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New ideas, enduring cultural barriers? An analysis of recommendations from the All-Party Parliamentary Group on Restorative Justice in England and Wales

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Abstract

Recent years have seen a variety of national and local efforts to implement restorative justice in England and Wales. Yet, despite its appearance in multiple statutes, several national action plans, its strong endorsement in the Victims' Code of Practice, and its inclusion in the funding remit of elected Police and Crime Commissioners, restorative justice still does not occupy a mainstream position in criminal justice in England and Wales. This article explores the report from the All-Party Parliamentary Group on Restorative Justice, formed in 2021 to advocate for the expansion of restorative justice. We analyse the report's recommendations thematically, focusing on service oversight, the removal of procedural barriers, and the need for dedicated resources – in light of

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international research and policies. While any jurisdiction implementing restorative justice could learn much from the All-Party Parliamentary Group on Restorative Justice's proposals, criminal justice cultures remain a barrier to mainstreaming restorative justice in England and Wales.

Keywords
Criminal justice culture, England and Wales, policy, reform, restorative justice, victims

Introduction

The attention paid to restorative justice in England and Wales has ebbed and flowed. The period since 2011 has seen numerous laws and national strategies, institutional policies, and the establishment and tendering of localised services. Yet, services have expanded and contracted over that time, with national surveys showing peaks and troughs in the proportion of victims offered restorative justice. Most recently, a long-awaited draft Victims' Bill did not refer to restorative justice at all. The level of funding and service provision suggests that little progress has been made towards the mainstreaming of restorative justice, despite a period of policymaking hyperactivity and the (relative) embedding of services in some areas.

No governmental action plan has been published since 2017, and the Crime Survey for England and Wales suggests a decline in the percentage of victims offered restorative justice in recent years (Office for National Statistics, 2021), despite this being required by the Victims' Code of Practice (Ministry of Justice, 2021b). At the same time, many police areas are home to a specialist restorative justice provider, either in-house or contracted from a small number of national providers. Some of these have thrived, building strong connections with partner agencies locally. Much of the infrastructure necessary to mainstream restorative justice is present, if not to the extent necessary to offer restorative justice to everyone who might want to participate – equating to upwards of 68,000 processes of victim–offender dialogue annually, according to the Criminal Justice Alliance (2017). Nevertheless, as service provision continues to be patchy and inconsistent, optimism remains that specialist services could be scaled up and administrative challenges, overcome (Hobson and Payne, 2022).

The All-Party Parliamentary Group on Restorative Justice (APPG-RJ) is a national initiative that strives to remedy these issues. Formed in 2021, the APPG-RJ is a cross-party group composed of members of the British Parliament and aided by an Advisory Board with key stakeholders, academics and other parties from the sector. Its goal is to raise awareness of the use of restorative justice across the country and develop recommendations to improve access, awareness and service capacity. The APPG-RJ began with an inquiry to investigate the use of restorative justice principles in the criminal justice system, to review the status of the sector, and to identify good practices and areas for improvement.

This article analyses the findings from this initial phase of the APPG-RJ's activities. It examines the nine recommendations in the APPG-RJ's first report and contextualises these with reference to the international legal instruments on restorative justice to which the United Kingdom remains a party, to the international research on restorative justice

implementation and to the research on the use of restorative justice in the United Kingdom. These recommendations are divided into three themes: (1) mechanisms of oversight for restorative justice services, (2) removing procedural barriers to the accessibility of restorative justice and (3) dedicating resources to support its implementation. While the automation of referrals and ringfencing of funding would progress the mainstreaming of restorative justice in England and Wales, deep-rooted criminal justice cultures will remain barriers to its widespread implementation.

The development of restorative justice in England and Wales

Globally, on the continent of Europe, and in England and Wales specifically, there are growing efforts and movements to integrate restorative justice into law, policy and practice. The United Nations (2020, 2021) expresses strong support for restorative justice, culminating in the *Handbook on Restorative Justice Programmes*, and in a reference to restorative justice in the Common Position on Incarceration. Governments as disparate as Canada (Roach, 2006), Iraq (Al-Hassani, 2021) and China (Zhang and Xia, 2021) now implicitly or explicitly incorporate restorative justice into law, policy or reconciliation plans. At a European level, the Council of Europe adopted Recommendation CM/Rec(2018)8 concerning restorative justice in criminal matters and, in 2021, the Venice Declaration, which advances the Recommendation's goals of accessibility, safe practice and cultural change (Council of Europe, 2018, 2021a).

