



Restorative
Justice
Council

Restorative justice and the judiciary

Information pack

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Introduction

This information pack has been developed by the Restorative Justice Council (RJC) to raise awareness of restorative justice among the judiciary.

The RJC is the independent third sector membership body for the restorative justice field. Our role, with the support of the Ministry of Justice, is to promote access to high quality restorative justice for all victims of crime in England and Wales. The information contained in this pack is intended to help the judiciary understand more about restorative justice and their role in the restorative justice process.

Restorative justice is an effective response to crime. It empowers victims by giving them a chance to meet or communicate with their offender to explain the real impact of the crime. It also holds offenders to account for what they have done and helps them to take responsibility and make amends. Restorative justice can be used for both adults and young offenders and for any type of crime. It is not, as it can often be portrayed, a soft option, and can be used at all stages of the criminal justice system, from out of court disposals to alongside a custodial sentence.

Building confidence in the justice system and meeting the needs of victims are central to the role of the judiciary. Restorative justice can help to deliver this and government research has established that 85% of victims who have been through the process are satisfied with their experience. The research also showed that restorative justice leads to a 14% reduction in the frequency of reoffending and significant cost savings to criminal justice agencies. Additionally, restorative justice has the support of the public – a recent poll



found that 77% of people believe that victims of crime should have the right to meet their offender.

Restorative justice also has the support of the government. Their genuine commitment to embed it within every stage of the criminal justice system is evident through legislation, passed in 2013, which allows for the judiciary to adjourn the case after a guilty plea or defer sentencing to enable restorative justice to take place. Additionally, there has been significant government funding provided to police and crime commissioners, youth offending teams (YOTs) and prisons to increase their provision of restorative justice.

As its use expands across the criminal justice arena, it is essential for the judiciary to understand exactly what constitutes restorative justice, the benefits it can bring to all parties involved in a crime and the role that they can play in the process. I hope that this information pack will be helpful in achieving this.

Jon Collins
Chief Executive Officer
Restorative Justice Council

"It is clear that, done well, restorative justice cannot be done to, or even for, victims – it must be done with them."

Garry Shewan, assistant chief constable, Greater Manchester Police, National police lead on restorative justice

"Victims find that restorative justice does more for them than probably anything else that happens within the criminal justice system."

Lord Woolf, former lord chief justice

"It was a hugely uncomfortable experience for my assailant and took a vast amount of courage for him to do restorative justice. He seemed to be somebody who was genuinely trying to turn his life around."

Magistrate in London who took part in a restorative justice conference after being the victim of a violent mugging

"Nothing prepared me for it. I think the main fear was looking into the eyes of the people that I'd stolen from. I even had nightmares over it, I was that worried."

Ex-burglar

"It was so liberating to have a voice, and to know he'd have to listen to what I was saying."

Victim

"It gives you closure. People are never the way you imagine them to be."

Victim

"For me, restorative justice turned the tables and I don't feel like a victim any more. I'm in control now."

Victim

For every £1 spent on delivering restorative justice, £8 was saved in lowering costs of offending.

14%

reduction in reoffending after restorative justice.

74%

of offenders would recommend restorative justice to others.

85%

of crime victims who had been through restorative justice were satisfied with the process.

78%

of victims would recommend restorative justice to others.

Restorative justice and the judiciary

About restorative justice

What is restorative justice?

Restorative justice gives victims the chance to meet or communicate with their offenders to explain the real impact of the crime and potentially receive an explanation and an apology. It also holds offenders to account for what they have done and helps them to understand the impact of their actions, take responsibility and make amends. Restorative justice ultimately aims to:

- repair the harm caused by crime
- empower victims by giving them a voice
- encourage offenders to take responsibility for their offence and take action to change
- reduce crime

When can restorative justice take place?

Restorative justice is available at all stages of the criminal justice system. It can be used 'on the street' by police as a diversionary measure, as part of an out of court disposal, pre-sentence, at sentencing as part of a community or suspended sentence, or alongside a custodial sentence. The use of restorative justice pre-sentence and as part of a sentence, which are most likely to involve the judiciary, are discussed in the next two sections of this information pack.

Who arranges restorative justice?

Depending on the stage at which restorative justice takes place in the criminal justice process, it will be organised by the police, YOT, Community Rehabilitation Company (CRC) or National Probation Service (NPS), or by an external provider. A trained restorative justice facilitator will always be involved to undertake a thorough risk assessment before proceeding with any restorative justice activity.

What type of activities could restorative justice involve?

Restorative justice activities can take many forms, including:

- A victim offender conference – This involves a face to face meeting between victim and offender led by a trained facilitator. Supporters for both parties can attend, usually family members.
- A community conference – This is similar to a victim offender conference but involves members of the community who have been affected by the crime.

- Indirect communication – Sometimes referred to as 'shuttle restorative justice', this involves messages being passed between victim and offender by a trained facilitator. The participants do not meet and messages can be passed via letter, video or audio.

What happens at a restorative justice conference?

During a restorative justice conference participants meet to discuss a crime in which they have been involved. The discussion is led by a trained facilitator and supporters for both victim and offender can be present. The facilitator will lead the discussion by asking what happened, who was affected, how they were affected and what can be done to repair the harm that was caused. The victim and the offender both have a chance to have their say. The participants may decide on an outcome agreement outlining actions to be taken to try to repair the harm caused. Both the victim and the offender need to be willing to undertake a restorative justice activity. The participant's suitability to participate is assessed through a detailed risk assessment by a trained restorative justice professional, in line with the RJC's Best Practice Guidance.

What constitutes a positive outcome from restorative justice?

The restorative justice meeting itself is a positive outcome for many victims. Even offering the opportunity to take part can be empowering as it allows victims to choose their level of involvement and affect the process. However, practitioners are trained to manage the expectations of everyone involved and accept the possibility that outcomes will be mixed. Inevitably, not every restorative justice meeting will lead to the offender desisting from crime permanently, but it may still meet the needs of the victim and lead to a reduction in the frequency of reoffending.

Want to find out more?

There is more information about restorative justice on the RJC's website, www.restorativejustice.org.uk.

It is also possible to observe a restorative justice conference through the Observer Programme run by Why me?, a third sector organisation, in association with the RJC and the Ministry of Justice. The programme allows observers to sit in on conferences in order to gain an understanding of the process. If you would like to be included or have any questions about observing please email info@why-me.org.



Alternatively you can watch a filmed re-enactment of a restorative justice conference here: www.vimeo.com/rjcouncil/recovering-from-crime

The RJC can help to provide local awareness sessions. To request an information session for your court, email dani@restorativejustice.org.uk

Pre-sentence restorative justice

The Crime and Courts Act 2013 gives Crown Court judges, district judges and magistrates the power to defer passing a sentence in order for restorative justice to take place in cases where both victim and offender are willing to participate. The court can also adjourn the case, and in some cases may deem it more appropriate to do so, to facilitate a period of pre-sentence restorative justice activity. The legislation states that this can happen in both adult and youth courts.

