

Victim Offender Mediation: identifying best practice

This paper describes a system to monitor and evaluate the Restorative Justice services in Scotland where there is a commitment from the Scottish Government to the provision of Restorative Justice in the youth justice system. These services are now available in the majority of Scottish local government authorities. The monitoring and evaluation system provides both local and national information and supports the development of 'best practice'¹.

In 'Restorative Justice; the evidence' 2007, The Smith Institute argues for a national Restorative Justice Board in England to provide the focus and leadership to deliver Restorative Justice on a widespread basis. It is argued that in this would provide 'an institutional focus for the development of Restorative Justice as distinct to a programme on the margins'.

In Scotland, Government commitment to Restorative Justice has resulted in the establishment of a National Coordinator and Trainer, and a researcher. These posts are located with SACRO, a national voluntary organisation and provide a focus and leadership to the delivery of Restorative Justice as recommended by The Smith Institute. As a result, Best Practice Guidance for Restorative Practitioners, their Case Supervisors and Line Managers has been produced. This guidance establishes nationally recognised standards and definitions of best practice. A national programme of training has been taken forward to support the Best Practice Guidance and to enable practitioners to develop the skills required. A national web based monitoring and evaluation system to support the consistent delivery of services, and to inform and develop standards and practice has also been established.

Developing practice – continuous improvement

Electronic web based information systems offer new opportunities to deliver quality services. Quantitative and qualitative data is available immediately, for analysis & for feedback. This provides the opportunity for local services, national coordinators and researchers:

- To be informed about current local practice
- To use information to deliver practice to established standards
- To improve practice by learning from information collected
- To pilot and evaluate new approaches
- To develop standards and 'best practice' from new approaches.

The electronic monitoring and evaluation system has two main components:

1. The **Client Form**
2. Participant questionnaires delivered using **Viewpoint CASI** (computer assisted self-interviewing)

The Client Form.

Data recording and collection in Restorative Justice cases is complicated by frequent multiple interconnections: an offender may have harmed more than one victim in different ways: for example an offender may have assaulted one person and robbed another and subsequently taken part in different Restorative Justice processes. Restorative Justice data collection tools are rarely able to capture the possible variety of interactions between participants, such as what offences were committed by whom and against whom, and what responses were made, who made them and to whom were they offered.

Electronic data recording allows these difficulties to be overcome and the *Client Form* uses a unique tree structure which records data as a case and allows details about multiple Victims and Offenders, the processes each has been involved in and the outcomes to be recorded.

¹ It is recognised that currently there is no unbiased selection of cases nor a comparison with approaches other than restorative approaches when assessing outcomes. The research material quoted in this paper is based on a report from The Smith Institute 2007 which used a model drawn from NICE (National Institute for Clinical and Health Excellence) (2006) to examine large bodies of research evidence for guidance to medical practitioners. This model requires greater specificity in definitions of populations and interventions, comparisons with other approaches and unbiased selection. There is the potential to meet these criteria with the system in Scotland when required.

Data is recorded about:

- Offenders: age, gender, ethnicity, referral details and their participation.
- Each restorative process an offender took part in associated with details of each incident
- Victims: age, gender, ethnicity, referral details and information about the incident that harmed the victim, from the victim's perspective

The *Client Form* also attempts to avoid 'the bias of measurement', that is recording information about cases when there is variability in the Restorative Justice process being delivered. Such variability may affect outcomes and makes it difficult for researchers to identify any effect of good practice. In the *Client Form* electronic checks and reminders linked to practice standards are built in and displayed as 'pop-ups' when particular items are selected. For example whenever a Restorative Justice Process is selected the definition of this process is displayed to remind practitioners about the practice standards and definitions