Marder (2020b) depicts the 2018 Council of Europe Recommendation as the strongest international legal framework on restorative justice. It provides that all Member States should make restorative justice accessible at all stages of the criminal justice process, for all types of offences and throughout their jurisdiction. Few European countries can claim that restorative justice is this accessible in their territories, although several – for example, Norway, Finland, Northern Ireland and Belgium – have relatively well embedded services. In none of these, however, do services offer restorative justice in all cases (Dünkel et al., 2015). Estonia, Ireland and Italy are among the Council of Europe Member States where governments aim significantly to enhance the availability of restorative justice (Marder et al., 2019). Of most relevance to England and Wales, perhaps, are Scotland and Northern Ireland. In the former, the government committed to making these services available nationwide, to all adults, by 2023 (Butler et al., 2022). The latter hosts long-established services in the youth and community sectors, and a new Adult Restorative Justice Strategy aims radically to increase provision in the adult justice process (Department of Justice, 2022).

While criminal justice in the United Kingdom is no longer constrained by EU policy, the United Kingdom remains a Member State of the Council of Europe, and a party to both the 2018 Recommendation and the 2021 Venice Declaration. Yet, the development of national policies on restorative justice in England and Wales has largely stalled in recent years. The Ministry of Justice (2012, 2017) published a series of action plans, beginning in 2012 and the most recent iteration covering the period from November

2016 to March 2018. These plans had clear and ambitious goals, stating that success would mean that all 'victims have equal access to RJ at all stages of the CJS [criminal justice system], irrespective of their location, the age of the offender or offence' (Ministry of Justice, 2017: 2). This period saw several additional developments, including provisions on the use of restorative justice in between conviction and sentencing in the Crime and Courts Act 2013, and alongside community and suspended sentences in the Offender Rehabilitation Act 2014. As is common in England and Wales, however, contradictory policy frameworks (including timeliness targets in the criminal courts and the privatisation of probation services, respectively) acted to stymie these. Ultimately, few restorative processes took place in the succeeding years in the manner envisaged by these statutes (e.g. HM Inspectorate of Probation, 2017: 35, found 'no examples' of restorative justice as outlined in the 2014 Act; see also Kirby and Jacobsen, 2015, on pre-sentence pilots).

At this time, the number of specialist services grew as Police and Crime Commissioners (PCCs) became responsible for funding restorative justice as part of their remit to commission victim services. From 2013 to 2016, the government provided earmarked (but not ringfenced) funding for restorative justice, including this in the overall victim funding allocation thereafter (Watson, 2020). In some police areas, PCCs now provide and manage the service themselves; in others, restorative justice is commissioned externally on a competitive basis, with Remedi, Restorative Solutions and Calm Mediation being some of the larger providers. As a recent report presenting PCCs' data found (Watson, 2020), however, services' funding and caseloads vary dramatically: some PCCs provide little in the way of funding for restorative justice, and some reported zero referrals in 2018/2019. This has led to accusations that restorative justice remains a 'postcode lottery' (Acton, 2015; APPG-RJ, 2022a), which is problematic because the parties can accrue significant benefits from participating (e.g. Bolitho, 2015; Shapland et al., 2011; Strang et al., 2013).

