

Restorative Justice Action Plan



June 2019



Scottish Government
Riaghaltas na h-Alba
gov.scot

Contents

| | |
|--|-----------|
| Ministerial Foreword | 3 |
| Restorative Justice and Background to the Action Plan | 4 |
| Our Vision | 10 |
| Outcomes and Actions | 11 |

Ministerial Foreword



Since being appointed Cabinet Secretary for Justice in June 2018, I have been clear in my commitment to put victims of crime at the centre of Scotland's justice system and ensure that their voices are heard.

I have heard first-hand about the damage caused by crime and harmful behaviour. Individuals and families have told me that while the criminal justice process allows for establishing the facts of a case, it does not always provide the opportunity for them to explain the emotional, physical and practical impact the harm has had on their lives, or to hear direct from those who caused the harm. Victims – whether these are individuals or communities – sometimes want reassured that those who caused the harm fully understand the impact, that they will take action to repair the damage caused, and they will avoid a recurrence of the harmful behaviour in the future.

Restorative Justice (RJ) provides a potentially powerful way to address these issues, by enabling people who have been harmed and those who have caused the harm to communicate in a safe environment. The process must always be entirely voluntary for all parties involved and be facilitated by trained specialists in accordance with published guidance.

There is sound evidence that RJ can empower and provide redress not only to those impacted directly by the harmful behaviour, but also to wider communities. It also encourages those who have done the harm to consider the impact of their actions at a human level, and so help reduce the chance of repeating the behaviour.

We want to offer more people in Scotland the opportunity to access RJ. In our Programme for Government we committed to have RJ services widely available across Scotland by 2023, with the interests of victims at their heart.

In order to achieve this, there are challenges we must firstly overcome. We need to: ensure we have high quality training available for RJ facilitators; enable the safe sharing of data between justice services; raise public awareness of the benefits of RJ; and determine local and national resource requirements.

This Action Plan sets out in more detail how we plan to meet these challenges and deliver our Programme for Government commitment. It has been developed in partnership with Community Justice Scotland and informed by input and feedback from the Restorative Justice Forum and other expert stakeholders across the public and third sectors. I would like to thank them all for their input to date, and I look forward to continuing this productive collaboration as we move forward.

Humza Yousaf MSP
Cabinet Secretary for Justice

Scope

This action plan supports the Scottish Government's commitment to have restorative justice (RJ) services widely available across Scotland by 2023, with the interests of victims at their heart.

RJ seeks to provide communities and individuals impacted by crime, offending and harmful or concerning behaviours and those who have caused the harm with an opportunity to repair the harm that has been caused.

Our **vision** is that Restorative Justice is available across Scotland to all those who wish to access it, and at a time that is appropriate to the people and case involved. Approaches taken must be consistent, evidence-led, trauma informed and of a high standard. This seeks to ensure the needs of persons harmed and their voices are central, and supports a reduction in harmful behaviour across our communities.

Achieving this ambitious vision will require strong leadership, commitment and meaningful collaboration between national and local partners.



Restorative Justice can lead to a route out of crime and provide closure and redress to victims and communities. We know that it can empower victims of crime and reduce offending. We want to have restorative justice services widely available across Scotland by 2023 with the interests of victims at their heart. We will publish a Restorative Justice Action Plan by spring 2019 that will set out how we deliver this aim.”

(Delivering for today, investing for tomorrow:
the Government's programme for Scotland 2018-2019)

What Is Restorative Justice?

The Scottish Government Guidance for the Delivery of Restorative Justice in Scotland¹ defines RJ as:

'... a process of independent, facilitated contact, which supports constructive dialogue between a victim and a person who has harmed (whether this be an adult, a child, a young person or a representative of a corporate or other body) arising from an offence or alleged offence.'

RJ in Scotland will always be voluntary for those who wish to take part in it, whether they are the individual or community harmed or someone who has caused harm. This process is offered as a further option in how justice can be experienced across the communities of Scotland.

RJ gives people harmed the chance to meet, or communicate with, the people who have harmed them. Those harmed can explain the impact it has had on their lives to the person responsible within a safe and supportive setting. It can also give those harmed a sense of closure.

It provides those who have caused harm with an opportunity to consider the impact of the harm and take responsibility for it, with the aim of reducing the likelihood of further offending. In some circumstances it can also allow them to make amends for the harm caused. In addition, RJ can be appropriate and helpful for children and young people who have harmed, where there is a need to safeguard and protect their interests.

It is recognised that in all cases a robust risk assessment and support process must be in place that allows for an informed decision to be made as to the appropriateness of RJ. This must be based on careful consideration of all the facts and circumstances of the harmful behaviour.

Consistent with practice in many other jurisdictions, more stringent guidelines and highly trained facilitators will be required should RJ be used in more sensitive or complex cases of harm. For example when there may have been a deliberate course of conduct or coercion by the person who has harmed over a prolonged period of time.

