THE POTENTIAL BENEFITS OF RESTORATIVE JUSTICE FOR VICTIMS

Introduction

My investigations found that Restorative Justice means different things to different people. Everyone I spoke to saw it as an opportunity for victims to tell their story and illicit an apology and for offenders to understand the harm they have caused. But that is where the similarities end.

Professor Sherman is of the view that the purpose of Restorative Justice should be to restore victims to the position they were in before the crime. He describes it as a complex and powerful but high risk tool which requires specific skills if it is to be administered effectively. He does not believe that all police officers can be trained to use it and that the approach currently taken by Greater Manchester Police and other forces to tackle low level crime is not and should not be referred to as Restorative Justice.

Greater Manchester Police on the other hand believe that their approach to Restorative Justice provides better support and protection for victims and communities and enables officers to deal with low level offending incidents in a more proportionate and appropriate way which helps to nip bad behaviour in the bud before it escalates and causes greater harm to victims.

In any event Restorative Justice is very clearly being used by practitioners on the ground to help victims in two particular ways, ie:

(i) Pre-trial by police officers, Neighbourhood Justice Panels and other organisations as an alternative to going down the traditional criminal justice route; and
(ii) Post trial by probation officers and other organisations as a means of helping victims to get answers to questions they may have after the court case and achieve some sort of closure.

Pre trial

I was very impressed by the work I saw and the positive impacts for victims and communities of pre trial Restorative Justice approaches, although more needs to be done to maximise these benefits.

Post trial

However I do have concerns about the impact of post trial Restorative Justice approaches on victims and the way that they are “marketed”. I am not entirely convinced that practitioners pay enough attention to the needs of victims in this process. I got the impression that some seemed to view it as a very effective rehabilitation tool for offenders with the added advantage of also providing benefits for victims. Victims themselves have expressed the view that most offenders only agree to a Restorative Justice conference after the trial to ensure that they get
parole or early release. That perception needs to be changed if it is to be seen as an effective service for supporting victims and helping them to recover. My findings are set out in detail below.

### Pre sentencing

Although I did not have the opportunity to discuss the use of Restorative Justice at the pre-sentencing stage, I am concerned that there will be a similar perception that it is there for the benefit of offenders, in this case to help them achieve a lighter sentence. I am also concerned about how this would work in practice.

It must of course be done in a way which best supports victims. The police officers I spoke to certainly thought that there would be some benefit for victims if they received an apology from the offender at the earliest possible stage, preferably before the trial even starts. In fact some had been involved in cases where offenders had shown remorse early on and were willing to apologise to victims and participate in Restorative Justice. However they were prevented from doing so by their defence lawyers. Officers warned that once this opportunity was lost, offenders tended to start to believe in their own defence and became less likely to engage in Restorative Justice altogether.

I understand that there are proposals to amend and clarify the legislation in the Crime and Courts Act 2013 which I very much welcome and hope will address these concerns.

### Restorative Justice as an Alternative to the Traditional CJS Route

#### The Police Approach in Low Level Crime Cases

I was very impressed by the work that Greater Manchester Police are doing to tackle low level offences through Restorative Justice processes delivered by trained police facilitators. Gloucester Police are going one step further and training all their police officers in both low level and more serious offending cases following the PCC’s decision to include a funding line in the police budget for Restorative Justice work. I will be watching closely how this progresses.

Greater Manchester Police believe that their approach helps officers deal with low level offending more effectively. The officers I spoke to felt that it helped them establish better relationships with their communities and took away the “them” and “us” attitude among some community members. It helped engender a sense of pride in the community by enabling them to have some say in how problems are resolved and how they are policed.

I spoke to the manager of a local sports centre in Prestwich who had been the victim of repeat vandalism by a group of local youths who kept breaking in to use the club facilities without paying. He did not want to go down the criminal route and agreed to a series of three Restorative Justice conferences with the young offenders and their
parents. He was very satisfied with the result and believed that the involvement of the parents of the offenders had been crucial in resolving the situation.

