

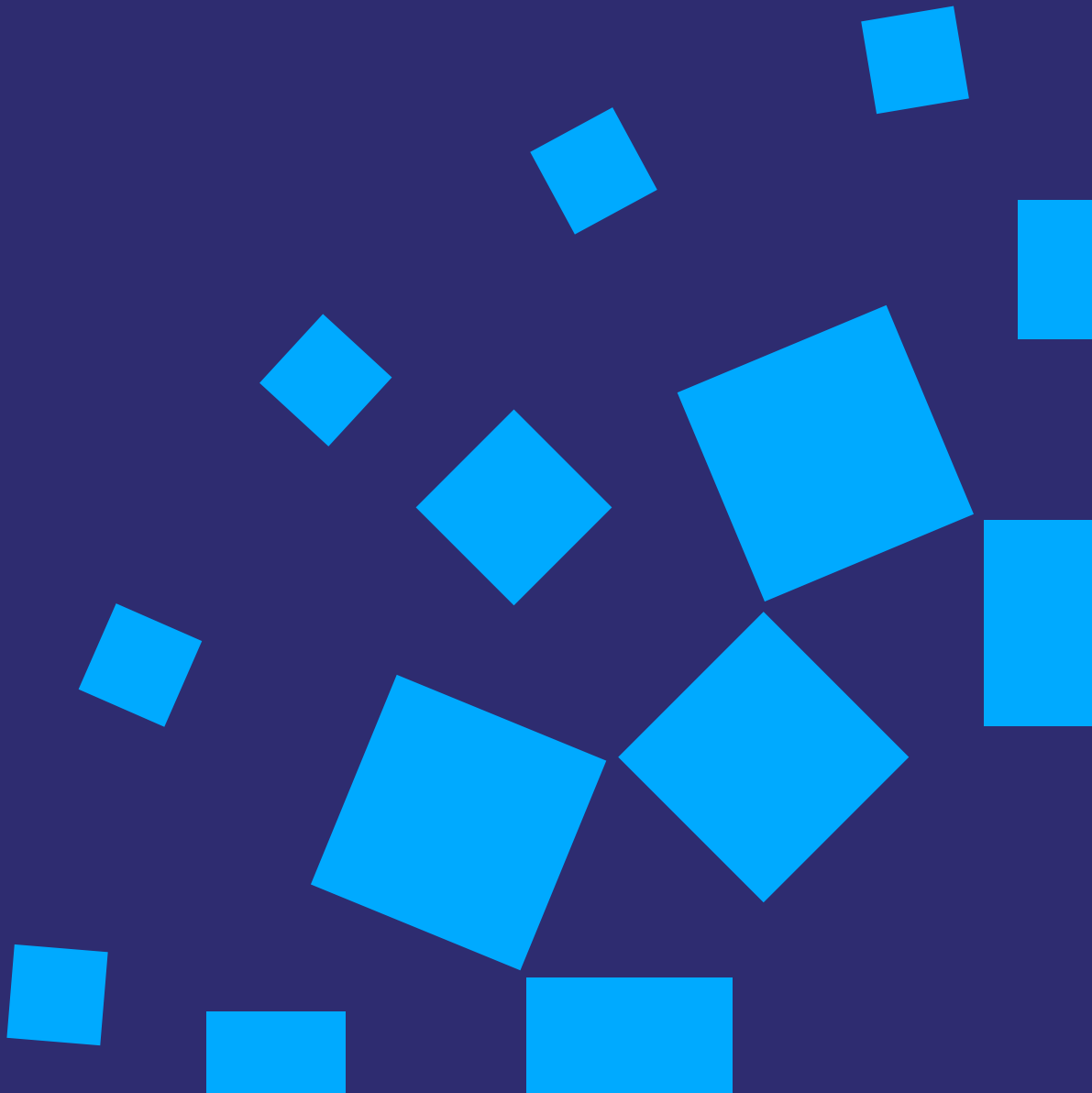


College of
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Working together
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Restorative justice Evidence briefing

January 2022



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Contents

What is the purpose of this briefing?	2
Key findings	2
What is restorative justice?	2
How does restorative justice work?	4
How can the police use restorative justice?	4
Forms of restorative justice	5
Restorative justice for youth offenders	6
Restorative justice for adults	7
Does it work?	8
How much does it cost?	10
How can restorative justice be implemented?	11
References	12
Appendix A: Theoretical mechanisms for restorative justice	16
Sykes and Matza: Techniques of neutralisation	16
Becker: Labelling theory	17
Braithwaite: Reintegrative shaming	17
Scheff and Retzinger: Shame and rage	17
Tyler: Procedural justice	18
Sherman: Defiance theory	18
Collins: Interaction ritual theory	19

What is the purpose of this briefing?

