



Justice Committee

Oral evidence: Restorative justice, HC 594

Tuesday 19 April 2016

Ordered by the House of Commons to be published on 19 April 2016.

Written evidence from witnesses:

- [Why me?](#)
- [Restorative Justice Council](#)
- [IARS International Institute](#)
- [Restorative Solutions CIC](#)
- [Thames Valley Restorative Justice Service](#)
- [Association of Police and Crime Commissioners](#)

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Members present: Robert Neill MP (Chair); Richard Arkless MP; Alberto Costa MP; Philip Davies MP; David Hanson MP; Victoria Prentis MP; and Marie Rimmer MP.

Questions 1 – 52

Witnesses: **Lucy Jaffé**, Director Why me?; **Jon Collins**, Chief Executive Officer, Restorative Justice Council, and **Vera Baird QC**, Chair, Standing Group on Supporting Victims and Reducing Harm, Association of Police and Crime Commissioners, gave evidence.

Chair: Welcome to this evidence session in our inquiry into restorative justice. Before I ask the panel to introduce themselves, I ask members to declare any relevant interests. I am a barrister, not currently practising.

Victoria Prentis: So am I.

Richard Arkless: I am a non-practising solicitor in Scotland and in England and Wales.

Alberto Costa: I am a practising solicitor in Scotland and in England and Wales.

Q1 Chair: That has got the lawyers making their confessional. Perhaps our witnesses could introduce themselves and their organisations.

Lucy Jaffé: Hello. I am Lucy Jaffé. I am the director of Why me?, victims for restorative justice.

Vera Baird: I am Vera Baird. I am the police and crime commissioner for Northumbria, and chair of the standing group of the Association of Police and Crime Commissioners on supporting victims.

Jon Collins: I am Jon Collins. I am the chief executive of the Restorative Justice Council, which is the independent membership body for the restorative justice field.

Q2 Chair: Thank you very much. I note that all your organisations have given us written evidence as well. I am grateful for that, too. We have read all of it. Mr Collins, let me start with some of your evidence. You make a point about savings. As you will recall, your evidence says that, for every pound spent, £8 is saved in the criminal justice system. What is the evidence base on which that is formed? How many victims are we talking about? How many cases were you able to get evidence about?

Jon Collins: This was included in our evidence to the Justice Committee, but it is not a figure that we at the Restorative Justice Council generated. It is based on a randomised control trial that was funded first by the Home Office and then by the Ministry of Justice and carried out independently by Joanna Shapland and her team at the University of Sheffield. They looked at the use of restorative justice in the criminal justice system and calculated that, based on the sample they were working with and the reductions in reoffending that are generated through the use of restorative justice, an £8 saving was generated for every pound spent on restorative justice. That was an average across all the trial sites. There were higher savings—up to £14 for every £1 spent—at the best of the sites.

Q3 Chair: That is the point, isn't it? It is quite clear from the evidence that there is a great degree of variation. As far as I am aware, it has not been possible, from the figures you have seen, to drill down with any greater granularity. Vera, are you aware of whether or not it is possible to break it down by individual areas?

Vera Baird: The APCC has not done a survey about that. In Northumbria and on the group, we are not setting it out to be a cheap option, or looking at that. It seems to us to be very much a quality thing that takes a lot of sculpting and shaping if it is to be successful. There is a heavy investment in time and skill.

Q4 Chair: Mr Collins, would it be fair to say that there might at some point in the day be savings of that order, but it is a fairly ballpark figure?

Jon Collins: There is pretty robust evidence from the Shapland trial. We do not see that many randomised control trials in the criminal justice system, so we can be pretty confident of the value of that evidence. It was taken some time ago, so it is fair to say that it may need an update at some point in the future. That evidence and evidence from elsewhere suggest that, where it is implemented, and implemented to a high standard, you can expect cost savings over time, in terms of reductions in cost to the whole justice system and to the public sector more widely.

Q5 Chair: Any argument will therefore be about the quality and consistency of the implementation. That is very helpful. We have also seen that there is quite a range of models. From your experience, do you have a view as to which of those models is the most effective?

Lucy Jaffé: What we really need is good co-operation between criminal justice agencies, a simple data-sharing process and well-trained facilitators. I will take it in two parts. The first model that we talk about is how you do it. The gold standard is conferencing—bringing victims and offenders face to face and having victims look their offender in the eye. The second part of the question is about how you deliver restorative justice in a local area. For that, we would look at a hub model that brings together both victim-initiated and offender-initiated restorative justice and combines and integrates those two services.

Vera Baird: We are doing a range of things in Northumbria, of which I have best awareness. There is a programme in HMP Northumberland, which you could almost call restorative justice by proxy, involving someone who has suffered a similar offence, but never the actual victim. There is a lot of community resolution done on the front line by our officers, which we look for. Our victim care hub is very closely linked to the police, when the police are involved in an offence, so we tap into their expertise there. For a long time, YOTs have been doing more offender-led restorative justice than almost any of the other agencies, and that continues.

Then there is our own hub. This is how it works at present. When we get a referral to our victim care hub, there is a care co-ordinator who tries to be that person's friend right through the cope-and-recover process. We raise restorative justice, because all of them are trained to do it and there is a restorative justice supervisor all the time. They raise it at such times in the cope-and-recover process as they think might be effective. A key to improving our outputs—which are not high, even though we have put a lot into it—is that we now have two people from the community rehabilitation company seconded to the victims' hub, so they can work together on cases that either side thinks might be appropriate, with both following the same standards. That is a quite different model. The fact that it is going on is pretty unique.

All the same, it is really hard to get significant numbers. I have to repeat again and again that it is about quality and preparation. It takes a lot of time. When we started—in effect, last April, when the responsibility came down to me to try to promote this—we found that there was a lot of work going on, but it was quite haphazard. People were not working to the same criteria in all the agencies. One thing that we had to do before we got the hub working was to set up a steering group, to level out all of that and to make sure that information sharing was no problem and people were working to the same standards.

In the last year—we are just at the end of the year—we have identified 232 cases, but so far only 11 have produced a finished restorative project solution. A lot have fallen out. They looked good, but the victim or the defendant changed their mind or the defendant was moved out of the area. We are still working on about 100 that may or may not come to fruition. We are just at the end of the year, so there are some that will be carried forward, but it is quite a low number. We think that the CRC presence, which has been there only since January, will have upped it. As far as the hub is concerned, we are doing it after the criminal justice system.

Chair: I know.

Vera Baird: It means that there is an extra-long lead-in time, because that process has to complete as well.

Q6 Chair: This is completely post-disposal.

Vera Baird: Yes, post-disposal.

Q7 Chair: Mr Collins, do you have any more thoughts on this?

Jon Collins: If we are talking about the difference between direct, face-to-face conferencing and indirect restorative justice processes like shuttle or exchanges of letters, the Shapland research, which, as I have already mentioned, is probably the most robust into the use of restorative justice, indicated that there were tentative conclusions that conferencing was the best outcome both for victims and in terms of efficacy. That was only a tentative conclusion, and the evidence around it was not entirely clear.

