Response to the Youth Justice Board Restorative Justice Action Plan Consultation

December 2006

1. The Restorative Justice Consortium welcomes the new Restorative Justice Action Plan consultation document from the Youth Justice Board. The Youth Justice System has led the way in England and Wales in integrating restorative justice into criminal justice procedures. In doing so, youth justice has blazed a trail for the adult justice system to follow. With the Government’s stated aim of building a victim-centred CJS, and strong evidence that many victims want RJ, we hope the Government will soon bring forth legislation to give victims of adult offenders also an entitlement to RJ.

2. We welcome the recognition by the Youth Justice Board in this paper that the original vision for Restorative Justice as the overarching ethos at the heart of the new youth justice system has not yet been delivered. Youth Justice Board statistics for 2005/6 show that only around 13% of victims of youth crime participate in a direct restorative justice process. This masks huge variation between Youth Offending Teams (YOTs), with one YOT having over 90% victim involvement, and some others reporting no direct victim involvement whatsoever.

3. As one RJC member working in Youth Justice commented to us:

   “RJ has slipped from the idea of core business, then resources have either trickled away or collapsed in some areas.”

4. We welcome the recognition by the Board that both the availability of restorative justice processes in the Youth Justice System, and the quality of restorative work, need improvement. The Action Plan highlights the key areas needing attention in order to do this, and seeks the views of practitioners on specific steps to bring about change.

5. The Restorative Justice Consortium is a membership organisation with 155 members, including many Youth Offending Teams, and individual members working in youth justice. The specific suggestions in our response are grounded in the expertise and experience of our members. Given the limited resources available within the YJB and within YOTs for RJ, we would stress just three key areas as priorities for immediate attention under the Action Plan: targets, resources and training.

Targets

6. Restorative justice processes have been defined as “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” (Tony Marshall, 1999).
7. With this in mind, for panel meetings to be restorative there has to be victim involvement (as well as, ideally, involvement from other supporters and community members) in the panel, whether the victim attends in person or has their views fed in by someone else. It is clear from the YJB statistics referred to in paragraph 2 above, that the great majority of panel meetings, intended in the legislation as a restorative process, are not in practice involving victims. The potential of these meetings to restore individual victims of crime has been lost.

8. This is despite the very strong evidence we have for strong victim benefits from involvement in restorative justice. Many studies have found over 80% satisfaction rates for victims who choose to participate in RJ\(^1\). Recent research by Dr Heather Strang and Professor Larry Sherman has found reductions in post-traumatic stress for victims of adult offenders who had participated in restorative justice, as compared with victims of similar offences who had only experienced traditional criminal justice.

9. The Youth Justice Board has set a target for 75% of victims to be offered the opportunity to participate in restorative justice. However, in some YOTs a lack of understanding of restorative work, coupled with the lack of dedicated resources for work with victims (for example time for preparatory work with victims, in the form of face to face meetings or telephone calls, and follow up after panel meetings), has led to many YOTs sending victims ‘opt-in’ letters, in the knowledge that they will receive a very low response rate. One YOT staff member referred to this practice as “managing down demand”. This comment epitomises the effect of the current YJB target on YOTs, where in some areas a tick-box approach to involving victims has become the norm.

10. Based on this poor practice in victim involvement, some YOT staff and panel members believe that it is very difficult to get victims to attend panel meetings. However, recent trials of restorative justice in the adult criminal justice system by Sherman and Strang demonstrate that – even for serious offences (robbery and burglary) by adult offenders – if victims are approached sensitively and have RJ explained to them in person – including the strong evidence for victim benefits outlined above - as many as be as 70-80% of victims ask to meet face-to-face. This suggests that the number of victims of youth crime who could benefit from participating in restorative justice is much higher than the current 13% participation rate.

11. The YJB paper (page 6) indicates a plan to develop new key performance indicators for YOTs based on restorative interventions, rather than on the offer of a restorative intervention, and (page 5) states that the full project plan will propose that face-to-face engagement of victims can be improved and increased.

