1. Executive summary

- The Justice Select Committee recognised in its seventh report that some processes used in the justice system are verbally-mediated and therefore difficult for people with speech, language and communication needs.
- Restorative justice is a conversational process and demands a certain level of competence in language skills. Unidentified speech, language and communication problems can interfere with the success of restorative justice processes.
- Over 60% of offenders and many victims and witnesses have significant yet unidentified speech, language and communication needs.
- Speech, language and communication problems compromises the victim’s or the offender’s ability to fully engage in the restorative process as the individual will lack the language ability to be able to express themselves, understand and take part in the conversation.
- The lack of engagement by one party risks labelling them as rude, unmotivated or uncaring which is upsetting for the other party.
- More focus must be given to supporting each party during the process and ensuring that restorative justice facilitators receive communication skills training.

2. About the Royal College of Speech and Language Therapists

The Royal College of Speech and Language Therapists (RCSLT) is the professional body for speech and language therapists (SLTs), SLT students and support workers working in the UK. We promote excellence in practice and influence health, education, employment, social care and justice policies. The RCSLT currently has over 17,000 members.

3. RCSLT response to the inquiry

Over 60% of offenders have speech, language and communication needs (SLCN). However SLCN can be a hidden disability because it is often not visible or obvious and people become adept at hiding the true nature of their difficulties.

Registered Intermediaries are provided by law for victims or witnesses to assist them to communicate in court. The growing demand for them reveals the increasing number of victims and witnesses who have SLCN. Over 80% of registered intermediaries are speech and language therapists.

People with SLCN have difficulty communicating with others. This may be because they cannot express themselves, have difficulty in understanding what is being said to them or do not understand the social rules of communication. People with SLCN often develop coping strategies to mask the impact of their SLCN. This can include having a having a good level of surface conversation which they cannot maintain when conversations develop.

Restorative justice activities are, by definition, conversational processes, whereby each party, the victim and the offender, need to have a sufficient degree of ability to listen, comprehend complex and emotionally charged narratives and verbally answer questions and supply information. It has been recognised that the lack of language skills during restorative justice can be an emotional and stressful situation for both parties (Snow and Sanger, 2011).

The justice system uses technical vocabulary and many people do not understand commonly used words such as “victim”, “breach”, “liable” or “remorse”. Restorative justice is based on empathy,
however research has shown that many young people do not understand what this means and find it difficult to find the vocabulary to talk about their feelings. This has implications for restorative justice programs where the offender has to empathise with and apologise to the victim for their offence.

In addition to the demands placed on working memory, participation in restorative justice processes draws on time sequencing and the ability to read the non-verbal behaviour of others. A person who responds in monosyllables, who does not display the expected non-verbal behaviours or act inappropriately such as laugh or give excess eye contact “...may simply serve to create an impression of shallowness, low credibility, and/or low empathy” (Snow and Sanger, 2011). Those people may be misjudged as rude, unmotivated, uncaring or lazy (Snow and Powell 2008), and this may be damaging in a restorative justice process and upsetting for the other party.

Restorative justice activities can present a barrier in which a very willing individual is just not able to engage because of their SLCN which can affect the take-up of restorative justice.

The MoJ has said¹ that restorative justice facilitators are trained in facilitator training² but it is unclear if they receive any training in communication skills which underpin the entire process. More focus must be given to supporting each party during the process. SLCN are invisible so facilitators need support to understand how to recognise SLCN, to understand how issues caused by these needs can impact on their work and to develop skills to support individuals with SLCN.

4. Recommendations

1. The RCSLT recommends that all restorative justice facilitators receive communication skills training.

The restorative justice facilitators need to be aware of the possibility of undetected SLCN and the ways in which this could result in a disadvantage during the process. Routine screening of the speech, language and communication skills of young offenders, via AssetPlus will help identification, but the equivalent does not exist for adult offenders or for victims.

Due to the speech, language and communication demands placed on each party during the restorative justice process, all restorative justice facilitators must be trained in communication skills. The Royal College of Speech and Language Therapists has developed “The Box” a communication skills training programme to help professionals in the criminal justice system. We would be happy to explore how this could be used to support restorative justice facilitators.

2. The RCSLT recommends that registered intermediaries are made available to during restorative justice activities to support parties with communication problems.

The Witness Intermediary Scheme was introduced to provide communication support to victims and witnesses in court to facilitate them giving their best evidence and the most common reasons for additional support is when the witness has a learning disability, mental health problem or speech, language or communication need. Unfortunately, the extension of this provision to defendants / offenders has been delayed. Registered Intermediaries should be made available to support both parties during the restorative justice process when required.

3 February 2016

¹ Restorative justice action plan for the criminal justice system, 2014
² Restorative justice in youth offending teams information pack