That is not to say that indirect processes do not have real value and do not often have very positive impacts on the people involved. What we want to see is safe, effective restorative justice made available to as many victims and offenders as possible. While you might aim towards conferencing, it is very important, where the practitioner judges that a conference may not be in the interests of those involved or they choose not to go down the face-to-face route, to recognise that other methods of enabling the victim and their offender to communicate with each other can have huge benefits and should definitely be explored.

Chair: That is very helpful.

Q8 Mr Hanson: Good morning. Lucy, Why me? has argued that one of the priorities is to try to raise awareness of restorative justice generally. We are interested in what has proved most successful in raising awareness. In your evidence, you say that we want clear, concise information, not multifarious pieces of paper. What is the best way of raising awareness of restorative justice among practitioners and those who will refer?

Lucy Jaffé: We have run awareness sessions, including with this Committee. We take experts to talk to a committee and actually recreate a conference in front of it. That works very well. Working with probation and community rehabilitation staff by telling them about restorative justice and how it works is also a very effective way of working. There is the professional level of people who are working on restorative justice with offenders, and with victims, too. We need to look at the people who have contact with victims, so that they can talk to them about restorative justice. Then there is the wider public. When people first become victims of crime and the police come into contact with them, restorative justice can be raised, in the right circumstances. When an offender pleads guilty, that is a good moment to inform a victim that it may be possible to do restorative justice, especially if it is then put into the sentencing plan by the National Probation Service and included in the sentence.

Q9 Mr Hanson: What is the one thing the Committee could recommend that would supercharge use of restorative justice?

Lucy Jaffé: In our view, it would be to have restorative justice as part of the community rehabilitation company contracts, to make it a required element of rehabilitation and to ring-fence restorative justice in the funding for PCCs, when they get their victim services money. It was ring-fenced, but the ring-fencing has now been removed.

Vera Baird: I will be unpopular with some of my colleagues in the APCC, but ring-fencing the funding for restorative justice, so that the funding could not be used for anything else, would mean that people had to give it a very strong priority. At the moment, cuts in local authority services and so on are so powerful that it is tempting to use it to bolster the life of the domestic abuse refuge or to make sure that young kids who are suffering from crime have enough resource. If you want to focus PCCs' attention on it, ring-fencing the funding would be a good thing to do.

I do not think that it is an excuse, but there is a huge change of focus. Historically, it has always been offender-led, so the people responsible have been the YOTs, probation and so on, not victim services, although they have been interested in it. Now it is completely reversed, in the sense that it is intended to be victim-led. We think that it can only be victim-focused, because if you go to a victim first and raise that interest in a material way, but the defendant does not help, it can become tangentially revictimising. I would say that you need to make that change clear.

There is something else that I guess was happening. In my experience in Northumbria—I cannot speak for further afield—criminal justice agencies such as the YOTs and probation were using the rules about it to exclude people, rather than to include them. I do not think that they were positive about it. Now that it has moved over to being victim-led, it makes them feel that they can wait until someone comes to them.

Q10 Mr Hanson: Before I ask Jon to comment on that question, I note that my next question is about the victim-led issue. Some of the evidence that we have had from, for example, the Humberside police and crime commissioner and the PCC for Sussex states that, effectively, the level of victim-initiated restorative justice remains low and that offender-related restorative justice is therefore still the main priority. One of the questions we are interested in, which you may want to answer at the same time as we hear Jon's comments on the first question, is whether you think that is the case. Self-evidently, you have just said that you think there is an increase in the level of victim-led restorative justice. Some of our evidence says that it is still extremely low, compared with offender-led restorative justice. I am interested in your take on that. As you have raised it now, Vera, you might want to comment on that before Jon finishes answering the earlier question.

Vera Baird: Let Jon—

Q11 Mr Hanson: Jon, what is the one thing that we can do to raise awareness?

Jon Collins: I agree with what the other two panellists have said. Clearly, funding for police and crime commissioners and better contract management for community rehabilitation companies and prisons to encourage the use of restorative justice have value.

The point that I would add, which has not yet been raised, is that the victims' code has some entitlements around restorative justice. They differ depending on whether the offence was committed against you by a young person or an adult, which seems a strange differentiation when you are talking about victim entitlement. I would like to see the victims' code strengthened around the entitlement to restorative justice for victims. In time, we are expecting a victims' law, as a manifesto commitment of the Government. We would like to see entitlement to access to restorative justice services included in that law, to strengthen a presumption that, where people want to take part in restorative justice, they

should be able to access it. There would then need to be a complementary duty on police and crime commissioners to provide it. In time, that would set an expectation that restorative justice should be available, rather than something you might want to make available.

Q12 Mr Hanson: Can you give a quick comment, starting with Vera, on whether you think the number of victim referrals is low. If so, why is that, and what can we do to improve it?

Vera Baird: It is still early days. Victim-led referrals are a difficult concept, for the reason I have given. I am not an expert on the psychology of it, as Lucy and Jon are, but there is reticence about saying too much to a victim until you are satisfied that the defendant is an appropriate person to take forward and be involved. Everyone is afraid of revictimising the victim by saying, “Would you like to meet your offender? Would you like some solution of this kind?” and then he snubs them again. The power balance that is already there—that he has victimised her—is not redressed; in fact, it could be made worse. People go about approaching victims in quite a gingerly way, rightly or wrongly. I do not have an answer to how else it could be done.

Lucy Jaffé: If you think about the pipeline—a rather unfortunate word—there are many victims, for some of whom the offender is caught. In some of those cases, the offender is found guilty and admits that they did it. If you propose restorative justice to every victim, you are looking at a huge resource to do that. We are saying that people should know about it and be aware of it, but you have your best potential result, in terms of restorative justice, at the moment when the offender is caught and says, “Yes, I did that.” We would look to have the resources put in at that stage, both for professionals and for victims, to make sure that they get the offer in a way that is good for them.

Splitting the funding between victim-initiated and offender-initiated restorative justice makes it very difficult to deliver. You get split resources and a lot of effort being put into promoting restorative justice to a large group of people who may never be able to get it. Bringing the two sides together would really work. It is unfortunate that the money has followed those two streams of policy.

Q13 Chair: There seems to be agreement on that.

Jon Collins: On victim-initiated versus offender-initiated, you should always expect that the number of victims who will refer themselves to restorative justice services will be relatively low. That route should be available to them, but we know that awareness is relatively low and that the criminal justice system is complicated to negotiate for people who are not familiar with it. What is really important is that cases are identified where restorative justice is potentially suitable and the offer is then made to victim and offender in the best and most efficient way. It is not necessarily about whether the victim refers themselves, or even whether they are identified through victim services. It is about whether suitable cases are identified and those who want to go to restorative justice are enabled to do so. We need to look quite closely at what processes are most effective in identifying cases at local level and progressing them through to restorative justice, to try to reduce some of the attrition Vera was talking about.

Chair: That is very helpful.

Q14 Alberto Costa: We have already touched on some of the questions that I am going to ask. I refer to the 2014 report from the victims commissioner, which raised concerns that victims' needs were not being properly considered in the use of restorative justice and that the focus was instead on offenders and reducing reoffending. Do you think that was a fair assessment?