The purpose of this briefing is to inform readers about restorative justice (RJ) by explaining:

- what RJ is
- how it works
- how it can be used by the police
- the evidence of its effectiveness
- how much it costs
- how it can be implemented

Key findings

- RJ can be used at all stages of the criminal justice process.
- RJ has been shown to be effective in reducing reoffending and enhancing victim satisfaction with the criminal justice system.
- Victims who participated in RJ conferencing also reported a reduction in post-traumatic stress.
- In terms of reoffending, research on the effectiveness of indirect RJ – where victims and offenders do not meet, is less conclusive than for RJ conferencing, which involves both the victim and offender. However, victim satisfaction remains high for both forms of RJ.
- RJ has been shown to be cost-effective, with the reduction in the costs of reoffending outweighing the cost of the RJ intervention.

What is restorative justice?

Conventional criminal justice involves the state taking ownership of a conflict between an offender and victim and determining the appropriate

course of action. The approach limits the victim's opportunity to engage in the criminal justice process and can also deny the offender the right to make amends for the harm caused by the offence.¹

RJ aims to return a level of control over the outcome of proceedings to the victim.² RJ includes specifically defined interactions between the offender and victim, which can bring justice to victims and encourage offenders to take responsibility for their actions.³ The approach allows for the harm to be mitigated rather than just punishing the offender,⁴ and can help repair the dignity and loss that the victim has experienced.⁵ Furthermore, the RJ process can empower victims to gain some control over their situation, and can also help offenders to be reintegrated back into society and prevent them from reoffending.⁶

RJ is commonly defined as 'a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of an offence and its implications for the future'.⁷ RJ was first used in the UK in 1980. Currently, the UK has a victim-led approach to RJ, whereby victims can request a restorative intervention at any stage during the criminal justice process.⁸

The Ministry of Justice have developed a Code of Practice for Victims of Crime⁹ and a victim strategy,¹⁰ which includes victim's entitlements to support, including RJ. Funding for RJ is available to all police and crime commissioners and they should provide, develop or commission an RJ service in their area for all victims to access.

1 Christie (1977).

2 Sherman and Strang (2012).

3 Strang and others (2013).

4 Sherman and Strang (2012).

5 Young and Hoyle (2013).

6 Braddock (2011).

7 Marshall (1999).

8 Restorative Justice Council (2016a).

9 HM Government (2018).

10 Ministry of Justice (2015).

How does restorative justice work?

RJ can reduce reoffending by making the offender accountable for their offending behaviour and giving them the opportunity to understand the impact that this behaviour has on others. The behaviour of the offender is discussed, while maintaining a level of respect for the individual. If this process is felt to be fair by the offender, it can lead to the offender being more likely to comply with the law in future.

Further details on the theoretical mechanisms that underpin RJ can be found in [Appendix A](#).

How can the police use restorative justice?

According to the Restorative Justice Council, RJ can be used for any crime, at any time in the criminal justice process. This includes RJ as a diversion from prosecution, or at the pre- or post-sentence stages.¹¹

The National Police Chiefs' Council (formerly the Association of Chief Police Officers) outlines the following three levels of RJ used in policing and the criminal justice process.¹²

- **Level one:** informal RJ, which often occurs as it happens (usually on the street), whereby police officers or PCSOs resolve low-level crime and anti-social behaviour. This can take the form of a community resolution, which includes the facilitation of street negotiations to diffuse a situation immediately after a crime has occurred. The offender can apologise and no further action taken.

¹¹ Restorative Justice Council (2014).

¹² Association of Chief Police Officers (2011).

- **Level two:** RJ can be used instead of, or as an addition to, the formal criminal justice process. It can be organised by police officers or staff for either a situation where a level one resolution could not take place, or for more serious offences.
- **Level three:** will usually occur post-sentence but can also be used pre-sentence and can take place in prison. This may be for complex and sensitive cases where the offenders are prolific and must be monitored. All levels require facilitators that are experienced in RJ.