In line with the Scottish Government Guidance for the Delivery of Restorative Justice, risk assessments must be carried out throughout the RJ process and will take full cognisance of the role of The Crown Office and Procurator Fiscal Service (COPFS) as the independent public prosecution service for Scotland. In that respect, RJ will not impinge on any ongoing criminal proceedings. Decisions relating to the prosecution or diversion of a case from prosecution are matters solely for COPFS.

1 <https://www.gov.scot/publications/guidance-delivery-restorative-justice-scotland/pages/2/>

What impact can RJ have?

On those harmed

There is strong and consistent evidence that RJ benefits people subjected to harmful behaviour by others. Evidence reviews have found that people harmed who participate in RJ experience less fear of re-victimisation, a reduced desire for violent revenge and fewer symptoms of post-traumatic stress. RJ can also increase their satisfaction with how their case was handled, with several studies² indicating high satisfaction with the process as compared to the standard criminal justice process.³

On those who have harmed

The evidence base is less consistent when it comes to the impact of RJ on further offending, but still demonstrates positive findings. A comprehensive review of RJ interventions by the Campbell Collaboration concluded that restorative justice conferences⁴ cause 'a modest but highly cost-effective reduction in repeat offending', and that the impact of conferences was more greatly experienced in crimes of violence than in crimes against property. Similarly, the Smith Institute evidence review concluded that "In general, RJ seems to reduce crime more effectively with more, rather than less, serious crimes", while also noting that evidence on its effectiveness varies between different programmes and target groups.⁵

2 See, for example, Smith Institute: <https://tees.openrepository.com/tees/bitstream/10149/600940/2/600940.pdf>

3 See, for example, Campbell Collaboration: <https://campbellcollaboration.org/library/restorative-justice-conferencing-recidivism-victim-satisfaction.html>

4 <http://www.campbellcollaboration.org/lib/project/63/>" <http://www.campbellcollaboration.org/lib/project/63>

5 <https://tees.openrepository.com/tees/bitstream/10149/600940/2/600940.pdf>

How do other countries approach RJ delivery?

In May 2019, the Scottish Government Justice Analytical Services conducted a rapid review of case studies on RJ's use and delivery in other jurisdictions. The review was published as an occasional paper.⁶

The key findings were:

- The Council of Europe recommends that Member States “should develop the capacity to deliver restorative justice in all geographical areas in their jurisdictions, with respect to all offences, and at all stages of their criminal justice processes”.⁷
- A centralised model is a common feature of comprehensive and effective RJ systems. The type of provider varies, but the benefits of centralised funding and coordination are consistent.
- Norway and Belgium have the most comprehensive RJ systems of all the European jurisdictions examined, offering RJ at every stage in the criminal justice system and for any age and offence type.
- RJ for young people is more universal in the jurisdictions examined, but adult provision is still widespread.
- Restorative justice is used for serious or sensitive offences in a number of jurisdictions. This requires more stringent practice guidelines and highly trained facilitators, and there is growing expertise on this to draw on, from countries that have been providing RJ in such cases for many years.
- It is common for RJ to be used before sentencing to allow outcomes to feed into sentencing decisions. This can help to increase monitoring and enforcement of agreements reached with the victim.
- Referrals can be increased if both victim and offender can request RJ, as is the case in Belgium.

⁶ <https://www.gov.scot/publications/rapid-evidence-review-uses-restorative-justice/>

⁷ https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016808e35f3

How was this action plan developed?

In addition to the rapid review of case studies, in 2018 the Scottish Government and Community Justice Scotland issued a survey seeking evidence on the current use of RJ across Scotland to local areas.⁸ The survey found RJ provision to be inconsistent, with limited opportunities for adults to take part.

Two stakeholder workshops were held in November 2018 to seek views on what action would be required to achieve our vision of having RJ available across Scotland.

Four key challenges emerged from these exercises.

Training – There is no widely available training provision according to common basic standards for Scotland as a whole. Some training is available through a third sector provider, but there may be further opportunities to expand this and to focus on specialist training for certain individuals and offence types.

Information Sharing – A lack of understanding and expertise in data protection legislation has impacted on the ability of services to share details on persons who commit harm and persons harmed, therefore impacting on the ability to offer RJ services.

Awareness – While it appears there is little demand for RJ, in reality individuals and communities are not aware of this option or how to access it. Awareness also cannot be raised while there are currently limited providers of RJ.

Resources – There are no specifically identified funding streams for RJ in Scotland. This limits provision in the face of competing pressures.

We have engaged with the Restorative Justice Forum throughout the development of this Action Plan. We will continue this engagement, and look to engage with other stakeholders, particularly organisations representing those harmed, in moving forward with this action plan.

⁸ Restorative Justice Questionnaire Report

How Will We Take This Forward?