The non-statutory Code of Practice for Victims of Crime in England and Wales provides a right for all victims and offenders of all ages to receive information about restorative justice (Ministry of Justice, 2021b). This is a stronger phrasing than the 'entitlement' that appeared in the previous version, revised following a House of Commons Select Committee inquiry into restorative justice (Commons Select Committee on Justice, 2015). Yet, the Crime Survey for England and Wales found that only 5.5% of victims were offered an opportunity to participate in 2019/2020, down from 8.7% in 2012/2013 (Office for National Statistics, 2021). This is despite also finding that in 2017/2018 – the last year for which figures are available – 24.7% of victims receiving this offer agreed to participate and, in 2019/2020, 26.1% of those who *did not* receive this offer reported that they would have accessed the service had it been offered. The latest national policy to consider restorative justice was the 2018 Victims Strategy, which proposed to 'require PCCs to make sure that restorative justice services are available in their areas, victims know how they might access them and the services they commission are safe' (HM Government, 2018: 31). In the absence of clear evidence that this commitment had been accomplished, the APPG-RJ was established in April 2021 and undertook an inquiry later that year, reporting its findings in December 2021.

Analysing the APPG-RJ report

Introduction to the APPG-RJ report

Elliot Colburn MP (Conservative) established the APPG-RJ with cross-party supporters from across the House of Commons and House of Lords. Its Advisory Board has members from service providers, universities and advocacy bodies, including the Restorative Justice Council (RJC), the national charity Why Me? And the Criminal Justice Alliance. The 'mission statement' of the APPG-RJ (2022a) is: 'to examine the use of restorative justice principles within the UK justice system and beyond; to raise the profile of restorative justice principles within Parliament; to provide opportunities for policy discussion and consultation' (p. 8). In practice, the APPG-RJ focused initially on service provision in England and Wales.

The final report of the first inquiry, conducted in 2021/2022 and published in 2022, was informed by 57 written submissions and ten oral evidence sessions with 28 stakeholders, including academics, service providers and persons with lived experience (APPG-RJ, 2022a: 20–21). The process by which these data were analysed and presented was driven, in part, by expediency, meaning that the analysis did not always distinguish between submissions from individuals and those submitted by organisations after running membership consultations. This caveat aside, the report is the largest collective commentary on the state of restorative justice in England and Wales in recent years, and the data set is unique in terms of its volume and the breadth of responses received. As such, our analysis of its recommendations offers a valuable insight into the state of restorative justice in England and Wales.

Intentionally aligning with the goals of the most recent Ministry of Justice (2017) Action Plan, the inquiry's themes focused on access to restorative justice, the capacity (including the quality) of restorative justice services, and awareness in the criminal justice sector and among the public. The report's nine recommendations were:

1. For PCCs to require that commissioned services register with the RJC
2. For the Ministry of Justice and its partners to produce a national, standardised information-sharing template
3. For the Ministry of Justice and its partners to develop guidance to support data collection, monitoring and evaluation
4. For the Ministry of Justice and Home Office to publish a new joint action plan
5. For the Home Office to consider ringfencing funding for restorative justice
6. To include a right to referral and access in the forthcoming Victims' Bill
7. For PCCs to end blanket bans on funding restorative justice for certain offence types
8. To develop a communications plan, with experts, to raise public awareness
9. To create a government minister with responsibility for restorative justice

In this section, we analyse the recommendations under three themes. Initially, the section explores the report's first and third recommendations (registration, monitoring and evaluation) under the theme of service oversight. Next, it investigates the second, sixth

and seventh ideas (information-sharing, a right of referral or access and an end to blanket bans) under the theme of removing procedural barriers to service provision. Finally, we analyse the four remaining proposals (new action plan, funding, communications and responsible minister) under the theme of dedicated resources.

Service oversight

There remains substantial debate within the literature regarding the best methods of guaranteeing the safety and quality of restorative services. Some countries have sought to professionalise or standardise service delivery by, for example, developing national policies regarding the recruitment and training of facilitators, regulating or limiting practices, or requiring services to demonstrate adherence to statutory or non-statutory (and more or less prescriptive) standards. Some have expressed concern that this serves to limit the flexibility of restorative services, reduces the potential for innovation and community-led (or 'bottom-up') approaches, and exposes restorative justice to co-option by existing institutionalised (adversarial, punitive and managerial) rationales (Blad, 2006; Braithwaite, 2002; Maglione, 2020; Marder, 2020a). Still, several countries have professionalised restorative justice, believing that this ensures safety, consistency, quality and legitimacy, and that reporting helps assess value for money and enables the necessary monitoring and evaluation (United Nations, 2020), given the risks associated with deviation from theory and best practice (Edginton, 2019).

