Written evidence from the Restorative Justice Council

Executive summary
The Restorative Justice Council (RJC) welcomes the opportunity to give evidence to this inquiry. Key points raised in this submission include:

- The evidence demonstrating that restorative justice work for victims and offenders is robust and compelling.
- Ensuring quality should be at the heart of all restorative justice delivery, creating positive outcomes for participants and the wider community.
- Significant progress has been made in recent years to increase the availability of high quality restorative justice provision and to raise awareness.
- Despite this, provision remains patchy and frequently poorly co-ordinated. Awareness among the public and criminal justice staff is too low.
- Recent progress is at risk due to limited resources and ongoing reforms of the justice system that are creating instability and disrupting existing provision.
- The Ministry of Justice (MoJ) and other stakeholders (including the RJC) must therefore continue to focus on promoting the availability and take up of restorative justice.

Introduction
The benefits of restorative justice are well known and widely accepted. The evidence showing its efficacy is robust.¹ The Government is committed to increasing the availability and use of high quality restorative justice and progress has been made. However, there remain disparities in the quality and availability of restorative justice in different areas as well as significant barriers to restorative justice becoming a mainstream intervention. This submission discusses progress to date and what the next steps should be.

About the Restorative Justice Council
The RJC is the independent third sector membership body for the field of restorative practice. We provide a national voice advocating the widespread use of restorative justice and raise public awareness and confidence in restorative processes. The RJC sets and champions standards for the restorative justice field, provides quality assurance, and supports organisations in the field to build on their capacity and accessibility. The aim of the RJC is to enable safe, high quality restorative justice to develop and thrive.

Our definition of restorative justice
Restorative justice is a process which gives victims the chance to meet or communicate with their offender. It empowers victims by giving them a voice. Restorative justice enables victims to explain the real impact of the crime while holding offenders to account for what they have done and helping them to take responsibility and make amends. During the

¹ The evidence is now well established and is not set out in this submission. For a summary see https://www.restorativejustice.org.uk/resources/evidence-supporting-use-restorative-justice
restorative justice process, the offender and victim will often agree on actions that the offender can undertake to repair the harm that they have caused.

**Key recommendations**

1) Every victim should be entitled to be able to access a restorative justice service, with the relevant Police and Crime Commissioner (PCC) required to provide the service.
2) The MoJ should actively support and enable agencies at the local level to establish co-ordinated restorative justice provision at every stage of the justice system.
3) Work should be undertaken by the MoJ, the RJC and other key stakeholders to raise awareness of restorative justice among the public and within criminal justice agencies.
4) Restorative justice should be made an integral part of out of court disposals.
5) Through commissioning and contract management, the MoJ and NOMS should encourage prisons and probation providers to make restorative justice central to their work to reduce reoffending.
6) Restorative justice should be embedded across the youth justice system, learning from the successful approach used in Northern Ireland.
7) Effective information sharing should be a priority to enable restorative justice to take place, with a national information sharing template developed to support this.
8) All organisations receiving statutory funding for restorative justice should have to work towards the Restorative Service Quality Mark (RSQM) to ensure quality in delivery.

**Response to the terms of reference**

**Progress made by the Government in implementing the Restorative Justice Action Plan 2014, including any changes that have been made to this plan**

1. The RJC supports the priorities of the Restorative Justice Action Plan 2014 and continues to be a key partner in its delivery. This work has seen real progress made on increasing the availability of high quality restorative justice and raising awareness. However, this programme of work is not yet complete. There is still inconsistent provision of restorative justice and barriers to its use.

**Section 1 – Equal access**

2. The overarching vision contained in the Action Plan includes ensuring that “victims have equal access to restorative justice at all stages of the CJS irrespective of their location, the age of the offender or offence committed against them”. The RJC wholeheartedly endorses this. Yet while legislation now allows restorative justice to take place at every stage of the justice process, there is still some way to go to make this vision a reality.

3. In particular, some agencies and services restrict access to restorative justice based on the type of offence that has been committed. This is clearly not in line with the intentions of the action plan and should be discouraged. In addition, pre-sentence restorative justice – which was tested in a pathfinder project following the implementation of the Crime and Courts Act 2013 – is currently only available in a small
minority of areas. The evaluation of the pathfinder showed that, while there were problems with caseload, pre-sentence restorative justice delivered excellent outcomes for both victims and offenders.² It should now be offered as part of a co-ordinated, cross-system approach to restorative justice in every area.

4. To achieve this, there needs to be better co-ordination across agencies so that all victims are able to access restorative justice. Effective partnerships must be developed between local agencies where there is the potential for duplication and a lack of clarity about responsibilities with regards to restorative justice, for example PCCs, Community Rehabilitation Companies (CRCs), prisons and the police. As the key commissioner and funder of these agencies and services, the MoJ must take an active role in making sure that this happens.