Lucy Jaffé: Victims report to us that they are largely satisfied. When we work with victims at Why me?, their experience of restorative justice is good, even where restorative justice is not victim-initiated. However, we are cautious about agencies whose targets are about reducing reoffending or taking on a RAR—a rehabilitation activity requirement—and that have to achieve particular aims to get their money in, so pressure might be put on victims to participate when it is not in their interests. That is particularly pertinent with victims of sexual offences and domestic violence, so there is a big concern. I echo what the victims commissioner is saying about being very cautious about the ways in which victims' needs are handled. We need proper preparation and fully trained staff, especially when dealing with crimes that have a specialist element, such as sexual offences and domestic violence.

Vera Baird: At the time Baroness Newlove reported, the main agencies involved were the offender support agencies—probation and so on. It is only since April last year that PCCs have had the responsibility they now have for driving the victim-led approach. I am hopeful that she will find an improvement when she does the second phase of her report.

Jon Collins: As Vera said, there has been a shift towards restorative justice being initiated and funded through victim services funding. That has seen more focus on the victim and on the link between victims taking part in restorative justice and broader victim services.

The one thing I would add is that an important part of our role as the Restorative Justice Council is around setting standards for the use of restorative justice, and ensuring that those standards are met. That is because we want to be sure that, wherever restorative justice is done, it is done to a high standard and is a high quality process. Part of that is about making sure that both victims and offenders have a positive experience of it, benefit from it and get the broader support that they need around the restorative justice intervention.

Q15 Alberto Costa: Mr Collins, in answer to Mr Hanson's questions, you touched on the victims' code. Can I turn to that for a moment? Are the present restorative justice-related entitlements under the victims' code being properly provided?

Jon Collins: There has been no proper evaluation yet of the extent to which those entitlements are being enacted. The victims' code was changed towards the end of last year, so it is still relatively early days. Our experience from our members is that they are not being provided entirely. There is a question about whether they are the right entitlements. There are also questions, which came up in Baroness Newlove's more recent report on restorative justice, about whether victims are being offered information on restorative justice, as they are meant to be.

The bigger issue is that, as long as provision remains patchy, unco-ordinated and inconsistent between areas, there is not much value in victims being given information about restorative justice, as the victims' code requires, if that information simply informs

them that it is not available in their area. The biggest step towards ensuring that the victims' code is meaningful is to make sure that there is consistent, high-quality provision in every area. Then the information victims are provided with about restorative justice in their area will actually enable them to access it, if they want to.

Lucy Jaffé: The duty falls on the police to ensure that victims are informed about restorative justice and, if they want it, to pass on the details. That is not happening, as far as we are aware at Why me? I do not want to divert from this, but the biggest issue is that of information being passed on to the victim and, if the victim says yes, to the relevant agency, so that it can get access to the relevant data, contact both victim and offender and pick up the case.

Q16 Chair: It seems to us that issues around information and data sharing are a recurrent theme.

Lucy Jaffé: Yes. If you look at the cost of restorative justice, the transparent reporting that the Ministry of Justice perhaps ought to be giving us is still not forthcoming from the last action plan. The expense is not getting these processes smooth, so that the data can be exchanged. We are a non-governmental organisation. We have a full team of volunteers waiting to do restorative justice, but we fight for referrals. It is ridiculous and a waste of our time to be sitting there and not getting those referrals. It has cost implications for the channels of communication not to be working.

Vera Baird: We have tried to resolve those issues. Let me emphasise that the whole process is in its infancy. Our victims' hub is called Victims First. When there is a report to the police, the assessment of need for the victim is done by the officer and then handed into the victims' hub. They are built to be very close together, so that there is not what used to be the complaint from victims—a contact from the police, then Victim Support, then the victim care unit and then someone else. We want one set of contacts.

Officers ask about restorative justice when they go out, and they have an aide-mémoire, which we have drawn up, from Victims First, to try to get them to do it in the right way. I cannot guarantee that that happens, but they have some information to facilitate it. They then pass that information to the hub, to go with all of the rest of the needs, as assessed by the officer. A victim care co-ordinator will take it forward from there and will, being fully restorative justice trained, try to raise it again at what that person thinks are appropriate intervals, bearing in mind that their overall role is to help the individual to cope and recover. In some cases, it may not be appropriate to try to take it forward. There is data sharing between the police and Victims First. Now that we have the community rehabilitation company representatives in the same building—there are data-sharing agreements there, too—we hope that we have taken some steps to cut out the prospect of people falling through the gaps between the various agencies. We will see.

Q17 Alberto Costa: I turn specifically to you, Ms Baird. Concern has been raised that some PCC areas offer the opportunity to engage in restorative justice only after an offender has been convicted. Is that the case? If so, how widespread is the problem?

Vera Baird: I am afraid that I do not know whether there are places where that is all that is available, but I doubt it. The fact that responsibility for victims' funding and for the victim side of restorative justice has come to us does not mean that the YOTs are not doing it in

most areas, that the CRCs are not trying to do it in most areas and that there are not arrangements in prisons. I would be surprised if there were areas where everything else had stopped and only the PCC was driving forward a particular agenda.

After the imminent election, we will do a survey of what is being provided, now that the Committee has expressed such a lot of interest in the topic, to see whether we can get an answer fairly quickly about what is happening now. If you read from paragraph 15 in our first submission, from January 2016, there are about five or six examples of what PCCs are doing. That was intended to be a sample, but we can go more deeply.

Chair: That is very helpful. I am sure the Committee will be grateful for that. We will take you up on it after the election.

Q18 Richard Arkless: We have touched on aspects of the victims' code and some of the problems with the uptake, in essence, of restorative justice. If the entitlements under the victims' code were transposed into a future proposed victims' law, do you think that would help?

Jon Collins: I do, as it happens. As I have already mentioned, there needs to be strengthening of the entitlements in the victims' code. I am not entirely sure that they are right, but there would be real benefit in putting them on a statutory footing. The gravity with which they are treated by the criminal justice agencies and the potential to enforce them would be strengthened by putting them into legislation. It would also demonstrate the seriousness with which some of these things are taken. Finally, if properly drafted, a victims' law could help to overcome some of the data-sharing issues that have been raised by other people on the panel, particularly by clarifying and simplifying what the position is legally, to enable people to work to it.

Q19 Richard Arkless: Do the other witnesses have thoughts on this? Is it something you would agree with?

Lucy Jaffé: I agree with Jon. It would be more effective if it were put into law, as people would give it more weight. We note that a recent private Member's Bill, HC 80, makes provision for greater enforceability of the victims' code. That would be welcome, as would the proposed steps towards setting and monitoring national standards for victims' services. There is an issue about victims not getting the same service, depending on where they live. It would contribute towards that kind of power.

Q20 Richard Arkless: It is all very well making a statement, but how could the rights under any victims' law be enforced? Notwithstanding the fact that you would make this statement, there seems to be an enforceability problem. Have you any comments to make on enforceability? Would it be more difficult to enforce the rights in a victims' law?