This approach was tested in a national pathfinder programme, which is described in more detail on page 14. Guidance on pre-sentence restorative justice has been published by the secretary of state and can be found here: www.gov.uk/government/publications/pre-sentence-restorative-justice. A toolkit on pre-sentence restorative justice is due to be published based on the findings of the Pathfinder Programme.

Why did the government introduce pre-sentence restorative justice?

Pre-sentence restorative justice engages victims in the criminal justice process as soon as possible and allows them greater direct involvement. It is about providing more information to the sentencer and an opportunity to identify the outcomes an offender may agree to deliver to repair the harm they have caused.

What conditions must be met in order for pre-sentence restorative justice to take place?

Restorative justice can only take place when three conditions are met:

1. There is an identifiable victim or victims.
2. The offender accepts responsibility and has made a guilty plea (at any stage of the proceedings).
3. The victim, offender and any other participants consent to take part in a restorative justice activity.

Who can suggest that pre-sentence restorative justice is appropriate?

A number of agencies can suggest that a case may be suitable for restorative justice. Police, victim services, NPS or CRC staff, YOTs or restorative justice service providers can suggest a case prior to the court hearing at which the case is deferred. Either the victim or offender can also request to take part in a restorative justice activity.

The facilitator may make initial contact with the victim and offender prior to the court hearing to inform them about restorative justice and ask if they are willing to participate. If either party is unwilling to take part, the case will not be taken forward. The courts should be made aware of any cases identified as potentially suitable for a restorative justice activity prior to the hearing and any knowledge on willingness to take part. Local processes will be developed to enable this.

What is the role of the judiciary in pre-sentence restorative justice?

As the judiciary are aware, if a defendant pleads guilty to the offence for which he or she appears in court, the prosecutor will read out the facts of the case so the sentencer can decide how serious it is and what action they wish to take.

The choice for the sentencer is then between sentencing immediately (with a fine or discharge) or asking for a stand-down or pre-sentence report (PSR) from the NPS or YOT. On receiving a report with a recommendation for restorative justice, the sentencer has the power to request a deferment or adjournment of sentencing in order for restorative justice to take place pre-sentence.

For the judiciary to be confident enough to ask the right questions regarding whether or not to defer or adjourn for restorative justice, they need to be sufficiently well informed of its benefits and understand which cases best lend themselves to the process. If the sentencer decides to proceed with recommending pre-sentence restorative justice, the case will be referred to a qualified restorative justice practitioner who will undertake a thorough risk assessment of both the offender and victim. Based on that assessment, and the wishes of the victim, pre-sentence restorative justice may take place.

In summary, if a sentencer is faced with a case where there is a direct victim and a guilty plea the sentencer is empowered to suggest to their legal adviser, or PSR writer, that a risk assessment take place by a qualified local restorative justice practitioner. If restorative justice is not recommended as part of the PSR, the sentencer is still able to make a request for a risk assessment if they feel it would be suitable. The risk assessment would involve the practitioner contacting both the victim and offender and assessing whether they would be suitable candidates for a restorative justice activity.

A detailed checklist of questions for the judiciary to follow is provided on page 10 of this pack.

Which offences are appropriate for pre-sentence restorative justice?

Restorative justice can be suitable for any offence and is not restricted to offenders who are receiving community sentences. Both offender and victim must be willing to take part and there is an important emphasis placed on those cases where the victim has asked for restorative justice. Ministry of Justice guidance states that restorative justice should not normally be used in cases of:

- “Domestic violence due to the risk of ongoing harm to the victim and the potential for communication between intimate partners which can be difficult to detect.”
- “Hate crime and sexual offences, unless a victim of such [an] offence requests a restorative justice activity and suitably experienced and skilled facilitators are available.”

However, the RJC supports the use of restorative justice for all crime categories provided that it is facilitated by a practitioner with the appropriate training and experience to ensure that it is carried out safely.

How long is the deferment for?

Courts may defer passing sentence for up to a maximum of six months but, in relation to a restorative justice activity, it is envisaged that in most cases it will be possible to complete the process within six to eight weeks. There may be cases where the court considers it inappropriate to defer sentence. In such cases the court might consider adjourning to allow for restorative justice to take place.



What information will the court receive after the restorative justice activity has taken place pre-sentence?

The court will receive a report prepared by the restorative justice practitioner who facilitated the activity as well as the outcome agreement. During a restorative justice conference the offender and victim will often agree on certain actions that the offender should undertake in order to repair the harm they have caused. There is no prescribed form for the report to take but the Ministry of Justice recommends that it includes:

- who agreed to participate in the restorative justice activity
- who participated in the process and restorative justice activity
- details of the outcome agreement or action plan, whether or not it is completed by time of sentencing
- the views of the victim and trained restorative justice facilitator

What effect should pre-sentence restorative justice have on sentencing?

At the sentence hearing, the court will receive the report from the restorative justice facilitator and it is at the court's discretion whether the restorative justice activity and subsequent outcome agreement should affect the sentence. The RJC recommends that all victims considering restorative justice should be informed of the effect this could have on their offender's sentence so that they can make a fully informed decision.

If an offender is willing to participate in a restorative justice activity but this cannot happen, through no fault of the offender, the court can sentence the offender before the end of the deferment or adjournment period. It is up to the court to interpret whether the offender's willingness to participate affects the ultimate sentence.

Could any part of the outcome agreement from the restorative meeting be incorporated into the sentence?

During a restorative justice conference the offender and victim will often agree on certain actions that the offender ought to undertake to repair the harm they have caused. These could include, for example, the offender attending a drug rehabilitation programme or undertaking some form of reparative activity to the victim or community. It is at the court's discretion whether it is appropriate for any part of this agreement to form part of an offender's sentence. If part of the outcome agreement does form part of an offender's sentence, it would have the same status as any other sentence given to the offender and they could return to court for breach of the order.

What if pre-sentence restorative justice is not appropriate or available?

In some cases, where it is deemed inappropriate to defer sentencing to allow for a restorative justice activity, the sentencer may decide to recommend that restorative justice takes place as part of a community or suspended sentence. This is explored in more detail in the next section of this information pack. Where the offender is sentenced to custody, they may consider suggesting restorative justice takes place alongside the custodial sentence. It is, however, ultimately the role of the prison and offender manager to decide whether restorative justice takes place in a custodial setting. When it does, it can take place indirectly if a victim does not wish to visit a prison, either by exchange of letters or recorded video.

Restorative justice as part of a sentence

Legislation specifically permits restorative justice to form part of a community or suspended sentence.

