Better Outcomes through Victim-Offender Conferencing (Restorative Justice)

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About this series

This document is one in a series of Better Outcomes documents issued by NOMS Commissioning Strategies Group to support decision making in the commissioning and delivery of particular services (for example, cognitive skills, victim-offender conferencing) or for particular groups (for example, women offenders, extremist offenders). The series is intended to provide information, based on the available evidence, to organisations and individuals including prisons, probation trusts, private providers and Voluntary and Community Sector (VCS) providers to support effective delivery. The documents support existing mandatory instructions but do not replace them.

Introduction

Restorative Justice (RJ) 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. When delivered effectively, RJ gives victims the opportunity to explain the impact of crime upon them, to seek an explanation and apology from the offender, or to play a part in agreeing restorative or reparative activity for the offender to undertake. RJ seeks to hold offenders to account and enable them to face the consequences of their actions and the impact it has had on others.

Key Points for Better Outcomes

1. The term ‘Restorative Justice’ covers a range of approaches, but evidence suggests that models which deliver face to face victim-offender conferencing, often with supporters present, are most likely to bring the desired outcomes of increased victim satisfaction and reduced reconviction.

2. It is important that the model and timing of RJ activity takes full account of victims’ desire and readiness to engage. There is, however, a need to balance the victim’s needs within the context and sequencing of the requirements of an offender’s sentence plan.

3. In order to improve victim satisfaction, RJ activity must be facilitated in a way that is sensitive to the dynamics of the relationship between the victim and offender. Effective communication should be promoted between the facilitator and victim at all stages.

4. Facilitators must be trained to ensure the safety of all participants in the process.

5. Victim-offender conferencing is likely to deliver the best outcomes when targeted to those who have committed violence or acquisitive offences, where there is a clear victim, and where the offender is medium or high likelihood of reoffending (OGRS2 25-74).

6. Victim-offender conferencing (RJ) is distinct from activities or interventions where the offender is encouraged to think about the impact of their offending but does not meet the victim of their own offence (sometimes called Victim Awareness or Victim Empathy) for which there is little evidence to suggest this will reduce reoffending.
Background

As part of its commissioning intentions for the 2013-14, NOMS set out a specific intention for both prisons and Trusts to continue to develop sustainable capacity and capability to deliver effective face to face victim-offender conferencing, working with partners. More detail on how NOMS, working with partners and other organisations, is increasing the volume of delivery of high quality victim-offender conferencing is set out in the Appendix to this document (see pages 7-8).

What does RJ achieve?

If effectively delivered and targeted, RJ activity can result in improved victim satisfaction and reduced reoffending.

In the report of a recent, large scale, multi-scheme evaluation in the UK, it was found that offenders and victims entered the restorative justice process with a variety of expectations and needs, which suggested that there can be no one measure of perceived ‘success’, as far as participants are concerned. The evaluation covered many aspects, including how far victims’ questions were answered, whether offenders had addressed the harm they had caused, whether there was a sense of closure, and whether offending-related problems had been addressed. On all of these, the majority of both victim and offender views were very positive. For example, over half the victims involved in the face to face victim-offender conferencing pilot said the process had provided them with a sense of closure, with another 20 per cent saying it had done so to some extent. Overall, this evaluation found that 85% of victims who participated in the restorative process said they were satisfied with the experience.

This evaluation also found that in relation to offenders, those who received RJ offended less frequently than matched offenders who did not receive RJ. Whilst generally results were favourable, this significant difference was mainly accounted for by one particularly large RJ scheme, which used direct, face to face victim-offender conferencing. In the other schemes, which used both direct and indirect RJ techniques, there were signs of positive change but the sample sizes and the size of the impact were together too small to allow a conclusion that these further schemes were having a significant impact on reconviction rates.

Which RJ approach works the best?

Face to face meetings between the victim and offender of the same offence seem to work better than other forms of RJ.

Who does it work best for?

The research to date has identified good results with people who have committed property or violence offences where there is a clear (identifiable) victim. Medium and high risk of reconviction offenders (equivalent to OGRS scores 25-74) respond well.
Most of the evidence to date relates to male offenders, both young adults and adults. Where studies have included women offenders, sample sizes have been too small to allow us to draw reliable conclusions on the impact of the RJ approach specifically with women offenders. To date there is no reliable evidence on the effectiveness of RJ with sex offenders and their victims. There is also a lack of evidence with regard to the use of RJ with offenders convicted of intimate partner violence (domestic violence).