In recent years, England and Wales has moved in the direction of professionalisation. The Ministry of Justice funded the RJC in 2012 to design, establish and administer service- and individual-level accreditation and a register of services and trainers. To become an approved provider, services must pay a fee, satisfy an RJC assessor that they adhere to specific criteria and submit to periodic reassessment. However, registration is on a voluntary basis: it is not a requirement that PCC-funded services or practitioners hold any licence to practice or proof of competency against a framework. The APPG-RJ (2022a) report proposes the mandatory registration of all commissioned restorative justice services and practitioners (whether paid or unpaid) 'to ensure integrity of practice' (p. 19). Quality assurance, it continues, requires guidance to ensure that services collect sufficient data to enable monitoring and evaluation.

These ideas either surpass or align with the Council of Europe Recommendation. This stops short of seeking mandatory accreditation, stating only that services 'should be governed by standards which are acknowledged by the competent authorities', as well as 'overseen by a competent authority'. It also provides standards for practice and seeks the development of national standards that enable the independent monitoring of services. Such standards could help minimise the risks of deficient practice, if they tally with research demonstrating how to facilitate victim–offender processes safely and effectively (see, e.g. Choi et al., 2012, 2013; Hansen and Umbreit, 2018; Shapland et al., 2011). Yet, these standards must not be so prescriptive that they constrain the flexibility essential to restorative justice; rather, standards can be values (Braithwaite, 2002). For example, there is a risk that restorative justice must be seen to exact a 'pound of flesh' through compensation or community service to be legitimate. In fact, restorative justice

should aim to repair harm, but need not include tangible outcomes to be successful. Standards and monitoring and evaluation frameworks must not assume that such outcomes are expected or required. Similarly, there is a risk that new monitoring criteria entrench the assumption that 'proper' restorative justice necessitates a face-to-face meeting between the parties, when we know that many parties benefit from indirect communication (Banwell-Moore, 2023), or from a restorative process without the other party (e.g. Batchelor, 2021; Gaarder, 2015; McStravick, 2018). The APPG-RJ (2022a: 7) worked to define restorative justice in value-oriented terms and argued for policies to move 'beyond a narrow definition of [restorative justice as] meetings between a victims and offenders'. England and Wales must standardise data collection and develop new standards only in ways that align with restorative principles and capture the full range of beneficial processes and outcomes.

Although mandating service and individual accreditation could ensure consistency and quality, it could also create a further barrier to mainstreaming. First, there is limited funding available for the body expected to oversee this. The report proposes that the RJC manage the registration process and receive 'sufficient funding to support this task' (APPG-RJ, 2022a: 19). This reflects the legitimacy that the RJC claims in the sector and its substantial work to develop frameworks already, within limited resources. Yet, government funding to the RJC fluctuates, with a drastic reduction in 2019 leading to the downsizing of its staff and activities. Continued instability would make monitoring at the level envisaged difficult to sustain.

Second, the report recommends that facilitators should be registered 'regardless of whether they are paid or unpaid' (APPG-RJ, 2022a: 19). This would have significant implications for the sector, which, like many peripheral criminal justice or victim services, largely relies on volunteers as practitioners. Volunteer-led facilitation is not unique here: volunteers facilitate most cases in Norway and Finland, albeit in national, public organisations in which volunteers are 'led by mediation advisers and directors of mediation offices who are often professionals in social work' (Honkatukia, 2015: 108). Given greater decentralisation and local variations in service management in England and Wales, the requirement that all volunteers register could reduce risks: Banwell-Moore (2019) found that some volunteer facilitators selectively accept cases based on the parties' location or on whether a participant is in prison.