The Criminal Justice Act 2003 made provision for restorative justice as part of a Specified Activity Requirement (SAR). This allows restorative justice to form part of a community order. This provision was rarely used as part of a SAR with the exception of areas such as Thames Valley and London.

The Offender Rehabilitation Act 2014 has since amended the Criminal Justice Act 2003, repealing the SAR and replacing it with a single new Rehabilitation Activity Requirement (RAR). The RAR gives greater flexibility for providers of probation services to determine the rehabilitative interventions delivered

to offenders. Restorative justice is the only intervention that the Offender Rehabilitation Act specifically mentions as an option.

Restorative justice can also take place while the offender is serving a custodial sentence. This will not, however, form part of their sentence.

Can restorative justice form part of a youth sentence?

Yes – restorative justice can take place as part of a referral order or youth rehabilitation order. It is possible for members of the judiciary to recommend that restorative justice could form part of these sentences.

Does restorative justice fit into the purposes of sentencing?

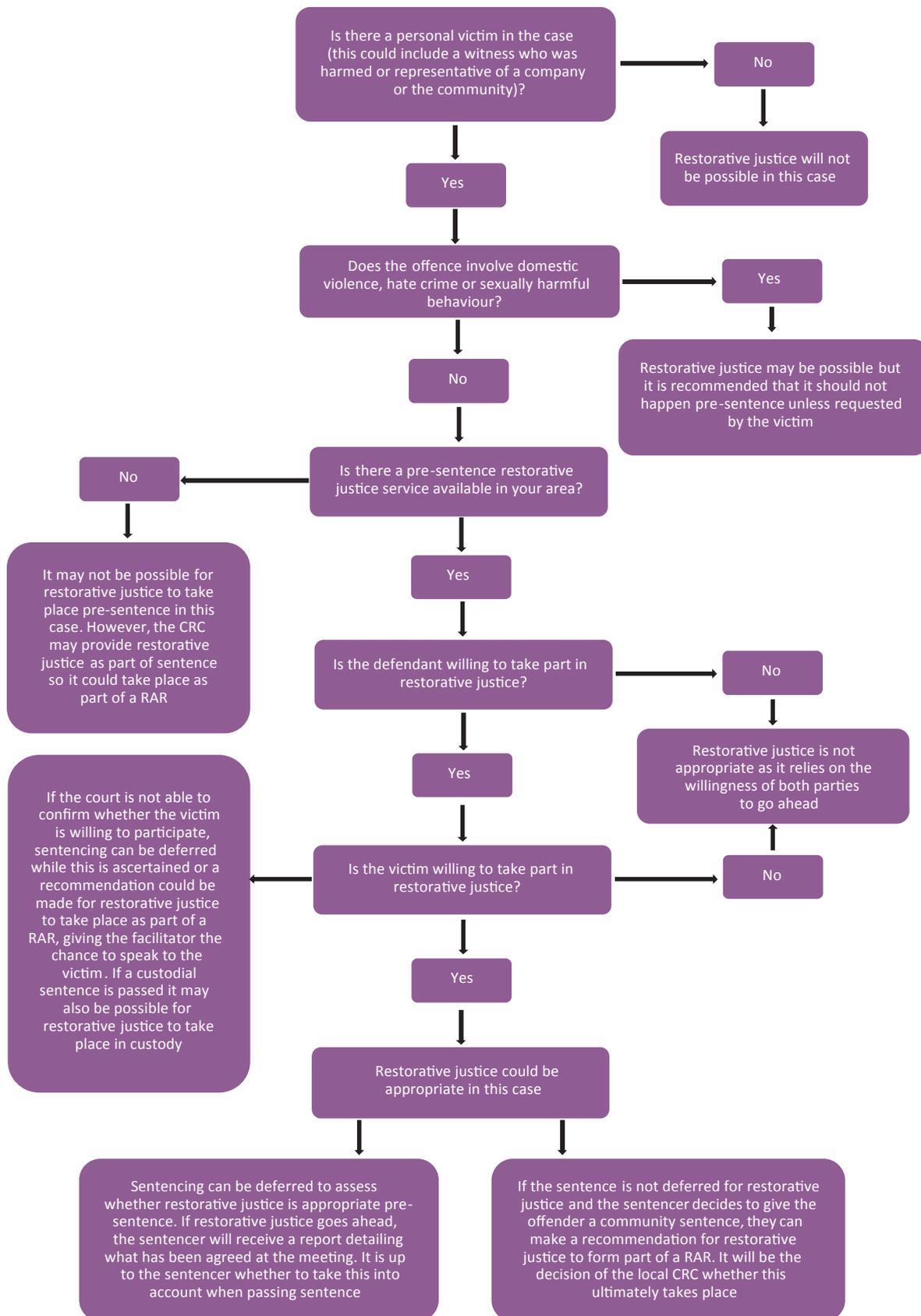
Yes – restorative justice fits into reducing reoffending, rehabilitation and protecting the public. Government research demonstrates a 14% reduction in reoffending after a face to face conference has taken place, protecting the public from future harm. This is because restorative justice gives the offender something that the traditional criminal justice system does not – a personal insight into the effects of their actions. Restorative justice conferences involve an outcome agreement between a victim and offender. These agreements often lead to offenders agreeing to take rehabilitative actions.

How can the judiciary facilitate restorative justice as part of a RAR?

When sentencers ask for a PSR, the NPS may screen the offender to determine their appropriateness for the restorative justice process. Based on a number of factors (including the conditions mentioned above and availability of restorative justice locally), if the offender is deemed suitable, the NPS may recommend to the court that restorative justice forms a component of the RAR.

The decision on whether restorative justice then becomes a formal recommendation of the court lies in the hands of the sentencer. Their decision will be guided by the feedback they receive from the probation staff on the appropriateness and the safety of the case and the victim's desire to take part. If, on balance, the sentencer wishes to proceed with the recommendation, the case will be referred to the local CRC which will ultimately decide whether to go ahead with a restorative justice intervention.

What questions should the judiciary ask before recommending restorative justice?



Why the judiciary can have confidence in restorative justice

What evidence is there that restorative justice works?

Government research has shown that restorative justice has a positive impact on both victims and offenders. The government funded a £7 million, seven-year research programme into restorative justice which showed that 70% of victims chose to take part in face to face meetings which led to 85% victim satisfaction rates. 78% said that they would recommend restorative justice to other victims (only 5% would not). The research also showed that face to face meetings reduced the frequency of reoffending by 14%.

Is restorative justice challenging for offenders?

Restorative justice is about far more than an offender simply apologising to their victim for a low level crime and it is not soft on crime. Offenders often say they found it much harder to face their victim than to go to court. Meeting the victim face to face and hearing about the impact of their actions frequently brings about a real sense of remorse and desire to change.

How do victims benefit from restorative justice?

