

Evaluation of effectiveness and sufficiency of the  
Restorative Justice (RJ) scheme – victims' and  
offenders' views on the process.

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## **Brief overview of basic terms and theoretical models of restorative justice practices.**

Practices that could be described as restorative, or based on restorative thinking, have a long and diverse history. Their main focus is to contribute towards reparation of harm caused by crime and provide an environment where amendments can be made. The main participants of those processes are the victims, offenders and the community which have been affected by the offence. What benefits restorative justice may deliver have been the subject of this research.

### **History**

Although the history of restorative practices could be seen as reaching back as far as to the first human societies, through the development of laws in ancient culture (Gavrielides, 2011), a story of Canadian a probation officer who, in an act of frustration, opted for two offenders to do work for the community they harmed, is perceived as the first modern movement towards developing restorative justice practice. The latter is perceived as the birth of restorative justice in late-modern western societies (Shapland, Robinson, Sorsby, 2011). The development of the term 'restorative justice' is ascribed to psychologist Eglash, who in the 1970s used it to describe his way of thinking about the practical application of this approach within a correctional setting (Gavrielides ed., 2015). He also used it to highlight differences between the retributive (focused of punishment), distributive (offenders' rehabilitation) and restorative understanding of criminal justice (Dignan, 2005).

In terms of the rich tradition and developments that shaped what we see and understand today as restorative justice practices, the movements in 1960s had a significant impact when previously colonised communities started fighting to

reintroduce what indigenous people used previously in their understanding of the justice system. This way the practices of Maori in New Zealand (family group conference), Navajo in America (peacemaking), traditional Aboriginal practices in Australia or sentencing circles in Canada influenced an understanding of justice and enabled development of processes which were focused on reparation rather than retribution (McLaughlin, Fergusson, Hughes, Westmarland, 2004; Bazemore, 2000).

Johnston (2002) stated that historically the approach of the Western world to addressing issues related to crime evolved (or perhaps rather regressed) from communal restorative justice to state punitive justice. Therefore the late twentieth century is perceived as a time when restorative practices were reborn.

## **Theory**

Zehr (2015) talks about restorative justice as being concerned about needs and roles. Should this statement be applied to Marshall's (1999) definition of restorative justice, both the subject and understanding of needs and roles builds the picture of practices and parties that create the process. Marshall (1999: 5) defines: "Restorative justice is a process whereby all parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future". Thus restorative justice concerns victims, offenders and the community that have been affected by crime. It aims to meet the needs of all parties involved, to contribute towards restoring the harm and influence future through lowering risk of further offending. Several theoretical approaches have been mentioned in literature as influencing the current shape of restorative justice, such as abolitionism, feminist theories, and various psychological, philosophical and religious theories (Daly and Immarigeon, 1998). A significant role in the development of restorative justice thinking is also credited to Braithwaite and his reintegrative shaming theory discussed below.

## **Current forms**

In the UK system, as well as locally, three main forms of restorative justice are most prevalent, involving direct or indirect forms of contact.

Direct contact may happen in the form of mediation (face-to-face meeting between the victim and offender, with one facilitator or mediator present); or conferencing (very similar to mediation, however in this case supporters of both parties may be present – family, friends or other people affected by crime).

Indirect contact, also known as shuttle mediation, is maintained through the involvement of a mediator or facilitator passing information between the victim and offender, sometimes including other relevant parties, but no face-to-face contact takes place. This could take the form of a letter of apology or amendments made to the community (Shapland et al., 2011).

## **Characteristics of the Jersey Restorative Justice Scheme**

The Restorative Justice Scheme was established in Jersey in 2002 in response to the need for a form of intervention/action to address issues related to youth offending. The need was expressed by, unique to local jurisdiction, Parish Hall Enquiries, dealing with less serious crimes. In the foreword to Miles and Raynor's (2014) publication examining reintegrative justice in Jersey, Braithwaite stated: "Empirically, Miles and Raynor convincingly show reintegrative shaming to predominate over stigmatisation and punishment. They describe Jersey's hybrid customary law as an indigenous form of reintegrative shaming. It scores highly on disapproval of the offence, high on respect and support for the offender. It is a form of indigenous social control that is low on coercion and high on love for the wayward community member" (Braithwaite, in: Miles, Raynor, 2014: xiv-xv).

Miles and Raynor (2005) highlighted that Jersey Restorative Justice utilises the reintegrative shaming theory which is based on understanding that the community has the power to maintain social control through condemning behaviour (e.g. crime) whilst respecting an offender as a person. Therefore, there is an expectation that an offender would be ready to take active responsibility for his behaviour and willing to apologise to the victim and make amends/repair harm caused by crime. Moreover, it has been recognised that restorative practices in Jersey have been utilised for centuries and only relatively recently these ways of addressing crime have been defined as restorative justice. It is practice for the local Restorative Justice scheme to take into consideration each instance where a crime was committed and a victim identified, if the case is being dealt with within the traditional Criminal Justice System, it is also assessed for its potential for the Restorative Justice process. Jersey Restorative Justice scheme considered it good practice to begin this process by approaching the offender and if he/she demonstrates an appropriate level and nature of motivation, additional steps are taken to proceed with the process, such as inclusion of the victim. Furthermore, in Jersey restorative justice is managed as an independent initiative – existing outside the criminal justice system.

### **Aim of this project**

Since the onset of the restorative justice initiative several developments have taken place and the practice evolved significantly. Being delivered by one Restorative Justice Officer, the scheme has been providing a service to Islanders who became victims of various forms of crime or who perpetrated those offences. Currently it is being used in cases of various levels of seriousness and considering both young and adult offenders. The scheme declares to be victim-orientated with the focus on restoring harm caused

by crime and providing opportunities for offenders to make amendments to the victims and/or the community.

In the light of the above the aim of this research was to evaluate the achievements of restorative justice in terms of meeting the needs of the parties involved. This was accomplished through providing an environment for the expression of personal experiences, establishing meanings and 'making sense' of the experience of crime that participation in restorative justice contributed to for each participant.

Due to the fact that the IPA was deployed as a form of data analysis, no hypothesis have been identified (Smith, Flowers, Larkin, 2010); however two main research questions were formulated:

How do victims and offenders participating in restorative justice perceive and benefit from this experience?

