

# Restorative justice | an analysis



## **Introduction**

Restorative Justice is often known as the term used to describe meetings in which people affected by crime talk about their experience, the damage and harm caused, in addition to discussing how the situation can be repaired, on a direct and personal level. Government research shows that Restorative Justice is coveted by around half of victims, helping victims who choose to take part, but reducing their desire for revenge and by relieving any undue stress that has come to fruition as a result of the victim's experience. It has been argued that custodial sentences do not rehabilitate offenders, particularly those offenders who had committed minor/petty crimes. Many offenders, once released, would have strengthened their overall knowledge of crimes, gaining information from fellow inmates. Therefore, custodial punishments could be seen as considerably more harmful for the offender compared to community sentences. ' Prisons always do harm. That's the most important thing that people have to get into their heads: that prison always does harm' (McLellan, 2006: 10) Restorative Justice allows victims the opportunity to inform their offenders of the true impact that the crime they committed had on the victim's life, helping them to get answers to their questions and to receive an apology for the overall experience that they encountered. It gives the offenders the chance to repent and understand the significant impact of what they have done and to do something to repair the damage and harm caused. A great positive concerning restorative justice is that it has the potential to unite offenders, victims and local communities together to resolve any problems, and to settle on a response to a particular crime. It's crucial for the process of restorative justice to put victims' needs at the centre of the criminal justice system and, drawing on positive

solutions to crime by support them in order for the offender to face up to their actions. Within the criminal justice system, restorative justice conferences allow offenders, victims and their respective family members and friends to come together to explore how those involved in the incident had been affected and, when possible, to decide how to repair the harm and meet their own needs. A victim can request a restorative justice approach to help an offender comprehend and understand how the crime has affected their life, and/or other people's lives in the process, to gain information, helping put the crime behind them and aiming to come to terms/forget their experience and personal ordeal, and to openly forgive the offender for their actions. Restorative Justice also aids offenders, with trials within the United Kingdom highlighting that the process of Restorative Justice significantly reduces the number of crimes offenders commit, with an average of 27% fewer crimes committed by offenders who had taken part in a restorative justice conference. Restorative Justice is also beneficial in terms of finance, as it has been underlined that restorative justice saves the criminal justice system up to £8 for every £1 spent delivering the Restorative Justice Service. Restorative Justice assists offenders to account for what they have done, directly and personally, in addition to helping the victims to proceed with their lives. Restorative Justice is not only used successfully within the Criminal Justice System, but also in local communities, school, at work, and within other institutions across the country. (Restorative Justice Consortium (RJC)) Various techniques are used to bring the offender and victim together, to discuss the impact the crime has had, on both of their lives, furtherly helping both parties to leave the incident behind them and continue with their lives. Direct mediation involves the victim, offender, facilitator and

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potentially other supporters for each party who come together to meet face to face, discussing the experience and incident as a whole. Similar to direct mediation is involving the wider community whereas indirect mediation concerns the victim and offender who communicate through letters which are passed between them by a facilitator. Conferencing is another technique used, which involves supporters from both parties. Restorative justice is carried out in many different forms and structures; however, each and every variety within restorative justice contains common/similar traits. When concerned with criminal cases, each and every victim is given the opportunity to express the full impact of the crime upon their lives. Offenders can also contribute by expressing their feelings and views concerning the crime, explain on a personal level why the crime was committed and similarly to the victim, explain how the incident has had on their life. In social justice cases, those less fortunate and impoverished people such as foster children are given a similar opportunity to express their opinions and points of view for their futures, and being encouraged to plan their futures, thus avoiding involvement in committing crimes. However, only a small minority of young adolescents have access to Restorative Justice. The Restorative Justice Consortium (RJC) consider their consortium to be the national voice of restorative justice with their vision being ' for every person harmed by conflict to have the opportunity to resolve it through a restorative process... providing independent information about Restorative Justice to the public; support and resource our members who deliver Restorative Justice and promote the development and use of Restorative Justice. (Restorative Justice Consortium (RJC))

**Restorative Justice Unit**

Victim-Offender Family Group Conferences is one method/process used within restorative justice, where conferences are organised by the Restorative Justice Unit (RJU) in reaction to referrals from victims, offenders, as well as anybody else considered to be involved in the situation. The programme occurs once the offender's sentence has been concluded, allowing victims to put across their point of view even once offender has been sentenced to jail or to a community alternative. Agreement on participation within the video conference must take place between the offender and the victim. Whilst participating in the conferences, the offender and victim(s) can meet together with their respective parties. Each and every participant has the chance to discuss the crime and the impact that this has had on their lives. Once this has occurred they then come to an agreement about what needs to be done to help to repair some of the damage and minimise future harm. The agreement is called a Conference Agreement. This arrangement may include an apology, community service work, repair of damage to property, personal repayment as well as an undertaking by the offender to seek counselling, support or treatment.