Many victims find that restorative justice helps them to come to terms with their experience and move on. Victims who engage in the process can experience reduced post-traumatic stress, higher levels of satisfaction with the criminal justice system and less fear of repercussions. There are many examples of victims who have an improved quality of life after engaging in a restorative intervention.

How are restorative justice facilitators trained?

Training in restorative justice, particularly training for practitioners who facilitate face to face meetings, is the bedrock of quality practice. The RJC has an online Trainers Register which lists providers who have signed up to our Code of Practice for Trainers and Training Organisations of Restorative Practice. The Code sets out the minimum requirements for training in restorative justice. There are five categories of training and each has its own requirements.

How can the judiciary be assured that agencies are delivering restorative justice to a high standard?

Backed by the Ministry of Justice, the RJC developed the Restorative Service Quality Mark (RSQM) in 2013 in consultation with experts in the restorative field. The RSQM is a quality mark for organisations providing restorative services and is only awarded to those which can demonstrate they meet the minimum standards needed to provide quality provision and participant safety. If an organisation has been awarded the RSQM, you can be confident that they provide a safe, high quality service.

To learn more about the RSQM please visit: www.rsqm.org.uk



Restorative justice in the magistrates' court

Richard Monkhouse, the chairman of the Magistrates' Association, shares his experience of restorative justice in the magistrates' court.

During the pauses in one of my recent court sittings, I asked the half dozen or so magistrates who were there for their views on restorative justice.

One had just seen a BBC broadcast on restorative justice and was persuaded of its benefits, but said that this was outside our remit and the courts did not get involved in restorative justice. One said something about all our work going and there being a plot to remove magistrates from any activity at all. Others were less threatened, but few really knew what restorative justice was about, how it worked or how successful it can be. I find all of this strange as restorative justice has been an element of the criminal justice system for a while.

There is no ideological objection to restorative justice. In areas like Thames Valley, for instance, where high quality restorative justice is offered as part of a community sentence, magistrates have recognised its value.

However, restorative justice has almost exclusively been carried out outside of the realm of the courts. It occurs pre-court, particularly for young offenders, in an attempt to steer them away from a life of crime. This is entirely appropriate if it ceases to criminalise those who have simply made a mistake, and if it draws the victim into the system.

We also see restorative justice carried out post-sentence very effectively, again bringing the victim into the system and often bringing closure to them. I have heard of many cases that have been properly brought to a close because of restorative justice.

But if all this is true I would like to pose a question: why have we not had restorative justice as an option within the sentencing that is ordered in the courtroom, when it is clearly such a good method of getting offenders to understand what their actions have led to, and reducing their need to reoffend?

Because restorative justice has not been an inclusive part of magistrates' sentencing, it is not surprising that a degree of mistrust has developed. This needs to change, and we in the Magistrates' Association have linked up with the RJC to embark on an education programme that sets out to explain to magistrates what their new options might be and how they may get involved in the restorative justice process.

No legislation is required to bring restorative justice within magistrates' sentencing options, whether as part of a community order for adults or a referral order for young offenders. A number of RARs can be made as part of a community order, along with other elements, such as rehabilitation and compensation. In some parts of the country, CRCs and the NPS have taken this on board and offer and suggest to sentencers that restorative justice might be appropriate in certain cases.

The government has said that every community order must have a punitive element as part of that order. I would argue that restorative justice could be that punitive element. For offenders to accept and own up to their behaviour is one thing. To do this in front of the victim whose life they have affected is another thing, and is not easy.

So, the first change that is needed is to bring restorative justice within the ambit of magistrates' sentencing powers throughout England and Wales. This would mean that an offender can be dealt with in the same broad manner whether they offend in Carlisle or Canterbury, and whether they are dealt with outside court or within the judicial process.

The other change, and one which was brought in under the Crime and Courts Act in 2013, is the ability to defer sentence for restorative justice to take place; in other words, after guilt has been admitted but before sentence is passed.

Restorative justice not only includes the victim within the process, but also provides the sentencing bench with greater knowledge of the offender and his or her willingness to change.

In most cases where a community order is being considered, we pause anyway for reports from the YOT or probation. However, these days, pre-sentence reports are far more likely to be produced later the same day or within the next couple of days, unless there are reasons why a full report is required (for example, where there are domestic violence or mental health issues). In most circumstances the pause is, therefore, limited.

The proposal that a longer deferment will take place in those circumstances where restorative justice is seen as a more fruitful path to take is eminently sensible. However, we will need to ensure that the current emphasis on targets does not prevent this from happening by limiting how many hearings there should be for a particular case.

Clearly, it is important to avoid unnecessary delays as cases progress through court, but speed alone should not be allowed to interfere with justice. Magistrates will not only need confidence to take the advice being given to them about restorative justice as an option, but also confidence to drive this change forward.

We must argue that any delays that result from the consideration of restorative justice options would only be with the involvement of the victim; we must devise ways, particularly at a local level, to avoid these delays being viewed as a problem and a potential to derail an excellent development in criminal justice.

For my own part, I cannot wait to become involved. In the right circumstances the introduction of restorative justice is one of the most exciting developments of the last few years. I look forward to its development both inside and outside the courtroom.

Richard Monkhouse JP
Chairman
Magistrates' Association



Pre-sentence restorative justice national pathfinder programme

Kate Hook is the national programme manager for the Crown Court pre-sentence pathfinder programme across England and Wales. In this article, Kate explains how the pilot went and the lessons she learned for the future.

Legislation, guidance from the secretary of state and funding to Police and Crime Commissioners reflect the government's intention that:

- Restorative justice should be made available, wherever possible, to all victims who want it, and at all stages of the criminal justice system.
- Restorative justice services should be demand led by, and focused on, victims.
- Restorative justice should be seen as complementary to the criminal justice system and not as an alternative.

In late 2012, then justice minister Jeremy Wright noted that restorative justice was most commonly available in youth justice, neighbourhood or post-sentence environments. It was recognised that the successful pre-sentence Home Office funded trials in London Crown Courts 10 years earlier had not led to an increase in the use of restorative justice at this stage other than in Northern Ireland where it was being used in the youth system for upwards of 80% of cases.

The Crime and Courts Act introduced at the end of 2013 made it explicit for the first time that both magistrates' and Crown Courts could defer sentencing in order for restorative justice to take place after a guilty plea but pre-sentence. Restorative Solutions, a not-for-profit community interest company (CIC) with substantial experience in designing and rolling out restorative justice programmes, gained funding from both a private family trust and the Ministry of Justice to develop a Crown Court pre-sentence pathfinder programme for pre-sentence restorative justice based at 10 Crown Courts across the country to test:

- whether pre-sentence restorative justice was attractive to victims
- whether pre-sentence restorative justice was useful to sentencers
- whether pre-sentence restorative justice could be delivered on the ground by volunteer facilitators
- whether pre-sentence restorative justice was logistically possible without derailing existing criminal justice system processes and procedures

Restorative Solutions invited Victim Support to partner with them in this programme, established a national Executive Group to steer the programme with representatives from the Ministry of Justice, Her Majesty's Courts and Tribunal Service (HMCTS), National Offender Management Service, the RJC and the Institute for Criminal Policy Research, and consulted with the senior presiding judge, the Crown Prosecution Service and the Law Society.