What could be improved to meet the needs of parties more effectively?

## **Methodology**

### **Participants**

Fourteen people were interviewed (although only thirteen transcripts were analysed due to lack of cooperation from one offender and consequently insufficient information provided by him). There were seven victims and six offenders who gave interviews, of whom all the victims participated in direct conferences or mediations with offenders. Within the offenders group three took part in an indirect form of restorative justice (letter of apology) and other three met their victims in person. Three victims were female, four were male. All offenders were male. Participants were selected by the Restorative

Justice Officer who approached every person participating in the scheme with a request to take part in the evaluation process. When initial consent was obtained, contact details were submitted to the researcher and each participant was contacted directly to arrange the interview. On arrival participants received additional information about the research and they were provided with a consent form which explained the issue of confidentiality and anonymity and ways of withdrawing consent should someone wish to do so during the time of data collection.

Below is a table presenting basic characteristics of the participants of this research – their gender, type of offence they were involved in and the level of involvement (in case of victims only – if they were affected personally and directly or not), as well as the connections between interviewees (some participants were victims and offenders linked with the same crime).

<b>Participant</b>	<b>Sex</b>	<b>Type of offence</b>	<b>Involvement</b>	<b>Connections victim - offender</b>
<b>Victim 1</b>	Male	Malicious damage	Victim indirectly	V1 – O2
<b>Victim 2</b>	Female	Attempted robbery	Victim directly	No
<b>Victim 3</b>	Female	Fraud	Victim directly	No
<b>Victim 4</b>	Male	Larceny	Victim indirectly	V4 – O5
<b>Victim 5</b>	Female	Larceny	Victim indirectly	V4 – O5
<b>Victim 6</b>	Male	Arson	Victim directly	No
<b>Victim 7</b>	Male	Grave and criminal assault	Victim directly	V7 – O6

<b>Participant</b>	<b>Sex</b>	<b>Type of offence</b>	<b>Involvement</b>	<b>Connections victim - offender</b>
<b>Offender 1</b>	Male	Grave and criminal assault	NA	No
<b>Offender 2</b>	Male	Malicious damage	NA	O2 – V1
<b>Offender 3</b>	Male	Fraud	NA	No
<b>Offender 4</b>	Male	Larceny	NA	No
<b>Offender 5</b>	Male	Larceny	NA	O5 – V4
<b>Offender 6</b>	Male	Grave and criminal assault	NA	O6 – V7

### **Data collection**

A qualitative analysis was chosen for this research. A form of semi-structured interview was utilised exploring various aspects of victims' and offenders' experiences of participating in restorative justice. The data was collected between 2014 and 2016. An initial approach to this project was made in 2013, however the quality of data obtained did not enable in-depth analysis of participants' personal experience and therefore approval of a qualitative approach was sought. Consequently a semi-structured interview plan was prepared with a set of main and prompting questions. The questions were open and focused on establishing a personal meaning to participation in restorative justice. The interviews lasted between 45 and 90 minutes and were recorded digitally and then transcribed verbatim. In each case but one (involving one offender and two victims who participated in this research) the restorative justice process took place after sentencing.



At the end of interviews each participant was offered debrief, where their emotional well-being was checked and support provided if necessary. Moreover, each participant was encouraged to contact the Restorative Justice Officer or the researcher should they wish to discuss any issues related to the interview.

### **Data analysis**

In order to provide analysis of the data the Interpretative Phenomenological Analysis (IPA) was used (Smith et al. 2010). Following the completion of the interview, the transcript was read and re-read until sufficient familiarity with the content was achieved. In the next stage each interview was analysed in order to identify emerging themes and highlight quotes from the interview that presented the particular view of a participant. This was accompanied by developing insight expressed in notes regarding descriptive, linguistic and conceptual comments. Based on continued reading of the transcripts several 'superordinate' themes were recognised and appropriate verbatim phrases from transcripts were selected.

### **Ethical considerations**

In the absence of the ethical committee the research proposal was evaluated and received the approval of the Probation and Aftercare Service management which was represented by the Deputy Chief Probation Officer.

Several ethical aspects were taken into consideration during the completion of interviews. First of all, all interviewees participated in interviews voluntarily. Secondly, the emotional safety of participants and avoidance of further harm was imperative. The risk of potential emotional distress due to re-living the experience of the offence was taken into consideration and addressed through the aforementioned debriefs and opportunity to seek additional support should the need arise. Additionally, participants

were contacted by the Restorative Justice Officer after their participation in the interview to thank them but also to check on their well-being. Moreover, the opportunity to address questions was provided as well as the possibility of a referral to appropriate services was offered.

Further ethical consideration had to be given in the light of diversity issues. One of the participants (Offender 2) was an underage boy who has a diagnosis of Asperger's syndrome and therefore the consent was obtained and the interview conducted with his mother's presence. For another participant (Offender 4) English is his second language therefore some questions had to be tailored to enable him proper understanding of the subject.

All data was anonymised.

## **Results and Discussion**

The aim of this research was to establish broadly understood personal meaning (satisfaction, benefits and achievements) of participation in the restorative justice process from the perspective of victims and offenders. This enabled evaluation of the scheme from the perspective of its participants. Furthermore, based on the experience, participants were able to make suggestions regarding potential routes to improve the process to meet their needs to a higher extent.

Through analysis of data the following five superordinate themes were identified: 'Achievements of Restorative Justice', 'Perception of Restorative Justice', 'Needs', 'Restorative Justice – for me /for them' and 'Recommendations'. The emerging themes chosen for analysis were identified based on the frequency and significance put on them by participants. Additionally, themes that enabled evaluation of the process were taken into consideration. The said themes were analysed together for victims and

offenders who presented similar views on subjects and where the same level of importance of those themes was observed. However, where significant differences were recognised, appropriate emphasis and comparison were acknowledged.

### **Achievements of Restorative Justice**

This superordinate theme relates mainly to ways how restorative justice contributed to addressing negative consequences of being involved (harmed) in crime. The most significant emerging themes for both victim and offenders included 'Closure' and 'Restorative Justice as a life-changing experience'.