Jon Collins: The way the code currently works is that complaints go first to the service provider, which is a sensible first step. If they are not satisfactorily resolved, they go to the Parliamentary and Health Service Ombudsman. That may be sensible, but the ombudsman is not a figure with whom most people outside the process will be familiar.

Should the victims' code be turned into a victims' law, it would at least be worth exploring whether there could be a greater role for the victims commissioner both in ensuring that the law was properly enforced and in dealing with complaints. Given that it is already part

of the victims commissioner's remit to explore the extent to which the victims' code is being enforced from an investigative side, it would make sense if she also dealt with complaints, because that would give her the whole picture. We would need to look at how that could best be managed. We would still want the complaint to go to the providing agency first, for it to deal with, but you need a backstop. I wonder whether it would be more high profile and accessible if that were moved to the office of the victims commissioner, who would have powers to ensure that it was enforced.

Q21 Chair: You look a bit sceptical about that, Ms Baird.

Vera Baird: Yes, I am. There is a real need to drive it, and for clarity about best practice and high standards to be driven hard from Government, but I share your reservations about enforcement of any legal provision. I have my doubts that the role of the victims commissioner is intended to be that of an enforcer. She is there to advocate for victims' rights, not to implement some legislation.

Lucy Jaffé: We would like there to be a law, because we feel that it would give more weight, particularly when we talk to different statutory agencies across the country. Let's focus on what a good service looks like and how to make it work. That is more tangible and achievable. One of our questions would be about what is happening centrally to ensure that we are transparent about what is happening and where good practice is happening. What would be the role of the Ministry of Justice in saying, "This is good practice, this is a standard we would want you to adhere to and these are the benchmarks we are putting in. Now we're going to monitor it to see what police and crime commissioners are doing across the country"? That is not happening at the moment.

Q22 Richard Arkless: We have touched on some aspects and difficulties of data sharing. We have received a lot of written evidence generally about how those difficulties are impeding the provision of restorative justice services. You have alluded to some of those problems. Can you provide anything specific on what the problems are and how they should be tackled?

Lucy Jaffé: I can give you a case. An offender-initiated case came to the Why me? office three weeks ago. We made a request to the police force to contact the victim. The police lead was reluctant to call the victim, due to the complexity of the case. We then got in touch with the lead investigating officer in the police, who did not respond to our calls. We then obtained the name of the victim liaison officer from the probation service, but we have had no response. We have also been in touch with the offender's supervisor. Three weeks later, we have no more details about the issue. That is three weeks of work, of very hard-won grant funding to employ the co-ordinator, and for volunteers sitting there. That is an example of the time wasting. We get it on the victim side as well. On both sides, we keep people informed. We keep the offender informed and we keep the victim informed, because it is not fair on them not to get some kind of answer.

Q23 Richard Arkless: Is there a good reason for the police not to be sharing this information?

Lucy Jaffé: Mostly it is about not understanding that they have the duty under the code to do so and a lack of understanding of what restorative justice is and what we are delivering. It can simply be lack of time and resources to do that.

Q24 Richard Arkless: How do you fix this? Do you do it through legislative change or pressure on the police?

Lucy Jaffé: We encourage the police to meet their duty under the code—some training and awareness of what restorative justice is and how it works. We need a clear referral path and a national information-sharing template that is endorsed by the Ministry of Justice. We put those points in our evidence.

Q25 Richard Arkless: Could you expand a little on the national information-sharing template that you suggested in your written evidence? How would that solve the issues of data sharing specifically?

Lucy Jaffé: As a small provider, we could point to a standard agreement that could be pulled down and used as a template for us to become a trusted third-party provider with both statutory agencies and commissioned, contracted-in agencies. It would mean that we did not have to reinvent the wheel. We deal with cases from all over the country. That is 43 cases, just in terms of the PCCs. We have all the community rehabilitation companies as well. It would make our lives a lot easier if we had one template.

Chair: There seems to be general agreement on that.

Q26 Marie Rimmer: Can we move to some very sensitive issues? We have received written evidence raising concerns about the use of restorative justice in domestic abuse cases. Women's Aid argues that restorative justice assumes an equality of power, but clearly that is not there in domestic abuse. They recommend that restorative justice should not be offered to victims of domestic abuse and that it should be delivered only when it is requested by the victim, when that is a genuine request and it is clear that the request comes from the victim. We have also had positive evidence from a victim. In your opinion, is it appropriate to use it with domestic abuse victims? What guidance is given to restorative justice providers in these sensitive cases?

Lucy Jaffé: At Why me? we believe that all victims of crime should have the opportunity to access RJ and that we should be careful about being gatekeepers for victims who want that. However, we are very clear that there is an inequality of power and the danger of a cycle of violence, and that we could be exposing people to revictimisation and more abuse. There are specialist facilitators. I hope Jon will say something about this, but we believe that the model should be one where you work with specialists in domestic violence or sexual abuse and with restorative justice facilitators. They may be represented in the same person, but both those skills should be present in the facilitators who are running the case, which can proceed only if it is safe. We would be very concerned if offender-led restorative justice was somehow pushing people to participate in potentially harmful situations.

Q27 Marie Rimmer: Clearly that is unacceptable, do you not think?

Lucy Jaffé: It is unacceptable, but I would not throw the baby out with the bathwater.

Q28 Marie Rimmer: For the victim.

Lucy Jaffé: Victims need to have the opportunity to request RJ if they are victims of those offences. They need to be fully informed and to be able to go to the appropriate agencies and appropriately skilled staff to have their cases dealt with. It is in its infancy, really.

Q29 Marie Rimmer: If you were a victim of domestic abuse, I think you would not be a very powerful person anyway, and you might feel pressurised into going down this path. Clearly that would be wrong. I think there is a great danger. Do you agree?

Jon Collins: It is very important that wherever restorative justice is done, particularly in sensitive cases that might involve domestic or sexual violence, everyone involved is entirely confident that people are choosing to take part voluntarily, and that it is a decision that is properly informed and genuinely taken of their own free will. That can be a particular challenge in domestic violence cases, particularly where they involve coercive control.

As Lucy said, we need properly trained practitioners who are able to make a proper risk assessment and genuinely understand the issues around coercive control. There is more work to do, and work that we would like to do, to provide that training to restorative justice practitioners and to build partnerships with local domestic and sexual violence services, to make sure that practitioners have those skills and that knowledge. Excluding all victims of any crime type from restorative justice is largely unhelpful. I do not think that blanket bans work and I will tell you why.

I have concerns about the use of restorative justice in domestic violence cases. It has to be done very carefully. Recently, we have been working with a victim of domestic violence who went through a restorative justice process afterwards. I will read a very short quote from her. She said, “When I walked out of that meeting, I felt as if I could knock out Mike Tyson. I could have taken on anything or anyone. In the days and weeks afterwards, it was as if a massive weight had been lifted off my shoulders. I had been carrying it for so long that I did not even notice it any more, so when it disappeared it was amazing. I felt completely empowered.”

