused/uncontactable)	1	2	0	0	3 (3%)
letter of apology not sent	0	0	0	1	1 (1%)
letter of apology sent	0	0	0	0	0 (0%)
indirect mediation	0	0	0	0	0 (0%)
direct mediation	0	0	0	0	0 (0%)
Case progression for victims (no. and %):					
case unsuitable	2	0	3	0	5(5%)
closed before victim contact point	36	38	5	3	82 (82%)
victim not able to be contacted	3	0	0	0	3 (3%)
victim refused	1	3	4	0	8 (8%)
offender dropped out before mediation	0	0	0	0	0 (0%)
letter of apology received	1	0	0	1	2 (2%)
indirect mediation	0	0	0	0	0 (0%)
direct mediation	0	0	0	0	0 (0%)
Total offenders agreeing to mediation (no. and %)	3	3	4	1	11 (11%)
Total offenders completing victim awareness only (no. and %)	2	1	4	0	7 (7%)
Total offenders completing mediation (no. and %)	1	0	0	1	2 (2%)
Total victims agreeing to mediation (no. and %)	1	0	0	1	2 (2%)
Total victims completing mediation (no. and %)	1	0	0	1	2 (2%)

Table A.4: Sheffield adult offender cases: cases referred during each time period

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02	Total
Total offenders	34	38	28	17	117
Offenders:					
male (%)	88	85	85	76	
female (%)	12	15	15	24	
Offender age range (%):					
18-24	50	50	42	53	
25-29	16	15	17	24	
30-39	22	27	21	18	
40-49	6	8	13	6	
50-59	6	0	4	0	
Average offender age	28.3 yrs	27.0 yrs	31.0 yrs	25.7 yrs	
Cases: total number of completed cases referred in that time period	31	21	13	4	68
Case progression for offenders (no. and %):					
case unsuitable	5	0	0	0	5 (7%)
offender not able to be contacted	15	8	4	1	28 (41%)
offender dropped out	2	0	0	0	2 (3%)
offender refused mediation	5	5	7	2	19 (28%)
victim awareness only (V	3	7	1	1	12 (17%)
refused/uncontactable)	0	0		0	0 (0%)
letter of apology not sent	1	0	0	0	2 (3%)
letter of apology sent	0	0	1	0	0 (0%)
indirect mediation	0	1	0	0	1 (1%)
direct mediation			0		
Case progression for victims (no. and %):					
case unsuitable	5	0	0	0	5 (7%)
closed before victim contact point	20	12	10	2	44 (64%)
victim not able to be contacted	0	5	1	0	6 (9%)
victim refused	5	3	0	1	9 (13%)
offender dropped out before mediation	0	0	1	1	2 (3%)
letter of apology received	1	0	1	0	2 (3%)
indirect mediation	0	0	0	0	0 (0%)
direct mediation	0	1	0	0	1 (1%)
Total offenders agreeing to mediation (no. and %)	6	8	2	1	17 (25%)
Total offenders completing victim awareness only (no. and %)	13	7	1	1	22 (32%)
Total offenders completing mediation (no. and %)	1	1	1	0	3 (4%)
Total victims agreeing to mediation (no. and %)	1	1	2	1	5 (7%)
Total victims completing mediation (no. and %)	1	1	1	0	3 (4%)

Table A.5: Barnsley youth offender cases: cases referred during each time period

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02	Total
Total offenders	19	14	22	49	104
Offenders:					
male (%)	94	86	100	96	
female (%)	6	14	0	4	
Offender age range (%):					
10	8	0	0	0	
11	0	0	5	0	
12	0	7	5	4	
13	0	0	10	8	
14	15	29	14	10	
15	24	21	19	13	
16	38	0	29	27	
17	15	43	19	31	
Average offender age	15.2 yrs	15.4 yrs	15.0 yrs	15.7 yrs	
Cases: total number of completed cases referred in that time period	17	14	22	27	80
Case progression for offenders (no. and %):					
case unsuitable	1	1	1	3	6 (8%)
offender not able to be contacted	2	1	2	0	5 (6%)
offender dropped out	0	2	5	1	8 (10%)
offender refused mediation	5	3	2	2	12 (15%)
victim awareness only (V	3	1	6	13	23 (29%)
refused/uncontactable)	2	4	3	6	15 (19%)
letter of apology not sent	2	1	1	0	4 (5%)
letter of apology sent	2	0	2	0	4 (5%)
indirect mediation	0	1	0	0	1 (1%)
direct mediation					
Case progression for victims (no. and %):					
case unsuitable	2	1	1	3	7 (9%)
closed before victim contact point	6	6	6	3	21 (26%)
victim not able to be contacted	1	1	10	19	31 (39%)
victim refused	4	4	1	0	9 (11%)
offender dropped out before mediation	0	0	1	0	1 (1%)
letter of apology received	2	1	1	0	4 (5%)
indirect mediation	2	0	2	0	4 (5%)
direct mediation	0	1	0	0	1 (1%)
Total offenders agreeing to mediation (no. and %)	9	7	12	19	47 (59%)
Total offenders completing victim awareness only (no. and %)	8	4	7	13	32 (40%)
Total offenders completing mediation (no. and %)	4	2	3	0	9 (11%)
Total victims agreeing to mediation (no. and %)	4	2	4	0	10 (13%)
Total victims completing mediation (no. and %)	4	2	3	0	9 (11%)