It is important that facilitators offer the highest quality of service irrespective of their status, because delays and other issues can cause dissatisfaction and secondary victimisation (Hansen and Umbreit, 2018). Requiring accreditation of all practitioners, including volunteers, could limit this problem if only the most committed volunteers remained involved. Yet, the uneven and low levels of funding available for restorative justice contribute to the sector's reliance on volunteers. Unless funding increases drastically to permit the hiring of full-time facilitators, increasing barriers to volunteering could put the sector in jeopardy by reducing its capacity further. Even in Northern Ireland, where community-based providers established during the conflict were subject to a rigorous inspection and accreditation process before receiving public funding (O'Dwyer and Payne, 2016), it remains possible to establish a non-certified restorative justice service or training provider (Hobson and Payne, 2022).

Removing procedural barriers

The presence of embedded restorative justice services alone does not guarantee their accessibility. Research suggests that the best person to explain and offer restorative justice to prospective participants is the person who will facilitate if they agree (Laxminarayan, 2014). Yet, restorative justice provision in England and Wales typically relies on the police or another gatekeeper choosing to seek permission from a person to share their contact details with the restorative service, and thus to explain the service (Banwell-Moore, 2023). In other words, unless a police officer or another person is inclined to be proactive, services generally cannot contact victims. This problem is compounded by disagreement among professionals as to the suitability of restorative justice for certain 'serious and complex' cases, such as gender-based violence. Governments can remove these barriers using legislation to incentivise or automate referrals at a specific point in the process – an approach taken in some countries.

The latest Ministry of Justice (2017) Action Plan explicitly states that 'victims should not be denied RJ because of the offence committed against them' (p. 3). However, Why Me? Report that blanket bans remain in place in some areas for the use of restorative justice with hate crime (Beresford, 2022). Banwell-Moore (2019) studied two police forces, one of which had a blanket ban on offender-initiated referrals for sexual and domestic abuse offences, while neither offered restorative justice to these victims as a matter of standard procedure. The phrase 'blanket ban' does not appear in the transcript of oral evidence received by the APPG-RJ (2022b), but it stands to reason that written evidence included assertions of local blanket bans, as the report specifically recommended PCCs remove these and ensure instead that their services have sufficient training to practice serious and complex cases. Ideally, the report continues, a national policy will explain the factors that make cases suitable or unsuitable for referral, given that offence type is not the optimal indicator.

The presence of blanket bans contradicts guidelines from criminal justice institutions. The Association of Chief Police Officers (2011) explicitly supports using restorative justice with hate crimes and sounds caution about its use in domestic abuse cases, but does not preclude this where the victim requests it. The Crown Prosecution Service's (2019) legal guidance also stipulates no exclusions based on offence type. At a European level, the Council of Europe (2018) provides that suitability should be examined on a case-by-case basis, and that offence type alone should not be an impediment to accessing restorative justice. More recently, the Council of Europe Recommendation CM/Rec(2021)6 regarding the assessment, management and reintegration of persons accused or convicted of a sexual offence, likewise supports using restorative interventions where available and appropriate (Council of Europe, 2021b).

Still, research finds that criminal justice professionals and policymakers have diverging attitudes concerning the suitability of different case types and people. For example, Shapland et al. (2017) found that police officers' selection of whom to offer restorative justice reflected class-based prejudices. We may yet see the simplification of the police out-of-court disposals framework enable police to facilitate restorative justice themselves and make referrals at that stage more often (Grant, 2022). In the absence of greater incentives to refer, however, local policymakers and mangers (such as PCCs, police and

probation managers) and individual practitioners (such as police or probation officers) will retain the discretion to operate more or less formal exclusion criteria, based on assumptions, paternalistic attitudes and existing lines of marginalisation (Banwell-Moore, 2019; Criminal Justice Joint Inspection, 2012; Wigzell and Hough, 2015). Given the research demonstrating that restorative justice can help victims of serious offences recover (Angel et al., 2014; Bolitho, 2015; Keenan, 2018), there is a strong argument that victims should have the opportunity to decide whether to access the service.

The fundamental problem herein lies in the fact that restorative justice services tend to be unable to contact prospective participants to explain and offer restorative justice, unless the person is referred by a criminal justice professional. Services require access to victim and offender contact details to make them aware of the process, and to case-based information, including whether restorative justice was offered previously, to manage risk. Even if services can access contact details without a referral, such as when based within a police force, there can be a reluctance to make contact for fear of breaching data protection protocols (Banwell-Moore, 2023). There is no evidence to suggest that public awareness of restorative justice is high enough that we should realistically expect high levels of self-referral.

