

# **A QUESTION OF QUALITY: A REVIEW OF RESTORATIVE JUSTICE PART 2 – VICTIMS**



## FOREWORD BY THE VICTIMS' COMMISSIONER, THE BARONESS NEWLOVE OF WARRINGTON



This review is the second of a two-part review I have undertaken on Restorative Justice (RJ). In the first review, I examined and assessed the quality of service RJ providers were delivering. In this review, the focus will be on the victims' perception of the quality of RJ services based, on their experience through the process.

RJ is a way of bringing together victims and those responsible for the harm caused to them. It is an opportunity for the victim to be heard and communicate how the offence has affected them. Many victims consulted for this review have been positive about RJ and its benefits but, in order for it to be effective, it is important that there is not a 'one size fits all' approach. RJ needs to be tailored for each victim's need and there should be effective support in place throughout the victims RJ Journey and beyond.

This review will look at how victims regarded the quality of the RJ service they received, and their suggestions for improving the quality of their RJ experience. This review will highlight what was important to victims going through the RJ process, and how their needs were met. These points will be assessed using the quality indicators referred to in 'A question of Quality: A Review of Restorative Justice Part 1 - Service Providers'<sup>1</sup> as well as the entitlements set out in the Code of Practice for Victims of Crime (the Victims' Code)<sup>2</sup>. We will use the findings from both parts of the review to analyse and demonstrate how well the quality of RJ services available to victims of crime meets the needs of the victim.

I am grateful to all the service providers who took the time to engage with my team and provide access to victims who were willing to participate in this review. I would also like to thank those victims who shared their RJ experiences. This review would not have been possible without your input.

A handwritten signature in black ink, appearing to read 'Helena', with a long, sweeping underline that extends to the left.

1 Office of the Victims' Commissioner (2016) *A question of Quality: A review of Restorative Justice Part 1 - Service Providers*: [http://victimscommissioner.org.uk/wp-content/uploads/2014/10/A-question-of-quality\\_RJ-review-part-1-service-providers.pdf](http://victimscommissioner.org.uk/wp-content/uploads/2014/10/A-question-of-quality_RJ-review-part-1-service-providers.pdf)

2 Ministry of Justice (2015) *Code of Practice for Victims of Crime Part A*, para 7.1-7.10: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/470212/code-of-practice-for-victims-of-crime.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/470212/code-of-practice-for-victims-of-crime.PDF)



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## EXECUTIVE SUMMARY

As well as encouraging good practice by criminal justice agencies and service providers who work with victims, the role of the Victims' Commissioner is to routinely review aspects of the Victims' Code. This review forms the second part of a two-part review assessing the quality of Restorative Justice (RJ) services.

In this review, it was important to seek the views of victims of crime. The Victims' Commissioner's team interviewed 35 victims<sup>3</sup>, including 25 victims of crime who participated in RJ alongside the criminal justice process. There were four victims who took part in RJ as part of an out of court disposal.

There are many reasons why victims may decide to take part in RJ. The aim of this review is to find out whether these victims received a good quality, bespoke service, which catered for their needs. Victims' entitlements to RJ services are clearly set out in the Victims' Code where it states that the victim is entitled to receive information on RJ from the police or other organisations that deliver RJ in their area regardless of where they live.

This review highlights how victims of crime have experienced a good quality RJ service. However, when comparing the individual RJ activities, there were a number of inconsistencies in relation to access and awareness of RJ, and the provision of emotional support for victims. This review looks at the impact these factors and others can have on the quality of RJ.

There are quality assurance frameworks in place through the Restorative Justice Council (RJC), who have devised the Restorative Service Standards<sup>4</sup>. This sets out the standards that services should aim to follow in order to deliver a good quality and safe RJ service. RJ services who demonstrate that their service delivery is in line with the Restorative Service Standards are able to achieve Restorative Service Quality Mark (RSQM). There are similar quality frameworks in operation by other service providers. While these accreditations may be of importance to some RJ service providers, this review will assess whether victims regard accredited status as important.

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3 Three interviews involved couples

4 Restorative Justice Council, Standards and Quality: <https://www.restorativejustice.org.uk/standards-and-quality>. The RSQM is an accredited scheme for organisations to demonstrate that they are meeting a set of standards.

## INTRODUCTION

1. In the Victims' Commissioner's 2014 review of Restorative Justice (RJ)<sup>5</sup> there was a concern that too much emphasis was placed on offenders' rehabilitation; victims' participation seemed to be of secondary concern. This review examines whether victims share this view; and they are content that their needs were fully met, in accordance with the quality indicators set out in the first part of the review.
2. The Victims' Code states that any Restorative Justice activity will be led by a trained facilitator who will take victims' needs into consideration and deliver services in line with recognised quality standards<sup>6</sup>. This review will explore what victims had to say about the quality of the RJ service they received.
3. The combined findings from this review and Restorative Justice (RJ) Review Part 1 have enabled the Victims' Commissioner's team to identify what service providers and victims consider to be good quality RJ, which in turns will benefit agencies involved in the provision of RJ services.

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5 Office of the Victims' Commissioner (2014) *The potential benefits of Restorative Justice for Victims*: [http://victimscommissioner.org.uk/wp-content/uploads/2014/11/Restorative\\_Justice.pdf](http://victimscommissioner.org.uk/wp-content/uploads/2014/11/Restorative_Justice.pdf)

6 Ministry of Justice (2015) *Code of Practice for Victims of Crime Part A*, para 7.3

## METHODOLOGY

1. The Victims' Commissioner's team interviewed 35 victims, either one-to-one on the telephone or in face-to-face focus groups. Most victims had taken part in a face-to-face Restorative Justice (RJ) conference with the offender; one victim had indirect RJ, corresponding with the offender via letters; and one victim took part in a combination of both. The table below shows the methods used by the Victims' Commissioner's Office to communicate with victims and the number of victims who took part in each method.

