

**Criminal
Justice
Alliance**

**Restorative
Justice:
Time for action**

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About The Criminal Justice Alliance

The Criminal Justice Alliance is a coalition of 58 organisations – including campaigning charities, voluntary sector service providers, research institutions, staff associations and trade unions – involved in policy and practice across the criminal justice system.

The Criminal Justice Alliance's members

Action for Prisoners' Families	Partners of Prisoners and Families Support Group
Adullam Homes Housing Association	Penal Reform International
Apex Charitable Trust	The Police Foundation
Association of Black Probation Officers	Prison Officers' Association
Association of Members of Independent Monitoring Boards	Prison Reform Trust
Birth Companions	Prisoners Abroad
Carers Federation	Prisoners' Advice Service
Catch22	Prisoners Education Trust
Centre for Crime and Justice Studies	Prisoners Families and Friends Service
Centre for Mental Health	Public and Commercial Services Union
Chance UK	Quaker Crime, Community and Justice Group
The Children's Society	RAPt
Churches' Criminal Justice Forum	Release
Circles UK	Restorative Justice Council
Clean Break	Rethink
Clinks	Revolving Doors Agency
Concord Prison Trust	RSA Prison Learning Network
DrugScope	Safe Ground
The Fawcett Society	SOVA
The Griffins Society	St Giles Trust
Gwalia Care and Support	Transform Drug Policy Foundation
Hafal	UNLOCK
INQUEST	User Voice
Institute for Criminal Policy Research	Women in Prison
JUSTICE	Women's Breakout
Leap	Working Chance
Nacro	The Young Foundation
National Appropriate Adult Network	YoungMinds
New Bridge Foundation	
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Although the CJA works closely with its members, this briefing should not be seen to represent the views or policy positions of each individual member organisation.

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Restorative Justice: Time for action

Our criminal justice system isn't working. The overuse of custody in the past two decades has resulted in an overburdened and ineffective prison system. In spite of record spending, reoffending rates remain high and public confidence in the criminal justice system low. At a time of austerity, resources need to be focused on responses to offending that are efficient and effective, and which also meet the needs of victims and communities.

Restorative justice is a process in which everyone involved in a crime comes together to talk about the impact of that crime, and what needs to happen to repair the harm caused. It can take place at any stage of the criminal justice system and outside it, and has clear benefits: high victim satisfaction rates, reductions in reoffending and cost savings for the criminal justice system. However, in spite of this, it is currently rarely used.

The Criminal Justice Alliance (CJA), a coalition of 58 leading organisations with expertise and experience across the criminal justice system, welcomes the commitment set out in the Government's recent response to the 'Breaking the Cycle' consultation to use restorative justice interventions at each stage of the justice system. However, to ensure that high quality restorative justice is available on a much wider scale, this commitment needs to be backed up by legislation, so that restorative justice is offered to all victims of crime pre-sentence, whenever an offender pleads guilty and agrees to participate in the process, and where it is appropriate and safe to do so.

What's the problem?

Due to the overuse of prison in England and Wales, the prison population has grown from under 45,000 in 1993 to approximately 85,000 today. With over 60% of prisons officially overcrowded,¹ the prison system does not have the space or resources to engage meaningfully with prisoners. As a result, reoffending rates are high: 48.5% of ex-prisoners, and 59.4% of those who have served a sentence of twelve months or less are convicted of a further offence within a year of release.²

The rising prison population has, inevitably, been accompanied by a huge increase in spending on prisons – over the five years to 2008-9, prison expenditure increased by nearly 40% in real terms.³ In spite of this, public confidence in the criminal justice system remains low, and the needs of victims are often left unmet; a recent report from Victim Support has shown that victims have less confidence in the system than those who have not recently experienced crime.⁴

Budget cuts also mean that a rising prison population is unsustainable, and that both probation and the police are facing significant reductions in capacity. This creates pressure to keep people out of the criminal justice system, where it is safe and appropriate to do so, and to find new and cost-effective ways of managing people within the criminal justice system to reduce reoffending.

What is restorative justice?

The Restorative Justice Council, a member of the CJA, provides the following definition: “Restorative processes **bring those harmed by crime or conflict, and those responsible for the harm, into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward.**”⁵

Restorative justice can take place at any stage of the criminal justice system and outside it.

Restorative processes are, for example, being used by the police as an alternative to cautions, and many forces also refer low-level crime and disputes to community mediation services, or the new Community Justice Panels, where these exist. Restorative justice can be used – for instance, with the conditional caution – as an alternative to prosecution, and can also be offered pre-sentence, once an offender has pleaded guilty and been convicted, to inform sentencing. Restorative justice can, additionally, form the whole or part of a sentence imposed by the courts, and it can be offered independently of the sentence, for example when a victim wants to meet an offender years into their sentence for a serious crime.