It is problematic, therefore, that there remains no standard or automated information-sharing process in England and Wales – an issue that evaluations have consistently flagged (Miers et al., 2001; Shapland et al., 2011). Those responding to the APPG-RJ inquiry identified information-sharing as a key barrier to provision, discussed a widespread misunderstanding of the rigidity of data protection laws, and perceived excessive apprehension and risk aversion in relation to falling foul of that system (APPG-RJ, 2022b).

The APPG-RJ (2022a) recommended that the Ministry of Justice work with partners to produce and adopt a national information-sharing template. This aligns with the Victims Strategy, which recommended multi-agency working to 'ensure that information is shared more efficiently regarding victims' services generally (HM Government, 2018: 13). Without national, government-led and institutionally agreed approaches to information-sharing, it will remain dependant on individuals to decide when to attempt to refer to, or share information with, restorative services. An automated system is essential to overcome this procedural issue and ensure that all victims are offered restorative justice (Banwell-Moore, 2023).

Other countries have introduced data-sharing processes that facilitate greater victim participation. Belgium, for example, has a legislative requirement for prosecutors to provide restorative justice services with both parties' details, if requested by the service. In Austria, where cases are diverted to mediation either by prosecutors or by the courts, NEUSTART (Austria's main restorative service) automatically receive contact details, enabling them to explain and offer the service directly (Bachinger and Pelikan, 2015). In Northern Ireland, the Justice (Northern Ireland) Act 2015, Schedule 3, permits prosecutors to disclose victims' information to probation in ways that enable probation to offer restorative justice as part of the wider information and advice they offer victims. In England and Wales, the Victims' Code (Ministry of Justice, 2021b) entitles certain groups of victims (i.e. vulnerable and persistently targeted victims, and victims of the most serious crimes) to have the police share their details automatically with victims' services

within two working days of reporting. Police officers must explain to these 'enhanced' victims that their details will be shared with victim services, permitting victims to request that this does not happen. Given that England and Wales frames restorative justice as a victims' service, the police may be breaching the Victims' Code if they do not provide restorative services with enhanced victims' details, unless the victims request otherwise. A reluctance to operate this 'opt-out' for restorative justice is indicative of how restorative justice is viewed as an 'add on', and even as a danger to victims, rather than as a core victims' service (Banwell-Moore, 2023).

Aside from removing barriers to information-sharing, a possible solution to this issue may be to incentivise, compel or automate it. There is precedent for this in common law and European countries. For example, the Justice (Northern Ireland) Act 2002 s.33A requires courts to refer almost all children found guilty at court to a youth conference, pre-sentence (Edginton, 2019). The Sentencing Amendment Act 2014 expanded New Zealand's similar legal framework for youth offences to adults, with s.24A providing that District Courts must make pre-sentence referrals to restorative justice services in all cases that the offender has pleaded guilty, the offence has a victim and restorative justice has not previously occurred in relation to the offending. In Belgium, victims automatically receive a letter at each stage of the court process explaining how they can access restorative justice (Edginton, 2019). Some projects in England and Wales, having received low levels of referrals, moved towards a 'case extraction' model, whereby the restorative service can access court or police systems and make contact with prospective participants (Bright, 2017; Shapland et al., 2011). Of course, this requires the restorative service to have institutional permission to access these systems.

What all these systems have in common is that criminal justice professionals need not be proactive nor think restorative justice is a worthwhile service for restorative services to be able to offer the service directly to prospective participants. The APPG-RJ (2022a: 19) report recommends exploration of 'automatic rights for victims [. . .] to be referred to and access restorative justice services'. This aligns with the Venice Declaration (Council of Europe, 2021a), which promotes 'reflecting on the idea that a right to access to appropriate restorative justice service [. . .] should be a goal of the national authorities'. The importance of this lies not merely in the accessibility of restorative justice, but also in the empowerment and satisfaction victims express after being offered restorative justice – even if they decline (Banwell-Moore, 2019). Van Camp and Wemmers (2016) also found that victims of violent crime prefer to receive this offer than to be 'protected' by a professional withholding information. Given the ambivalence professionals in England and Wales have shown towards making referrals and the precedent set by the 'opt-out' referral system for 'enhanced' victims, a statutory, automated referral process, coupled with a national information-sharing protocol, could play a significant role in increasing the accessibility of restorative justice.