Table A.6: Doncaster youth offender cases: cases referred during each time period

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02	Total
Total offenders	56	39	61	65	221
Offenders:					
male (%)	87	82	81	83	
female (%)	13	18	19	17	
Offender age range (%):					
10	2	5	0	0	
11	6	0	5	2	
12	8	18	5	6	
13	9	5	3	11	
14	19	13	24	13	
15	25	23	19	19	
16	15	26	19	19	
17+	17	10	24	29	
Average offender age	14.5 yrs	14.4 yrs	15.0 yrs	15.2 yrs	
Cases: total number of completed cases referred in that time period	56	38	56	32	182
Case progression for offenders (no. and %):					
case unsuitable	1	1	1	0	3 (2%)
offender not able to be contacted	2	4	2	2	10 (5%)
offender dropped out	2	1	4	0	7 (4%)
offender refused mediation	0	0	1	0	1 (1%)
victim awareness only (V	12	10	21	14	57 (31%)
refused/uncontactable)	6	4	3	6	19 (10%)
letter of apology not sent	8	0	10	1	19 (10%)
letter of apology sent	22	18	9	7	56 (31%)
indirect mediation	3	0	5	2	10 (5%)
direct mediation					
Case progression for victims (no. and %):					
case unsuitable	1	1	1	1	4 (2%)
closed before victim contact point	4	5	5	2	16 (9%)
victim not able to be contacted	17	12	19	19	67 (37%)
victim refused	1	2	7	0	10 (5%)
offender dropped out before mediation	0	1	0	0	1 (1%)
letter of apology received	8	0	10	1	19 (10%)
indirect mediation	22	18	9	7	56 (31%)
direct mediation	3	0	5	2	10 (5%)
Total offenders agreeing to mediation (no. and %)	51	42	48	30	171 (94%)
Total offenders completing victim awareness only (no. and %)	12	10	21	14	57 (31%)
Total offenders completing mediation (no. and %)	33	18	24	10	85 (47%)
Total victims agreeing to mediation (no. and %)	33	19	24	10	86 (47%)
Total victims completing mediation (no. and %)	33	18	24	10	85 (47%)

Table A.7: Sheffield youth offender cases: cases referred during each time period

	1.9.01 - 30.11.01	1.12.01 - 28.2.02	1.3.02 - 31.5.02	1.6.02 - 31.8.02	Total
Total offenders	7	2	7	6	22
Offenders:					
male (%)	100	50	100	100	
female (%)	0	50	0	0	
Offender age range (%):					
10	0	0	0	0	
11	0	0	0	0	
12	0	0	0	40	
13	0	0	17	0	
14	33	0	50	0	
15	17	50	0	20	
16	33	0	17	40	
17+	17	50	17	0	
Average offender age	15.3 yrs	16.0 yrs	14.7 yrs	14.2 yrs	
Cases: total number of completed cases referred in that time period	7	2	5	3	17
Case progression for offenders (no. and %):					
case unsuitable	0	0	0	0	0 (0%)
offender not able to be contacted	2	1	4	2	9 (53%)
offender dropped out	0	0	1	0	1 (6%)
offender refused mediation	3	0	0	1	4 (24%)
victim awareness only (V	2	0	0	0	2 (12%)
refused/uncontactable)	0	0	0	0	0 (0%)
letter of apology not sent	0	1	0	0	1 (6%)
letter of apology sent	0	0	0	0	0 (0%)
indirect mediation	0	0	0	0	0 (0%)
direct mediation	0	0	0	0	0 (0%)
Case progression for victims (no. and %):					
case unsuitable	0	0	0	0	0 (0%)
closed before victim contact point	4	1	4	2	11 (65%)
victim not able to be contacted	3	0	0	0	3 (18%)
victim refused	0	0	1	0	1 (6%)
offender dropped out before mediation	0	0	0	1	1 (6%)
letter of apology received	0	1	0	0	1 (6%)
indirect mediation	0	0	0	0	0 (0%)
direct mediation	0	0	0	0	0 (0%)
Total offenders agreeing to mediation (no. and %)	2	1	1	0	4 (24%)
Total offenders completing victim awareness only (no. and %)	2	0	0	0	2 (12%)
Total offenders completing mediation (no. and %)	0	1	0	0	1 (6%)
Total victims agreeing to mediation (no. and %)	0	1	0	1	2 (12%)
Total victims completing mediation (no. and %)	0	1	0	0	1 (6%)

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