Achieving Better Outcomes from face to face victim-offender conferencing (RJ)

Victim Satisfaction

Both victims and offenders report high levels of satisfaction after participating in a range of RJ activities where there was direct or indirect mediation or conferencing between an offender and an identifiable victim. However there are clear lessons that can be learnt from those victims that were not satisfied. Two studies have suggested reasons for dissatisfaction:

- When the focus on victim priorities was not given sufficient attention compared to the outcome of reducing reoffending
- When practitioners had not received sufficient training in the process of facilitation or the theoretical foundations of restorative justice
- When there were unresolved disputes between victim and offender
- Where facilitators dominated the proceedings, or failed to intervene when the conference became too heated or one-sided
- Where there was poor communication, for example the victim being unaware of the contents of reports produced during the conference by criminal justice practitioners
- When victims were not informed about how the offender complied with any agreements made during the conference, or did not receive other information that facilitators had undertaken to provide post-conference

To optimise satisfaction for victims, therefore, victim-offender conferencing (RJ) schemes are likely to work best when there is:

- Effective criteria for selection of cases
- Adequate training, case supervision and management support of facilitators
- Robust quality assurance of the integrity of the process
- Effective processes to ensure that outcome agreements are completed and, where agreed, offender progress is communicated to the victim post conference
Reduced Reoffending

The research evidence indicates that reductions in reoffending are most likely when RJ is:

- **Focused on face to face victim-offender conferencing models** where this is safe and appropriate.

- **Targeted at violence or acquisitive offences with a clear victim and where the offender is medium/high risk of reconviction (defined as OGRS scores of between 25 and 74).** There is very limited evidence on the effects of RJ in cases of sexual offending or intimate partner violence (domestic violence). Given the limited evidence for these types of offences, and the potential additional risks and challenges, it is suggested that RJ should only take place in exceptional circumstances in these cases, and only when there is confidence that the process will be of clear benefit and will not cause harm to any individual involved.

Assumed Good Practice

Experienced RJ practitioners agree that the following are also likely to be important features of effective victim-offender conferencing:

- **Flexible to meet need** so that where a restorative process has started and risk assessment indicates it would be unsafe for participants to meet face to face, or they make an informed choice not to, it is good practice for the provider to offer participants an alternative form of communication (for example shuttle mediation, video or telephone conferencing, exchange of letters). Evidence shows, however, that these alternatives are less effective than victim-offender conferencing, so should only be offered where a face to face meeting is unsafe or unwanted by participants. These alternatives still need to be facilitated safely with the needs of participants as priority.

- **Voluntary:** participants in victim-offender conferencing take part having made an informed choice. Offenders need not have admitted guilt but need to have taken responsibility for their actions. While the victim’s participation is always voluntary there may sometimes be situations where offenders are ordered by a court to take part in RJ subject to their informed consent. Facilitators need to be aware of the different dynamic that this creates within the restorative process and during preparation for the conference consider how this is best managed.

- **Confidential:** no information about any participant should be passed to other participants without their informed consent, unless by legal requirement. This means, for example, keeping victim information separately from the offender’s file so there is no risk of the offender seeing it.

- **Multi agency:** it is thought that victim-offender conferencing is likely to be most effective when providers work in partnership with relevant organisations (such as police, victim organisations,
prisons and probation trusts or with local community safety partnerships) and this may include working with VCS organisations to deliver victim-offender conferencing. It will include agreement of multi-agency protocols which set out governance and information sharing, including how and when victim details and case information is passed between agencies. In all cases, the service to participants needs to be integrated (avoiding conflicting messages or unnecessary duplication of contact) and the agencies’ respective roles and responsibilities need to be clear.

- **Aligned with Offender Management** so that Offender Managers and Offender Supervisors are aware of the RJ process and support the offender to achieve successful completion.

- **Embedded in local processes**: experience suggests effective practice for implementation of victim-offender conferencing includes an infrastructure to support delivery (strong strategic buy-in and local leadership, robust referral routes, risk assessment, recording methods) together with facilitator training and case supervision. A plan for raising staff and stakeholder awareness of the availability and process of victim-offender conferencing is also likely to be required.

- **Monitored**: good practice includes monitoring and evaluation - for example, where case records show details of referrers, participants, contacts with participants, outcomes and so on, and monitoring systems are built in from the outset of a local scheme.