The actions in this plan are the steps we consider necessary to ensure consistent, quality RJ is available across Scotland by 2023.

They aim to provide national direction and leadership, whilst encouraging, supporting and promoting a partnership approach involving organisations across the Scottish justice sector.

This will drive the development of a nationally-available model for RJ and the tools required to raise awareness in communities, provide equal access to support and deliver high-quality, specialist training for facilitators.

We recognise that successful delivery of the plan will require commitment, participation and buy-in from public and third sector organisations – both at a national and local level.

Under each of the three outcomes in the following tables, the first action is to establish stakeholder groups from across criminal justice, the public sector, local government, third sector, academia and others as appropriate. Each group will report against their progress towards identified deliverables.

We will also look to canvas views from the public to inform this work.

The Scottish Government, Community Justice Scotland and other partners will consider whether it would be helpful to support particular trials of the use of RJ in Scotland, where this could expand knowledge and improve practice.

Our Vision

Restorative Justice is available across Scotland to all those who wish to access it, and at a time that is appropriate to the people and case involved. Approaches taken are consistent, evidence-led, trauma informed and of a high standard. This seeks to ensure the needs of persons harmed and their voices are central, and supports a reduction in harmful behaviour across our communities.

Outcomes

Restorative Justice is available across Scotland.

We Will:

- Map the existing provision of RJ in Scotland.
- Establish the most effective model for restorative justice in Scotland.
- Ensure those taking part in restorative justice can access relevant support before, during and after any intervention.
- Where appropriate facilitate the safe sharing of information to inform strong RJ processes.

High quality restorative justice services are delivered by trained facilitators.

We Will:

- Commission and complete a National RJ Training Needs Analysis.
- Develop a training requirements document, outcomes and evaluation framework.
- Support the design and delivery of an accessible RJ training package.
- Accredit training and ensure its continuous monitoring and evaluation.
- Develop the National RJ Practitioners Network in Scotland.

There is a strong public awareness and understanding of Restorative Justice in Scotland.

We Will:

- Complete a national opinion survey on RJ to inform key messages.
 - Deliver an National RJ Communications Strategy based on evidence gleaned.
 - Establish an RJ Champions Network across local areas and stakeholders.
-

Outcomes and Actions

Restorative Justice is available across Scotland

| | | | | | |
|-------------------------------------|---|--|--|---|--|
| Action | <p>We will establish a stakeholder group to assess the resource implications, and manage/oversee delivery, of the following actions:</p> | <p>We will map the existing availability of RJ in Scotland to identify how best to support the consistent provision of RJ across the country.</p> | <p>We will establish the most effective model for RJ in Scotland, recognising that different approaches are required for both the criminal justice and children's systems by:</p> <ul style="list-style-type: none"> - Collating and examining both national and international evidence. - Considering existing resources and local requirements. - Examining the needs of both those who have been harmed and persons who have harmed. | <p>We will help those taking part in RJ to access support before, during and after any process by:</p> <ul style="list-style-type: none"> - Working with local Community and Youth Justice Partnerships and the third sector to identify consistent, accessible pathways to support services. - Ensure training in RJ includes a trauma-informed component. | <p>We will facilitate and monitor the safe sharing of information to inform strong RJ processes by:</p> <ul style="list-style-type: none"> - Establishing good practice examples and templates for sharing information where appropriate. - Monitoring data sharing developments in order to ensure proportional and necessary sharing that facilitates safe and appropriate RJ processes. |
| By | Autumn 2019 → | Spring 2020 → | Summer 2020 → | Summer 2022 → | Summer 2022 → |
| What Does Success Look Like? | <ul style="list-style-type: none"> • Stakeholder group is in place with representation from key organisations. • A Terms of Reference is in place for this stakeholder group. | <ul style="list-style-type: none"> • A document summarising the findings of a mapping exercise on existing RJ provision in Scotland is published. | <ul style="list-style-type: none"> • There is agreement to, and national support for, an evidence-based RJ model for Scotland. | <ul style="list-style-type: none"> • A pathway to relevant support services can be identified in every local authority area. • People can access support within an agreed timeframe. • All training includes a trauma-informed component. | <ul style="list-style-type: none"> • Services have access to guidance, support, practice and templates that support information sharing in RJ. • A framework is in place which allows the monitoring and review the safe sharing of information to facilitate RJ processes. • Local information sharing processes can be tested and found to be robust. |