Research Tool	Number of interviewees
Telephone interviews	17
Focus groups	18

2. The Police and Crime Commissioners (PCCs) were important conduits in helping the Victims' Commissioner's team reach victims who had participated in RJ. In total, eight out of the 21 PCC areas that were contacted were able to assist.
3. The PCCs referred the Victims' Commissioner's team to their service providers. In some cases the service providers contacted the victims themselves and arranged the focus group, on the team's behalf. In other areas, the service providers sought the consent of the victim for their contact details to be passed on to the team so they could be contacted directly.
4. The Victims' Commissioner's Office received referrals from RJ service providers and consulted with independent RJ stakeholders for further insight into the review. Twenty-six referrals were from PCC areas, five referrals came from service providers, three from criminal justice agencies and one victim self-referred themselves via the Victims' Commissioner's website.
5. The interview questions focused around quality indicators raised in RJ Review Part 1. The face-to-face group interviews lasted no more than an hour with time afterwards for a general discussion. The telephone interviews lasted between 10 minutes and an hour.
6. The findings presented in this review represent the views of the respondents that took part in the review and do not necessarily represent the views of all victims who have experienced RJ. As the majority of the respondents were recruited to take part by RJ service providers, there is potential for selection bias. The findings of the review should be interpreted with care. Although the findings of the review cannot be generalised to the whole victim population, they do give an indication of victims' experience of RJ.

## FINDINGS AND ANALYSIS

### 1. Communication and Information

#### Take up of RJ

- 1.1 The Restorative Justice (RJ) Review Part 1<sup>7</sup> found that the take up of RJ is low. Even though many individuals had become victims of crime, Police and Crime Commissioner (PCC) areas were handling a low proportion of victims and offenders who wanted to take part in RJ.
- 1.2 The Crime Survey for England and Wales (CSEW) asks individuals living in households in England and Wales about their experiences of crime in the last 12 months. The most recent statistics from the CSEW<sup>8</sup> collated data on RJ. In the year ending March 2016, only 4.2% of all victims of crime were offered the opportunity to meet with the offender. This is significantly lower than the number of victims offered RJ in 2014-15, which was 7.2%; and is in fact the lowest proportion of victims offered RJ since 2010.

#### Understanding RJ

- 1.3 For victims to receive good quality RJ they must have an awareness and understanding of what RJ is. It has been noted in the Restorative Justice Action Plan<sup>9</sup> that almost £23 million<sup>10</sup> has been allocated in funding to PCCs in order to build RJ capacity and, where possible, to deliver pre-sentence and victim initiated RJ. The funding was provided as part of a wider grant to deliver victims' services. It was made available for three years between April 2013 and March 2016. Despite the availability of funding, the CSEW data shows only 4.2% of all victims of crime have been offered the opportunity to meet with the offender in 2015-16.
- 1.4 In RJ Review Part 1, the service providers in some PCC areas mentioned the various methods used to raise victim awareness of RJ; for example posters at bus stops, radio adverts and local newspaper articles. Some areas also claimed that victims would be given information leaflets when they were visited by the police, and that the subject of RJ would be mentioned at the outset by the police during their first visit.
- 1.5 The respondents in this review highlighted that these awareness raising methods were not often effective, as many victims were not aware of RJ until later on in the process. Many of the victims interviewed in this review said that they were not able to effectively seek out RJ, but instead were reliant on other criminal justice agencies to inform them about it. This varied depending on what stage in the criminal justice process the information was provided. This finding does not correspond with the responsibilities for service providers, as set out in the Victims' Code, or the desired outcome set out in the government's Restorative Justice Action Plan, which aims to make people aware of RJ and its potential benefits. Nor does it meet the requirements in the EU Victims' Directive<sup>11</sup>, which sets out victims' right to receive information from the first contact from a competent authority.

7 Office of the Victims' Commissioner (2016) *A question of Quality: A review of Restorative Justice Part 1 - Service Providers*, para 6.2.10

8 ONS Crime Survey for England and Wales, Restorative Justice year ending March 2016: <https://www.ons.gov.uk/file?uri=/peoplepopulationandcommunity/crimeandjustice/adhocs/005997restorativejusticeyearendingmarch2016csew/restorativejusticequestions1516.xls>

9 Ministry of Justice (2014) *Restorative Justice Action Plan for the Criminal Justice System for the period to March 2018*:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/375581/restorative-justice-action-plan-2014.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/375581/restorative-justice-action-plan-2014.pdf)

10 The funding was not ring-fenced but an indicative budget for RJ services included within PCCs overall victims' services allocation. In addition to the PCC funding Youth Offending Teams and NOMS have provided RJ services within their budgets.

11 European Parliament (2012) *Directive 2012/29/EU of the European Parliament and the Council*, article 4 (1)(j) right to receive information about the availability for restorative justice services: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=EN>

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The following quotes are from victims who participated in the review:

*"I had never heard of RJ before...or had any leaflets"*

*"It should be learnt in school, there is no general awareness. None of my friends knew about it...I looked it up online. There are YouTube videos about RJ but I didn't find them very useful"*

*"It should be better publicised through TV adverts"*

*"There needs to be more public awareness around RJ so victims can ask for it if they have not been offered"*

Another victim said: *"RJ is underused by the [criminal justice] agencies. Police do not know enough about it."* (In this case the police Detective Inspector wanted to attend the RJ meeting as a training opportunity for himself but the offender did not agree.)

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- 1.6 The above comments are from some of the victims in this review who were not initially aware of RJ. It suggests that the measures used to communicate RJ were not effective. This finding, when used together with the CSEWs data, is an indication of why the take up of RJ could be so low.
- 1.7 As highlighted in the *Why me?* report 'Valuing Victims'<sup>12</sup>, if the public are aware of the RJ provision available through PCCs then they can access it locally. It also suggests that the public can also hold them to account where there are shortcomings in the service.