Forms of restorative justice

RJ can take a number of different forms. It can involve a face-to-face meeting between the victim and offender or other forms of communication, such as letters, video recordings or communication through a facilitator. The process must involve two-way communication between the victim and offender, either directly or indirectly. RJ can only take place if both the offender and victim are willing,¹³ and if the offender accepts responsibility for the harm caused.¹⁴ It must be noted that there is no requirement for the offender to show remorse or apologise in order for an RJ intervention to occur.¹⁵

Typical RJ interventions include one of the following approaches.¹⁶

- **Victim offender conferences:** involving a face-to-face meeting between victim and offender led by a trained facilitator. Supporters for both parties can attend, usually family members.
- **Community conferencing:** similar to a victim offender conference but including members of the community affected by the crime.

13 Restorative Justice Council (2016b).

14 Restorative Justice Council (2015a).

15 Rossner (2017).

16 Restorative Justice Council (2015a).

- **Indirect communication:** sometimes referred to as ‘shuttle restorative justice’, this involves messages being passed between victim and offender by a trained facilitator. The participants do not meet and messages are passed via letter, video or audio.

Evidence of the effectiveness of these approaches is detailed in [**Section 7. Does it work?**](#)

Restorative justice for youth offenders

The Youth Justice Board and Youth Offending Teams promote and practise RJ for youth offenders. Alongside the three forms of RJ listed above, RJ can be used for youth offenders at the following stages.¹⁷

- **Community resolution:** in some areas of the UK, police are trained to use community resolutions, which include facilitating street negotiations to diffuse a situation immediately after a crime has occurred. The offender can apologise and no further action is taken.¹⁸
- **Youth conditional caution:** a formal out-of-court disposal (OOC) that comes with a compulsory assessment and intervention in the form of a condition. These conditions can be reparative, rehabilitative or punitive. RJ interventions can form one of the conditions of the caution. If the offender fails to adhere to the condition, they can be prosecuted for the original offence.
- **Referral order:** young offenders who plead guilty are referred to a panel of community volunteers and a Youth Offending Team. Either the victim attends or someone attends on their behalf. A contract lasting between three months and a year is agreed (which can involve a commitment to RJ), to resolve the harm caused by the offender and address their behaviour.

¹⁷ Wilcox and Hoyle (2004); Restorative Justice Council (2015b); Sentencing Council (n.d.)

¹⁸ Strang and others (2013).

- **Youth rehabilitation order:** a community sentence including one or more requirements (there are 18 possible requirements in total) that they must abide by for up to three years. RJ is included as one of these possible requirements. Other examples of requirements include curfews, voluntary unpaid work, drug or mental health treatment and education requirements.
- **During or after a custodial sentence:** RJ can also be delivered with young offenders within a youth offending institution or after their release from custody.

RJ can also be used for early intervention, targeting young people that are vulnerable to committing crimes in the future. RJ can work in schools, in residential units and in the community, to enable young people to resolve conflict in a positive way to improve their own lives and save police resources.¹⁹

Restorative justice for adults

With regard to adult offenders, RJ is currently most likely to be used as part of a community resolution or conditional caution (see above for definitions).²⁰ The Crime and Sentencing Bill (2021) will reform the OOCDF framework to reduce the number of types of OOCDFs, but RJ will remain as a possible option.²¹

In addition, Part 2 of Schedule 16 to the Crime and Courts Act 2013 inserted a new section into the Powers of Criminal Courts (Sentencing) Act 2000, which allows courts to defer a sentence post-conviction to allow for an RJ activity to take place.²² As with youth offenders, RJ can also be used during or after a custodial sentence.²³

19 Littlechild and Sender (2010).

20 Littlechild and Sender (2010).

21 Home Office (2021).

22 Crown Prosecution Service (2019).

23 Restorative Justice Council (2016c).

Does it work?

The Campbell Systematic Review of RJ interventions concludes that victims who have been through face-to-face RJ conferencing were found to be significantly more satisfied than those who go through the traditional criminal justice process alone.²⁴ Furthermore:

- post-traumatic stress symptoms in victims were reduced, compared to those victims whose cases were only dealt with in court
- apologies were more important to victims than material restoration
- repeat offending was generally reduced in seriousness and frequency
- costs from the criminal justice system are reduced through diversion and reduced reoffending
- lower recidivism rates were found compared to imprisonment alone, for both youth and adult offenders²⁵

Twelve randomised trials of mainly police-led face-to-face RJ conferencing²⁶ found that RJ benefits most victims in terms of a reduction of stress, and benefits most offenders in terms of a reduction in recidivism over the following two years. This research programme found that RJ appears to be more effective for violent crime compared with property crimes – and perhaps for more serious than less serious crime generally – and for high-frequency offenders compared with offenders with medium rates of offending.