#### **Closure**

The majority of victims and offenders perceived their participation as an opportunity to achieve some form of closure understood as reaching a point when they are able to move on with their lives and leave the offence in the past, limiting the impact that it has had on them prior to restorative justice meeting. This was often closely linked with a feeling of relief, accomplishment of clarity regarding reasons behind the offence and having opportunity to face the other party and establish the current situation between them.

*V2: I was happy with the way it went for me. Yeah, made a huge difference 'cos to me, being able to have a face-to-face with those boys was like a weight lifted off your shoulder because you were carrying this weight about thinking, "Oh my God, you know, why did that happen? What's this?" I had questions in my head and I was able to ask that person that did that to me, those questions and I wouldn't take no for an answer, so they had to talk to me.*

Two offenders described how restorative justice enabled them to start afresh and how they were hopeful that this will put the victim's mind at peace.

*O1: so it sort of ended a chapter, he can go easy about his daily life not worrying that there's some thug in jail waiting to get out to... I just want him to get on with his life.*

*O6: it [RJ] brought some form of closure, a positive one. As I say the best thing is now, you know we talked before about needing to arrange things whilst we're in Prison to be in the best situation we can when we leave, now I can take off with no concerns about the victim and nor do I feel that he has any concerns about me and that's a big one to tick off*

One victim talked about various levels of closure. On one hand he was able to achieve a form of closure between himself and the offender who he had a professional relationship with. However, he recognised that the psychological impact of the offence continued to present an ongoing issue because he was still experiencing symptoms of trauma related to the incident.

*V6: [...] I don't think I'm going to have closure, I don't really know what's going on. With the incident and as far as the young person but Restorative Justice will never be able to give me closure, I don't think on that basis, I think it's more psychological, I don't know what's happened but...*

Shapland et al. (2011) described closure as aspects of lessening the negative effects of crime and enhancing the feelings of security. Evaluation of restorative justice schemes conducted by Shapland et al. (2011) highlighted that about a half of victims participating in restorative justice reported its positive influence on their perception of safety and ability to put the offence behind them. Similar effects were described by Williams (2005).

## **Restorative Justice as life-changing experience**

This theme often appeared as a summary of accomplishments of restorative justice. A life negatively changed by an offence has been changed again, this time in a positive way, where ongoing consequences were addressed or even removed.

*V3: Um learning that he was obviously going to get the help and support that he needed, to realise what he had done wrong and like rekindle our relationship, to make it easier for both of us to carry on and if we were to bump into each other we can say hello and he's not running a mile. [...] It's made both our lives a lot easier.*

It became a feature across the majority of victims' accounts that they cared not only about the changes in their lives but often more importantly about positive influence on offenders – it was expected that participation in restorative justice will act as preventative measure in relation to the risk of re-offending.

*V4: [...] maybe going through a procedure to understanding that whatever, what they did was not right and help them walk away from that lifestyle, if it has been a lifestyle at all or it was just starting that they would stop [...], it's clear that something has been broken and it has to be restored.*

Similarly, a half of interviewed offenders recognised that their participation in restorative justice introduced a new, healthier, and better lifestyle.

*O4: It's very much better, I speak with J [Probation Officer], always I mention what is going on, it's much better now, I feel things going to work out and now I have more quiet life, you know, when I go out I go with my wife, walk... you know, now I don't get much problems, you know*

It also provided offenders with an opportunity to develop a different perspective on their offending and their future, in terms of the impact that their previous pro-criminal lifestyle has had but also how others perceive them.

*O5: it was a lot of offences so you know, I do think about that. I only thought about it because of this meeting we had, the Justice meeting. That's the only time I was thinking about it and you know, like, it blew my mind them being nice, being able to put my point across*

The importance of participation in the Restorative Justice process as an experience which can positively influence the offender's future was also acknowledged by the mother of a young boy. She said:

*O2 (Mother): I'm sure that's going to happen but like in O2's case, he got an insight as to what could have happened, you know how serious things were and how serious things could have got [...] You know, so now he's got the chance to hold his head up high and go for a job and say "No I haven't got a criminal record"*

This particular theme enabled detailed exploration and understanding of participants' expectations and hopes in regard to what restorative justice can offer and how it can meet their needs. Some of the victims' needs were related to reparation of relationships, having some questions answered or putting their mind at ease in regard to their contact with the offender in the future. However, several victims also reported the need to contribute towards changes that the offender should make in order to work towards an offence-free life. Zehr (2015) talked about crime causing harm but also crime creating obligations to the victim. Restorative justice provided the victims with an opportunity to define their own, personal needs and to be empowered to aim towards

fulfilling them. Simultaneously, it created room for offenders to work towards introducing positive changes into their lives too. McLaughlin et al. (2004) reported that this approach to understanding the role of victim in the restorative justice process results in high levels of satisfaction with its outcomes for both parties.

Additionally, the victims highlighted the importance of Restorative Justice addressing the issue of awkwardness.

### **Awkwardness**

The majority of victims displayed negative expectations when the possibility of accidental meeting with the offender was considered. The victims were expecting that they, or the offender, will feel awkward. In many cases victims expressed their concerns for offenders anticipating and assuming that they might be ashamed of their actions, therefore a meeting would be perceived as unpleasant. In victims' eyes, Restorative Justice enabled these concerns to be addressed and allowed a new quality of relationship to be developed.

*V3: it's definitely made our relationship a lot easier now, which is obviously, that's a positive thing cos I go up there to his house and stuff and I don't want him to feel uncomfortable in his own home because I'm around, even though it was something that he did, so, no it's definitely made that a lot better, a lot easier, it's good.*

When serious, violent crime took place, the additional feeling of nervousness, anxiety or apprehension was present. For some victims, especially those directly harmed by crime, the feeling of awkwardness became a way of communicating the psychological impact that the offence has had on them. Restorative Justice provided a safe

environment for those victims to express their feelings and 'test' the relationship between them and the offender.

*V7: What you said about bumping into him in the future, that was always something I was quite nervous of. Just, I mean, not because I would be fearful but just because it would be awkward and that's something that I really value from this process, was the opportunity for us to speak and to air our feelings to some extent and now if I was to see him in the street there would be no level of awkwardness at all.*

The traditional Criminal Justice System (CJS) does not engage the victims or acknowledge their role during the process to a great extent. After providing a statement, and if necessary appearing in the court, the liaison between the CJS and the victim becomes limited. They rarely have the opportunity to voice their feelings in direct communication (although on occasions victim impact statements are utilised, they do not address the offender directly). Ruge and Scott (2009, also: Sherman, Strang, 2007) undertook a research review which highlighted that participation in restorative justice processes lowered the level of negative emotions experienced by victims, including the severity of PTSD symptoms as well as it influenced positively the process of recovery from victimisation.