### **Explaining the RJ process**

- 1.8 The RJ Review Part 1<sup>13</sup>, found that a variety of approaches were adopted when victims were notified about RJ and how the process works. Many victims interviewed as part of this review were content that the facilitator properly explained the RJ process to them and knew that if, at any stage in the process, they wanted to pull out they could. Victims said the following:

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*"We were told we could leave the room at any time or have a break"*

*"They [the facilitators] were honest, answered my questions, and covered and explained everything. The only thing I wasn't prepared for was how I would be face-to-face with him until he was in front of me"*

*"There was an initial meeting where the whole RJ process was explained"*

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- 1.9 Victims were also content that their expectations were properly addressed, and many were advised that in some situations RJ may not go ahead or the offender may not always tell them what they want to hear. A couple of victims said:

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*"I was prepared for everything even prepared for bad news or for it to go badly"*

*"We had lots of preparation to ask me what I wanted to get out of it, the [RJ facilitator] helped me with protocols and procedures"*

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12 Why me? (2016) *Valuing Victims: A Review of Police and Crime Commissioners' funding of Restorative Justice 2013-2016*: <http://www.why-me.org/wp-content/uploads/2016/06/Why-me-Valuing-Victims-report-April-2016.pdf>

13 Office of the Victims' Commissioner (2016) *A question of Quality: A review of Restorative Justice Part 1 - Service Providers*, para 6.1.3

- 1.10 Victims appreciated that the RJ facilitators explained what to expect in the venue and the conduct and format of the meeting. Most victims were also satisfied with the level of assistance they received from the RJ facilitator in getting them ready for the meeting, and assisting them to ask the right questions to get the answers they wanted from the offender. One victim however, whose RJ meeting took place straight after sentence in the court building, said that although his facilitator was trying to help him to get what he wanted from the meeting: *“she didn’t sit down and ask me what I wanted to get from the meeting. I wanted to see if he [the offender] had realised what he had caused. I didn’t get that from him and felt a bit sad.”* The victim was not content with this aspect of the preparation, but in general most victims felt that they were fully informed and updated with progress on setting up the meeting.
- 1.11 Many victims were satisfied that the RJ facilitator fully assessed whether they were adequately ready to engage in RJ, taking part in it for all the right reasons, and understood that the offender would also be fully assessed for their motives for taking part in RJ. One victim said: *“they wanted to make sure that what I was asking for was for the right reasons.”*
- 1.12 Most victims were satisfied with the level of contact they had with their RJ facilitator and were content that if they needed to speak to their facilitator, they knew how to contact them.
- 1.13 Victims were not aware of which criminal justice organisation should be formally responsible for contacting the victim to notify them about RJ. In fact some victims were surprised to know that their details would be passed to RJ services by the police and that their consent would be required if they did not want the police to pass their details on.
- 1.14 One victim commented that they were unsure how the RJ provider had obtained his contact details. The facilitator had explained to him that the victim’s details had been passed on by the police after the court outcome. The Victims’ Code sets out that “you can ask the police not to pass on your details to organisations delivering RJ services if you do not want to take part in RJ”<sup>14</sup>. In this example, the victim had not been notified of his options to share his contact details with RJ services, and therefore not given a chance to refuse. Although it did not appear to be a problem for this victim, it could have been an issue for another victim.
- 1.15 In one focus group, the participants said they thought the police were the wrong organisation to tell victims about RJ and that the police were too busy and insufficiently trained to inform victims about the possibility of RJ.
- 1.16 One victim said: *“[the facilitator was] so lovely. Previously a police officer had been horrible, really nasty. Nice to get someone who is lovely and tries to cheer me up, tries to talk about other things – really lovely.”*
- 1.17 These comments indicate that although victims were generally satisfied with the way their RJ facilitator explained the process to them and prepared them for what to expect, there was a mixed view about how the police dealt with the process.
- 1.18 While some victims mentioned that they were satisfied with the quality of preparation surrounding what RJ entails and what to expect from it, a number of victims said they were not prepared for how they would feel emotionally during the RJ process.
- 1.19 For one victim – whose RJ meeting lasted four hours – he said he was a bit disappointed with how the meeting ended: *“we needed a period of time to reflect. Before I knew it, the offender was taken out of the room. I would say don’t rush the end, take time to reflect at the end.”*

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14 Ministry of Justice (2015) *Code of Practice for Victims of Crime Part A*, para 7.7

## 1.20 Other comments included:

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*"We were prepared and briefed on what to expect in terms of seating arrangements who could speak when... but weren't prepared for how we would feel emotionally"*

*"RJ is not for everyone, you have to be in the right frame of mind"*

One couple who took part in RJ described how they felt *"every emotion going"* when they were in the room with the offender.

For one victim: *"issues after the meeting have arisen, [I] got flashbacks and have been unable to find any appropriate services to assist"*

Another victim said: *"RJ may have made matters worse for my wife as it brought it all back to her when she wanted to forget. She felt she was too forgiving in the meeting and now regrets this"*

He further added that the facilitator warned him of the risks but he *"did not think it would affect us as it did. It is difficult to prepare for the impact"*

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- 1.21 These comments are an indication that the emotional needs of some of the victims in this review have not been met. In line with the EU Victims' Directive<sup>15</sup>, one of the desired outcomes set out in the Restorative Justice Action Plan is to ensure RJ is of good quality and focuses on the needs of the victim. It is therefore important that measures are in place so appropriate referrals to relevant agencies can be made during or after RJ in order to address any emotional issues that may arise. The findings from this review show that this is not happening for some victims.

### **When were victims notified of RJ**

- 1.22 The RJ Review Part 1 found that victims were notified about RJ at various stages<sup>16</sup> within the criminal justice process. In this review, almost half of the victims were notified of RJ and offered the opportunity to participate once the offender had been sentenced. Therefore, the only way victims could access RJ before an offender was convicted would be if they referred themselves. This would only be possible if the victims knew where to find the relevant information about RJ.
- 1.23 The Victims' Code sets out that *"Restorative Justice will be explained to you [the victim] by the police or other organisation that delivers RJ in your area so that you can make an informed choice about whether you wish to participate"*<sup>17</sup>.
- 1.24 One victim who took part in RJ alongside his family said they were told about it at the start which was good as it gave them time to think about whether they wanted to take part. The family found that a follow-up phone call by the RJ service provider was helpful as they felt ready to participate.
- 1.25 Some victims commented that the best time to inform them of RJ would be at the beginning of the criminal justice process, using methods to ensure RJ had been introduced sensitively where required. Victims commented:

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15 European Parliament (2012) *Directive 2012/29/EU of the European Parliament and the Council*, article 8 right to access victim support services

16 Ministry of Justice (2014) *Restorative Justice Action Plan for the Criminal Justice System for the period to March 2018*, page 1, footnote 1: RJ is available to victims where an offender receives an out of court disposal, after offender has been convicted but before the offender is sentenced and while an offender is serving a sentence.