Section 1 - Action A: Support PCCs to deliver restorative justice

5. For PCCs to be the main provider of victim-initiated restorative justice, as intended, this work is essential. We have seen some good progress, with a number of one-on-one-meetings and best-practice sharing sessions conducted. However, there is still inconsistent knowledge about and support for restorative justice among PCCs and more should be done to help PCCs develop effective services. It is vital that PCC candidates going into the May 2016 election are fully informed about restorative justice so that it can feature in their plans from the outset.

Section 1 - Action B: Help PCCs to identify and address any barriers to delivery of restorative justice, including data sharing

6. Problems with information sharing have been a perennial barrier to restorative justice delivery. As an example, during the pre-sentence pathfinder project only 1,201 victims were contacted out of 2,273 potential cases, due to issues which included information sharing. To increase use of restorative justice this issue must be addressed. We recommend that a national information sharing template should be produced to clarify and publicise the legality of information sharing (including with third sector or private providers). In addition, the new Victims’ Code states that the police must pass victims’ contact details to the local restorative justice provider (unless asked not to do so by the victim). This should be communicated to all police forces and compliance monitored.

Section 1 - Action D: Prisons and provision of access to restorative justice

7. See Paragraphs 28-31.

Section 1 - Action E: Increase the use of restorative justice in the youth justice system

8. Real progress has been made in the youth justice sector but there remains much to be done. The use of restorative justice in out-of-court disposals with young people appears to vary significantly between police forces. Where there are examples of good practice,

² The evaluation of the pre-sentence pathfinder project is available at http://www.icpr.org.uk/media/41234/pre-sentence_rj_evaluation_report_nov15.pdf
such as the Youth Restorative Intervention in Surrey, there have been reductions in reoffending, the diversion of young people from court, and enhanced victim satisfaction. These approaches should be adopted consistently across the country.

9. Youth Offender Panels should be based on restorative justice principles, but recent research demonstrates that they rarely involve victims and often fail to provide a method for genuine community involvement. In Northern Ireland, however, the majority of young offenders are dealt with by diversionary restorative justice. An approach informed by the Northern Ireland model should be introduced in England and Wales, supported by a commitment to ensuring that there is high quality provision in every area.

Section 1 - Action F: Out-of-court disposals

10. The government has piloted a new approach to out-of-court disposals. Broadly, we support this more streamlined approach. If this approach is rolled out, however, it should be formalised that restorative justice can form part of a community resolution or suspended prosecution. A comparable pilot, Turning Point in Birmingham, found that restorative justice was often not offered when it could have been, offender managers were not practiced in delivering conferences, and the manner in which offers were made contributed to a low take-up rate. We recommend that lessons are learned from this project in the future development of out-of-court disposals.

Section 2 - Objective 2.1: Raising awareness and understanding

11. The RJC supports the MoJ’s definition of restorative justice, contained in the Action Plan. The MoJ’s commitment to raising awareness is also welcome. For example, a campaign was run to promote restorative justice during International Restorative Justice Week in November 2015, which we supported. The RJC has also, with the support of the MoJ, carried out work to raise awareness. For example our awareness-raising film has been widely promoted and we have supported people who have participated in restorative justice to share their stories in the media. This has been an effective way of explaining the benefits of restorative justice.

12. There is, however, still a great deal to do to raise awareness of restorative justice among the public, so that its benefits and availability are recognised. This must be carried out

---

6 Details are available at https://www.gov.uk/government/news/putting-an-end-to-soft-option-cautions
7 Available at https://www.youtube.com/watch?v=fWtFtWY3Hh8
nationally by the MoJ in partnership with national stakeholders and locally by PCCs and service providers.

Section 2 - Objective 2.2, Action A: Support PCCs and the police on referral mechanisms for victims

13. In addition to work conducted by the MoJ, the RJC has supported this objective by making a film that explains restorative justice to victims, which has been used by several PCCs, and an information leaflet for victims, which has been used by PCCs and Victim Support to help explain restorative justice to victims. All PCC restorative justice service details are also listed on the RJC’s website. However, there is more to do on this issue in order to ensure that every victim can access their local PCC-commissioned service and that they are offered access to restorative justice appropriately.

Section 3: Good quality

14. The RJC sets standards for high quality restorative justice, supported by the MoJ. These include the Restorative Service Standards (RSS), a set of standards which an organisation must meet to qualify for the RJC’s quality mark, the RSQM. At present 24 organisations working in the criminal justice sector hold the RSQM, which was piloted in 2013 and launched in 2014, while a further 54 organisations are currently going through the assessment process. Alongside services holding the RSQM, the RJC also has 39 other service provider organisations on the Service Provider Register. These organisations do not yet hold the RSQM, but have agreed to work towards meeting the RSS.