### **Perception of Restorative Justice**

Within the subject of how the Restorative Justice Scheme was perceived by participants, three themes emerged as the most significant: 'Feelings in relation to Restorative Justice', 'Information and introduction of Restorative Justice' and 'Perception of Restorative Justice Officer'.



## **Feelings in relation to Restorative Justice**

All victims reported positive feelings in relation to participation in restorative justice. Even though they were initially understandably anxious, the overall feeling regarding the process was that of satisfaction and achievement.

*V5: Um I was very impressed with the way it is done. It seems very fair and balanced between all the different parties concerned and the fact that they were given space. I mean O5 was in a dreadful state but was treated with respect and kindness. I mean everything possible seemed to have been done to make him feel at ease*

*V6: Overall I think it's a total asset*

The above suggest a high general level of satisfaction with restorative justice which is consistent with results reported by Shapland et al (2011) and Williams (2005).

Significantly different feelings were expressed by the group of offenders. Some of them, those who were generally dissatisfied with the outcome of the process, talked about feeling punished or even going through 'emotional hell'. They also felt that they were treated unfairly. Interestingly, the group of 'dissatisfied' offenders included those who participated in indirect forms of restorative justice. The latter remain at odds with research conducted by Ruge and Scott (2009) who examined the level of psychological health/well-being among participants of direct and indirect restorative justice and who concluded that those participating in meetings scored less on the checklist. In this particular case it is possible that the indirect form of contact did not meet the needs of offenders sufficiently and therefore the lack of satisfaction with the process negatively influenced emotions related to it.

*O3: I wouldn't recommend the system at all because I'd say to someone, you're just putting yourself in line for six months of emotional hell*

Other offenders however recognised that although the initial feelings were similar to these experienced by victims, the result of the meeting and the emotions they left the meeting with were generally positive.

*I: [...] So it wasn't a good feeling to write it*

*O4: Of course, you no happy of course, nobody happy [...] But happy at the same time, I'm happy to write a letter and I've been thinking all the time of all the people who read my letter, they tell me, you done what you done and it important it won't happen again, you been thinking what the people... What the people think about the letter, you been thinking, will the people forgive me, you know*

*O5: Um I felt a bit, you know, I felt a bit nervous, you know, to meet people that, you know, that I did rob, especially in a Church, [...] it was um, unreal really, I felt strange, it was, you know, it did me good, it did me so good. It was just a feeling like I don't know, I can't explain, it was knowing that they forgave me and knowing that they've heard my side of the story.*

*O6: You know, I found it so useful that I'm suggesting it should be seen as more of an active thing for all prisoners to be involved in. I think it's a really good facility that's under played and not utilised enough*

### **Information and introduction of Restorative Justice**

With regards to the level of information and the way of introduction of restorative justice, significant discrepancies were observed between the victims and offenders.

Victims reported being provided with sufficient information and appropriate support in terms of preparation before the meeting.

*V1: Well I've just been told exactly what it, what it means and what it does and obviously then I would know exactly what it's about then um knowing what will happen and how.*

*V3: cos obviously like [RJO] did prepare me like, with the questions that she was going to ask and what was going to happen and stuff*

Offenders presented more diverse views on this subject. Those dissatisfied, complained about receiving insufficient information or even being misled, especially in regards to the possible negative outcomes of the process.

*O3: Um it's almost like a one sided process and it didn't matter how I discussed it with [RJO], it's always appeared like that to me [...] I don't believe it would be very successful at all because it's not informed enough. It doesn't give you enough information to tell you that you could come out feeling awful at the end of it*

It is important to note that the majority of offenders highlighted the role of the Probation Officer in advocating for restorative justice and providing information about the scheme.

*O6: Yes, if I remember correctly. Um [Probation Officer] is a good advocate of the Restorative Justice programme, we talked about it a few times. Not just in relation to me, you know, her sort of belief in it generally.*

Shapland et al (2011) emphasised the vital role of information and preparation for the successful conduct of restorative justice. This has been crucial in relation to the fact

that there is relatively low awareness of the society regarding restorative justice therefore, from the ethical and practical point of view, potential participants have to be informed sufficiently to enable them to provide informed consent to participation.

Sherman and Strang (2007) examined the track records of participants consenting to restorative justice in the UK and identified that the way that restorative justice is introduced, by whom and in what fashion are vital factors influencing people's motivation to consider participation in the process. They concluded that the best practice is to approach offenders first to prevent additional emotional strain on the victim should the other party be unwilling to take part in restorative justice.

### **Perception of Restorative Justice Officer**

Similarly to the theme discussed above, all victims expressed their positive views regarding the Restorative Justice Officer (RJO), finding her supportive, helpful and professional. The role of RJO was described as someone orchestrating the entire process, including its organisation, delivery and post-event support. Additionally, victims emphasised the importance of the management of the meeting that RJO provided and ensuring the right quality of atmosphere during the meeting.

*V1: She was in control of the meetings. Yeah very helpful lady, very helpful*

*V2: I think she was very good, she was very detailed, she explained everything and whatever I wanted to do, she did that.*

*V6: Absolutely fantastic. I really have a lot of respect for [RJO], how she managed the situation such as that. It was managed perfectly, it was very, very relaxed, it was very driven, it was good. I was very satisfied.*

Some participants highlighted that RJO was representing the safety net in the meeting where they felt looked after and safe because of RJO's presence. Moreover, this attitude encouraged them to be open and honest during their meeting and to freely express themselves to the other party. One could say that this should be especially important from the victims' perspective, however it was one of the offenders who felt very strongly about that and explained how RJO helped him overcome nervousness and other negative feelings related to his participation in restorative Justice.