17 Ministry of Justice (2015) *Code of Practice for Victims of Crime Part A*, para 7.8

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*"After arranging the funeral I looked through all the papers and leaflets given to me and that's when anything to do with RJ would have been useful, but it wasn't in the paperwork. It's a good time at that stage to have introduced it through leaflets"*

*"If someone could get in touch about RJ earlier, other support could kick in earlier. You could set the expectations from the start even if you can't take part in RJ until after sentence, you could contact victims to tell them about it and that would help with other support services too"*

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- 1.26 It was sometimes the victim themselves who would mention the fact that they wanted to speak to the offender and this would then be followed through or further investigated by the organisation they mentioned this to. Some victims said:

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*"I wanted to explore and connect with the prisoner. I saw him crying and as a human being... I wanted to meet him... the act of reading the Victim Personal Statement (VPS) was a trigger to wanting to do RJ"*

*"Because there was no trial I didn't know why he was on the wrong side of the road. He [the offender] wrote me a letter all about the fact that he couldn't sleep then I thought; 'I want to meet him'"*

*"I asked the Victim Liaison Officer (VLO) if I could see him [the offender] and he [the VLO] told me about RJ. He said I would have to see two more officers who dealt with RJ... I had never heard of RJ before"*

*"There was no trial as he pleaded guilty. I had lots of unanswered questions. I told the Family Liaison Officer (FLO) and we began to make enquiries"*

*"The VLO picked up on when I was asking questions and mentioned RJ to me"*

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- 1.27 It is clear that in these situations it was the victim who was initiating RJ. It is therefore important for victims to be informed of RJ during the criminal justice process so they can access the services when they are ready to do so.
- 1.28 Another victim said RJ was never mentioned by the criminal justice agencies. Following a media appearance, he was approached by a charity who introduced him to RJ. The victim also added that people need to know about the scheme early in the process, however he did not recommend it be used until after conviction otherwise it could raise suspicion about motives of the offender. He added that although the agencies told him about the Victim Personal Statement (VPS) early on in the criminal justice process, they did not inform him about RJ. He suggested that the option to make a VPS and to participate in RJ could have been explained at the same time.
- 1.29 There is clearly a variation at what stage in the process victims are notified about RJ. Although the same victim said that people need to know about RJ early, he contrastingly added that: *"it may be a good idea for the judge to make reference to RJ when he is summing up the case. It could be introduced at that point."* This gives an indication that some victims are not entirely sure at which end of the process RJ should be formally introduced, or by which criminal justice agency.
- 1.30 Almost half of the victims in this review became aware of RJ once the offender had been sentenced. Equal access to RJ is one of the key areas of focus set out in the government's Restorative Justice Action Plan. If all victims are consistently made aware of RJ at the same time in the criminal justice process, it will assist with ensuring their equal access to RJ.

## 2. Accessibility

### When did victims take part in RJ

- 2.1 RJ Review Part 1 found that the majority of PCC areas only offered victims the opportunity to participate in RJ once the offender had been convicted. Whereas, almost half of the victims interviewed as part of this review said they were offered the opportunity to take part in RJ once the offender had been sentenced. In some cases where the victims wanted to have their RJ activity with the offender at an earlier stage in the proceedings, they were deterred from doing so. One victim had questions he wanted to ask the offender which would have been helpful at an early meeting, but was advised by police staff against meeting the offender before they had been sentenced as it could be interpreted as leading the witness. This victim said: *“I didn’t know the service existed. The police and solicitors never told me, even though I told them I wanted to know what happened.”* He later found out that the offender also wanted to meet him early on.
- 2.2 Another victim in the same focus group also said she wanted to meet the offender earlier in the criminal justice process but her Family Liaison Officer (FLO) told her it would reduce the sentence handed down to the offender. She said: *“the police officer should have told me, I was prompting all the time asking the police officer if I could meet him, but the police told me not to.”*
- 2.3 These findings indicate a level of inconsistency in how the initial advice victims received, regarding the potential impact of participating in RJ at an earlier stage of the criminal justice process, could affect the offenders’ sentence or continuation of the case. In order to manage victims’ expectations, it is important that this information is carefully explained to the victim. Victims should instead be advised that it is a matter for the magistrates and judiciary to decide whether the offenders’ participation in RJ impacts on the sentence they receive.
- 2.4 One victim participated in RJ immediately after the offender was sentenced, while still at court. He felt dissatisfied with the outcome of the meeting because he felt unprepared and he did not get a satisfactory response from the offender. He said: *“I was frustrated during the meeting. I would like to have the meeting again, I feel more prepared now and I would ask the RJ person to ask him [the offender] if he realised what he had caused.”*
- 2.5 When it was explored with the victim why he would have liked to have the meeting again, he implied that if had he been fully prepared with the questions he wanted to ask, he would have been able to focus more on the impact of the offender’s conduct. This suggests that the quality of a victim’s RJ experience may also be dependent on when the RJ activity takes place in the criminal justice process. Holding the RJ meeting directly after the offender was sentenced may not have properly focused the offender’s mind or given him time to reflect on the offence and the impact this might have on the victim. Despite the timing of the RJ meeting, the victim involved said he would still recommend RJ because *“communication is important”*.