Key features of the Crown Court pre-sentence pathfinder programme

In discussion with this Executive Group, Restorative Solutions established some key parameters for the programme:

- There would be 10 sites across the country – Cardiff, Bristol, Truro, Wood Green, Croydon, Manchester, Preston, Lincoln, Worcester and Durham – each initially based in a Crown Court and each operating for 12 months.
- Each site would be managed by a full time project manager, with administrative support and a team of trained volunteer restorative justice facilitators.
- In scope offences were serious acquisitive and violent crime excluding homicide, crimes of a sexual nature and domestic violence or abuse.
- In scope victims were those who stated that they would like an opportunity for a restorative justice intervention at this early, pre-sentence stage.
- In scope offenders were adults who pleaded guilty.
- Restorative justice interventions took place, if all parties consented, during a six-week adjournment between the guilty plea and sentencing. Sentencers participating in the pathfinder programme overwhelmingly preferred adjournments to deferred sentences, but there were inevitably tensions around timeliness and transforming summary justice targets.
- A report about the restorative justice intervention, any outcomes agreed between the victim and offender, and the views of both the victim and the offender about the intervention, was provided to the court alongside the PSR (if one was requested).
- The offender's participation in a restorative justice activity did not automatically affect the sentence that he or she received. It remained a matter for the sentencing court to decide what weight, if any, to give to the offender's participation in restorative justice when sentencing.



The numbers

As of early May 2015:

- Seven sites went live in late March 2014, one in June 2014 and two in January 2015.
- Roll out was in place to an adjacent Crown Court in one site (Taunton) and to magistrates' courts in three sites (Bristol, Cornwall and Durham).
- Contact had been made with 1,201 victims. 610 of these victims met with facilitators. 446 wanted to engage in pre-sentence restorative justice.
- 179 offenders pleaded guilty. 176 agreed to engage in pre-sentence restorative justice.
- 147 adjournments were agreed for pre-sentence restorative justice.
- 55 face to face conferences were completed pre-sentence, plus 38 alternative restorative justice outcomes (shuttle mediation, letters of apology).
- A further 30 cases were being worked on during six-week adjournments prior to sentencing.
- Of the remaining 20 cases, 12 were completed post-sentence and eight did not progress.

With completed cases:

- 64% of victims were male, 36% female.
- 92% of offenders were male, 8% female.
- Burglary was by far the most common offence, at 49% of cases concluded, with assault and wounding next at 20%.
- 53% of offenders received a custodial sentence of between one and five years, and 26% received a suspended custodial sentence.

The obstacles

- Access to case data – contact details for victims and offenders, plus details about the offence, were by no means easy to obtain.
- There were inconsistent views about information sharing, across both statutory and non-statutory organisations, resulting in separate, sometimes very lengthy negotiations in each site.
- High numbers of cases coming through the courts were out of scope for the Crown Court pre-sentence pathfinder programme – over 50% in most sites.
- There were high rates of not guilty pleas – up to 75% in some sites – which took large numbers of cases out of scope even where there was an interested victim.

All of which led to a very high attrition rate and significantly lower numbers of completed cases than had been anticipated.

The findings

What worked well:

- Early access to information on cases that were coming to court was provided to each site as a result of a national agreement with HMCTS.
- Take up by victims was high – over 50% of those contacted were interested to learn more, and once they met with a trained facilitator take up averaged 65%.
- Take up by offenders who pleaded guilty was very high – over 95%.
- Victim satisfaction was very high – over 90% would recommend restorative justice to other victims, and many made the point that not only did they get answers to questions which would not otherwise have been asked of the offender, but that they also felt involved in their case rather than just being a bystander.
- Impact on offenders was significant, and included positive behaviour changes reported by prisons, recommendations to fellow inmates to participate, and also two known cases of family reintegration.
- Sentencers stated that they found the reports to court useful, in particular because they provided an opportunity to hear victims' views.
- There was almost universal support from criminal justice agencies and partners in every site, and all reported minimal impact on their workloads.

**Kate Hook, Business and Programme Manager,
Restorative Solutions CIC**

If you would like to receive a copy of the final evaluation report, please contact katehook@restorativesolutions.org.uk

Ed and Rumbie's story

When Ed and Rumbie were burgled two weeks after moving into their flat, their optimism about their new life together was ruined. As part of a pre-sentence restorative justice trial taking place at Wood Green Crown Court, they were given the opportunity to meet their offender at Pentonville prison.

Rumbie: Ed and I had just moved into our first flat together. We were in the middle of unpacking and settling in. Ed had just been promoted and I'd just got a new job, so it was a really exciting time. Ed came home one day and found a brick on the kitchen floor. He rang me and said: 'I think we've been burgled.'

Ed: I had a quick look around the flat, and at first it didn't look too bad. Then I noticed that our iPads were gone, and so was my hard drive. All of the drawers in our bedroom had been tipped out and everything had been rifled through.



I called Rumbie at work and she came straight home. I felt very upset. I knew Rumbie already had doubts about our new neighbourhood, and moving there had been my idea. I felt really guilty and I expected her to be very distraught.

Rumbie: Because the flat was still new to us it hadn't started to feel like home yet and I felt completely invaded by the burglary. We'd had great plans when we moved in and it was really frustrating to hit such a bump in the road. I already felt a bit unsafe, because our area isn't the safest in London, and the burglary made me really angry.

For me, the worst thing I lost was my backpack, which I took to work every day. Everything else was replaceable, but that one thing was so personal to me that I felt furious that the burglar had taken it.

Ed: The burglar hadn't taken anything which was dear to me, like my guitars, but I didn't feel like the flat was home anymore. As it was our first proper place together, it was the first time we'd been able to leave things lying around where we wanted them. After the burglary we started to put everything away before going out – I stopped feeling like our house was our personal space.

In those first few weeks afterwards my sleep was disrupted – the slightest noise would wake me up instantly. I was very nervous. I no longer felt as if I could take our privacy for granted.

Rumbie: What followed were weeks of visits from the police to keep us informed of what was happening. They caught the burglar through traces of his DNA which were on the brick. He was already known to the police as a prolific offender.

One day, we had a visit from PC Mark Davies and Kate Renshaw from Only Connect, a local charity. They explained that the burglar – Fabian – had been caught, and was willing to meet us in a restorative justice conference. After they left we started to look on the internet to find out more about restorative justice – we were really curious to know more about it and what it involved, and we found some films about the process.