*O5: I felt her supportive, I felt her, I just felt her a bit of a guidance, not guidance but I felt a bit of .... somebody being present there ... being... I don't know it wouldn't go badly wrong, you know what I mean. If they started shouting and all out guns blazing, she is there to back me up [...] She's there to be supportive, you know [...] So I felt that her presence there was good for me [...] But it's that feeling that, knowing that... Well if something was said out of place, then she'd be .... She'd make it right, [...]*

*O6: I think the best element of [RJO]'s involvement was the beginning because you don't really know how it's going to, you know you have a sense of how, you have an idea of how you want it to go but you know any conversation with people, let alone after the last time you met you hit him with a glass, um, starting a conversation is always the toughest part so [RJO], you know, she introduced everyone even though we knew each other well and she talked about how the meeting would go*

These offenders who were generally not happy with their involvement in restorative justice expressed their negative views in regard to the way RJO conducted her duties. It is important to acknowledge that their general dissatisfaction with the outcomes of the process influenced how they portrayed the entire restorative justice.

*O3: And I think sometimes, maybe the people involved in this process are so professional and removed from everything that it ostracises the prisoner*

Others, even though they achieved a generally satisfying outcome, expressed their dissatisfaction based on how they perceived the attitude presented by RJO, such as being under the impression that RJO was expressing personal opinion or that examples that were used to illustrate the process at the introduction stage could jeopardise someone's confidentiality.

*O6: I just think something should balance it up a bit, you know and that even goes as far as to include [RJO]'s attitude. [...] I didn't see any benefit to it other than she just wanted to give her opinion on it.*

Gavrielides (2015) talked about various ways that restorative justice practitioners/facilitators conduct their tasks and the potential dangers of being perceived in their roles as 'experts'. With the latter comes an issue of responsibility which often results in RJ practitioners being held responsible for the level of satisfaction with the outcome of the process. Moreover, it has been recognised that utilisation of the affect script theory and reintegrative shaming theory (the latter being used within the local restorative justice system - Miles and Raynor, 2014) influence how the process is conducted and therefore how it will be received by participants. Shapland et al. (2011) summarised that the facilitator of the restorative justice process should present characteristics which instil confidence and feeling of security in participants. The professional background played a secondary role, compared to the familiarity of theoretical underpinnings of restorative justice and values.

## Motivation

Some offenders expressed their motivation to participate in restorative justice in a way that made its appropriateness rather disputable and clearly suggested self-centred reasons and strong focus on personal, rather than victim's needs.

*O6: [...] I think there needs to be some sort of incentive for the offenders to be involved in it. As I say it doesn't need to be, if you do it, you get something, other than, if you do this, it will be good for you as well as for the victim. [...] The offender has done it, been punished and is now being asked to go through what can be a tough process, again but the impetus is on, this is all for the victim*

Others however demonstrated that they were able to develop empathy towards the victim and wished to express this through their apology.

*O3: Because I personally felt... I read his impact statement, I hadn't written to him beforehand. What I did was I'd written a letter to him but it wasn't right for me to post the letter directly to him. Um I felt that if I sent the letter directly to him, it might cause more damage than anything else and I didn't want that, the whole object of me writing the letter was to say "I'm really sorry"*

The young boy with Asperger's syndrome openly talked about difficult feelings attached to his involvement in the offence and his strong desire to achieve some closure.

*O2: I wanted to do it to get um, get it all out my head and feel better*

In their examination of factors influencing delivery of restorative justice processes Sherman and Strang shared a reflection made by facilitators that 'RJ does not screen for remorse; it aims to achieve remorse' (2007: 37). It has been recognised that taking

responsibility for the offence is a crucial element within suitability assessment and it could be perceived that expressing remorse would be expected to go in line with it and become one of the reasons for offenders to participate.

Victims' motivation presented more variety of reasons to participate in restorative justice, including achieving a level of safety through becoming familiar to offenders:

*V1: Mainly to see who they were really [...] Just to see you know if I could put a name to the face like, you know;*

learning to cope with the consequences of offence, as well as providing a learning experience to an offenders:

*V2: They'd [reasons] be selfish. The first one would be selfish for my own benefit to face the situation upfront myself. So initially it would be for me, I'd want to do it, um then I would hope that the person involved, the guilty party would learn something from it.[...];*

or repairing the relationship with an offender:

*V6: [...] it really is more about repairing the relations rather than having another ulterior motive.*

Umbreit and Roberts (1996) talked about victims' motivation as focused around their need to have some of their questions answered, tell the offender about the impact of the offence and receive apology from the offender. They also said that the main drive for the victims was their desire to stop the offender reoffending. Graef (2000) however highlighted that many victims also wished for their voice to be heard and taken into consideration in relation to sentencing which is not the case in Jersey since the vast majority of restorative justice processes take place after sentencing. In terms of



offenders' motivation to participate, Graef (2000) stated that the majority wants and understands the importance of apologising to their victims. In Shapland's et al. (2011) research offenders expressed similar needs and motivation as identified for victims – they wished to improve their relationships with the victim, answer questions, apologise and achieve closure. Interestingly, even those sentenced to prison for their offence were talking about the feeling of 'unfinished business' which they managed to address through their participation in restorative justice.

### **Offenders: Responsibility**

Although this theme was present more frequently in offenders' rather than victims' statements, the general need for responsibility to be acknowledged was observed throughout the interviews. All offenders took responsibility for the act they committed however some of them sought circumstances that would mitigate their offence or explain their motivation.

*O6: [...] You know I've always believed that whilst there wasn't a big argument there was some aggression from his side but but you know, I've not really focussed on that because obviously my reaction was a massive over reaction [...]*

Others, demonstrated a very strong need to take full active responsibility for the offence but also for reparation of the harm that was caused.

*O2: But they didn't get me into trouble. I did it myself*

*O3: But I still think it was the right thing to do (apologising to the victim) because I hurt... I wronged this guy, you know, it's wrong to do what I did, I understood that, I knew each time I used his credit card*

*O4: I do my best, you know, I appreciate what I do, you know, very happy with my job and I try to do better, you know, to pay*

From the perspective of victims their need to see that the offender is taking responsibility was expressed by the offender's initiative and willingness to participate in restorative justice and their apology.