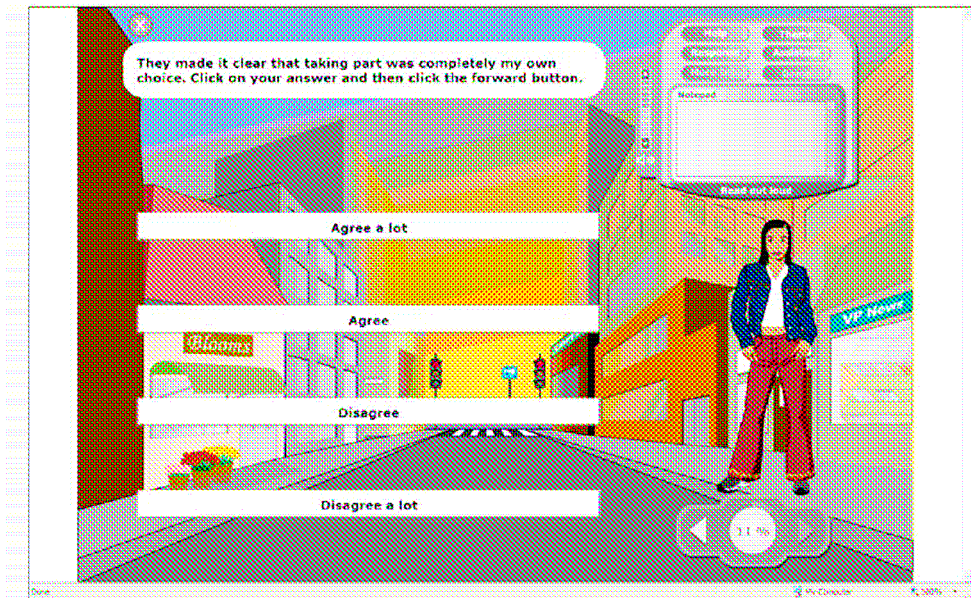
Consistency is further built into the Client Form:

- error messages are displayed, and restrictions on further data entry applied if there are inconsistencies or incompleteness in data entry
- automatic 'go to' features display the next field to be answered dependent on responses that are selected.

CASI (computer assisted self-interviewing) Questionnaires for Offenders, Victims and Support Persons

The Viewpoint Organisation has particular expertise in using CASI to consult children and young people, but also has versions of CASI for use by adults and professionals.

Viewpoint Interactive is a version of audio CASI for consulting young people. It makes use of multimedia with graphics, speech, interactivity and animated assistants. Game breaks occur to maintain interest. Questionnaires with a range of response options are used to collect information and delivered on a computer. Routing or filtering for follow-up questions is automatic. In the full, interactive version, all text that appears on the screen is read out loud by animated characters, helping young people with literacy difficulties. Respondents can choose from a selection of animated characters and colourful screen backgrounds.



Self-complete methods are generally viewed as advantageous, in terms of being cheaper and quicker to administer and also in terms of avoiding interviewer variability and bias, particularly in the under-reporting issues that could be sensitive. Self-complete approaches using new technology in particular have been associated with a number of advantages and have been identified as of particular benefit to special groups, such as children and young people.

ACASI approaches have also been associated with aiding literacy difficulties, with an enhanced sense of privacy and with increased disclosure of sensitive information. The use of automatic skip and branch patterns is thought to decrease respondent error or fatigue and allows the use of more complicated questionnaires.

International research has demonstrated that the audio-CASI methodology can have a substantial effect on the willingness of people to report stigmatizing or embarrassing information. It is now used in many applications world-wide: e.g. surveys on drugs, sexual behaviour, lifestyle choices.²

Adult victims also have CASI available to them to complete questionnaires. This is a less graphical online questionnaire system which retains the automatic skip and branch functionality

Questionnaires for offenders address:

- decisions to participate in the process,
- an evaluation of their participation,
- what was achieved,
- about giving an apology,
- and about deciding and agreeing an action plan

Questionnaires for victims seek information about:

- information provided beforehand,
- decisions to participate,
- what was achieved by communicating with the offender,
- any apology that was given,
- the action plan and fairness to victim,
- their evaluation of taking part,
- if they felt more or less safe
- their view of any changes in the offender.

Developing practice – continuous improvement

Data collected from *Client Forms* and questionnaires is stored securely in an online database and immediately available for analysis. In this monitoring and evaluation project individual services can access their own data and identify individuals. National researchers only have access to aggregated data, and cannot identify individuals.

Electronic web based systems offer new opportunities to deliver quality services. Up to date information is available about the performance of local services. Data is available about current cases from the Client Form together with feedback from victims and offenders

- This information can be used to deliver to standards. Data can be reviewed for comparison with 'best practice' standards and/or agreed strategies and to correct practice if required
- Evaluation of data may suggest ways to improve current practice
- Pilot projects to test new approaches may be set up, and a data collection system is in place to collect data for evaluation
- 'Best practice' standards and guidance may be revised from successful pilot projects and implementation of these monitored

² Using Computer Assisted Self Interviewing (CASI) to Facilitate Consultation and Participation with Vulnerable Young People. Alun Morgan Faculty of Health and Social Care, The Open University and Murray Davies in Child Abuse Review vol 14 2005

Current research findings inform 'best practice standards and guidance' and provide the basis to establish a process of continuous improvement³. Where a national organisation exists, such as the National Coordinator role in Scotland, this can lead the revision of standards and guidance in relation to new research findings. A national body can also support the delivery of quality services by reviewing and reporting on current practice and comparing this with research evidence.