12. We entirely agree that the current target for 75% of victims to be offered the opportunity to attend a panel meeting should be replaced with a target which better captures and encourages quality restorative justice practice. We do not believe that this should be replaced with a single KPI measuring only face-to-face victim

---

1. Restorative Processes and outcomes for victims, RJC (2006), available on our website [www.restorativejustice.org.uk](http://www.restorativejustice.org.uk) provides an overview of research evidence in this area.
participation. This would run the risk of leading to pressure on victims and thus the opposite of restorative practice. Victim participation on its own does not make a panel (or any other RJ process) restorative; whereas an indirect restorative justice process can be restorative, if the victim is treated with respect, listened to, and enabled to communicate their feelings, questions and experience to the offender.

13. Some of the strongest research evidence of both victim and offender benefits from RJ, based on randomised control trials, is for face-to-face restorative justice processes. Initial victim contact is part of the restorative process. Every victim should be contacted personally and given an informed choice, including giving victims information about the available research evidence for victim benefits from face-to-face meetings. Some victims' motivation for participating is because they believe a face-to-face meeting can have greater impact on the young person and their desire to change. One panel member who is a member of RJC commented to us:

"The quality of a panel where a victim is present, and looks the young person in the eye, and cares enough to have a dialogue with that young person, has been – so many times in my experience – a life-changing experience for that young person. A victim statement has much less impact. The lack of a victim's perspective can lead to a pretty un-impactful panel, however hard we try, since a vital voice is missing, and what the victim might have said can only be conjecture."

14. We also know from research and experience, that some victims either cannot or do not want to meet the offender face to face. Restorative justice principles mean that where victims cannot or do not wish to participate in a face-to-face meeting with the offender, in situations where victims have had a personal contact and had RJ properly explained to them, indirect forms of restorative justice should also be offered to victims and measured in any new KPI by the Youth Justice Board. In indirect restorative justice processes, it is important that a staff member who is not the panel chair or facilitator represent the victim's point of view at the panel meeting (or other RJ process). Victim Support has also emphasised the importance of informed victim choice in their policy statement on restorative justice.

15. The Youth Justice Board’s current counting rules count victim views being fed in to the panel by a YOT worker as an indirect restorative process. However, using the definition of a restorative process put forward by Professor Joanna Shapland as a process of communication between victim and offender which is at least two-way, the counting rules should only count as an indirect process one in which the victim had made a statement and received a response from the offender, feedback on the panel meeting and answers to any questions they had for the offender, via the YOT or facilitator.

---

2 See Principles of Restorative Processes (RJC, 2004)
4 In other words, victim views being represented on their own is insufficient. If the offender then responded to what they had heard, and that was conveyed back to the victim, this would fall within Joanna Shapland’s definition.
16. Any new target set by the Board should therefore measure the number of cases in which victims are involved in a restorative process, (rather than just the offer of participation) both in direct and indirect forms of RJ (measured separately), whether at the first or subsequent panel meetings\(^5\), or outside the panel altogether. A measure of victim satisfaction should also be maintained.

17. Whatever target is set must stretch existing practice within the YOTs so that more quality restorative justice does in fact take place. The target must also increase year on year, in line with resources for this work for YOTs. Given that in some of the best YOTs direct victim participation is as high as 90%\(^6\), these levels of victim participation are clearly achievable with good practice in victim engagement and preparation.

18. High levels of victim participation in restorative processes must be the long-term goal. In the interim, if lower level targets for victim participation are developed, YOTs must also be given guidance as to which cases they should focus so as to use resources most effectively. These should be based both on victim needs and wishes in the particular case, as the primary consideration, and on the research evidence available for victim and offender benefits for RJ in response to particular types of crime.

19. We are aware that all targets and measures have the potential to warp practice in ways that are often unintended by central government and agencies, so developing a new target will need careful consultation and development. The Restorative Justice Consortium would be happy, if resources were provided by the Board, to run an independent and transparent consultation process open to all YOTs, to develop recommendations on a new target, and on the basis of such a consultation process to develop the guidance to YOTs on implementing the new target.

20. No target on its own can deliver improvements in restorative justice practice within Youth Justice; achievement of any new target will be dependent upon resources, and on training.