*V3: [...] obviously I didn't want to be the one to be like, we need to meet up because he's the one that needs to realise he's done wrong and he needs to correct his actions...*

*V6: [...] the conclusion, the outcome for me was that he was finally able to be honest about what he did, take ownership for his actions*

The subject of responsibility taking and accountability was discussed by Zehr (2015 B) who stated that although the traditional CJS does hold offenders accountable for their crimes and it is expressed in a way of applying punitive actions, it does not necessarily equal responsibility taking. Moreover, punishment without restorative practices encourages prisoners to misattribute their behaviour, use rationalisations and stereotypes to justify what they did. Restorative justice aims for the opposite – to give the offender opportunity to see the human side of their crime. Only with this level of recognition of the consequences for another person and responsibility taking for the above the genuine accountability can take place.

### **Offenders: Victim focus**

The victims unanimously stated that they felt they were the main focus and concern within the restorative justice process and it was also their impression that this is the appropriate balance. At the same time they were able to recognise that offenders were also benefiting from it.

*V7: [...] things felt like they were probably more orientated towards me than him which as a victim of crime, I suppose, it should feel, whether it's true or not, it's nice that it feels that way*

Offenders however expressed less favourable opinions regarding the balance of power in restorative justice. The vast majority of them, although acknowledged being aware of the process being victim-orientated, and agreed that this was to benefit victims mostly, they felt that their needs were not met sufficiently. It resulted in the general feeling of being additionally punished which negatively influenced their perception of the process and potentially of the victim too. The views presented by offenders in these interviews suggests that their expectations regarding the process were not met – although due to misunderstanding or misconception.

*O3: And that it is very, very victim orientated. I may be wrong, maybe it's not like that but my complete impression is that it's so victim orientated that I wouldn't recommend it to anyone*

*O6: The victim, you know, I would agree with [RJO] in the fact that the victim is the most important person to benefit from the situation but the benefits to, it's not necessarily the prisoners or the offenders, there's a benefit for them there as well and I just think that needs to be acknowledged a bit better. You know, otherwise it can appear that they're being asked to go through a further punishment in order to help the victim*

When participation in the restorative justice was perceived by offenders as a form of additional punishment, this was often related to the emotional difficulty attached to it, such as experiencing negative emotions, having to directly respond to harm they

caused and possibly not achieving what they expected or hoped for in relation to their participation in the process.

*O3: [...] as I said to me it was quite an emotional process um you never left the meeting with [RJO] just being able to switch off and go to exercise or the gym*

*O6: [...] people that I've spoken to in Prison, people drop out of the process because they feel like they're being punished again or further by involving themselves in the process*

Whilst considering this subject, Zehr's (2015) description of the main principles of restorative justice brings to mind its stakeholders and their needs. He identified victims, offenders and the community as equally important parties in the process and recognised that they present needs that have to be met for restorative justice to fulfil its role and be successful. For offenders to feel encouraged to address their problems and work towards reintegration into the community, restorative justice should aim to refrain from being perceived as punishment, even though some authors dispute if restorative justice is a form of alternative punishment (Mantle et al. 2005).

### **Victims: Feedback**

This particular theme illustrated the expected difference between the traditional CJS and Restorative Justice. The victims participating in the process expressed a diverse level of need for feedback. Some of them understood the feedback as single contact when they were thanked for participation and their well-being was checked following the meeting.

*V7: OK from the process point of view, [RJO] emailed me after the meeting and said you know, thank you for taking part, she thought I did really well and that you know, should I wish to discuss any of the issues that arose, you know, she*

*was available, so in terms of practicalities that was kind of for me the end of it. I mean I was happy, you know, leaving it at that, I didn't think there was any need to discuss then what went on.*

However, for others there was a strong need to continue their involvement through some form of updates about the progress made by an offender. When the victim's motivation for participation was focused on making changes to offenders, the lack of update was perceived as disappointing.

*V5: It's a bit like this, you know, you're involved, you have feelings that you know, get mixed up with it and then nothing and that I think is what is not so satisfying.*

Restorative Justice literature highlights the outcome agreements as an integral part of the process. The parties are expected to reach a conclusion regarding amendments (work, therapy, etc.) that offenders would complete to satisfy the requirement of redressing the harm. Shapland et al. (2011, also, Sherman and Strang, 2007) described the outcome agreements as a form of continuity of restoring what was impacted by crime but also an opportunity for the victim to access information about the progress that an offender is making in addressing his behaviour or repaying to the community.

## **Needs**

Meeting the needs of participants of restorative justice is understood as one of the main aims of the process (Zehr, 2015). During the interview this superordinate theme appeared in the context of participants' own understanding of their needs and, to some extent, their satisfaction with how those needs were met. For all participants it was important to talk about the impact of the offence. As previously mentioned in relation

to other themes, victims wanted to be able to establish a new quality of relationship with an offender whilst offenders aimed to express themselves in regards to the offence they committed.

### **The impact of the offence**

When victims were talking about this subject, they mainly spoke about the personal meaning of the offence for them. Some victims, those who were not directly and personally affected by crime (V1, V4, V5) identified the impact that the act had on the community.

*V1: Yeah...Demoralising, it really is*

Others however, recognised their very own experience of being a victim, including suffering from symptoms of trauma, realising the seriousness of the event they were involved in and various psychological and behavioural consequences that the crime caused.

*V6: No doubt but the incident itself, I'm having flashbacks and I'm having [...] horrible moments at home and such its effecting my brain. I've woken up a few times now quickly, frantically running upstairs checking on my kids cos there might be a fire [...]*

Those victims presented a high need to 'make sense of the offence' – a theme discussed in detail later in the report. Johnson (2002) highlighted that being able to express the feelings and talk about the impact of the offence is a crucial part of the healing process for the victim. Zehr (2015B) in turn stated that the victim needs to have an opportunity to express their feelings related to the offence and offender, in other words to make progress, they have to be able to tell their story and have it heard and validated by others.

An interesting trend has been observed in relation to this theme and its meaning for offenders. Although they talked about the impact of the offence, the vast majority of offenders expressed their concern regarding the consequences of their offending for their loved ones and themselves, rather than direct victims. This somehow reflects the restorative approach to understanding offences. It acknowledged the general impact that crime has and refrains from simply recognising the guilt and applying punishment.