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Other victims made the following similar points:

*“The timing of the meeting is important. If it’s a long gap the youths could think it has less impact”*

*“The right balance has to be struck in terms of ensuring the timing is right for RJ to take place”*

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- 2.6 The findings show that almost half of the victims interviewed were offered the opportunity to participate in RJ after the offender had been sentenced. This meant that these victims did not have the opportunity to take part in RJ at an earlier stage. This was not inline with the vision of the Restorative Justice Action Plan, which states that RJ should be available at all stages of the criminal justice system and to *“build capacity and capability to deliver pre-sentence...RJ”*<sup>18</sup>.

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18 Ministry of Justice (2014) *Restorative Justice Action Plan for the Criminal Justice System for the period to March 2018*, page 4

### Obstacles in accessing RJ

- 2.7 In RJ Review Part 1, the obstacles revealed by service providers were more strategic and concerned difficulties with access to offenders who were held in prisons outside of the local area. When interviewing the victims, no one reported this type of difficulty; although in one case when attempting to access a prison, a victim described: *“on the first attempt to meet the offender the prison was in lock down, they wouldn’t let the offender out of the wing to meet me. That was a barrier.”*
- 2.8 The other obstacles described by the victims were of a more practical nature. One victim said that if she had been provided with information on what she could and could not bring into the prison, she would have left certain personal items at home. The victim went on to explain that she would have benefited from information about parking arrangements at the prison and that a familiarisation visit to the prison in advance of the RJ meeting would have been helpful to address these points.

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One victim said she was told by her VLO that everything would be scripted and she would only be able to read out her set of questions: *“but it wasn’t like that. That could be a barrier, it could put people off”*

Others victims also commented:

*“When I got to the prison everyone’s name was on the list except mine.”* Even though he was not phased by this, it could have caused anxiety for other victims.

*“The hardest thing was finding a time that would suit everyone...the only time they [the prison] offered were 10am and 2pm which were in the middle of the day. An earlier appointment would have been more convenient”*

*“There was no parking available which wasn’t explained to us beforehand. We struggled to find parking, this caused stress as we were worried we would be late”*

*“I was fine with driving myself to the prison but parking was the most stressful thing and perhaps someone to meet me in the car park to show me where to go might have helped”*

*“A dedicated RJ suite would have been better...it was a small room with five people not enough space”*

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- 2.9 These findings indicate that in order to further enhance the quality of a victim’s RJ experience, it is important that the practical details are identified and that arrangements to address them are put in place. This can be important to victims, help to avoid any disruption to their RJ experience and minimise further anxiety.

### Using RJ as part of an out of court disposal

- 2.10 Four victims interviewed for this review took part in RJ as part of an Out of Court Disposal (O OCD). An O OCD allows the police to deal with low level crime quickly and proportionally, without prosecution at court.
- 2.11 The National Police Chief Council, formerly the Association of Chief Police Officers<sup>19</sup>, sets out in their guidance the minimum standards that need to be complied with when deciding whether to offer RJ as part of an O OCD in criminal matters. It states that a decision to use RJ should be a proportionate, discretionary response to the specific circumstances made by the individual dealing with the case.

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19 Association of Chief Police Officers (2012) *Restorative Justice Guidance and Minimum Standards*: <https://www.restorativejustice.org.uk/sites/default/files/resources/files/ACPO%20restorative%20justice%20guidance%20and%20minimum%20standards.pdf>  
(We understand that this guidance is currently being revised with the intention to provide more discretion to police officers regarding cases of domestic abuse and hate crime, and where there may be circumstances that do not exclude the victim or offender from participating in RJ)

- 2.12 The guidance also sets out that the agreed National Decision Making Model<sup>20</sup> should also be used by the police when deciding if the use of RJ as a diversion from prosecution is the right option. It states that staff should consider the circumstances of the offence, the individuals involved including whether the offender has accepted responsibility, and the public interest<sup>21</sup>.
- 2.13 One couple interviewed as part of this review had experienced youths throwing stones at their windows over a period of time. They said that once the culprits were found, the police informed them about RJ. The police sergeant suggested that they consider RJ as it would be a better option rather than prosecution. He advised that the court would only give the offenders a slap on the wrist so it wouldn't be as effective. Although the victims were content with their decision to use RJ as an OOC, they commented that the RJ facilitator told them they had a choice in how to dispose of the offence and advised that "the best thing to do in this case was to go down the RJ route". Clearly the victim does have a choice whether to participate in RJ or not, but it should be made clear to the victim that they do not have a choice in how the police decide to dispose of an offence. The police should take account of the victims' view but the decision on how to dispose of the offence is ultimately a matter for the police.
- 2.14 In a further case where the victim's bicycle was stolen by a youth, who was already subject to a Youth Rehabilitation Order, the police asked the victim if she wanted to take part in RJ. As the bicycle had been quickly retrieved and with minor damage, the victim was satisfied that taking part in RJ as part of an OOC was the right option. The victim said she did not want to see the offender in this case criminalised.
- 2.15 It is important in these cases that the police offer RJ as part of an OOC. In the right circumstances, and in accordance with the former Association of Chief Police Officers guidelines, it can be the best option for the victim and wider community.

### 3. Assessment of Needs

#### *The focus on the victims' and the offenders' needs*

- 3.1 The Victims' Commissioner's 2014 review on RJ raised concerns that the emphasis on RJ was on offenders' rehabilitation and that victims' participation was of secondary concern.
- 3.2 The RJ Review Part 1 found that where offenders may have instigated the RJ activity, there was a mixed picture in understanding victims' needs. It also found that many practitioners emphasised the need for equal treatment of victims for RJ to be successful.
- 3.3 The victims interviewed as part of this review indicated that RJ should be of equal benefit for the offender and the victim. One victim, when asked if she wanted any one in the room with her, said: "*no because he wasn't having anyone and I didn't want him to feel uneasy.*"
- 3.4 Some victims said that the National Probation Service (NPS) notified them about RJ. In one case, a victim enquired about RJ which was subsequently arranged by the NPS RJ facilitator. In another, the victim was approached by the NPS RJ coordinator. Both victims were satisfied with the quality of their RJ service and thought the RJ facilitators took a neutral approach. In fact one victim thought the facilitator should've been more focused on the offender's needs than hers, as he needed help to change his life.
- 3.5 As well as wanting answers from the offender and specific details of the offence, victims wanted to participate in RJ in order to get the offender to change their life choices. One victim said: "*we were surprised we got something out of it as we were going there for the offender's benefit.*"

20 *Restorative Justice Guidance and Minimum Standards*, *ibid*, para 11

21 *Restorative Justice Guidance and Minimum Standards*, *ibid*, para 11(3): The community or the environment that the crime has occurred in (public interest) i.e. the offence may be minor but is prevalent in the local area. The impact of a crime that is likely to inflame public is unlikely to be suitable for diversionary RJ.