(Restorative Justice Consortium (RJC)) Restorative justice contains many benefits and positives. For example, whereas 'traditional justice' can be seen to be about punishing offenders for committing crimes against the British Government/Nation, restorative justice solely concerns offenders and their victims, aiming to make making amends directly, with the people and victims involved. Restorative justice assists victims to speak and discuss their criminal experience as a victim within the criminal justice system, in addition to acknowledging the explanations of both parties concerned,

building confidence and a rapport that ultimately leads to the offender making amends for their actions, and the damaging effect their actions caused upon an innocent member of society. Studies on restorative justice indicate that restorative justice approaches help to reduce post-traumatic stress disorder in victims, and in many, deter offenders from crime, as well as motivating offenders to avoid further criminal behaviour. Some may believe restorative justice to be an easy and simple process to go through, however it should not be considered a soft option as many offenders find it extremely difficult to face up to the impact of their crimes, committed by themselves. There are many types of restorative justice approaches including, offenders removing graffiti, repairing property that has been damaged, bringing shoplifters face to face with store managers to hear how shop theft affects others, and also getting offenders to write letters of apology to those who have been affected as a result of their own criminal behaviour. McCold and Wachtel bring to light that restorative practices have a clear and defined history within the concepts of restorative justice. The International Institute for Restorative Practices (IIRP) continues to develop comprehensive framework to be put into practice, with theory that aims to expand concept and hypothesis of restorative justice further afar than its original ideas in criminal justice. Restorative practices continue to emerge in terms of practice and study, which are devoted to structuring and realising social discipline, through social participation in restorative justice

### **Involved Steps**

Steps have been taken to considerably promote restorative justice within the criminal justice system. Restorative justice is essentially committed to putting

victims at the forefront of the criminal justice system, in order to have their say and reflect upon the experience they encountered, assisting the criminal justice system in the reduction of crime within the United Kingdom. Recent restorative justice strategies include introducing more restorative justice processes into the criminal justice system such as we've introduced restorative police cautioning, as well as aspiring to offer 75% of all victims of youth crime participation in restorative processes. Restorative justice also looks to develop an evidence headquarters for the use of restorative justice through funding a number of pilots on topics like the relationship between restorative justice and prevention of re-offending, in addition to developing and introducing constructive, practical and valuable guidelines for people working in restorative justice. Mc Cold continues to inform us of how restorative justice has been applied to property offences, as well as civil and criminal offences. However, it has been deemed as unsuitable for drug offences, sexual assault and domestic violence. However, areas of Australia and New Zealand are amongst the nations who have chosen to deal with juvenile sexual offences using restorative justice. Indigenous and native areas of Canada have implemented different approaches, such as circle sentencing, to tentatively deal with domestic violence. Supporters believe that this may be suitable to these indigenous communities due to their different levels concerning their personal regard and effectiveness they have for a punitive court system compared to non-indigenous communities and groups. However, it is acknowledged that restorative justice has no agreed, fixed or set rules and regulations, and therefore it must be emphasised to avoid conflict within communities. Reparations is a fair and practical way for the offender to repay the harm caused as a result of their offence, either by

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personally repairing the damage caused or through assisting within the local community. Types of reparation include, as mentioned earlier, a written apology, an oral apology, or financial reparation to the victim. Community reparations involve the offender working within a local community, as a source of punishment and repayment due the detrimental effect their crime had on the community as a whole. In 2001, the Home Office conducted their fourth report concerning their Crime Reduction Programme. Earlier reports highlighted how schemes were implemented, the expectation of the participants who were due to be involved in the scheme in addition to feedback given from those who we previously involved in the scheme, highlight the benefits and rewards that they experienced as a result of restorative justice.. This fourth report focuses on one of the key original aims of the Home Office funding, whether restorative justice reduces re-offending and/or provides value for money. In 2007, Lawrence W Sherman, Professor of Criminology at the University of Cambridge, was assisted in publishing a review of each and every research project, from 1986 to 2005, concerning restorative justice conferencing. The results that came from the publication were considerably constructive, encouraging and optimistic. It found that victims who were assigned to and complete the restorative justice process reported greater ability to return to work, to resume normal daily activities, to sleep better at night. What is also very encouraging is that during the 19 year period of the reports, there were no documented cases of either physical or verbal violence between the two parties involved in the restorative justice process. The reports also emphasised that much of the reluctance is due to the unfamiliarity of the general public towards restorative, with the majority, having little or no knowledge of the