In 2008, Shapland and others²⁷ evaluated a number of experiments (many of which were included in the study mentioned above) in the UK. Offenders and victims were randomly assigned into an experimental group or control group. All offenders were taken through the criminal justice process that they would have received normally (usually disposal

24 Strang and others (2013).

25 Research Excellence Framework (2014).

26 Research Excellence Framework (2014).

27 Shapland and others (2008).

in court) but the experimental group also participated in RJ. In all, 80% of victims in the experimental RJ groups were satisfied with the process and the outcomes, and were more satisfied than victims in the control groups. Overall, offenders who participated in RJ committed statistically significantly fewer offences in the subsequent two years than those in the control group. In three of the study areas, a significant relationship was found between the offender's experience of the conference and the measure of reoffending.

In addition to this, Shapland and others reviewed the characteristics of offenders who were assigned to participate in RJ. The findings suggest that if the offender was willing to meet the victim, was aware of the harm caused, was actively involved in the process and thought it was useful, there was a significant and positive effect on reconviction rates.

Additional research has looked at the use of RJ as part of the cautioning process. Restorative cautions in Thames Valley were compared with traditional cautions in two other forces. Restorative cautions involved the delivery of a script to encourage the offender to take responsibility for their actions. Victims were permitted to attend the session, but if they were absent, their views were put to the offender by the police. Victims only attended in approximately 13% of cases. The study found that, after controlling for offender characteristics, resanctioning²⁸ rates for individuals receiving the restorative caution was significantly lower than for those receiving the traditional caution.²⁹ However, it was not possible to say how much of this difference was due to the restorative element of the caution. It must also be noted that there was no increase in resanctioning found during the study, and observation of restorative cautioning sessions showed a number of other positive outcomes for both offender and victim. These included helping the offender to understand the effects of the offence, inducing a sense of shame, apologies being offered and expressions of genuine remorse.

28 Offenders are treated as resanctioned if, for a subsequent offence falling within the follow-up period, they receive either a conviction or police disposal (caution, final warning or reprimand).

29 Wilcox, Young and Hoyle (2004).

Over half of the participants reported gaining a sense of resolution and felt better as a result of the session.³⁰

While the majority of identified studies explore the effectiveness of face-to-face conferencing, some of the studies conducted by Shapland and others (see above) also included indirect RJ, where the parties never met. These studies found that for the indirect schemes, there was no statistically significant difference in reoffending between the group receiving the indirect RJ and those within the control group. In terms of victim satisfaction with indirect RJ, although the process was viewed positively overall, victims tended to be less satisfied with the process than those who received RJ conferencing.³¹

How much does it cost?

Shapland and others³² found that, for the three randomised controlled trials conducted,³³ RJ was more cost-effective than the traditional court process due to a reduction in rates of reoffending. Reoffending costs would be significantly more than the cost of running the schemes, with £9 of savings being made for every £1 spent. This is also supported by Strang and others,³⁴ who found that, depending on the kind of offender and the point in the criminal justice system where RJ was administered, for every £1 spent, between £1.20 and £14 was saved.

Additionally, RJ can have a beneficial effect on the health and social welfare costs implicated in the criminal justice process, reducing demand for GPs, social workers, councillors, mental health services and welfare systems by assisting the recovery of the victim.³⁵

30 Hoyle, Young and Hill (2002).

31 Shapland and others (2007).

32 Shapland and others (2008).

33 This paper covers a number of separate projects, some involving a randomised approach and others using other methods.

34 Strang and others (2013).

35 Ibid.

How can restorative justice be implemented?

Implementation of RJ in policing is covered in the **Authorised Professional Practice (APP) for Prosecution and Case Management**, which provides tools and processes for policing and other partners and agencies. It includes disposals available to deal with offenders for an effective justice outcome and provides alternative outcomes to the formal justice system.

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Appendix A: Theoretical mechanisms for restorative justice

A review of recent literature suggests that RJ can reduce reoffending through a number of different mechanisms. These are detailed below.