- **Safe and well delivered**: local models are thought to work best when they include:

  - Appropriate methods of facilitator selection and training. It is good practice for facilitators to be registered with the RJC and to pursue accreditation
  - Regular supervision for facilitators from appropriate staff (note that practitioner forums may also be a useful way of sharing good practice and encouraging collective problem solving and continual improvement of local processes and procedures)
  - Adequate procedures for selection of cases and preparation of all participants
  - Adequate procedures for risk assessment, safeguarding and support for all participants
  - Outcome agreements for all conferences, which are followed up as agreed by participants (note that not all conferences need to result in further actions - the outcome agreement may say that nothing further is required as needs have been met in the conference)

- **Quality assured**: Victim-offender conferencing (RJ) is most likely to achieve the desired outcomes when it is delivered to a high quality. Further advice on methods of formal quality assurance will be made available by NOMS in early 2013 based on ongoing work by the RJC and Ministry of Justice (MOJ).
Appendix: Victim-Offender Conferencing in NOMS

The Government’s proposals for reforms to the sentencing framework and the management of offenders, as set out in Breaking the Cycle\textsuperscript{12} outline a commitment to increase the use of RJ. Additionally, the reforms on Community Sentences include extending the use of RJ into the post-conviction/pre-sentence period.

NOMS’ commissioning intentions for 2013-14 reflect the ministerial and Agency commitment to deliver high quality RJ for victims and offenders, and ask prisons and probation Trusts, working with partners, to continue to develop their capacity to deliver effective victim-offender conferencing (RJ). Some prisons and Trusts are already delivering sustainable victim-offender conferencing whilst others are still in the planning phase. A recent HM Inspectorate joint thematic review on restorative justice described provision as patchy.\textsuperscript{13}

NOMS aims to help Trusts and prisons develop the capacity to respond to requests for RJ post conviction (from internal and external referral routes including victims and offenders direct); ensure that resource is targeted where evidence suggests that it is likely to have the best outcomes; and ensure that the RJ models delivered are effective and sustainable.

NOMS is working with the Ministry of Justice (MOJ) as part of the steering group to develop a framework for RJ across the CJS for England and Wales. The \textit{Restorative Justice Action Plan for the Criminal Justice System}\textsuperscript{14} was published in November 2013 and the actions proposed by the group are founded on the vision that:

- RJ should operate at scale, with specified standards, and be effective in meeting the needs of victims and offenders
- Key standards should be established that enable local areas to develop innovative service delivery models
- RJ should be integrated with other support and interventions for offenders e.g., drug treatment, housing, employment support
- RJ should only be used when appropriate to suit the needs of victim and offender

Further to this focus during the commissioning round and complementing the work of the MOJ steering group, NOMS is developing a victim-offender conferencing policy which will be published by April 2013.

In addition, NOMS (with £500k joint funding from the Monument Trust) has grant-funded Restorative Solutions and Thames Valley Partnership to build capability to deliver face to face victim-offender conferencing. This will include training for approximately 1000 prison and probation staff and volunteers to become RJ conference facilitators; train-the-trainer training for a further 140 members of staff; and guidance for the effective introduction, implementation and delivery of victim-offender
conferencing (in the form of “Wait ‘til Eight”\textsuperscript{15} implementation guidance which will be published on the NOMS intranet from January 2013). Access to the grant-funded programme training and support has been via a process of expressions of interest. Prisons and probation trusts which develop victim-offender conferencing outside the grant funded programme can benefit from access to the “Wait ‘til Eight” implementation guidance document. This guidance may also be of interest to commissioners.

To support the Government’s intention to increase the use of RJ in the post conviction pre-sentence period, NOMS is commissioning an independent process evaluation across a small number of pathfinder sites. This will help inform the development of a toolkit to support wider implementation. It is intended that this will be available when legislative provision in the Crime and Courts Bill, clarifying that deferment of sentence can be undertaken in order for RJ activity to take place, comes into force.
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Useful Links:

NOMS Commissioning Intentions for 2013-14: Negotiation Document:

Ministry of Justice Restorative Justice Action Plan for the Criminal Justice System:

Restorative Justice Council website: www.restorativejustice.org.uk – this site contains the Best Practice Guidance for restorative Justice (2011) produced by the RJC and endorsed by Ministry of Justice and NOMS as well as other material such as the RJC Practitioner Register information and Trainers Code of Practice.

Further Reading:


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References and Notes


2 The Offender Group Reconviction Scale (OGRS) estimates the probability that offenders with a given history of offending will be sanctioned (convicted or given a caution, reprimand or final warning) for any new recordable offence within two years of noncustodial (including suspended) sentence or release from custody. Version 3 of OGRS is the most recent and valid version.


6 Shapland et al. (2008).


8 ‘Shuttle’ is a form of mediation where the facilitator shares information between participants and helps them come to an agreement without them being in the same room.

9 Shapland et al. (2008).


15 Thames Valley Partnership, Wait til Eight: An essential guide to NOMS RJ Scheme Start up implementation, January 2013.