Officers told me that restorative justice approaches were particularly helpful in managing neighbourhood disputes where it was not always clear who was the victim and who was the perpetrator. However these conferences needed to be managed in a very controlled environment by skilled and experienced officers: otherwise it could simply make the situation worse. They identified a clear role for local council and local authority officers in managing Restorative Justice conferences to resolve housing, anti-social behaviour problems and neighbourhood disputes. They also felt that it was important to make the public more aware of the purpose and benefits of Restorative Justice and what it can do to help victims and communities.

**Hate Crime Cases**

Greater Manchester Police have a very productive working relationship with Community Security Trust (CST) which delivers Restorative Justice conferences to the Jewish community in hate crime cases. I spoke to the Chief Executive and some of his front line workers who were convinced of its value as an excellent alternative solution for victims who wanted to see justice done but did not wish to pursue their case through the courts, or were told that their case did not meet the CPS charging threshold.

However, CST stressed how important it was to ensure that all cases diverted from the criminal justice system and dealt with through the Restorative Justice route were still recorded as crimes. And it was only an effective solution if the victim was entirely comfortable about taking part. It was also their view that a meeting between the victim and offender was not enough to ensure victim satisfaction and needed to be followed up with a letter of apology. This was borne out by my discussions with a victim of hate crime. His meeting with the offender was followed up by a letter of apology, and he explained how important this had been to him because it not only gave him a record of the conversation but also reassured him that the offender had really reflected on his behaviour.

Restorative Justice was considered particularly helpful in hate crime cases because it helped address the ignorance and lack of understanding which enables anti-Semitism to develop and grow. And it meant that CST and the police were able to address offending behaviour more appropriately in cases where it was simply a mistake made through such ignorance and lack of understanding rather than a deliberate criminal act. In the case of another victim I met, the offender had been a business associate with whom the victim had regular contact so the impact was quite devastating. I got the impression that he felt the crime was far too personal to be managed through the courts.

CST cited a number of other benefits of this Restorative Justice approach, including the fact that it is the only out of court disposal to involve victims and put them at the heart of the process. It provides an alternative route for victims who would not
normally report such incidents as a crime, ensuring that the data is captured and giving a clearer picture about the true level of victimisation and volume of hate crime. In fact CST believes that Restorative Justice has the potential to be used far more widely as a tool to encourage reluctant victims to report crime.

Neighbourhood Justice Panels

I also found out how Restorative Justice is being used in West Yorkshire to great effect by Neighbourhood Justice Panels, particularly in Leeds and Bradford. Their statistical evidence suggests that it achieves a high level of victim satisfaction (Bradford quoted an 80% victim satisfaction rate).

Kirklees were using Restorative Justice to great effect in Intensive Community Orders. There were plans among a number of the panels to use Restorative Justice in kerb crawling cases (this is being done effectively in Humberside apparently). It was felt that a fine – the usual disposal – was not appropriate reparation for the community in these cases.

Practitioners believed that the implementation of Restorative Justice solutions through these panels had helped improve the quality of life for communities, enabling them to resolve their own issues and ensuring there were more officers operating and visible on the streets. They felt that it was particularly valuable in cases involving very vulnerable victims, such as those with mental health issues and disabilities, for whom the court process could be harmful.

Implementing Restorative Justice solutions in anti-social behaviour cases was considered particularly challenging as victims were not always willing to meet the offender face to face. However they did often want information about the offender which might help them to understand the reasons behind their behaviour. Where it was used, it could be very effective in nipping anti-social behaviour in the bud saving time and resources and enabling housing officers to focus on maintenance and repairs.

RJ Panels in Colleges

During my discussions with Neighbourhood Justice panels I was also told about a rather innovative project involving fifteen students from Leeds who had been trained up to sit on panels in colleges (overseen by teachers) to deal with issues such as bullying. I believe that this is something which should be considered in more detail as a possible example of good practice which could be replicated in other parts of the country.