That is what you are looking for. You mentioned that many people who have been victims of a crime like domestic violence might necessarily feel disempowered and that control has been taken away from them. Done properly and in the right circumstances, restorative justice can help to return that to them, but I do not for a minute underestimate the risks. Managing that process is something that has to be done properly. There are real skills involved.

Q30 Marie Rimmer: We have had evidence from one victim who said that it was successful, but she had three months of counselling to get her to that stage. The issue is whether the necessary amount of counselling and preparation is given consistently across the country.

Jon Collins: That is why you need to build up links with local domestic violence services, so that you can ensure not only that they get support through the restorative justice process but that they get broader support as well.

Q31 Marie Rimmer: The recent report by the victims commissioner describes three main categories of PCC areas, in terms of how they deliver restorative justice for certain crimes.

The first group provided restorative justice for victims irrespective of the offence—carte blanche restorative justice. The second did not provide services for crimes such as hate crime, domestic abuse or sexual abuse. The third category did not actively offer services for that group of offences, but did provide services when they were requested by the victim. Which of the three is preferable?

Jon Collins: The first would be my preference. That is not to say for a second that it would be right for every victim or should be offered in every case. You should not exclude any offence types, but you need to manage the process extremely carefully and make sure that no one for whom it is not safe or suitable is in any way encouraged to go through it. It is about opening it up to all cases, but making sure that the practitioners involved have the right skills and training to be able to make those decisions safely. Unless and until we can be confident that practitioners have the right skills and knowledge, we have to be very wary about the extent to which this is used in those cases. You are absolutely right. These are sensitive and complex cases. We need to be absolutely sure that throughout the process victims are protected, so that they do not suffer any negative consequences from the experience. That is true across all use of restorative justice, but it is particularly true in the sorts of cases we are talking about here.

Lucy Jaffé: There are two things. First, it is important to have a council that can accredit people. We can then understand whether a service or a practitioner has reached a particular standard. The Restorative Justice Council has a very useful role in bringing all those things together and holding the national standard.

To go back to basics, restorative justice is about answering questions. Victims have questions: “Why did you come and attack me?” “Why did you choose my house?” “What did you do with my jewellery?” The only person who can really answer them is the person who did it. Enabling those questions to be answered not only gives the victim control but gives them satisfaction; they can say, “I have found that out now.” There are other things that can happen, like apologies, forgiveness and all that, but the key thing is for that person to get their questions answered. In the case of a sexual offence, they might ask, “Why were you in that alleyway? What were you thinking?” It is clear that domestic violence has to be handled very carefully, if you bring the two people back together. It is about allowing a safe space for those questions to be answered.

Q32 Marie Rimmer: Do you have any comments, Vera?

Vera Baird: Yes. A success of the type that has been quoted would be rare. If we consider domestic and sexual abuse, we should be clear about this: most sexual abuse takes place within a domestic context or between people who are known to each other, not up a back alley, although I can see very strongly what Lucy is saying about that kind of case. Coercive control is the deliberate control and abuse of someone, through all manner of undermining tools—psychological, sexual and financial—often over long periods of time, to reduce them into the power of the perpetrator. To redress that long-term imbalance, which, as we well know, has a deeply injurious effect on the victim and takes a very long time to recover from, would be extremely difficult.

In my view, it would be very hard to know in any given case whether the person was acting of their own free will, if they agreed to it, or whether they were still in the position of being undermined. Once you have been undermined by the perpetrator, it is not just the

case that it is he who exercises power; it reduces your willpower to resist all sorts of suggestions. One would not want it to become a common currency. It is hard enough to get people to complain about domestic and sexual abuse now. If it came to be thought that if you did that you had to meet the perpetrator and go through it all again, that would be yet another deterrent. I agree totally with my colleagues. It ought not to be ruled out at first principle, but there is need for huge caution.

Chair: There seems to be general agreement on that. Thank you all for your evidence. It was very good to see you again.

Examination of Witnesses

Witnesses: **Gary Stephenson**, Chief Executive, Restorative Solutions CIC, **Ray Fishbourne**, Chair, Thames Valley Restorative Justice Services Steering Group, Thames Valley Partnership, and **Dr Theo Gavrielides**, Founder and Director, IARS International Institute, gave evidence.

Q33 Chair: Welcome, everybody. Thank you very much for coming to give your evidence. Could you briefly introduce yourselves, for the record?

Gary Stephenson: I am Gary Stephenson, chief executive of Restorative Solutions, a community interest company.

Ray Fishbourne: I am Ray Fishbourne, chair and founder of the Thames Valley restorative justice advisory group.

Dr Gavrielides: Good morning. I am Theo Gavrielides, founder and director of the IARS International Institute.

Q34 Chair: Let me start with you, Dr Gavrielides. You have helpfully provided written evidence, as all the witnesses have. You describe the argument that restorative justice costs less as a “thin” one that requires more research. We have heard other witnesses describe the Shapland report costings as robust. Would you regard them as robust?

Dr Gavrielides: With all due respect, as Jon said, it has been quite a while since the figures were produced. They were produced by Government-funded projects. I do not want to say anything bad about the research, but a lot of research needs to be done with specific types of crime. We have been talking about restorative justice and crimes as if they were one thing. They are not. If you look at complex cases—you have been talking about domestic violence and hate crimes—they take a lot longer. We need to look at the variants. When you are costing restorative justice, what variants are you looking at? Are you looking at police time? Are you looking at court time? What are you looking at to say that it is cheaper?

We have all been concerned about the rising levels of imprisonment and the costs of the criminal justice system. The current Government are looking at mainstreaming restorative justice on a cost-benefit argument. I am very concerned when we say that restorative justice costs less, because when we look at individual crimes, the evidence is not there. More research needs to be done, looking at the variants of each crime. If we are going to look at theft, let us look at the variants for theft. If we are going to look at murder, let us look at the variants for murder. I still question whether the evidence is there to make a

valid argument that restorative justice costs less. It has been said that it costs £500 to £1,000 for each case, compared with a cost of £45,000 or £46,000 for one adult, and £187,000 for a young offender to stay in a young offenders institution. I am questioning that, having spoken to many practitioners in different cases who would not quote those figures.

Q35 Chair: What are your thoughts, Mr Stephenson and Mr Fishbourne? Would you agree with that analysis, or would you be with some of the members of our first panel on that?

Ray Fishbourne: I am not aware of any adult value-for-money studies, other than Shapland, involving victims. Shapland—particularly the restorative justice I have been involved in—is in addition to normal process. There are no savings, because it is not a diversion. That is one point.

Shapland's calculations are based on lower costs of reconviction. They do not look at the victims' benefits. In the Justice Research Consortium, which was Shapland's research, the lower costs were for the restorative justice group compared with the control group. What Shapland told us—some of the research was in my area—was that the costs levelled themselves out, basically. That was the case in Thames Valley. The £1 for £8 that has been mentioned was the result of a big differential in the London randomised control trial sites, for all sorts of reasons. The cost savings do not just relate to the criminal justice system. One has to look at the health benefits, particularly to victims, and, I assume—I do not think research has been done—the lesser demands that are made on GPs, counselling, psychotherapeutics and post-trauma stress services. All that stuff is a benefit as a result of restorative justice.