Outcomes and Actions

High quality restorative justice services are delivered by trained facilitators

| | | | | | | |
|-------------------------------------|---|--|--|--|--|---|
| Action | <p>Establish a stakeholder group to assess the resource implications, and manage/oversee delivery, of the following actions:</p> | <p>We will commission and complete a national RJ training needs analysis which will:</p> <ul style="list-style-type: none"> - Identify which skills are required for individuals and organisations. - Identify the scale of requirement for RJ training in Scotland. - Identify future developments which may impact on requirements. | <p>We will develop a training requirements document, outcomes and evaluation framework based on the findings of the training needs analysis.</p> | <p>We will support the design and delivery of an accessible RJ training package by:</p> <ul style="list-style-type: none"> - Working with any service(s) delivering against the training requirements and outcomes to ensure high quality provision. - Develop national and international links across academia and RJ training providers to ensure best practice. | <p>We will accredit training and ensure its continuous evaluation by:</p> <ul style="list-style-type: none"> - Working with an accreditation provider to achieve this once training has been implemented in Scotland. - Developing a monitoring and evaluation framework with any service(s) delivering against training requirements and outcomes. - Reviewing data received on the provision and quality of training, making regular recommendations for improvement where necessary. - Ensuring training and ongoing practice is informed and developed by meaningful engagement and feedback from communities and victims' representative organisations. | <p>We will support and draw from the existing national RJ Forum Practitioners Network, and the RJ Forum Research Network, by:</p> <ul style="list-style-type: none"> - Publicising the Practitioners Network as an opportunity for facilitators from different agencies to develop and share practice. - Increasing the ability of the networks to share practice and information digitally, reaching a wider number of recipients. |
| By | Autumn 2019 → | Spring 2020 → | Summer 2020 → | End 2020 → | Spring 2021 → | End 2021 → |
| What Does Success Look Like? | <ul style="list-style-type: none"> • Stakeholder group is in place with representation from key organisations. • A Terms of Reference is in place for this stakeholder group. | <ul style="list-style-type: none"> • A training needs analysis has been completed which can inform the development of a requirements document. | <ul style="list-style-type: none"> • A training requirements document, outcomes and evaluation framework is produced. | <ul style="list-style-type: none"> • A training package reflective of the needs of services and communities in Scotland is available for delivery by consistent, accessible providers. | <ul style="list-style-type: none"> • All RJ training provided is accredited. • An evaluation and monitoring framework is in place to routinely consider the quality and provision of RJ training in Scotland. • A regular review of training provision has been established. | <ul style="list-style-type: none"> • The Networks are meeting regularly and sharing practice and information to support improved RJ. • The Networks can access a digital platform which supports them to share and influence more widely. |

Outcomes and Actions

There is a strong public awareness and understanding of restorative justice in Scotland

| | | | | |
|-------------------------------------|---|---|---|---|
| Action | <p>Establish a stakeholder group to assess the resource implications, and manage/oversee delivery, of the following actions:</p> | <p>We will engage with stakeholders across Scotland, and with specific groups, in order to:</p> <ul style="list-style-type: none"> - Identify current opinions on RJ and use these to inform key messages. - Work with people who have been harmed and those who have harmed to understand their opinions on RJ, and their needs from the process, to best reflect these in national campaigns. - Baseline opinion within specific areas in order to measure any change in this over time. | <p>Establish an RJ Champions Network across local areas and stakeholders which will:</p> <ul style="list-style-type: none"> - Support the implementation of an agreed model for restorative justice in Scotland. - Promote key messages and raise awareness of restorative justice and its benefits within local communities. - Communicate effectively across Scotland, sharing practice and resources where appropriate. | <p>We will deliver a National RJ Communications Strategy which:</p> <ul style="list-style-type: none"> - Includes key messages on RJ to be used across strategies and guidance. - Considers different approaches to increase awareness of RJ and its potential use. - Provides a toolkit for local areas to deliver, including key messages, resources and information on RJ tailored for victims, people who commit harm, communities and services. - Includes a mechanism for the routine monitoring and evaluation of communication methods. |
| By | Autumn 2019 → | End 2020 → | Spring 2021 → | Spring 2022 → |
| What Does Success Look Like? | <ul style="list-style-type: none"> • Stakeholder group is in place with representation from key organisations. • A Terms of Reference is in place for this stakeholder group. | <ul style="list-style-type: none"> • Key messages are identified. • An opinion survey has been completed and includes representation from victims of crime and those who commit harm. • Changes in opinions on RJ can be measured against an established baseline. | <ul style="list-style-type: none"> • A network of RJ champions are identified and in place across Scotland. They have a clear remit. • RJ champions can evidence their use of the communications tool kit and key messages. • The network are sharing practice and resources where appropriate. | <ul style="list-style-type: none"> • A national RJ Communications Strategy is in place and actions are being taken forward. • A toolkit has been provided to support local areas, and is being used to raise awareness of RJ and its benefits across their communities. • Changes in public awareness and understanding of RJ in Scotland can be robustly measured. |



Scottish Government
Riaghaltas na h-Alba
gov.scot

© Crown copyright 2019

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-78781-958-0

Published by The Scottish Government, June 2019

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS582150 (06/19)

W W W . G O V . S C O T