procedures involved, due to misconceptions about what it entails, through communication and interaction with others. Restorative justice is considerably more accessible now than it ever has been throughout its history as well as the history of the criminal justice system, together with information about the upbeat views of the victims who have chosen to participate; this is likely to result in increased participation amongst victims, who previously were unwilling to participate. Due to such consistent positive feedback about victim benefits, within the vast majority of cases, helps us conclude that victims will generally benefit from participation whenever they have the opportunity to do so, and should seek to volunteer for restorative justice, as the report shows they have nothing to fear, but a great amount to gain through participation. The reports published also showed differences in the victim's feeling prior to and after the meeting with the offender had taken place. Feelings differed greatly when considering personal fear of the offender, especially amongst more violent victims; personal self-confidence; level of personal anxiety; sympathy for the offender and the offender's supporters, wishing for their sake also that the crime had never been committed; as well as feelings of trust in others, that had previously been depleted as a result of the criminal ordeal as a victim

### **Family group decision-making**

Family group decision-making (FGDM) also known as or referred to as family group conferencing (FGC) deals with allowing extended families to meet privately, with no counsellors/staff in the room, to formulate a plan to protect their children families from further neglect and violence. In education, circles and groups provide opportunities for students to share their feelings, build

relationships and problem-solve, and when there is wrongdoing, to play an active role in addressing the wrong and making things right. Thus, I see restorative justice as a forward-thinking and moving, anticipatory response that strives to understand crime in its modern day social context, challenging us to examine the causes of foundations that lead to criminal actions of violence. The restorative justice approach is based on the supposition that crime has its origins in social conditions, and recognises that offenders themselves have often suffered harm, turning to crime as a result of their personal experiences. As a result, communities must both take some responsibility for controlling the social condition that significantly contributes to crime, simultaneously working to promote healing. With healing not only crucial to victims, but also to the offender. Equally the rehabilitation of offenders, as well as their re-integration into the community are critical aspects of restorative justice. Offenders are treated respectfully and their needs are addressed. Removing them from the community, or imposing any other severe restrictions, is a last resort. It is thought that the best way to prevent re-offending is re-integration. As a result, restorative justice can be seen to be a positive structure that continues to grow and gain publicity. It is the choice of the victim and the offender to volunteer to be included in the restorative justice programme, and therefore it can be said that a negative aspect concerning restorative justice lies with the victim and the offender, as restorative justice is not an issue forced upon a person, but a choice that can have a significant overall effect on not only the lives of the two parties involved, but also on the community as a whole. Another criticism of restorative justice that has been raised is that there is no detailed and precise theory supporting the procedures of restorative justice. For example,

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some see restorative justice as being vulnerable to biases and prejudice, particularly concerning class and race which could distort the fundamental purposes of restorative justice, instead reinforcing western, white middle-class values. (Delgado, 2000: 768) Due to the lack of precise theory surrounding restorative justice, it is open and vulnerable to criticism. Ashworth and von Hirsch highlight the possible lack of equality and proportionality involved in restorative justice procedures, concerned with the extreme demands of irate victims, however Daly's claims are not supported by evidence or theory, and as a result his hypotheses is not always taken into consideration. Restorative justice is also vulnerable to criticism from opposing politicians and members of the general public, as a result of many believing in the old-fashioned phrase 'you do the crime, you do the time.' Many see restorative justice as 'a simple option' for offenders, causing numerous groups and people to ask the question - 'Why commit the crime in the first place?' Numerous members of the general public and several scholars believe that victims should not be pressured into reconciling with the offenders, ultimately ensuring that the general public and offenders separate in order to assure public safety. However I disagree with this view as restorative justice is a voluntary option, not being forced on the victim, it is their own personal choice, and in order for offenders to be fully rehabilitated, they have to accepted and re-integrate with society once their sentence has passed. Re-integration is made considerably simpler if the offender is given the chance and opportunity to come face-to-face with the victim, assisting the offender to realise the impact that their immoral actions have had, not only on the victim, but on close friends and relations. Overall I believe restorative justice to have a positive impact within the criminal justice system, targeting

rehabilitation and reform, whilst hoping the offenders do not re-offend.

Restorative justice can be seen to be a pro-active method of reducing crime, for the offender, as well as having a positive effect on the victim, helping them overcome any fears they may have had prior to meeting with the offender. Methods and processes of restorative justice continue to go from strength to strength, reforming and rehabilitating more offenders each year, which can simply be described as a move in the right direction for our criminal justice system.