Sykes and Matza: Techniques of neutralisation³⁶

- Sykes and Matza suggest that offenders often justify and mitigate their criminal behaviour by using ‘techniques of neutralisation’. These include:
 - the denial of responsibility (‘it wasn’t my fault’)
 - the denial of injury (‘no one was harmed’)
 - the denial of the victim (‘it was the victim’s fault - they had it coming’)
 - the condemnation of the condemners (‘you were just as bad in your day’)
 - the appeal to higher loyalties (‘my friends needed me, what was I supposed to do?’)
- These techniques allow the offender to avoid moral accountability for their act, and potentially avoid punishment by suggesting that there was no criminal intent to their actions. This protection from blame also enables the offender to avoid damaging their self-image.
- RJ is effective because it prevents techniques of neutralisation occurring, as the offender has to explain their actions and take responsibility for them.

³⁶ Sykes and Matza (1957).

Becker: Labelling theory³⁷

- Becker suggests that, if individuals are labelled as criminals as a result of their treatment within the criminal justice process, they are more likely to internalise this label and act on it.
- After being labelled, an individual is likely to continue offending, as this is now how they self-identify. By continuing to offend, they are behaving in a way that they feel is expected of them from society.
- Becker explains that deviant behaviour is not always about the crime, but how others react to it. If RJ treats the offender in a fair way then the effects of labelling can be avoided.

Braithwaite: Reintegrative shaming³⁸

- Reintegrative shaming involves the shaming of the criminal act, rather than the offender, and can prevent the offender from becoming labelled as a criminal.
- During RJ, if the offender is treated with empathy and respect, and as a good person who has committed a bad act, future offending may be prevented.
- Reintegrative shaming allows the offender to understand what they have done wrong, and to feel shame and genuine concern for the people they have hurt.
- This technique of shaming by using fairness and respect can be used throughout the RJ programme.

Scheff and Retzinger: Shame and rage³⁹

- Scheff and Retzinger suggest that people have different emotional responses to sanctions and shaming.
- These emotional responses occur as a result of social bonding, the treatment from the sanctioning agent and the consequential reaction from society.

37 Becker (2003).

38 Braithwaite (1989).

39 Scheff and Retzinger (1991).

- Interactions where shame is not acknowledged, such as during court appearances, can lead to further shame, and a cycle of anger and potentially violence.
- Allowing offenders to feel ashamed and to acknowledge the harm caused to the offender can lead to the repair of relationships with victims and a reduced likelihood of reoffending.

Tyler: Procedural justice⁴⁰

- Tyler's study of compliance and procedural justice involves the fairness of legal authorities and how their legal processes shape public behaviour.
- If experiences and community perceptions of the law and enforcers are fair and transparent, then compliance of the law is more likely.
- Compliance of the public towards the law and authorities make the methods of the police and courts more effective.
- If offenders feel that they are being treated fairly by the RJ process, they are more likely to respect the law in future.

Sherman: Defiance theory⁴¹

- Sherman's defiance theory combines reintegrative shaming, the sociology of master emotions, and compliance and procedural justice to explain how increased future offending against the sanctioning agent may result from how they reacted to the sanction.
- If an offender feels that they are treated unfairly or that a sanction is illegitimate, they are more likely to defy the law and continue to offend.
- As with procedural justice and shaming (above), those offenders who feel that the sanction (RJ) is fair and shame is acknowledged are less likely to reoffend.

40 Tyler (2003).

41 Sherman (1993).

Collins: Interaction ritual theory⁴²

- In successful rituals (in this case, RJ conferencing), individual participants are physically together with a shared purpose and mood. Each participant is also aware that they have a part to play in the process.
- This creates a synchronisation in conversation, bodily movement and emotion.
- This shared focus and understanding promotes a feeling of solidarity between participants, resulting in feelings of goodwill.
- If these feelings of shared emotion are experienced, it can result in long-term impacts to individual confidence and recommitment to the group's standards of morality.

In summary, the use of RJ, which prioritises respect and fairness over blame and stigmatisation, enables the offender to express higher empathy for victims and lower feelings of hostility. If the offender can demonstrate that they are sincere and genuine, the victim can heal and can then understand and assist in resolving the conflict.⁴³

⁴² Collins (2004), cited in Rossner (2018); Rossner (2011).

⁴³ Walgrave and Aertsen (1996).

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