- 3.6 There was a general consensus among victims in one face-to-face focus group who were concerned about what was being done for the offender to rehabilitate them, what help they were receiving in prison and what help they would receive when they were released.
- 3.7 One victim said that without the support of the NPS and the fact that the offender agreed to participate in RJ, he is sure the offender would have ended up back in prison. He said: *“with the help of RJ we have turned his life around.”*
- 3.8 Another victim explained that the RJ process took a couple of years for her and her family because the offender was carrying out his studies and they did not want to put pressure on him as he was getting his life back on track. They also gave the offender some time to overcome a family bereavement.
- 3.9 Other reasons victims gave for wanting to take part in RJ included finding out if they had been targeted by the offender, and to encourage the offender to come off drugs and turn his life around.
- 3.10 Victims felt it was important that they received equal treatment to offenders in their RJ experience. Many reported that was happening in practice – their needs as victims were being met and they received a service that was tailored to their individual needs and requirements. However, it seems that the cultural focus on the rehabilitation of the offender has been heavily instilled in the RJ process, a finding supported by almost half of the victims interviewed as part of this review.

### **Bespoke service – assessment of victims’ needs**

- 3.11 In order for victims to receive a quality service it is important that their individual needs are addressed. For example one victim, who was autistic and had suffered memory loss as a result of the offence against him, described how he was asked by the RJ facilitator if he wanted to enter the room before or after the offender. It was helpful for the victim to have this option as his environment could have caused him distress if it wasn’t suitably adjusted. To assist him with his memory his RJ facilitator also offered to take notes so he could read them to aide his memory after the meeting. The victim said: *“I was told everything to expect, even his clothes...I don’t always know what is appropriate to say but the facilitator explained this to the offender and also helped me to know what is appropriate to say.”*
- 3.12 Another victim said the offender had been moved to a more local prison specifically for the meeting because the distance was too far for her to travel to where he was originally held.
- 3.13 One victim said the RJ facilitators made sure she had someone at home when she got back from the prison in case she needed any support.
- 3.14 One victim, who had to travel a long distance for his RJ meeting, commented that the RJ service providers paid for him to stay overnight at a hotel near the venue.
- 3.15 Many victims interviewed during this review reported that their facilitator picked them up and took them to the venue. This gesture ensured that victims without access to transport or those who required the presence of the RJ facilitator on the journey to and from the venue had access to the necessary support. One victim said: *“I was picked up from home, had lunch bought, everything was communicated well and I was told what to expect.”*
- 3.16 One victim described that the facilitators came to his place of work for the meetings prior to the RJ activity because it was more convenient for him and another said they always came to his mothers’ house, they were happy to meet him wherever he wanted.
- 3.17 Another victim described that her RJ facilitator was always happy to help and went the extra mile.
- 3.18 Although some of the victims were concerned about what was being done to help to rehabilitate the offender, many were satisfied that they received a service tailored to their individual needs and requirements.

## 4. Safety

### Risk assessment

- 4.1 RJ Review Part 1 found that carrying out risk assessments with the victim and offender was important. These assessments meant that RJ facilitators could ensure that victims were safe and able to have a good quality RJ experience.
- 4.2 The majority of RJ participants in the review reported feeling safe during their RJ activity. They reported that the facilitator carried out careful risk assessments both before and during the RJ activity; and that the RJ facilitator recognised the importance of risk assessing both the victim and the offender. One victim who took part in RJ with her family said: *“the meeting was calm and well facilitated...we never once felt at risk.”*
- 4.3 Interestingly, some victims revealed that it would have been easy for them to physically hurt the offender during the RJ meeting, if they had wanted to, but they were content that the risk assessment carried out before the meeting was sufficient to gauge their readiness and motive for wanting to take part in RJ.

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The following comments were made by victims:

*“If I had been angry I could have grabbed hold of him. To prevent this, the facilitators asked me why I wanted to take part in it. I said I just want questions answering I don’t want to hurt him...I was truthful and explained why I wanted to go and see him”*

*“I could easily have thrown my tea at him I was holding my cup. The seating arrangement was close; there was no table because I didn’t want a barrier”*

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- 4.4 One couple’s RJ meeting took place in a community hall. They commented that they were a bit worried and wanted it to be a bit more formal; they felt that where you have the meeting has an impact. However, they acknowledged that it was useful to have the police present. They said: *“we could have been confrontational but we were not.”*
- 4.5 It seems that most of the victims who took part in this review felt safe during their RJ activity. They felt reassured that their RJ facilitator was skilled to manage any risk and were able to allay any of their fears and concerns. This was in accordance with the EU Victims’ Directive which states that victims should have access to safe and competent restorative justice services<sup>22</sup>.

## 5. The facilitator and service delivery

### Characteristics of RJ facilitator

- 5.1 The RJ review Part 1 found that “practitioners who were able to demonstrate emotional intelligence and were responsive to the needs of the offender were seen to provide a better quality RJ service”<sup>23</sup>. RJ practitioners listed some skills and qualities required for the role; these included: experience of certain specialist crimes; matching the facilitator’s skills, where appropriate, to the suitability of the victim; the ability to build good relationships; and honesty.
- 5.2 What seemed important to victims were the personal characteristics of the facilitator. When victims were asked what qualities made a good facilitator the responses were: an excellent listener; the ability to empathise; being open and probing; super caring; and the ability to be neutral. They did not mention the need for the RJ facilitator to possess any academic qualifications or certification in order for them to be effective in their role.