Resources

21. While the Action Plan consultation document highlights many of the key issues, without addressing the need for dedicated resources in the YOTs for victim/restorative work, the ideal of a restorative Youth Justice System will never be achieved. The present

\(^5\) It is not in accordance with Restorative Justice Principles (Restorative Justice Consortium, 2004) or agreed best practice (Best Practice Guidance for restorative practitioners, Home Office, 2004) to rush victims into a once and for all decision about attendance at the first panel meeting. The current target for panels to meet within 20 working days in the interests of speedy justice; but YOTs should not be penalised if they can show that the target was missed in order to enable a victim to attend that first panel meeting. In general it must be made clear to victims and the young offender that the victim can choose whether or not to come to the first panel meeting, but if they are unwilling, unable or not ready to attend the first panel meeting they are welcome to attend a later panel meeting or a separate restorative justice process with the offender and that the panel contract can be amended and updated in the light of any such meeting. Victims should be offered the opportunity to attend the first or any subsequent panel meeting, or the option of a restorative process outside the panel process altogether.

\(^6\) Youth Justice Board statistics (2005/6)
situation, which relies instead on the goodwill of particular YOT managers towards RJ, means a postcode lottery, for victims of youth crime.

22. The best YOTs are delivering excellent restorative services to victims, offenders and the community within existing resources. But many YOTs feel that given the financial constraints, quality (in-person) work with victims cannot be prioritised. Whilst the Government and Youth Justice Board speak about a victim-centred CJS, until there are dedicated resources for dedicated staff for victim/RJ work in every YOT, talk of restorative justice is a fig-leaf for a criminal justice system which remains almost entirely offender-centred.

Training

23. Page 5 of the consultation paper states that

“Many practitioners and managers within the youth justice system are already committed to developing effective restorative justice approaches. The YJB will continue to work with them to ensure that … all restorative justice interventions are carried out to high standards by trained and skilled practitioners.”

24. We welcome this statement of the importance of training and restorative justice skills for all restorative practitioners. But we are concerned that, in reality, there is no requirement from the Youth Justice Board, for any YOT staff or panel members to be trained in restorative practice.

Training for panel members

25. We welcome the revised Panel Matters training pack for community volunteers sitting as panel members, which is an improvement on the previous version. However, this training is still insufficient for panel members to be able to run panels restoratively. Only one day of the four-day training relates to restorative justice, rather than restorative justice being woven through all four days as the ethos of panel meetings.

26. The Youth Justice Board has endorsed the Best Practice Guidance for restorative practitioners (Home Office, 2004), along with many other agencies in the field, as the most comprehensive statement of best practice available; yet there is no mention of the guidance and the need to use and practice in this way in the Panel Matters training material. Nor is there any reference to the Restorative Justice Consortium’s Principles of restorative practice (RJC, 2004), again agreed following wide consultation with our membership, including the Youth Justice Board. These two documents should provide the overarching reference material for any training materials in restorative justice.

27. Unless panel members are trained to work in panel meetings as restorative practitioners, panel meetings cannot work restoratively, as they were intended to do. We do not believe that one day of training in relation to restorative justice is sufficient for panel members to run the panel meetings they chair in a truly restorative way. The Youth Justice Board needs to look again at this crucial matter, if there is any real commitment to making panel meetings a restorative justice process.
28. As RJC members working in Youth Justice have commented to us:

“The Panel process effectively splits the restorative process, dividing preparation (not done by panel members at all, and often not done at all by YOT staff …) from facilitation (done by panel members, but often poorly). This means the restorative skills at the heart of the process have to be of the highest quality, and the Panel Matters training does not deliver that.”

“I feel that the YJB has to undertake a broader revision of the content of Panel Matters and to do this in an open and transparent way using the skills and knowledge of experienced RJ trainers such as those in the RJ trainers forum.”

29. We also would endorse points made by AIM in their response to this consultation, that panels are often handling sensitive and complex cases. Unless panel members are trained to work with these types of offences, in line with the Best Practice Guidance, they risk re-victimisation in these cases. We also support the view of the Association of Panel Members that the focus of Panel Matters must be on practical training for panel members to handle panel meetings well, rather than on providing them with general background knowledge about young offenders and the Youth Justice System.