15. Additionally, the RJC operates a Practitioner Register and awards Accredited Practitioner status to individual practitioners. There are currently 77 Accredited Practitioners, who have undertaken an independent assessment to demonstrate that their work meets national standards. There are also 342 Associate Practitioners on the Practitioner Register, who must adhere to the RJC’s code of practice for restorative practitioners and provide evidence of their case supervision arrangements.

16. The RJC also holds a Trainers Register listing 65 training providers who adhere to our Code of Practice for Trainers. We have recently piloted a Training Approval Scheme, a quality mark for training courses for facilitators. Fourteen facilitation training courses were approved during the pilot and the final scheme will be launched in 2016 following an independent review of the pilot.

17. The RJC’s standards are voluntary – organisations who do not work to these standards can still deliver restorative justice. This is a serious barrier towards progression against this section of the Action Plan. We recommend that all organisations receiving statutory funding for restorative justice delivery should be obliged to work towards the RSQM.

---

8 Available at [https://vimeo.com/124975411](https://vimeo.com/124975411)
Measuring the success of the action plan

18. The Action Plan states that the MoJ will “work with the Restorative Justice Council to understand the extent and nature of restorative justice provision”. To this end, the RJC is currently carrying out a national mapping exercise, our second, with the Institute for Criminal Policy Research. Provisionally we have received responses from 182 provider organisations and 55 organisations that support or facilitate its delivery.\(^{10}\)

19. This mapping exercise is being completed on a voluntary basis, meaning the results may not provide a complete picture of restorative justice provision. This makes remedying unequal provision harder. If a full picture of existing provision is to be developed, then a mandatory register for restorative justice organisations is required. This would make it possible to form an accurate picture of where restorative justice provision is lacking.

20. The goals of the action plan also include raising awareness of restorative justice. Two polls commissioned by the RJC show that awareness of restorative justice is growing. In October 2013, 22% of people had heard of restorative justice. By April 2015 it was 30%.\(^{11}\) Further awareness-raising work has been done since then. This shows progress, but also how much further there is to go.

How the entitlements to restorative justice in the Victims’ Code are working, and their implications for any such entitlements in any future Victims’ Law

21. The entitlements outlined in the updated 2015 Victims’ Code are a positive step for restorative justice. We are pleased by the changes made to the 2013 Code, in line with the EU Victims’ Directive. The entitlement for victims to receive information has been made more specific and is also supported by requirements on service providers in section 7.4 of the updated Code. The new requirement for the police to pass on victims’ contact details to a local provider (see Paragraph 6) is particularly welcome and should be incorporated into any future Victims’ Law.

22. Providing victims with information about restorative justice is, however, of little value if there is no accessible local provision. We therefore propose that all victims should be entitled, initially through the Victims’ Code and then through the planned Victims’ Law, to have access to a restorative justice service. This would require consistent provision of restorative justice, which PCCs have been funded to deliver. Stronger requirements should be placed on PCCs as part of funding agreements to ensure that restorative justice is provided and is offered to all victims.

---

\(^{10}\) At the time of writing, this mapping exercise is not complete. Initial results are included in this submission and the final report will be made available to the Justice Select Committee when it is published.

\(^{11}\) See [https://www.restorativejustice.org.uk/sites/default/files/news/files/Ipsos%20MORI%20polling%202015_0.pdf](https://www.restorativejustice.org.uk/sites/default/files/news/files/Ipsos%20MORI%20polling%202015_0.pdf)
23. Enforcement of the Victims’ Code could also be improved. Currently, victims must take unresolved complaints to the Parliamentary and Health Service Ombudsman. We recommend that complaints continue to begin with the relevant organisation, but that any unresolved complaints should be dealt with by the Office of the Victims’ Commissioner, which should be given powers of redress.

The impact and effectiveness of the National Offender Management Service’s restorative justice programme to promote the development of victim-offender conferencing

24. The findings of the evaluation of the NOMS Capacity Building Programme demonstrate positive outcomes for those people who took part in restorative justice, but fewer conferences took place than anticipated. The project took place at a time of significant upheaval for the justice system but cultural barriers also prevented effective delivery. The evaluation notes that for “restorative justice to become more fully embedded, there is a need to achieve a cultural shift in favour of restorative principles, through positive leadership at every level.” We therefore recommend that the MoJ continues to work with the RJC to explain the benefits of restorative justice to staff throughout the justice system.