Gary Stephenson: There are some other studies you are probably not aware of. I do not think we included them in our written submission. There is the Matrix study, which was an economic study of young offenders, showing significant savings over a period. I can send you the reference for that.

Chair: That would be very helpful. Thank you, Mr Stephenson.

Gary Stephenson: It is very robust. Then there is a study by Assistant Chief Constable Garry Shewan, who leads on restorative justice for what was ACPO and is now the National Police Chiefs' Council. He did a business case to ACPO showing significant benefits in terms of reduction of demand, particularly for repeat problems and repeat calls. Again, I would proffer that as robust evidence.

There is also a study that we commissioned with an economist, who looked at a prolific offender who had been through a restorative justice conference. He committed four crimes a day throughout the course of his 20-year criminal career, but he stopped his offending post the restorative conference. The economist gave the estimated cost of the savings across the criminal justice sector alone as £500,000 over the next five years. Again, I can send you the link and share that study with you. The benefits are there and, I would argue, so is the evidence.

Chair: That is most helpful. We are grateful to you for that.

Q36 Mr Hanson: We are looking at a range of issues to do with performance measures of restorative justice. We have had some evidence from colleagues on the issue. There has been

some concern that enforcement of performance measures has been detrimental to the delivery of justice. Have you any evidence to support those claims?

Gary Stephenson: I can give you an example from the pre-sentence trials that we ran in Crown courts up and down the country. Basically, the legislation says that a sentencer can adjourn or defer sentence for the purpose of a restorative conference. That conference takes place within six weeks. Its outcome is then reported back to the sentencer, so that they can make a smarter sentencing plan. That has been absolutely snookered by the fact that the Courts and Tribunals Service has introduced better case management, which practically outlaws any adjournments or deferments. In essence, they have to deal with the case more or less at the time of first appearance, so the opportunities for victims are now removed, as is an early motivation for an offender to change and engage with whatever the sentence is, as a consequence of the timeliness target set by better case management. That is one example. We have a legislative framework to do pre-sentence restorative justice. Unfortunately, the performance indicators that HMCTS has introduced prevent it from occurring.

Another example is policing. Over the last five, six or seven years, the police have made significant strides towards moving away from sanction detection as the holy grail—in essence, an output, not an outcome. They are becoming more outcome-focused and are engaging better with victims on their needs. The difficulty is that there are still police forces out there that are slaves to sanction detection. That conspires against taking an alternative method or an alternative disposal. If we look at the mood music within the National Police Chiefs' Council, out-of-court disposals now appear to be getting traction. Over the last couple of years, sanction detection has been significant in preventing restorative justice from occurring.

Q37 Chair: Do the other witnesses have any comments?

Dr Gavrielides: I will try to answer the question slightly differently. If we try to understand restorative justice within the current criminal justice system and fit it in, mainstream it and roll it out, whatever answer I give you will not be fitting. If we try to take restorative justice back to its roots, change our lenses and see it for what it is, we will be able to understand that restorative justice works at local level, through communities, and when it is initiated by the individuals. Whether we call them victims or offenders, using the criminal justice lens, is irrelevant to restorative justice.

If you introduce performance measurement targets for criminal justice agencies—or, through those agencies, those who are funded to deliver restorative justice—and ask them to deliver, with £20,000, 20 cases that need to lead to an outcome, in my view, it will fail. I am not a practitioner but a researcher who has looked at restorative justice around the world. We may get one or two cases, but it will not be the restorative justice we know about and value, which is about the empowerment of individuals to reach some sort of consensus that makes them happy, so that we reach justice in a different way. If we try to mainstream it, introduce targets and, through those targets, fund individual projects, that is not restorative justice; it is another criminal justice option.

Q38 Mr Hanson: Could I turn to another area—the quality of the services provided by various restorative justice organisations? Some concern has been expressed to us in written

evidence that the MOJ is not providing sufficient guidance. There is also some evidence that the quality of some of the organisations is variable. I have a simple, quick question for all three of you. Should standards be set by the MOJ for delivery of restorative justice? Is sufficient guidance given to the commissioners about what those standards should be, to ensure equality of outcome?

Ray Fishbourne: I have seen evidence of police and crime commissioners having insufficient information about how to commission services and what they should be looking for, in terms of good quality. That would tend to suggest that there is a degree of lack of guidance from the centre. The Restorative Justice Council is doing and has done a great deal of good work around quality of services. The restorative services quality mark is something that ought to figure in commissioning specifications. If services are not already in receipt of that qualification, they ought at least to be working towards receiving it.

There are a number of loose usages of terminology. “Qualified” and “training” are not the same. Qualifications are not the same. We have different routes, via BTEC qualifications and NVQs. There is a case for something that might look like a professional standards committee to benchmark the content of qualifications, so that there is some consistency available to all commissioners to enable them to know, when they receive tenders, what is meant by, “Our staff are all qualified.” Some people will say, “They have all been on a three-day training course.” Other people will have done the equivalent of, perhaps, three years’ diploma-level social skills in restorative justice.

Q39 Mr Hanson: The nub of the question is, should the Ministry of Justice specify the standards for restorative justice practitioners in this new devolved world of police and crime commissioners and rehabilitation companies? Could I have a yes or no answer from Mr Stephenson and Dr Gavrielides, because of time?

Gary Stephenson: Yes, but not yet. It is too early for the sector.

Dr Gavrielides: Absolutely not. It would kill restorative justice.

Mr Hanson: That is helpful. *[Laughter.]*

Q40 Marie Rimmer: No ambiguity there. We have received written evidence raising particular concerns about the use of restorative justice in domestic abuse cases. Is restorative justice appropriate in those cases? What guidance is there for restorative justice providers in such cases?

Gary Stephenson: It is doable. But, as was discussed earlier, preparation, preparation, preparation and support are absolutely critical. Preparation and support post-conference are as critical as the work you do prior to it. You cannot just rule it out because it is such a sensitive issue. There is no doubt that the individuals conducting the conference should have specialist skills. They should understand the context and the environment in which they are operating and the issues around domestic abuse.

We run a programme in a PCC area where we are working with young people in families who abuse their parents and siblings. It is domestic abuse; it is domestic violence. Some of the cases are quite horrendous. It is a significantly resource-intensive programme. It is not a one-off event, but a series of restorative conversations and meetings to engage and deal

with the underlying issues around the abuse that is occurring in the home, as the majority of it is. It can be done, but it has to be done very carefully and sensitively.

Ray Fishbourne: Our practice has evolved over 15 years. We started as offender-initiated restorative justice, and we excluded sex offenders and domestic abuse cases. As we grew in experience, and as the focus shifted to victim-initiated restorative justice, we needed to rethink that. We start from the premise that we wish to respond to and respect victims' wishes and needs. Together with Restorative Solutions and a forensic psychologist, we have now developed some advanced training for people working in these difficult areas. Although in Thames Valley we still exclude domestic abuse in the offender-initiated context, we look to respond to the wishes of victims of domestic abuse who present to us. We are working closely with domestic abuse agencies in Thames Valley to develop an appropriate and sensitive response to the wishes of those victims.