Training for YOT staff

30. YOT staff are encouraged to obtain the Professional Certificate in Effective Practice (Youth Justice); but this requires them only to have read the Youth Justice Board reader on restorative justice, as one among many topics covered. There is no requirement from the YJB upon YOT staff working with victims and supporting panel meetings to have undergone any kind of RJ training, nor to evidence their skills in this area.

31. A panel meeting itself is only one small part of an overall restorative process; and is only one of the restorative options available which should be offered, by YOT staff, to victims. For panels, YOT staff are responsible for all the initial contact and victim preparation work prior to a panel meeting, and for follow up with the victim, including keeping the victim informed of how and whether the young offender has fulfilled their contract. Given the importance of quality victim contact and preparation for victim participation rates (as noted above), and the importance of follow up work for overall victim closure and sense of reparation from the process, this work outside the panel meeting is crucial to making the process restorative for the victim.

32. All these elements of the process are managed by YOT staff. If the Youth Justice Board is serious about restorative justice, there has to be a requirement for proper restorative justice training for all YOT staff co-ordinating and supporting panel meetings.

33. If the Youth Justice Board’s Action Plan is to really make a difference to the quality of restorative practice in the Youth Justice System, improved training for panel members
in RJ, and a requirement for training for all YOT staff working with victims and supporting panel meetings must be developed. This must include a requirement for ongoing supervision and updating of skills and knowledge on a rolling programme as part of a systematic implementation plan.

An Academy for Restorative Practice

34. The Youth Justice Board paper raises the suggestion of the need for an Academy for Restorative Practice, based on the model of the new Parenting Academy established by the Department for Education and Skills.

35. The Restorative Justice Consortium welcomes this proposal. We strongly agree with the need for a central body responsible for setting and maintaining standards in training for restorative work, based on RJ principles, the latest research evidence about what works (effective practice) for both victims and offenders, and on proven training models.

36. We note that the role of the new Parenting Academy will be that of an independent body, setting standards and commissioning, but not providing, training. As the existing independent umbrella body for restorative justice in England and Wales, and based on our current work with Chairing the Trainers Forum, which has produced a Trainers Code of Practice, we would be well placed, if funding were provided by central Government and the YJB, to take on a similar parallel role for the future of restorative practice in England and Wales.

Final points

37. We agree that there is potential for greater use of restorative justice in the secure estate, and would draw attention to our own publication Implementing restorative processes in a custodial setting (RJC, 2005), as well as to the Home Office’s guidance on establishing restorative justice in prisons in the adult criminal justice system Restorative Justice; helping meet local needs (Home Office, 2005) – both of which were developed through widespread consultation⁷. If restorative justice is to be developed in the secure estate, it must be developed with a strong victim focus, involving and focussing on restoration of the victim of the crime for which the young person is in custody, not just as a measure for behaviour management.

38. However, if there is a choice to be made in bringing about real change through this Action Plan, we would suggest that the Youth Justice Board should focus its energy and resources on improving the quality and availability of existing restorative practice – focussing on embedding new targets, new requirements for training and new resources – rather than on spreading patchy and sometimes low quality service even more thinly.

39. More broadly, if the YJB wants to really create a victim-centred, restorative ethos at the heart of the organisation, we believe a victims’ representative should be there on the Youth Justice Board and on the management body of every YOT. Having a victim

⁷ Both publications are available via the RJC website www.restorativejustice.org.uk
perspective built in at every stage of the process is the only way that a truly restorative ethos will be maintained in Youth Justice.

40. Restorative Justice was meant to be at the heart of the Youth Justice System’s way of working, and the core ethos of panel meetings in particular. Over time we believe this ethos has been lost. Most importantly of all, the Action Plan needs to look at why this has happened within the Youth Justice Board, and at what measures can now be taken to bring a restorative ethos back to the heart of how the Youth Justice System works.

41. The RJC looks forward to working in close partnership with YJB to develop and deliver the Action Plan in 2007.

Restorative Justice Consortium
www.restorativejustice.org.uk
December 2006