Dedicated resources

The final four recommendations in the report expose the need for greater dedicated resources. At a policy level, the APPG-RJ proposes publishing an action plan and appointing a minister with specific responsibility for restorative justice. In relation to the

former, the period from 2012 to 2018 saw numerous highly ambitious action plans asserting that the Ministry of Justice (2012, 2017) would work towards equal access to, and widespread understanding of, good quality restorative justice. Recently, the Venice Declaration reiterated the importance of national action plans as a mechanism to support implementation and ensure inter-agency cooperation (Council of Europe, 2021a). The publication of a new action plan could serve to legitimise and reinvigorate the sector, giving service managers new impetus to collaborate across areas and with partners to develop plans to overcome the barriers to provision.

Removing the aforementioned barriers may require someone in a leadership position to coordinate and drive these efforts. At different times throughout the 2010s, various junior ministers in the Ministry of Justice were responsible for restorative justice. Some (e.g. Crispin Blunt, Jeremy Wright, Mike Penning, Helen Grant and Phillip Lee) spoke supportively of restorative justice and worked with the RJC on occasion. If an action plan were developed, or the Victims Bill revised to incorporate restorative justice, a dedicated government minister (or a Restorative Justice Commissioner in a similar role to the existing Victims' Commissioner) could instigate and chair the necessary partnership working with other departments, criminal justice agencies, the RJC and the wider restorative justice sector.

This person could also lead the task of raising public awareness of restorative justice, a perennial issue in the sector. While many countries with embedded services seek to increase victim self-referrals, the lack of public knowledge about restorative justice makes this difficult to achieve (Hagemann and Emerson, 2020). Moreover, criminal justice professionals may lack knowledge about restorative justice, with greater experience with the service associated with confidence in proposing it to victims (Banwell-Moore, 2019). There is limited research on how best to raise awareness of restorative justice. The APPG-RJ (2022a) proposed to ask communications experts with 'a good understanding of how to frame issues' to develop a strategy (p. 19). Their expertise could allow the strategy to incorporate knowledge from the field of 'framing'. This would involve studying which metaphors, practicalities and values would help build social support and understanding of restorative justice, given that myth-busting and statistics-heavy tactics tend to be ineffective at communicating criminal justice reform (Kendall-Taylor, 2013; Transform Justice, 2020; Why Me?, 2022).

The final, but perhaps most vital, area that would benefit from dedicated resources is the restorative justice services themselves. There is evidence that investment in restorative justice provides value for money to the State. One recent economic model found a cost-social benefit ratio of £14 per £1 invested (primarily because of the reduction in reoffending) and a corresponding financial return to the government of £4 per £1 invested (Jones, 2022). Before this, one oft-cited randomised control trial undertaken in England estimated a financial saving of £8 per £1 invested in restorative justice (Shapland et al., 2011). At the same time, there are costs to establishing and running restorative justice services, including human resources, case management and data collection infrastructure, accreditation and other fixed (such as office space) and variable (such as transport to meet prospective participants) costs. The nature and level of activities can depend significantly on human resources: for example, the more staff available, the more services will be able to recruit and train volunteers and actively train or build relationships with partner agencies who are sources of referrals.