As the Restorative Justice Council has highlighted, a key principle of restorative justice is voluntarism. Victims must always be clear that the choice to participate in restorative justice is theirs, and they should never be expected to or pressured to contribute. If and when victims are ready to participate, they should be fully supported throughout the process and for as long as necessary afterwards. For offenders, participation in restorative justice must also depend on informed choice, and acceptance of responsibility.⁶

There is clearly scope for a substantial increase in the use of restorative justice in the youth justice system, building on the model developed in Northern Ireland and the recommendations of, among others, the Out of Trouble campaign, run by the Prison Reform Trust⁷ (a member of the CJA) and the Independent Commission on Youth Crime and Antisocial Behaviour.⁸ However, the CJA believes that it can also play a very significant role in the adult criminal justice system.

Why restorative justice?

There are significant benefits to restorative justice across a range of areas.

1 It has high victim satisfaction rates: Research published by the Ministry of Justice found that 85% of victims said they were very or quite satisfied with the conferencing they experienced, and almost 80% would

recommend it to others.⁹ In addition, as Victim Support has highlighted, restorative justice can help victims to feel a sense of closure, and can be effective in alleviating post-traumatic stress symptoms for victims of serious crime.¹⁰

2 It reduces reoffending: As documented in the evidence report published alongside the criminal justice green paper ‘Breaking the Cycle’, analysis of Ministry of Justice research data found that restorative justice reduced the frequency of reoffending by around 14%.¹¹ Moreover, a 2007 review of research on restorative justice in the UK and abroad has shown that it can be effective in reducing reoffending for a range of offences, and found substantial reductions in repeat offending for both violent and property crime.¹² There is also evidence from the youth justice system that supports the wider introduction of restorative justice for adults.¹³

3 It can deliver cost savings: Analysis conducted by the Restorative Justice Council and Victim Support has found that offering pre-sentence restorative justice to all victims of burglary, robbery and violence against the person in cases where the offender pleads guilty would deliver cashable cost savings of £185 million to criminal justice agencies over two years as a result of a reduction in reconviction rates.¹⁴ Ministry of Justice research has shown that restorative justice saves £9 for every £1 spent through reductions in reoffending, using a cost-benefit calculation based on the Home Office model for the full cost of crime.¹⁵

Despite these wide-ranging benefits, at present restorative justice is rarely used for adult offenders in England and Wales. We welcome the Government’s recent commitment to rectify this, and its proposal to use restorative justice at each stage of the criminal justice system. However, we would urge the Government to go further, and introduce legislation, through an amendment to the current *Legal Aid, Sentencing and Punishment of Offenders Bill*, to ensure that restorative justice is used on a much wider scale.

Case study | Kathleen's story

Kathleen's husband of 28 years was killed in a road accident, when a driver doing a U-turn on a dual carriageway collided with his bike. The driver was arrested and convicted of dangerous driving. Kathleen asked for a restorative justice meeting with him, and a year and nine months after the accident they met in Stanford Hill Prison in Kent.

Kathleen says: "My first words to him were, 'If you think I'm here to forgive you, you'll rot in hell first. I can't forgive you for what you've done to my children.' Probably not a very good opening! Then I said, 'Tell me what happened. Not what the courts have said, you tell me what happened.' He said he'd been drinking because his wife had died and he couldn't cope with her death, living in the house they shared, surrounded by her memories."

"I said, 'That's very selfish. If you can't deal with living in her house, then you should move, not sit there drinking. By doing that you caused devastation in my life.' I asked him what he would do when he got out. He was uncomfortable. He said he would never drive again. I said, 'What does that solve? It's always going to be your family running around for you. What you need to do is not drink again. Please don't let my husband's life be worth nothing. Don't sit and dwell, move on. Please don't sit and drink your life away.'"

"He was actually quite tearful by this point. Everyone was except for me. When we left, I was able to give him a hug and say, 'I don't hold you any ill feeling. I just don't want you to waste the rest of your life.' I was studying at the time, and I went into college that day and I felt really elated. I actually slept that night too. It was the first time I'd slept since my husband had died. It was very empowering. I was able to find closure."¹⁶

How can restorative justice be implemented?

The CJA believes that there are three main areas where focusing the use of restorative justice could have a significant impact.