*O4: [...] I lost friends and er people not happy with me*

*O5: I said, Mum you know, this is what's happened, explained to her and I can see the tears coming out of her eyes, she had to dry her eyes. She was drying the dishes and she was drying her eyes so I mean, that had a lot... that just broke my heart, you know, so I knew that had an impact on her to be like that and she made it clear that ....*

The above also demonstrates the usefulness of the application of Braithwaite's (in: McLaughlin et al, 2004) reintegrative shaming theory. He said that this approach enables us to condemn the act but not the person. It recognises the human side in an offender's life and that includes and is expressed in their ability to take responsibility for the damage that they caused to important people in their lives. This attitude still leaves some shadow on the perception of responsibility though. Although it is good that offenders care for their families and recognise the harm, their prioritisation of this group over the direct victims could suggest that they have not internalised the responsibility and their readiness to repair harm may also be directed elsewhere. Should this be the case, it could potentially lead to re-victimisation of the prime victims.

## **Restorative Justice – for me / for them**

Within this superordinate theme participants of restorative justice expressed their needs to gain better understanding of their situation. It has been apparent that both parties directed their efforts to 'Make sense of the offence'. Although different needs were expressed in this theme, both victims and offenders found it important to explain logically why and how the offence happened to them. Following from this, victims often talked about 'The "Why" question'. It is understood that this contributed to their recovery process and enabled achieving some form of closure in relation to the offence.

### **Making sense of the offence**

This particular theme has been closely linked to the subject of responsibility taking as well as has been connected with the previously- mentioned description of the impact of the offence. The majority of offenders approached this theme in a way that brought to mind a form of justification, possibly related to the development of cognitive dissonance. Victims however aimed to find a logical explanation, a reason that would demystify, almost 'tame' the crime (Zehr, 2015B).

*V7: [...] I think also just my own process of rationalising the event had come to the conclusion that he didn't mean to commit an offence that was as grave as it was and that you know [...] it just seemed to me the only rational conclusion to draw was that he had some moment of madness, whatever it would be, alcohol had fuelled him to some state which was out of character, so I was kind of open to the notion that this is who O6 was.*

All victims presented a strong tendency to portray the offenders in a way that provided a logical, plausible explanation of crime. As V7 stated in the interview he 'didn't make



him (offender) particularly evil [...]’ in his eyes. This demonstrated two issues – the level of trauma and ongoing consequences for the victim as well as their route towards recovery. Zehr (2015B: 34) recognised that ‘Crime may upset our sense of meaning, which is a basic human need. Consequently the path to recovery involves a search for meaning’. This need was very visible in victims’ statements. The author went on to explain that crime violates two fundamental values in our lives – the belief that there is an order in the world and it is meaningful and belief in our personal autonomy. Crime makes the world unpredictable and bereft of order. Therefore, for the victims to recover, they have to have their questions answered and make sense that will give them the feeling of control and safety, power to prevent it in the future and ability to restore order and meaning.

In their way of making sense of the offence the offenders often highlighted external factors that contributed towards their behaviour, such as substance misuse and addictions, stress, peer pressure or a generally unhealthy lifestyle.

*O4: Sometimes life has not been well and if you a bit weak in the head, you go down and that's why sometimes you do something stupid because you have no power in your head and so I must have been weak in the head, I don't know*

Again, a concern arises regarding offenders’ ability to take active responsibility for offending. It needs to be recognised however that the above were often genuinely contributing risk factors that influenced the behaviour of offenders and although they should not be perceived as a cause, do need to be taken into consideration and are recommended to be addressed within therapeutic intervention.

Although Zehr (2015) emphasised that lowering risk of re-offending is not the main aim of restorative justice, the level of reconviction is currently often utilised as a measure

of success and effectiveness of the process. Shapland et al (2011) stated that participation in restorative justice allowed offenders to achieve goals related to the reparation they wished to make to the victims, including apology, explanation of the situation and making other amendments. In her study offenders also valued the opportunity to recognise the aforementioned issues linked with offending and planning to address those.

### **Victims: The 'Why' question**

This particular theme is closely linked with the above and expresses the need for the victims to understand the circumstances of the offence better. All the victims wanted to explore the lead up to the offence as well as they often aimed to establish their role in the offence – i.e. they felt the need to know why they were chosen. In the light of Zehr's (2015B) explanation, it clearly contributed towards rebuilding their self-worth, empowering victims and enabling them to regain control over their lives.

*I: Why did you want to meet the offenders?*

*V1: Just to ask them why really [...] That's all really. Yeah it is a small word but it means so much you know, why, why did they do it?*

Victims were very clear about the importance of finding out what the motives that drove offenders' behaviour were and what life circumstances contributed to their decision to commit crime. More importantly they also saw this as a way of establishing the level of responsibility for offending. Some victims seemed to take a part of the blame by recognising that they were not careful enough or that they indeed had a form of argument with the perpetrator. This approach could negatively impact on their

perception of self as well as their views on their ability to prevent becoming a victim in the future (Zehr, 2015B; Shapland et al, 2011).

*V7: So yeah, I mean the fact that we talked about the event didn't... wasn't hugely important to me but you know it was helpful for him to explain that it wasn't me that caused the incident to happen, that it was part of wider issues going on in his life and that sort of thing.*

## **Recommendations**

Participants of restorative justice processes made several recommendations regarding possible improvements that they would welcome in regards to how restorative justice is delivered and they also expressed their belief that these would meet the needs of all parties involved more sufficiently and effectively. Since the analysis of results focuses on personal meaning of restorative justice for its participants, these ought to be perceived as changes recommended by those most involved and interested in considering improvements for the process.

Several participants made comments regarding the way that restorative justice is introduced and explained to them – including the type and amount of information provided. Some participants recognised that they would benefit from having additional information, especially in relation to possible outcomes of the process.

*I: What else would you improve about Restorative Justice?*

*O3: To give more information. I think that's quite important, so that you're fully... you're more fully prepared when the outcome doesn't come out the way you expected um I think that's important. Like for example just a leaflet to say this is Restorative Justice, this is what we do and even to go...*

Offenders, when talking about their participation, often expressed their feelings toward this experience recognising it as difficult and emotionally challenging. Therefore they sought a way of introducing the process which would identify a form of incentive, clarifying how they could potentially benefit from their engagement but also preparing them for the aforementioned emotive experience (Rugge and Scott, 2009).