Dr Gavrielides: I appreciate the concern that restorative justice might not be appropriate for cases where the power structures and interests are there and where there is a continuum of relationship. They are going to go back to living together and you are asking them to meet to resolve their conflict, so I understand the concern, but I will be absolutely clear. There is no evidence worldwide that restorative justice is not appropriate for any sort of crime, including hate crime. Domestic violence should not be excluded from the list of crimes for which we should offer restorative justice. In fact, the evidence worldwide says that the more complex the case, the more chances you have for restorative justice to be successful. Thinking as a normal individual who has been victimised by somebody lifting a chocolate from your shop—shoplifting—and you are asking them to meet you, how much emotion or time do you want to invest in meeting that offender? If you are a victim of domestic violence or hate crime, how much emotion or time do you want to invest in restorative justice? The more complex a case is, the more chances you have for restorative justice to be successful.

I promise to send Jonathan some research that we have published on domestic violence and complex cases, including a free best practice guide on how to conduct restorative justice in domestic violence cases. That was funded by the European Commission and involved best practice from around Europe. We have spoken to domestic violence victims, offenders and practitioners, put that guide together and translated it into all the European languages. It is out there for best practice.

It goes back to your question about standards. It is not about standardising restorative justice. Restorative justice is not another criminal justice option. It is about the ethos, the principles and best practice. What is best practice? It is about putting cases on the record. We know about the court cases—they are on the record. Why don't we have cases of restorative justice on the record? That would create the best practice guidance. It is not about telling people what to do and how to do it.

Chair: That is very helpful.

Marie Rimmer: It could go some way towards cutting generational domestic abuse. Very often the children who come through families where there is domestic abuse go on to become young offenders.

Chair: There seems to be agreement on that, too. Thank you for agreeing to share that further information, Dr Gavrielides. That is most helpful to us. If you could send it to our Committee Clerk, it would be much appreciated.

Q41 Victoria Prentis: My question is about raising awareness. The MOJ has had a go, with the restorative justice weeks during the last couple of years. Do you think they were effective? What more do you think the MOJ could do?

Gary Stephenson: They had an impact over the short period of time when they did them, as one-off events, and there was good national and local coverage, but a one-off event is not enough. There has to be a systemic, sustained campaign to make victims aware of their rights and of the opportunities that are there for them. The most effective campaign we are aware of was when we sent a group of practitioners out to a shopping centre on a Saturday afternoon with leaflets telling people about what restorative justice is. Post that exercise, we got 17 referrals directly from victims of crime, saying, “I want to meet my offender.” In terms of effectiveness, to be honest, just get straight to it—go straight to the victims, tell them what they are entitled to and explain to them what the benefits are.

Dr Gavrielides: Restorative justice week was introduced by the Canadian Ministry six or seven years ago. As an international restorative justice week, it is a fantastic opportunity for people around the world to share information and best practice, to talk to one another and to come together at events. It is a fantastic week and it should not be taken away. But that should not be it. Public awareness is one thing, but ads on buses will not work for restorative justice. It is not another L’Oréal product. If we are going to talk about public awareness, the money that the Ministry of Justice wants to invest should go to judges, the legal profession and the police—to those who should be offering restorative justice to individuals, so that they know first about restorative justice. Then we can expect the public to know about it.

Ray Fishbourne: Raising awareness is on two levels. The MOJ has good reach into other criminal justice agencies, but they do not have any deep reach into communities. In Thames Valley, we find that following restorative justice week we have a spike in the number of people ringing us wanting to become volunteers and work with us, but we do not see any spikes in the number of victims. From some of the specialist projects in Thames Valley I am involved in, I know that getting into communities requires boots on the ground. I am coming to the end of an 18-month project where we sent people into every GP surgery, into every student union in universities and colleges and into employment exchanges. Lo and behold, we have started to get referrals from those very same places. Those victim self-referrals are not from the usual suspects. We are opening up new audiences, and that is time-consuming and it needs boots on the ground.

Q42 Victoria Prentis: That is very helpful. There may be something that MPs can do to assist with that. We will think about that. Do you think that, broadly, the NOMS capacity-building programme has been a success? Brief answers, please.

Gary Stephenson: Yes, from our perspective. We delivered it with Thames Valley—with Ray. We had a programme to deliver and we delivered it, despite transforming rehabilitation, benchmarking of prisons, fair and sustainable and all the other blockages that the Ministry managed to put in our way. Not only did we develop a capability-cum-capacity, but we conducted 153 face-to-face restorative conferences in the course of the

programme. From our perspective, it was a success. It takes time to see the real successes coming through.

Ray Fishbourne: I agree with what Gary said. With hindsight, we were over-optimistic about the number of conferences. The fact that only 6% of cases went to conference speaks for itself. Over 1,000 people trained, and there were 153 conferences. At one level, that tells you that it is time-consuming to build up awareness and get it to stick. Restorative Solutions and Gary were involved on the training side. Thames Valley Partnership was involved in providing implementation support to probation trusts and prisons. We found that, despite our best advice, a lot of prisons and probation trusts were still not geared up to be able to support—

Q43 Victoria Prentis: Would the money have been better spent on adapting the buildings?

Ray Fishbourne: No. I do not think that it is buildings—

Q44 Victoria Prentis: On making them suitable for restorative justice.

Ray Fishbourne: In the case of prisons, it is about making the whole regime and the institution more supportive, so it is about hearts and minds and processes. If that is not in place, it does not matter how many people you have trained—it is not going to happen. It requires leadership, accountability and communication through all management layers in institutions. It is incredibly difficult to bring about change in institutions.

Dr Gavrielides: It would be harsh to say that it failed. The figure of 6% is very concerning. If it were to be repeated, I would be very concerned, because the money could be invested in a better way. I would not repeat the same. If you are asking me whether or not it was a mistake, we cannot say that with hindsight. As Ray said, there is a lot of capacity building that needs to be done for the expectations to be met. Maybe that is what this did. The 6% figure for actual conferencing is very concerning and should concern anyone who was involved in the delivery of it, but maybe it was something that needed to be done to take us to the next level and prepare us for more numbers.

Q45 Victoria Prentis: I apologise in advance for putting you on the spot. If there was one thing that you could do to bring about some sort of culture shift in the MOJ, what would it be?

Gary Stephenson: I would take away the risk-averse nature of the organisation. It should take a risk now and then.

Ray Fishbourne: For me, there are actually three things.

Victoria Prentis: That's fine.

Ray Fishbourne: There is one thing, in the sense that it all revolves around a presumption in favour. There ought to be a presumption in favour that all offenders are suitable for restorative justice, if their victim wishes to pursue it, unless there are overriding safety grounds that it should not happen. That is the first presumption. There ought also to be a presumption in favour of all victims having access to restorative justice. In relation to courts, one of the purposes of sentencing in the 2003 Act is reparation. If you look at the archaic definition of “reparation”, it is about repair. All courts ought to focus on what

harm has been done and how to repair it. Two questions could be introduced that courts and magistrates could ask all defendants: who was harmed by your actions, and what can you do to make things better? That is how you bring about cultural change to the whole system.