1 As an alternative to prosecution: Restorative techniques can be used on the street as a quick but effective response to incidents of low-level crime and antisocial behaviour, and also to tackle persistent antisocial behaviour where there is a demonstrable community impact, including as part of effective neighbourhood policing. An analysis of the business case for restorative justice by Garry Shewan, ACPO Lead on Restorative and Community Justice, has found that restorative justice can reduce bureaucracy, achieve efficiency savings and help deliver on performance targets.¹⁷ A recent report by Her Majesty's Inspectorate of Constabulary and the Crown Prosecution Service Inspectorate on out-of-court disposals – which looks at penalty notices for disorder, simple cautions, conditional cautions and restorative justice - has also shown that restorative justice disposals have the lowest rate of reoffending.¹⁸

2 Pre-sentence: Pre-sentence restorative justice, which can involve a direct meeting between the victim and offender and their supporters, and is facilitated by a trained practitioner,¹⁹ can help offenders to understand the impact of their crime. It can also enable victims to move on from the offence: Ministry of Justice research found that more than 70% of victims felt that they had been provided with a sense of closure.²⁰ The meeting can then be taken into account at the point of sentencing, so that an offender's remorse can be recognised. This can result in less severe sentencing, helping to relieve some of the pressure on the prison and probation services, whilst maintaining the confidence of victims.

3 As part or all of a sentence: Thames Valley probation offers restorative justice as a specified activity requirement as part of a community

order, for those on the ‘cusp’ of custody who are being sentenced for violent offences, domestic burglary or other offences where direct harm is caused, including causing death by dangerous driving. Following preparatory work, a meeting brings together the victim, offender and their supporters to talk about what happened, who was affected by the incident and how, and what can be done to repair the harm. This leads to the preparation of an outcome agreement, signed by all parties: the agreement may, for instance, specify financial or activity-based reparation to the victim.²¹ Ministry of Justice research has found that victims participating in restorative justice were significantly more likely to think the right sentence had been given than those who saw offenders sentenced ‘conventionally’.²²

Conclusion

There are clear benefits to the increased use of high quality²³ restorative justice across the criminal justice system, and we are pleased that the Government has recognised this in its response to the ‘Breaking the Cycle’ consultation. However, we would urge the Government to go further, to ensure that restorative justice is used on a much wider scale. The Criminal Justice Alliance believes that legislation should be introduced, through an amendment to the *Legal Aid, Sentencing and Punishment of Offenders Bill*, that places a duty on criminal justice agencies to offer restorative justice to all victims of crime pre-sentence, whenever an offender pleads guilty and agrees to participate in the process, and where it is appropriate and safe to do so.

Case study | Michelle’s story

Michelle had been diagnosed with breast cancer and had just started a second course of chemotherapy when her house was broken into. She says: “I got up that morning, and came downstairs, and I knew straightaway that something looked wrong, that someone had broken in. It’s horrendous to wake up and know that someone’s been in your house while you’re asleep. And I didn’t hear anything, because of the chemo I was shattered. We realised the car had gone, and I just felt devastated. We called the police, and then a while later we heard they’d caught three lads for it.”

“After the break-in I always had this knot in my stomach all the time, and all these questions that I really wanted answering. Why me? Why my house? I couldn’t go to bed because I’d got this idea in my head that they were going to come back at night, so I needed to be up. I just stayed up every night doing my washing and my ironing. Then Kate, the restorative justice officer, and Steve, the police officer called and came to see me. Kate explained what restorative justice was and asked if I wanted to meet one of the lads they’d caught, Scott, and straight away I just thought ‘yes’ because I had so many questions going round in my mind.”

“I had all my questions written down and had them with me; I thought that would be handy, so I wouldn’t forget anything. I asked them all, and he answered them. He told me he’d been doing drugs because they gave him a buzz, and that two other lads had asked him to go burgling with him and he’d joined in. I said ‘I live like a prisoner now, I don’t dare to open the windows, I don’t sleep at night. The one place you’re meant to feel safe is your own home, and I don’t.’ He said ‘I’m really sorry. I don’t know why I did it. I feel sick hearing that.’”

“At the end of the meeting I told him what I wanted was for him to keep on the straight and narrow, to stop offending. That’s what I wanted, and that was enough. That’s what went into the agreement at the end of the meeting. When I came out of that meeting the knot had gone from my stomach, and I just felt so much better. At the end of the meeting I said to Kate that I wanted updates on Scott – whether he was doing well or whether he wasn’t, I wanted to know. She rang me last week and put him on the phone to me. He told me he’s doing voluntary work now, clearing up graveyards. He said to me ‘I can’t do burglaries now, because I keep hearing your words in my head, and it stops me doing it.’”²⁴

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Restorative justice has clear benefits: it has high victim satisfaction rates, it reduces reoffending and it can deliver cost savings for the criminal justice system. However, in spite of this, it is currently rarely used in the adult criminal justice system in England and Wales.

This briefing sets out what restorative justice is, the benefits of restorative justice, and how it can be implemented across the criminal justice system. As a first step to ensuring that high quality restorative justice is available on a much wider scale, it calls for legislation to be introduced that places a duty on criminal justice agencies to offer restorative justice to all victims of crime pre-sentence, whenever an offender pleads guilty and agrees to participate in the process, and where it is appropriate and safe to do so.

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