*O6: All the incentive [for offender] needs to be is, that “You’ll probably feel better for doing this” but I don’t think it’s often expressed that way so...*

Moreover, it was mentioned that a form of written information, tailored to the needs of participants (e.g. their age) would help them prepare for taking part. Jersey Restorative Justice scheme uses a leaflet which provides generic information about the process however it transpired that information tailored to the needs of particular participants would benefit them in terms of gaining better understanding and opportunity to make better informed decisions regarding participation. Therefore, it could be considered to create a leaflet for victims, separately for offenders, young people, prisoners.

With regards to approaching young offenders, the mother of O2 explained that it would be helpful if her son was informed directly about restorative justice and if he was included in the decision-making process from the beginning as this would contribute to his ability to take responsibility not only for offending, but more importantly for making amendments and repairing harm.

*O2 (Mother – in relation to introduction of RJ): Maybe if she’d have arranged to you know, for me to pass the things so she could speak to O2 and ... Explain to O2 herself you know - what would be happening so that it wasn’t just coming from his Mum you know, type of thing [...] So that it was actually coming from*

*somebody in authority [...] Um I think that would help, not just O2 but other kids in the same situation*

When general issues around timing were discussed one of the offenders made an interesting recommendation that some very basic information about restorative justice could be shared with prisoners as a part of their induction meeting with the prison Probation Officer. The appropriateness of this option needs to be discussed however this would further support suggestions made by several participants regarding popularising the process and raising awareness of victims and offenders of it.

Victims in turn also spoke about introduction and information however in terms of making restorative justice better known among the community and providing everyone with an opportunity to take part.

*V2: I think that everybody should be offered the chance to partake, obviously again depending on the crime, so they can say yes or no.*

*V4: Number one is to make it public, number one is to make it public. Do as much as possible that all the 12 parishes in X. know about this service*

This particular suggestion obviously comes with a challenge of not being able to offer the process to everyone due to several possible hurdles, such as lack of responsibility taking from the offender or willingness to engage with restorative justice (it needs to be voluntary), type of offence, not to mention unsolved crimes (Shapland et al, 2011). The above could be addressed by utilising alternative, 'unconventional' forms of restorative justice such as surrogate victims or reparations to the community (Graef, 2007).

Finally, victims spoke about the importance of receiving feedback regarding progress made by the offender. In another jurisdiction this is secured through the outcome

agreements where, during the restorative justice process both parties can settle in relation to how the offender will work on addressing their issues and how they can be supported in the process of reintegrating into the community.

*V2: [...] I don't know if I'd be given permission to ask her "What's the feedback on these boys now? Are they behaving?"*

Statements provided by victims suggested that this need to monitor the offender's progress comes from two sources – victims wanting to know if their participation in restorative justice 'worked', which means that they expected it will help the offender change their ways and motivate them to live a law-abiding life. Secondly, some victims would benefit from this knowledge during their recovery process as a form of reassurance that this particular offender does not pose any risks to them (Shapland et al, 2011).

Overall, the following were the main areas for improvement: type and amount of information provided during introduction of restorative justice, including timing, potential outcomes, types of restorative justice process, duties and rights of participants. The second recommendation considered the level of feedback following completion of the process but also some offenders spoke about the importance of having regular updates regarding the progress in their case. Finally, all parties voiced their view that restorative justice should be utilised more and that it should be promoted among our community.

### **Limitations of study**

In terms of the limitations of this project the first needs to be acknowledged in relation to the lack of proper representation of the community as the stakeholder within the process. Although, as mentioned previously, three of the victims were not directly

victims of the offence (theft from the church and malicious damage to a sports centre) they still participated in the process as victims and did not take on (or only partially) the role expected of the community representatives – taking part in identifying and then meeting the needs of the victim and offender (Zehr, 2015).

Secondly, the group of interviewees could be perceived as not sufficiently homogeneous according to the standards required by the IPA. The victims and offenders represented in this research talked about their involvement in various types of restorative justice practices (direct and indirect mediation) and this group was not equally represented. Taking into consideration significant differences between these two groups, additional focus on the specific type of restorative justice process should be considered. Furthermore, different categories of offending (financial crime, violence, theft, arson, malicious damage) were discussed which brings the same issue of variety (Smith et al., 2009).

Finally, the majority of evaluations of restorative justice schemes takes into consideration two factors identified as indicators of the effectiveness of the process: level of reoffending and cost-effectiveness of restorative justice. Neither of the above was a subject of analysis in this project because the main focus was on the personal meaning and benefits of the experience in terms of the needs of parties and contribution towards addressing harm caused by crime.

## **Conclusions**

This study illustrated the experience of participants of restorative justice processes in Jersey highlighting the benefits and achievements of the scheme but also making recommendations regarding potential improvements that could contribute more towards meeting the needs of participants. The results corroborate those observed in

other evaluations of restorative justice schemes in the UK and around the world (Shapland et al, 2011; Sherman and Strang, 2007; Bazemore, 2000; McLaughlin et al, 2004, Dignan, 2005).

The vast majority of participants, both victims and offenders, took the opportunity to participate in the process to address issues and express needs which traditional justice could not meet. Both parties emphasised the importance of being able to talk about the offence and its consequences but also to explain the lead up to the crime in order to gain better understanding of the contributing (risk) factors and achieve a form of closure that will enable them to leave the offence behind and make positive steps into the future. For the victims it was also vital to ask 'why' in the context of why they became victims and if there was any responsibility on their part for becoming a victim. Offenders wanted to explore the issue of responsibility and motivation to participate in the process, however they also expressed their concerns due to perceiving restorative justice as an additional punishment. Following this both parties expressed their views on the subject of restorative justice being strongly focused on victims and spoke about their expectations regarding the outcomes of the process – ideally offenders desisting from their criminal lifestyle and victims rebuilding their lives after offence.

Shapland et al. (2011: 68) said: "Restorative justice hence needs to incorporate elements of regulation, which will assist in promoting best practice, trying to combat dangers, and allow accountability to relevant parties. It needs to develop practices, legislation and standards which will allow it to function within imperfect societies, with potentially damaged people, alongside the criminal justice system in that society, and still promote as far as possible its major values of inclusivity, communication, taking responsibility, problem-solving and healing".



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