Post Trial Restorative Justice

Probation Trusts
I spoke to a number of Probation Trusts who are hugely supportive of Restorative Justice processes and its importance in giving victims a voice. Many believed that there was a key role for Victim Liaison Officers in supporting victims through the process and would like to see them more involved. They stressed the importance of ensuring that Restorative Justice is victim-led and that a lot of time is invested in the process to prepare and manage victims’ expectations, including their expectations about the amount of follow-up information they will receive on an offender's progress. This can be very difficult to provide given the frequency with which offenders are moved around the prison estate.

I was told how vital it is that the conference itself is managed by trained staff with the right skills and delivered in an appropriate venue. The room layout is important and victims should have the opportunity for a pre-conference visit if it is to be held in the prison. But more important than that is the preparation that should be done in the lead-up to the conference.

In this respect I was particularly impressed by the work of Greater Manchester Probation and their Intensive Alternative to Custody programme which deals with offenders with high-end sentences of less than twelve months. Offenders are put through a comprehensive Victim Awareness Programme to consider their suitability before even being assessed for a Restorative Justice programme. It is only after that assessment has been made that the victim will be approached. Victim Support is engaged throughout and the victim has the option to pull out at any stage of the process. I consider this a good example of the minimum steps which need to be taken to ensure that victims are properly protected.

**The Experience of Victims**

I spoke to victims who had been through the Restorative Justice process after the court case during my visits to Thorncross Prison and a police conference in Gloucester. I discussed what it was that they wanted and were able to get out of the process.

The victims of burglary I met wanted to know what the offender looked like, how he managed to get into their home and why he targeted them in particular. They also wanted reassurance that he was not intending to come back and burglar them again.

I sensed from all of the victims I met that they had wanted to establish whether they themselves had somehow been responsible for what happened to them. The victim of an arson attack on a local Quaker Meeting House, for example, told me how she (a Quaker) attended the Restorative Justice Conference along with a member of a local gay and lesbian group and an Alcoholic Anonymous group (which all used the building for their weekly meetings) to find out if the offender had been specifically targeting their organisations.

This was a particularly interesting case in that it was originally considered by the police to be unsuitable for Restorative Justice because there were organisations
rather than individual victims involved. It was only because of the perseverance of the very brave individual I met that it went ahead.

All the victims I met said that they had felt a great sense of relief after the conference as if a weight had been lifted from them. One described herself as “walking on air” afterwards. All gained a sense of closure and a sense of satisfaction in being able to explain how the crime had impacted on them and their families. They all agreed that they would be willing to go through Restorative Justice again but felt that there was not enough information available for victims on what it was and how it could be of benefit to them. Organisations like Victim Support did not tell them that such a service was available and there were no clear referral pathways into the service.

Some victims had suffered the loss of loved ones and, although Restorative Justice did not help them to overcome their grief, it did help them to manage their anger. David, whose son Adam was killed during a drunken fight told me that he opted for Restorative Justice because he felt that his son did not get a fair hearing in court. He was not permitted to read out his Victim Personal Statement at the trial and the defence painted a picture of Adam as the aggressor claiming he had threatened the defendant who simply acted in self-defence (all of which the offender later admitted was untrue).

David felt that that the process answered a lot of questions for him and helped him to recognise the difference between doing bad things and being a bad person. However, I was concerned for him as I felt the process had isolated him from his family (none of whom wanted any involvement with the offender) and he had, it appeared to me, become far too caught up in the offender’s problems, ignoring his own needs, including the need to grieve for his loss.

Support for victims

The situation brought home to me the stark difference in the huge amount of support available to help offenders to and the lack of support for victims themselves. David was very vulnerable and very isolated, yet the criminal justice system appeared to be exploiting his need to find solace and closure to help the rehabilitation of the offender without paying much notice to the impact this might have on him and the support he might need as a result.