After watching the films, we felt like it was our duty to take part in restorative justice. We were never pressured into it, but it seemed like the right thing to do.

Ed: Once we decided to go ahead with the conference, we were told exactly where it would take place and what would happen. I felt fine until a few days before the conference, but on the day, it was definitely nerve-racking.

Rumbie: I was really nervous on the day of the meeting, too. But the police had reassured us that if Fabian was violent or we were at risk, they wouldn't allow the meeting to go ahead. We trusted the people who were organising the meeting.

Ed: It was the first time either of us had seen the inside of a prison, which was interesting. We went into the chapel, where the conference was taking place, and took a while deciding exactly how we wanted the seating arranged. Then we chatted awkwardly until Fabian, the burglar, was brought in.

Rumbie: We were initially quite taken aback because we'd expected someone very different. Fabian was well dressed and well spoken – he seemed like a really normal guy and we couldn't get our heads around what was going on with him to make him do what he did.

Ed: I didn't know in advance what I wanted to ask him – I figured it would come to me on the day. We'd been encouraged not to plan too much. Fabian had brought a letter he'd prepared for us and he started by reading that out. It talked about how he understood it must be strange for us to meet him and that we probably hated him. He then went on to talk about the burglary. He'd been in the park next to our house using drugs, and when he'd run out he'd seen our road, which is quiet and secluded.

Rumbie: For me, the personal impact of the burglary was lessened by meeting him. I realised that it had been a spur of the moment decision – he was off his face – whereas before I had thought it was premeditated. I learned that he wasn't watching us, he wasn't following us, which are things you think when someone's been in your house.

Ed: I told Fabian how the crime had affected us, and how I felt about my home after he'd been in it. I didn't think it was worth asking him to go into a programme for his drug addiction – I felt that was something he was only ever going to be able to do for himself, and not because I told him to. What I did suggest was that he didn't go back to his flat – which he'd managed to keep for a decade while going in and out of prison – as that was associated with his old life.

I think I got through to him a little bit, but Rumbie was more effective. She said to him: 'If someone asks me what this guy is like, what should I tell them?' That was the first time he was lost for words – maybe it was a little ray of light coming through a crack. He couldn't answer – it challenged him.

Rumbie: When we left the meeting I felt really sorry for Fabian, but personally, I felt a lot safer in our home and our neighbourhood. We felt empowered, but we'll definitely think about Fabian for a long time and wonder how he's doing.

Ed: The conference definitely helped me to move on – it was a valuable experience. It made both of us less worried that we'd been targeted, but it also concluded some of the emotional aspects – it closed a chapter for us. Now, I've got a sense of perspective on what happened to us, but it's also given me some insight into the criminal justice process – it involved me. We were assured that restorative justice does not necessarily lead to a more lenient sentence, and in fact, we could request that the judge didn't take it into account when considering Fabian's sentence. I felt that if the conference was going to be helpful to the judge in making a decision, then it should definitely be considered.

If someone else was considering restorative justice, I would tell them to go for it. It offers you emotional closure and it puts a perspective on a crime – it seems less sinister. And it involves people – citizens – in the justice process. They come face to face with it and understand how it works.

The RJC would like to thank Ed and Rumbie for sharing their story with us. This case was part of the Crown Court pre-sentence pathfinder programme, designed by Restorative Solutions CIC and managed by them in partnership with Victim Support.

Restorative justice in the youth courts

In this article, Pete Wallis discusses the positive changes that have taken place in YOTs delivering restorative justice, how they engage with participants and what the judiciary can do to help.

The Youth Justice Board is highly committed to improving the delivery of restorative justice. Since April 2013, anyone from a YOT attending a referral order panel meeting has been required to have completed restorative justice facilitator training.

Care needed

Approaching young people who offend and those they have harmed in such a way that they willingly engage in a restorative process is a delicate task that requires sensitivity, professionalism and care. The last time that these people met was quite possibly on the day of the offence, and initially their level of empathy towards one another is likely to be low. The training we developed emphasises the importance of the initial contact with each party, incorporating skills practice in managing those restorative conversations.

Having arranged an appointment and introduced themselves and their agency, the restorative practitioner's first step is to ask a simple question: "Would you like to tell me what happened?" Using active listening skills and minimal encouragement the speaker is given space to talk freely about the incident, revisiting key moments in the narrative and sharing their thoughts and feelings. In the next two steps, the speaker is asked to consider carefully who has been affected by the crime, and how.

The fourth step is crucial. The restorative question is: "What do you need to feel better?" Many crime victims, when asked what they need, will express what they think would be their ideal outcome – "They should be locked up for good", "It would all be better if they moved away" or "They should be made to apologise". These are position statements. If needs are presented in this form by the victim to the young person – for example, in a referral order panel – they will most likely be perceived as demands, and receive a defensive response. The task of the restorative practitioner is to identify the needs beneath these positions. If these underlying needs (often reassurance, recognition, safety, co-operation or respect) can be clearly identified, the victim may realise that the only way that those needs are likely to be met will be through restorative communication with the young person.

Restorative practitioners often find that the underlying needs of the victim and the young person who harmed them are remarkably similar, because these are universal human needs. Subsequently if the two sides do get into communication, each side is likely to recognise those needs, and understand why they are being expressed by the other person.

Maintaining progress

There is a danger that any initial interest in a restorative encounter may fall away, and it is important that the practitioner doesn't allow an opportunity to be lost. If the parties do agree to meet, the restorative meeting will explore the same steps as the initial conversations described above. The final step, which looks forward to how everyone's needs may be met, can become the basis of an outcome agreement – and in the context of a panel, inform the content of the contract. If the restorative process has been carefully followed, the contract will reflect all of the events leading up to and following the crime, and address the needs of each party arising from the incident.

No matter how carefully the initial contact is made, many victims choose not to become involved. In Oxfordshire YOT about 50% of young people will communicate with their victim, with about 25% meeting those they harmed face to face in a restorative meeting. Magistrates can help this process by telling defendants that if they are accepting guilt and being sentenced to a referral order (or indeed a youth rehabilitation order), as part of this process they will – hopefully – have the good fortune of being able to repair the harm they have caused, either by meeting or communicating indirectly with their victim. If the victims are not interested, this is also possible with the wider community.

It isn't possible to be definite that there will be a restorative process with the offender's actual victim, since involvement has to be voluntary for those harmed. While we can strongly encourage a young person to agree to meet their victim, we can't force the issue, since this would be unlikely to lead to helpful outcomes for either party. However, while not promising that it will happen, magistrates can help the young person to realise that repairing the harm will be a crucial element in their order, and encourage them to see that this can be a positive experience for themselves, as well as for those they harmed.