Dr Gavrielides: I have to be very careful how I answer this, having looked at the involvement of the Ministry. As a central Government Department, they know very well that it is not their role to get involved at local level and provide detailed guidance. It is about a general direction that needs to be given. I have put this on the record and I will say it again: with the action plan and working with specific organisations to give this standardisation push and to mainstream restorative justice, I have been watching restorative justice on a train that is about to crash. I have just got out of that train, because I do not want to be part of it. My concern is that, if we continue to try to control restorative justice at the local level, it will not be what restorative justice was meant to be.

How do we achieve the cultural shift? Let us not talk about the Ministry of Justice in general terms. There are specific teams within the Ministry of Justice, which is the Government Department that is dealing with this at a policy level. If we are going to talk about change, we need to talk about understanding what restorative justice is about and where it came from. We must bring it back to its roots and empower the individual and the community-led practices that have been doing restorative justice, with or without the law, with or without the Ministry of Justice and with or without funding. They have been doing it for many years. If we allow them and empower them to continue to do that, the culture will change at governmental level, PCC level and all other levels.

Q46 Chair: In your written submission, you talk about “street restorative justice”. Is that part of going back to a grassroots, bottom-up approach?

Dr Gavrielides: Absolutely. Restorative justice happens every day. It happens in our families, our churches and our kitchens, and when we negotiate differences with our children. That is restorative justice. If we are going to talk about a version of restorative justice that diverts a criminal case from the justice process, which is something different, let us talk about that. If we are going to talk about that, are we talking about awareness raising or actual encounters? We have been using restorative justice in a very broad way and using the words “crime”, “victims” and “offenders” in a very unfair way, putting a lot of emphasis and resources on empowering certain labels, when actually restorative justice is about something else.

Chair: There are just two more topics we would like your help on.

Q47 Richard Arkless: I suspect I know what the answer is. For the record, are victims receiving their entitlements under the victims’ code at the moment?

Gary Stephenson: I would be very surprised if they are, uniformly. There are some areas of great practice, where it will be happening. There are other areas where it will not.

Dr Gavrielides: When you are from the research community, you have to be very careful how you answer a question, because there is not a journalistic answer that I can give you. Depending on the type of crime, the time and the situation, the answer will be different,

but I can tell you this. We have just finished a project for the European Commission on the victims' directive, which should have been implemented in November last year and it has not been. It includes things like, "What is a victim?" Are victims being protected under this new law in the way in which the directive expects us to protect them? Are we providing them with the entitlements that are not just in the directive but in any basic human rights legislation or convention, whether it is called the Human Rights Act or the European convention on human rights? No, we are not. For instance, we do not understand victims if they do not have EU citizenship. We do not understand victims if they do not have UK citizenship. Refugee and asylum-seeking women who have been abused are not protected by this legislation. There is a lot that needs to be done.

Previously you asked about whether or not a Victims' Act would help. I think it would, but if you put too much emphasis on it and say, "Now we have passed a law, everything should be great," that will be a problem. It is also about enforcement, which you have talked about. If you pass a piece of legislation, what do you do to make sure that it is enforced? We passed the Race Relations Act, but we know from evidence that many years later local authorities were treating it as a tick-box exercise. Passing legislation should not just be about saying, "We have done our job," and moving on.

Q48 Richard Arkless: On the subject of enforcement, clearly it is about strengthening the entitlements in a code in a victims' law. Based on your evidence, I think you would all agree that that should be the case, but how do you envisage that any rights under a new victims' law could be enforced? We had this discussion with the previous panel. I would be interested to hear your thoughts. Enforcement seems to be a potential problem.

Ray Fishbourne: In our experience in Thames Valley—we are probably ahead of the game in comparison with a lot of areas—entitlement is being frustrated at the moment by things like data-sharing processes, which you have already touched on. If a right is enshrined in law, there needs to be an accompanying mandatory responsibility to share data. It is an incredibly complex area, with probably five or six different agencies, different data controllers and different data owners. It is a nightmare. Theo mentioned refugees and asylum seekers. In Thames Valley, their needs are being addressed through the victims' code currently, but a lot of it is frustrated, in terms of being able to deliver on the entitlements.

Gary Stephenson: I would just make it mandatory referral to a restorative justice service. Problem over. Done. It happens automatically. Basically, a victim of crime is referred to a restorative justice service in the area. Then you begin to put demand into the system that is not there at the minute. Agencies and organisations will respond to that demand.

Dr Gavrielides: I would be very concerned about that. When it comes to victims' rights, or any human rights, it should be about the individual. Provision, safeguarding and enforcement of those rights should be not just top down but bottom up. How do you empower the individual to request and demand that those rights be implemented? Is there a self-assessment guide and support for individuals who feel that they can claim and enforce those rights? Of course, a piece of legislation would put a top-down obligation on those who are providing the service—the police, the CPS and so on—but what are we doing to empower the individual themselves to request and demand those rights? I have this conversation over and over again with the Ministry of Justice. It should be a two-way street.

Q49 Chair: I get that. Ray, you have brought me very neatly to the last topic, because you talked about frustration with data sharing, which is a common theme that runs through pretty much all the evidence that we have had around that. Gary, you have referred to it as well. What is the answer? Is it practice, or do you need some sort of legislative change?

Ray Fishbourne: We have grappled with this for 15 years. In the early days, we relied on personalities to facilitate the flow of information. We used section 115 of the Crime and Disorder Act, which was a kind of catch-all, in the interests of preventing further crime. That is how we got our information.

Currently, we have seen some potentially helpful guidance from the Association of Police and Crime Commissioners—I am not sure I have got the title right—but it runs to 55 pages. Locally, we are trying to work our way through that with, probably, five different statutory agencies, all with their lawyers. If anybody is looking for a reason not to share information, I am sure it is there somewhere in the 55 pages. It just is not working. I do not want to sound too pessimistic; maybe it will be delivered this time, but, currently, NPS cannot share information readily with CRCs, and CPS does not share information readily with NPS. It is incredibly difficult. There just needs to be some legislation that says, “The sharing of data for these purposes is mandatory. Get on with it.”

Q50 Chair: You will never get them to come together voluntarily—you have to impose something.

Ray Fishbourne: No.

Gary Stephenson: It is not going to happen. There are too many data protection officers.

Q51 Chair: Everybody seems to agree on that.

Ray Fishbourne: Even if you get a local agreement, a lot of the parties to restorative justice live in other areas. You immediately hit the rocks once you start contacting other areas where they may or not have any restorative justice, and they certainly do not know who you are.

Q52 Chair: You are saying that a role for MOJ is to promote that legislation and to bring it to us here in Parliament.

Ray Fishbourne: Absolutely.

Chair: On that note of unanimity, gentlemen, thank you very much for your attendance and your evidence, which has been most helpful. The session is concluded.