The lack of victim services and attention to the welfare of vulnerable victims during the Restorative Justice process is a grave concern for me and something which I believe needs to be looked at very carefully. We cannot assume that the process in itself is all that is required to help the victim recover; it needs to come with a full support and aftercare package.

Training
Training came up on a number of occasions in particular in respect of the need for specific skills to ensure effective interaction and engagement with victims throughout the Restorative Justice process.

I discussed this in some detail with Peter Neyroud who heads up the Operation Turning Point project. Operation Turning Point is a randomised controlled trial in Birmingham which aims to compare the relative effectiveness and cost benefit of police prosecuting low harm offenders or diverting them to a "turning point contract", ie a deferred prosecution with a set of conditions agreed with the offender to stop re-offending.

In the "contract" cases managed through Restorative Justice approaches, it became apparent very early on that police and probation officers needed specific support and training to help them engage effectively with victims to ensure they understood how the Project would benefit them and were reassured that it was not a soft option for offenders. They also needed training to conduct discussions with victims about the level and frequency of follow-up contact they wanted which also had a significant impact on victim satisfaction.

I welcome plans by the Restorative Justice Council to develop key Restorative Justice service standards for training, practice and supervision as well as an accreditation framework and I am happy to support this work in any way that I can. I also intend to work with PCCs to ensure that they use their MoJ funding for Restorative Justice to provide the best possible service for victims.

**Conclusion and Recommendations**

There is an established understanding of the benefits of Restorative Justice for offenders but a general need to raise awareness of the benefits for victims both within the criminal justice system and more widely to help inform public understanding of this issue. Professor Sherman referred to statistics suggesting it can lead to a 40% reduction in post traumatic stress suffered by victims and the evidence I have seen appears to support that. However it is not an appropriate option for all victims and I welcome the Restorative Justice Council's uncompromising position that it must be victim led.

There are many committed practitioners and volunteers out there doing excellent work to ensure that Restorative Justice delivers the best results for victims. However I believe that more can be done. My recommendations are as follows:

1. Training and guidance should be developed and delivered to all PCCs, police officers, Victim Liaison Officers and victims’ organisations to raise awareness of how Restorative Justice can help victims to cope and recover.
2. All training for Restorative Justice conference facilitators should cover effective engagement with victims to ensure that they prepare victims appropriately, explain the benefits to them in a way that they understand, manage their expectations, provide adequate follow-up and ensure that they
have the support and protection they need throughout the process.

3. In addition to training, there should be a focus on the skills and experience required by practitioners to be an effective Restorative Justice conference facilitator, both in respect of the support they provide to victims as well as offenders. This should help organisations to target the right people to train and specialise in this area.

4. Enhanced training should be developed and delivered to Restorative Justice facilitators on crime areas which require particularly skilled facilitators, e.g., sexual assault, domestic abuse, neighbourhood disputes and anti-social behaviour.

5. Guidance on the specific services required by victims to support and protect them through the Restorative Justice process needs to be developed and delivered to all relevant practitioners. This should include independent advocacy services for particularly vulnerable victims. Victim services (including the Victim Contact Scheme) should be fully engaged in this process and work with criminal justice agencies to agree clear referral pathways into Restorative Justice services.

6. The potential to use Restorative Justice: (i) in hate crime cases; (ii) in out of court disposals to maximise victim satisfaction; and (iii) to encourage reluctant victims to report crime should be explored further.

7. More needs to be done to promote the wider use of Restorative Justice by local authority staff to manage neighbourhood disputes and anti-social behaviour and in schools and colleges to tackle bullying.

**Restorative Justice and my Plan for 2014-15**

I will be using my role to support implementation of the above recommendations. In particular I will:

- Work closely with the Restorative Justice Council to monitor the extent the above recommendations are progressed
- Task my implementation unit to conduct a review (deep dive) to assess compliance with the Restorative Justice requirements under the Victims’ Code
- Through my links with academic and other organisations continue to review the evidence on how Restorative Justice might make a positive impact on victims lives
- Support communication which raises victim and public awareness of the potential benefits and risks of RJ

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