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<sup>22</sup> European Parliament (2012) *Directive 2012/29/EU of the European Parliament and the Council*, article 12 right to safe and competent RJ services

<sup>23</sup> Office of the Victims’ Commissioner (2016) *A question of Quality: A review of Restorative Justice Part 1 - Service Providers*, para 6.6.1

- 5.3 Both the RJ service providers and victims felt the facilitator's ability to engage effectively with the offender and victim was important. One victim felt it was important the facilitator had the ability to engage effectively with both the offender and the victim, as well as getting to know the offender in order to inform the victim about the offender's motive for taking part in RJ.
- 5.4 Commenting on what characteristics the RJ facilitator should have, one victim said: *"empathetic and understanding, not judgemental. They cannot favour one side over the other, they must be a good listener and take on board what you say and what your needs are."*
- 5.5 Another victim described his RJ facilitator as having an excellent background: *"[They are a] Samaritan, an excellent listener empathetic – [these are] important strengths for a facilitator."* He said she was open and probing which was particularly helpful at the outset, *"as you don't know what you want and rely on the facilitator to get the right outcome for you"*. The victim added that the facilitator assessed the offender's readiness with his, which was down to the RJ facilitator's experience and helped to avoid disappointment.

### **Opportunities for victims to feedback**

- 5.6 Most victims were given the opportunity to provide feedback on their overall RJ experience and all had the opportunity to de-brief with the RJ facilitator at the end of the meeting.

### **The need for accreditation**

- 5.7 The RJ Review Part 1 found that the Restorative Service Quality Mark (RSQM) offered one method of quality assurance for RJ service delivery; however service providers carried out additional practices that also demonstrated good quality RJ. Where service providers chose to carry out their practice in accordance with their own quality standards, it was usually based on the model set by the Restorative Justice Council. What was important, was that the model or adapted model was consistently applied<sup>24</sup>.
- 5.8 The question of whether the RSQM should be a mandatory requirement has been raised on a number of occasions. However, the requirement to obtain official accreditation was not as important to victims as it might be for some service providers or commissioners of the service.

## **6. Partnership working**

### **Working better together**

- 6.1 The RJ Review Part 1 found that Police and Crime Commissioner areas had identified a number of ways to work collaboratively with partner agencies to improve service provision. For example annual meetings with partner agencies, annual conferences where victims, offenders and advocate groups were invited.
- 6.2 Some of the victims interviewed as part of this review felt that more work could be done to ensure their emotional needs were being met throughout the RJ process. This has highlighted the importance of partnership working.

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<sup>24</sup> Office of the Victims' Commissioner (2016) *A question of Quality: A review of Restorative Justice Part 1 - Service Providers*, para 4-5

## CONCLUSIONS

1. The government allocated almost £23 million in funding for Restorative Justice (RJ) services between April 2013 and March 2016, yet the recent Crime Survey for England Wales (CSEW) data reveals that only 4.2% of all victims of crime were offered the opportunity to meet with the offender. The Victims' Code clearly states that the victim is entitled to receive information on RJ from the police or other organisation that delivers RJ services in the victims' area, so they can make an informed choice about whether to participate in RJ. Despite this, only a small percentage of victims recall being offered RJ.
2. There needs to be consistent messaging around RJ. This review raised some important issues relating to how information was cascaded to victims including: some victims receiving conflicting information on when to start the RJ process; and, others being led to believe that RJ could reduce an offender's sentence without this being put into context. If the information given to victims does not adequately address and manage their expectations, victims could be deterred from wanting to take part in RJ, or left feeling disappointed with the process.
3. There needs to be a consistent approach taken by the police to inform victims of RJ. The information given should also be accurate and reflect their entitlements as set out in the Victims' Code. The victim can then make an informed choice about whether to participate in RJ and can initiate it when they are ready to do so. More effort is needed to raise public awareness of RJ.
4. The Victims' Commissioner's 2014 review of RJ revealed that the quality of the RJ activity varied significantly, and that too much emphasis was placed on the needs of the offender and their rehabilitation. The RJ Review Part 1 found service providers thought that in order for RJ to be effective, both the needs of the offender and the victim had to be considered as equally important. In RJ Review Part 2, almost half of the victims interviewed indicated that the rehabilitation of the offender was important to them. For some, this was one of the main outcomes they hoped to achieve from participating in RJ. While the purpose of RJ appears to still have a strong focus on the offender's rehabilitation, victims were generally content with their RJ service.
5. Equal access to RJ at all stages of the criminal justice system is one of the key areas of focus set out in the government's Restorative Justice Action Plan. However, most Police and Crime Commissioner (PCC) areas only offered victims the opportunity to participate in RJ once the offender had been convicted. In order for RJ to take place the offender has to acknowledge responsibility for the offence; however, most victims did not take part in RJ until after the offender had been sentenced. The government allocated funding to PCCs to build RJ capacity and capability and where sufficient to deliver pre-sentence RJ. Therefore more work needs to be done to allow this to happen. If service providers are awaiting a conviction before offering RJ to the victim, it will delay when RJ can take place and is contrary to the aims of the Restorative Justice Action Plan.
6. Some victims said that they thought the police were not the right organisation to inform victims about RJ; commenting that the police were too busy and insufficiently trained to tell victims about the possibility of RJ. Victims also mentioned that police staff warned them that participating in RJ before an offender is convicted could impact on the sentence the offender receives or hamper the evidence; however the context was not explained to the victims. Therefore, it may be that another agency is better suited to provide information on RJ services to victims. It is set out in the Victims' Code that the police or RJ service provider in the area will explain RJ to the victim. However, almost half of the victims interviewed as part of this review only became aware of RJ once the offender had been sentenced. More needs to be done by the police and/or other RJ service providers to ensure they notify the victim about RJ at an earlier stage in the criminal justice process.