Are the referrals being taken forward best suited to restorative approaches?

- *The success of Restorative Justice in reducing or not increasing repeat offending is most consistent in research on violent crime. With both random controlled experiments and quasi experiments there is no evidence of repeat offending after violent crime, and in some research substantial reductions following Restorative Justice.*
- *With property crimes there is less consistency in the effects of Restorative Justice, but the evidence shows the approach does as well or better than prison*
- *The evidence least compelling for non violent crime; shop lifting, drink driving, public disorder*

The evidence is that Restorative Justice works better with more serious offences may be consistent with the apparent emotional basis for the approach, that the offender shows remorse for having harmed a victim

Is face to face Restorative Justice being offered predominantly? Are victims being involved?

- *The research evidence in relation to victims is far more consistent. On average, in every test available, victims do better when they participate in Restorative Justice than when they do not*
- *Victims are positive about participation, reporting less fear of the offender, less anger at the offender, and greater ability to get on with their lives*
- *20% of victims assigned to court said would harm offender compared with 7% of Restorative Justice conference victims saying this. Where the offence was one of violent crime 45% of victims assigned to court reported a desire to harm the offender compared with 9% who participated in Restorative Justice⁴*
- *Victims who experienced Restorative Justice scored lower on Post Traumatic Stress Symptom assessments immediately after and 6 months later⁵*

Are apologies being made to victims in the process?

- *Victims consider offender apologies to be important in bringing about emotional restoration. Strang 2002 reported that 86% of victims who experienced an RJ conference compared with 19% assigned to court received an apology. 77% of those who experienced a Restorative Justice conference 41% said apologies were sincere compared with 41% assigned to court*

What practice is adopted to engage victims in Restorative Justice processes?

- *Best results in the engagement of victims comes from facilitators meeting in person with victims prior to any RJ process, especially face to face processes*
- *Victim participation is influenced by: who and how they are asked; the priority given to their convenience and emotional state. In the Justice Research Consortium project an average of 18 hours was taken on organisation. Most of this time was spent with victims, and conferences were arranged to suit victims convenience*
Across 8 Justice Research Consortium tests 2001 to 2004⁶, a total of 883 cases were randomly assigned to Restorative Justice or Criminal Justice. Of 444 cases referred to Restorative Justice

³ See Restorative Justice: the evidence. 2007 The Smith Institute

⁴ Strang, H *Repair or Revenge: Victims & Restorative Justice* (Oxford: Oxford University Press 2002)

⁵ Angel, C *Crime Victims Meet Their Offenders: Testing the Impact of Restorative Justice Conferences on Victims' Post-Traumatic Stress Symptoms*, PhD dissertation (University of Pennsylvania, 2005)

⁶ Shapland et al *Restorative Justice in Practice: The Second Report from the Evaluation of Three Schemes* (Sheffield: Centre for Criminological Research, University of Sheffield, 2006)

84% were completed satisfactorily with both victims and offenders present for face to face discussion.

Note: Full success/satisfactory completion in face to face processes is an agreement completed at a conference with victim and offender present

Is there adequate initial screening of offenders?

- *It is recognised as essential that initial screening of offenders takes place prior to approaches to the victim. Is the offender willing to communicate and take responsibility; it is established that the offender does not deny guilt, express anger or give other indications of posing a risk to victims.*
- *There is no attempt at this stage to require evidence of 'remorse'. Restorative Justice doesn't screen for remorse it aims to achieve remorse.*

Summary

To deliver Restorative Justice effectively does require the easy availability of up to date research evidence on which to build practice. Specialist national bodies, such as a Restorative Justice Board, can collate and commission research, incorporate research findings into 'best practice' standards and encourage the development of practice through training and advice.

Web based information systems provide a way of encouraging the implementation of 'best practice' and allow local services and national coordinators to monitor practice. Such systems also provide a mechanism for the collection of data for research purposes. Research findings based on an unbiased selection of cases and a comparison with approaches other than Restorative Approaches are most valid.