Pete Wallis
Senior Restorative Justice Practitioner
Oxfordshire Youth Offending Service

Restorative justice as part of a community sentence

Andrew Hillas is the assistant chief officer for London CRC. In this article he explains the restorative justice interventions available to the courts as part of the RAR and the role the judiciary can play in recommending restorative justice

Background to restorative justice in London

In 2012, London Probation Trust piloted restorative justice as a SAR across London. The SAR intervention specifically targeted offenders who had committed acts of violence or burglary and who accepted responsibility for their crimes. The success of the pilot led to the extension of offences considered suitable for restorative justice to any crime where there was a direct victim involved. Subsequently over 200 offenders participated in restorative justice as part of a court sentence during the three year period from 2012–15.

Restorative Justice in a CRC following the Offender Rehabilitation Act 2014

Following the introduction of Transforming Rehabilitation and the Offender Rehabilitation Act, London CRC took over the running of the restorative justice service from London Probation Trust. To continue to build momentum for restorative justice, the CRC developed a new intervention to prepare offenders for a full restorative justice conference. Entitled Making Amends, this new intervention forms a key component of the new RAR, a community order implemented after the introduction of the Offender Rehabilitation Act and replacing the SAR as described above. Making Amends is a process which develops victim empathy and builds an offender's understanding of the restorative approach. The intervention allows restorative justice and victim empathy to form part of a mainstream community order within the London CRC.

Those who successfully complete the Making Amends intervention are in a suitable position to subsequently meet their victim in a restorative justice conference. A great advantage of the Making Amends intervention is that it can be used by CRC offender managers, making it a very accessible intervention to be used by CRC staff before moving to a full conference.

The intervention takes place over six sessions or activity days. For those offenders who then go on to participate in a full restorative justice meeting with their victim, there is provision for up to another eight sessions or activity days which can be utilised as part of the offender's community order.

The role of the judiciary

London CRC is keen for the judiciary to continue recommending in open court the options for restorative justice interventions as potential components of a community order. Where suitability for full restorative justice is not certain, the court could promote the Making Amends intervention as a precursor. Where there are strong indicators at the point of sentence for restorative justice, the court should encourage such an intervention to occur during the order. This identification of possible suitability is helpful for the offender manager, who receives a clear indication that the court is supportive of restorative interventions occurring in the case.

The benefits for both the offender and victim are manifold. Restorative justice holds offenders to account for what they have done, helps them understand the real impact of what they've done, to take responsibility and make amends. Victims are given the chance to tell offenders the real impact of their crime, to get answers to their questions, and an apology.

Shad's story

After a vicious attack Shad was left with horrific injuries and had to take part in two traumatic court hearings. Here, Shad reveals how his experience with restorative justice helped him through the ordeal, and what led him to film his own meeting to help others.

It was the middle of the afternoon on a hot, sunny day and I was on my bike running some errands in central Nottingham. As I rode along, a man was shouting racist abuse at two Pakistani women. His fists were clenched, and his manner was very threatening and aggressive. I was concerned that he was going to attack the women, so I stopped my bike in case I needed to intervene.

The man continued to shout, but by then he'd passed the women and was walking in my direction. He saw me looking at him and shouted: 'What the f***ing hell are you looking at, Paki?' I responded by telling him that it wasn't OK to use language like that, but he carried on shouting. By that time, he'd reached where I was standing with my bike, and he put his face right up against mine and continued abusing me – basically, he wanted a fight.

I was frightened, but my social work training had taught me that when someone's really losing control, the most important thing is to remain calm yourself. The verbal abuse carried on for a few minutes, and eventually I said to him: 'Look, I'm not interested in fighting, I'm going to leave.' I turned my bike around to ride away. That was the last thing I remember.

Horrific injuries

I woke up with a huge, dull ache on the right hand side of my face and no vision in my right eye. My bike was 10 yards away, and there were lots of people around me trying to help me into an ambulance. I found out later that when I'd turned to leave, the man had run up behind me and punched me in the face hard enough to knock me out. He then kicked me so hard he shattered the bone underneath my eye in four places. After that, he started to stamp on my head repeatedly. My only saving grace in all of this was that I was out cold – I have no recollection of it.

By the time I got to hospital, I was in horrific pain. My wife arrived to find me with half my face caved in, and my right eye sunken out of its socket. She was incredibly traumatised by seeing me like that, but we

were both trying to comfort and reassure each other. Luckily, my sight started to return after a few hours, but I was told I needed major reconstructive facial surgery.

I stayed awake in my hospital bed all night, completely focused on my attacker. I couldn't get my head around how someone could carry out such horrific violence with no justification. Although he'd been using foul, racist language, I didn't believe that the attack was racially motivated – he was so full of rage that I think he would have reacted in the same way if I had been white. As I lay there, I couldn't help feeling that he was also a victim of some kind. Something had happened in his life which had manifested itself in this horrific, violent outburst. By the time the nurses were bringing round the breakfast trolleys, I'd decided to forgive him.

I had surgery two days later – it took five hours for the doctors to put my face back together, and I still have four titanium plates holding the bones in place. I felt incredibly lucky to be alive.

I spent 10 weeks at home recuperating. It was very difficult for my wife, who had to look after me round the clock. Meanwhile, Glenn – my attacker – was on the run. It took six weeks for the police to finally identify and arrest him. It turned out that Glenn had a history of violence and was also wanted for an earlier attack with a machete.

The trials

The trial was the most difficult thing I went through. I decided to go alone because I didn't want to put anyone else through having to listen to the details of the attack. I knew that Glenn was pleading not guilty, and his lawyer really laid into the witnesses – myself included – to discredit their evidence. I started to feel that I was nothing more than a bystander in this process, even though I was the victim.

For the whole week we were in court, Glenn refused to make eye contact with me. I'd already forgiven him, but I had to watch him lie as he refused to admit what he'd done. His heavily pregnant girlfriend was also in court, and I had to sit a few feet away from her. It was all very distressing, and Glenn's lawyer was so effective at casting doubt on the evidence that it ended up with a hung jury. I had to go through the whole process again.

The second trial had a completely different judge, and this time, it quickly became apparent that things weren't going well for Glenn. As he was pleading not guilty, he was facing 10 to 14 years in prison if



convicted. I knew he needed to be locked up for his own – and others’ – safety, but the idea of keeping someone inside for that long was quite abhorrent to me.

Halfway through the trial, Glenn stood up in court and changed his plea to guilty. For the first time, he looked at me, and put his hands together in a gesture which clearly asked for forgiveness. He was sentenced to five years, and both his girlfriend and myself broke down when we heard. I left the courtroom and was physically sick at the thought of Glenn going to prison, and possibly never recovering from the experience.