The effectiveness of delivery of restorative justice across the range of service providers and funding arrangements, including provision made by Police and Crime Commissioners, the Prison Service, the National Probation Service, and Community Rehabilitation Companies.

Police and Crime Commissioners
25. Initial results from the RJC’s mapping project, and our other work, show that PCCs have taken different approaches to developing restorative justice services. Some deliver the service ‘in-house’, while others have commissioned a provider (either an independent provider or a statutory agency with delivery capacity) to deliver victim-initiated restorative justice in their area. There are some variations on these two basic models and some PCCs have funded existing local provision, where it existed.

26. The RJC has encouraged PCCs to consider how best to ensure quality in the delivery of restorative justice in their area, including whether to require their local service to achieve the RSQM. One PCC’s restorative justice service holds the RSQM and seven are currently going through the process. In addition, several PCCs have commissioned Remedi, a recipient of the RSQM, to deliver restorative justice in their area.

27. Through our work we know that there are significant disparities in the extent of provision established by PCCs and in its stage of development. This is a key barrier to victims being able to access restorative justice.

Prisons

28. Twenty-one prisons have responded to the RJC mapping survey to date. Six are providers and 15 provide a supportive environment for restorative justice to take place.

29. When prisons work as a provider, this can lead to a successful service. One example of this is the restorative justice service at HMP Leeds, a recipient of the RSQM. They have around 10-15 referrals per month, over 30 cases have gone to conference, and 100% of both victims and offenders have been satisfied with the process.

30. Where prisons do not themselves have capacity to deliver restorative justice, the NOMS guidance on providing a supportive environment for restorative justice to take place is a helpful resource.\(^{13}\) We expect to see prisons that do not have in-house provision using this guidance to enable them to work effectively with external partners to provide restorative justice.

31. We are concerned that restorative justice delivery within prisons remains at the discretion of individual governors. The evidence suggests that buy-in from governors has been extremely variable, meaning that provision is patchy. We recommend that NOMS develops stronger commissioning intentions for restorative justice in prisons. Given its proven efficacy, performance measures should also be created to reward prisons for enabling the offenders in their care to participate in restorative justice.

Community Rehabilitation Companies

32. We have information about 17 of the 21 CRCs – 13 attended an event run by the RJC in January 2016 and a further four were among the respondents to our mapping survey. In 15 of these areas, restorative justice was taking place. Its stage of development was generally reported as being in its infancy. There were a few exceptions – places where restorative justice development was advanced – but this was where the CRC had inherited a legacy of good provision. In many of these areas there are concerns that it is based on the work of a small number of staff who are vital to its continuation.

33. Delivery arrangements vary. Of the 15 CRCs delivering restorative justice, 10 reported entirely in-house delivery; four reported a ‘hybrid’ delivery model, which was a mix of in-house, outsourced and working with the PCC’s restorative justice service; and one solely used the PCC’s service. Funding mainly came through the CRC’s core budget for interventions with offenders – one reported in-house delivery using PCC funding and one reported using the PCC’s service entirely.

34. While delivery models are likely to vary – and following the Transforming Rehabilitation reforms the current state of flux is inevitable – restorative justice should be one of the interventions that CRCs use to reduce reoffending. Moreover they must work with PCCs

to ensure that this provision is well co-ordinated locally. In managing CRCs’ contracts, the MoJ should ensure that this takes place.

National Probation Service

35. National Probation Service (NPS) provision varies between and within areas. Prior to Transforming Rehabilitation, a number of steps were taken to raise awareness with new staff. Since Transforming Rehabilitation, however, several areas have not taken steps to promote and deliver restorative justice due to a lack of provision and competing priorities.

36. There is recognition in the NPS that there is a lack of clarity in relation to how restorative justice fits with other interventions and priorities. A lack of capacity and resources form significant barriers. Transforming Rehabilitation created confusion around the delivery role of each organisation, with expertise going to the CRC. There is now also a lack of understanding regarding rate cards and budgets, which has had an impact on the number of referrals and level of activity.

37. Of 28 areas that responded to a survey (covering all but 10 of the legacy probation trust areas), there is provision within the NPS to provide restorative justice conferencing in 10, generally through victim liaison teams. Other areas have developed local partnerships and delivery arrangements, for example with PCCs, CRCs, other statutory agencies or independent providers. As a result only five of the 28 areas that responded did not identify any existing provision. The extent of provision and its use, however, appears to be variable.

38. At this point in the NPS’s development potential mechanisms for the delivery of restorative justice are still being explored. It is important, however, that in due course the NPS understands the availability of restorative justice in each area to inform pre-sentence reports and finds a sustainable way to make restorative justice available to the offenders that it manages.

31 January 2016