7. The issue of whether there should be a mandatory requirement for service providers to have accreditation such as the Restorative Service Quality Mark (RSQM) is ongoing. However, the findings from both parts of this review suggest that in order for a good quality RJ service to be delivered, providers should consider offering a bespoke service to victims based on a framework of standards similar to those set by the Restorative Justice Council (RJC). This framework could be adapted to cater for the participants' individual needs. The RJ Review Part 1 highlighted that some RJ service providers were already effectively operating using the principles of the RSQM framework without having achieved accredited status. However, victims have suggested the personal qualities of the RJ facilitator were more important when delivering a good RJ service, rather than any accreditation or qualification.
8. Many victims stated that the RJ process brought out unexpected emotional needs that they were not prepared for. This highlights the importance of RJ services working in partnership with local support agencies to ensure victims' emotional needs are met throughout the RJ process.
9. Some victims were of the understanding that they could choose between the criminal activity being dealt with through RJ, or it being dealt with through the criminal justice process. It seemed this is the way it was explained to them by the police. It is important for victims to be notified of the correct process to be taken by the police when deciding whether to offer RJ as part of an Out of court Disposal (OOC) and that there are guidelines that need to be carefully applied before a decision is made. It is also important that victims are aware RJ will only be carried out as part of an OOC if after applying the guidelines; it really is the best option for the victim and the wider community.
10. Overall, victims were satisfied with the way the facilitator explained the RJ process to them. Service providers should provide clear and accurate information about the RJ process so that victims can make an informed choice about whether to take part in RJ or not. Victims' entitlement to RJ should be mentioned at the first opportunity in accordance with the Victims' Code; however, the findings in this review showed this was not happening.
11. There are clearly reasons why people decline to take part in RJ. This review attempted to capture some of these possible reasons by carrying out a poll on the Victims' Commissioner's website. However, only a small number of responses were received. The Victims' Commissioner understands the Ministry of Justice is carrying out a review to examine some of the reasons why victims choose not to take up RJ, this could assist with addressing why the take up of RJ is so low.

## RECOMENDATIONS

### Consideration

The Victims' Commissioner's 2014 review of Restorative Justice (RJ) highlighted that the delivery of RJ was more concerned with the rehabilitation of the offender, and that victims' needs appeared to be of secondary concern. This review (consisting of Parts 1 and 2) has highlighted that although much of the focus is still on the rehabilitation of the offender, victims did not see this as negative. Indeed almost half of the victims expressed that their motivation for participating in RJ was to try and reduce the risk of the offender repeating the crime. Most victims were satisfied with their RJ experience and reported that they had got what they wanted from it. It is clear that RJ service providers have taken into account the issues that matter to victims so that their experience is of a good quality.

Given the importance of the offender's rehabilitation to victims participating in RJ, consideration should be given to if or how victims could be kept informed of any future offending after the RJ activity. This should only apply to victims who have said they want to be kept informed of any future offending and any update should be offered with appropriate victim support.

### Recommendations

1. Police and Crime Commissioners (PCCs) should consider how they can monitor the number of victims offered RJ so they can be clear how much of the allocated funding to develop RJ services is being utilised.
2. In order for RJ to be offered consistently, the police or RJ service provider should develop local procedures to ensure RJ can be offered to all victims at all stages of the criminal justice process. Whoever offers RJ must ensure it is described accurately and consistently to ensure the victim has all the relevant information to enable an informed decision to be made about participating in RJ. Regular police staff training around the issues concerning RJ would develop a more consistent approach in how police notify victims about RJ. One way to ensure that all victims are offered RJ consistently could be through the use of a Single Point of Contact, as highlighted in the Victims' Commissioners' review *What Works in supporting Victims of Crime*, published March 2016<sup>25</sup>.
3. RJ service providers and commissioners should be expected to work towards a quality standard or indicator. Service providers should adopt a framework for practice standards that are based on the Restorative Justice Council's framework, though they do not necessarily have to exactly mirror these. Victims regarded the personal characteristics of the RJ facilitator as important. RJ practitioners should consider adhering to or adopting a similar model to that set out in the RJC's Practitioner Competency Framework<sup>26</sup> which provides an overview of the behaviours and skills required of those working in the restorative practice field.
4. RJ service providers need to ensure there is effective partnership working with external agencies. This will enable suitable referrals to be made during and after the RJ process or activity. This will ensure that continued support is available for victims where needed.
5. Ministry of Justice should consider carrying out an analysis to establish how the general public can be made more aware of RJ. Better public awareness of RJ will enable victims to be able to make a more informed decision about participating in RJ.

25 Office of The Victims' Commissioner (2016) *What works in supporting victims of Crime: A rapid evidence assessment*, page 23: <http://victimscommissioner.org.uk/wp-content/uploads/2014/10/What-works-in-supporting-victims-of-crime.pdf>

26 Restorative Justice Council (2015) *Practitioner Competency Framework*: <https://www.restorativejustice.org.uk/sites/default/files/resources/files/rjc-cf-low.pdf>

These recommendations when read together with the interim recommendations from the RJ Review Part 1 (listed below) make up the recommendations for this review:

1. Access to prisons should be reviewed so that facilitators are able to effectively deliver RJ for victims and offenders.
2. RJ services should be inclusive and available to all victims and agreed to proceed on a case-by-case basis in order to comply with the Victims' Code and the Restorative Justice Action Plan.
3. Consideration should be given as to how good practice can be effectively shared across PCC areas and RJ service providers to prevent silo working and duplication of effort.

### **Victims' Commissioner's commitments**

As Victims' Commissioner, I will:

- When working with individual PCCs, consider how well they are able to account for their area's offer of RJ to all victims. PCCs should be able to demonstrate to the Ministry of Justice how funding has been spent.
- Examine how PCCs have implemented appropriate support structures for victims and how they have learnt from sharing good practice. I will also work with the Association of PCCs to identify how they can ensure victims are provided with the best possible support from their PCC.
- Work closely with police colleagues and the College of Policing to ensure police officers are made aware of how they can best provide information to victims about RJ.
- Work with the Ministry of Justice to develop public awareness for RJ.
- Call on the Ministry of Justice to consider conducting a review into RJ and access to prisons, to highlight and address any of the difficulties some RJ service providers experience when accessing prisons for the RJ meeting.

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