The impact of restorative justice

After the trial, I was appointed a victim liaison officer by the probation service. I told them that I wanted to visit Glenn, but they made excuses about why that wouldn’t be possible. Meanwhile, my story had attracted a lot of media attention, and I was contacted by an organisation called The Forgiveness Project. They run a three-day restorative programme in prisons called Restore, and I started to go into prisons to share my story with groups of prisoners. The first time I did it, I sat in front of a group of 20 hardened criminals – I was incredibly nervous about telling my story to them. But I went ahead, and by the end, some of the men had tears in their eyes. The impact on me was profound.

I kept persisting with my request to visit Glenn, but it was four years before I was even allowed to send him a letter. After months of chasing, I found out that Glenn had written back – he was full of remorse, and wanted to meet me too. Finally, after years of badgering and pestering, I was referred to an organisation in Nottingham called REBUILD. A week later, I met with Colin Wilson, a restorative justice facilitator. Suddenly, everything changed.

Within a few months, Colin had managed to set up a meeting. At that point, I threw a bit of a spanner in the works. Having been involved in restorative work myself, I was aware of how powerful it might be for people to actually see a conference taking place. I suggested that my meeting with Glenn could be filmed, and then used as a resource for training and awareness.

It took months to set up the film, but finally, in April 2014, the day of the meeting arrived. I woke up that morning with a huge sense of relief, but I was also conscious that I needed to try not to have any expectations of what the day would bring. My heart was racing and I was anxious and nervous, but excited – I wanted to go into the meeting with an open heart and mind.

A new chapter

The prison had gone to a lot of effort to make everyone comfortable, and the film crew had already been allowed into the prison to meet Glenn. They filmed Glenn’s walk from his cell to the meeting room, but the moment he walked through the door it was as if the cameras completely disappeared.

We shook hands, and then, spontaneously, we hugged. It was totally unexpected, and I became very emotional and started crying. Colin started the conference by asking Glenn what had happened on the day he’d attacked me. Glenn, who’d been thinking about his answer for some time, started to blurt out his story as fast as possible – he was so keen to get to the point at which he could apologise. He broke down, and had to leave the room.

I thought he wasn’t going to come back, but he pulled himself together and we carried on talking for another hour and a half. We talked about everything – what had happened that day, the trial, Glenn’s background, my background. And then we talked about the future – it seemed very natural to discuss how we were going to move forward, together. Glenn asked if I would write to him, and I offered to visit him. He said he wanted to move away from Nottingham when he got out, so I offered to help him with that. By the end of the meeting, it felt like we had become friends. That chapter had closed, and a new one had begun.

I was ecstatic. I couldn’t have asked for anything more, and I think Glenn probably had his best night’s sleep in five years that night. Restorative justice introduced an element of humanity into a situation which had dehumanised both Glenn and myself. The process may seem difficult, but I think victims and offenders can get so much out of it. The only way to resolve conflict between people is to sit together, talk, and find a way to move forward. Not everyone will get out of it what I did, but restorative justice has an invaluable part to play in resolving conflict.

The RJC would like to thank Shad for sharing his story with us.

Henry's story – facing the music

Henry became addicted to drugs at 14, eventually resorting to theft to fund his habit and manipulating a vulnerable friend into helping him steal. Here, he talks about the moment he met with one of his victims and faced up to what he had done – to himself, to his friend, and to his victims.

At 14 I moved schools and it was soon after that when a friend pressured me into trying ketamine for the first time. It became my addiction. I left school with one GCSE. I left my family to live with a friend in a caravan. I thought I was alright because I was next to my drugs, I could get them easily and that was what I cared about.

Eventually I ran out of money. I started to go out at night, breaking into cars and sheds, stealing anything I could sell.

I hung around with a guy called Michael*. Michael had a learning disability and I could convince him to do anything I wanted him to. One night I didn't have anywhere to stay so I convinced Michael to let me stay at his mum's house. The next morning while Michael was in the shower I started looking through his mum's things. I found a ring and a Rolex watch, which I stole. I made Michael drive me away, hiding his mum's things under my jumper.

Her things equalled money, money equalled drugs. When I was using, it shut me off from the world and everyone in it. I had no emotions, no feelings. To me, even that wasn't personal. I sold the watch and ring to a dealer for drugs.

Facing the music

I got caught a couple of weeks later. At court they gave me a nine-month referral order. I had to go to see someone once a week and talk about my drug problem. I would go along to the meetings and be like 'yep, yep, yep' and an hour later I'd go out and be using again. I wasn't enjoying life, I was suffering from depression and I had never felt so lonely.

As part of the referral order, I agreed that if Michael or his mum wanted to meet me I would do that. Rachel, Michael's mum, decided she would like to meet me. On the day of the meeting I stood outside of the Town Hall where it was going to take place, shaking. I was absolutely terrified about going in and seeing her, with everyone knowing what I had done.

I decided to go in there and face the music. I walked into the room where my referral order worker was waiting for me. We waited for Rachel to arrive. Those few minutes were horrible.

The meeting

Rachel came in with Peter, who was running the meeting. I could tell she was angry. She told me how furious she was when she found out about the theft and how I had been taking advantage of Michael. She asked me how could I have done what I did? She told me how badly I had abused Michael's trust and how important it was that I didn't do it again, to him or to anyone else. She told me that he was afraid of going out and making friends. It made me realise what the drugs had made me become.

Although she was fuming about what I had done, she was still concerned about me. She was supportive of my addiction and wanted me to get better. Her being nice made me feel even worse about what I'd done.

I agreed to do some outdoor work as reparation and that I would get myself off the drugs. I apologised to Rachel and said I would write a letter of apology to Michael. I told him not everyone was like me; he could find friends who will be there for him and wouldn't treat him the way I had done. I told him how sorry I was and that I was never going to do that to him or anyone else ever again.

Quitting the drugs wasn't easy. I stopped stealing to fund my habit straight away but it wasn't until Peter set up a meeting reuniting me with my dad that I managed to go to rehab and get clean. Now I'm studying to become a tree surgeon and I've got a job, helping a local tree surgeon, which I love. I'm back with my family now, they can support me and I can support them too. It's all looking up at the moment.

*Michael and Rachel's names have been changed. Our thanks to Henry for sharing his story. The above is an abridged version of the original publication in Resolution magazine (Winter 2011–12).



Moving on – a short film about restorative justice

Moving on shows Lucy, the victim of a mugging, replaying events endlessly in her mind. Only when she meets the mugger in a restorative justice conference is she able to put the incident behind her – it gives her a chance to explain the impact of the crime, and humanises him in the process.

You can watch **Moving on** at
www.restorativejustice.org.uk



Further reading

For more information on the RJC:
www.restorativejustice.org.uk

**For more case studies demonstrating
restorative justice in action:**
www.restorativejustice.org.uk/casestudies

**For further information on pre-sentence
restorative justice:**
[www.gov.uk/government/publications/
pre-sentence-restorative-justice](http://www.gov.uk/government/publications/pre-sentence-restorative-justice)

**For further information on observing a
restorative justice conference:**
www.why-me.org