The current level of funding is indicative of the status of restorative justice in England and Wales. For example, whereas the Ministry of Justice announced a £3.5 billion investment in new prison places in 2021 and victim services will receive £185 million annually by 2024/2025 (Ministry of Justice, 2021a), there was no suggestion of targeted investment at restorative justice. In 2019/2020, a Freedom of Information request suggested that these services received under £200,000 in 28 of the 33 areas reporting; in 13 areas, the funding was £100,000 or less (Why Me?, 2021). Financial constraints result in significant variations in how services can manage victim contact, the number of staff that they can train in partner agencies, and how proactively they can seek to increase referrals. In addition, funding is mostly allocated through short-term contracts for which services must regularly retender, creating fragility, uncertainty and instability in service provision, and low paid and mostly part-time roles for staff (Banwell-Moore, 2023). Until the government introduces a sustainable funding model, it is difficult to see how England and Wales can markedly increase access to restorative justice. As the APPG-RJ report notes, funding must be ringfenced, so that, it cannot be diverted into other services, and contracts must be sufficiently valuable and long to enable providers to 'develop and nurture partnership arrangements' (APPG-RJ, 2022a: 19).

Discussion and conclusion – Procedural or cultural changes needed?

The APPG-RJ report highlights a number of barriers to the development of restorative justice in England and Wales. Its proposals seek to ensure quality through external oversight, to remove procedural barriers to referrals and information-sharing, and to increase resources at the policy and practice levels. Particularly in relation to provisions on an automatic right to restorative justice and ringfenced funding, the report provides an ambitious framework that, if implemented, could result in greater accessibility of restorative justice. At the same time, if the automation of referrals and information-sharing in particular is not realised, the discretion that criminal justice professionals will retain to refer or not will mean that the cultures within the jurisdiction's criminal justice institutions will continue to overpower rhetorical support for restorative justice, given the sector's relative weakness.

Hamilton (2019), noting that varied cultures exist at the system- and institutional-levels, defines a criminal justice culture as a relatively stable pattern of behaviour and attitudes. The question is not whether a jurisdictions' culture is homogeneous across its agencies, but rather if the crosscutting traits that do exist are conducive or unfavourable to restorative justice. In England and Wales, research has thoroughly exposed the culture of the justice ecosystem as simultaneously risk-averse and -oriented (Morgan, 2009), adversarial, punitive and offender-focused (Lacey and Pickard, 2019), and bureaucratic and managerial (Wathne, 2020) – albeit, with inconsistencies as leadership and social and economic settings shape institutions locally (Reiner, 2010). These cultural features manifest in the research on restorative justice in England and Wales. For example, most restorative policing research has found that processes remain offender-oriented (Clamp and Paterson, 2017; Hoyle et al., 2002). Whereas, Marder (2020a) found evidence of a

victim-orientation in two police forces implementing restorative justice, this came at the expense of concern for offenders, indicating that adversarial, punitive rationales were retained. Kirby and Jacobsen (2015) found that prisons' risk aversion led to conferences being blocked or victims with an offending history not permitted to enter, even when judges adjourned court to enable pre-sentence restorative justice to take place. That the priority remains to identify and punish lawbreaking and justice professionals believe they must make decisions for citizens on their behalf, directly contradicts the empowering, agentic and inclusive qualities and values of restorative justice (Clamp and Paterson, 2017; Marder, 2020a; O'Mahony and Doak, 2017). Questions remain as to how to normalise a concept and a process so opposed to existing systemic and institutional cultures (Daly, 2003).

To address this conflict, criminal justice agencies may be more receptive to restorative justice if they were to understand and integrate its principles into their day-to-day work. The Council of Europe (2018) Recommendation frames this as a source of cultural change, noting that professionals who do not facilitate restorative justice could adopt its principles in their own activities, while desistance and victim-oriented interventions, responses to internal conflict and ways of building relationships with colleagues and citizens, could be reimagined to align with restorative principles. Other sectors have adopted the broader concept of 'restorative practices' when seeking to change cultures and support restorative responses to harm and conflict. For example, in schools that have developed a 'whole-school approach', teachers are expected to use restorative language in one-on-one interactions and use circles proactively to build relationships, as well as to refer cases and facilitate conferences in reaction to incidents (Acosta et al., 2019). As restorative practices gain traction in, among other institutions, prisons (Calkin, 2021; Calkin and Willmott, 2022), an action plan could elevate this approach to be seen as of equal importance as making referrals for restorative conferencing. Otherwise, legally compelling referrals is necessary to ensure that restorative justice moves beyond time-limited, relative success in locales with a confluence of supportive leaders.

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