

Written evidence from Why me?

Overview

Why me? Is a leading national charity that promotes and delivers Restorative Justice (RJ), a transformative tool which facilitates communication between the person affected by a crime, and the person responsible. We work in close collaboration with our ambassadors - those who have lived experience of Restorative Justice and those who facilitate RJ meetings, and we are part of a number of organisations working on Restorative Justice, including the All Party Parliamentary Group on Restorative Justice and the European Forum for Restorative Justice.

Why me? are submitting evidence to the Justice Select Committee's pre-legislative scrutiny of the draft Victims Bill because we believe there are opportunities for Restorative Justice provisions to be increased and strengthened through the Bill.

We welcome the introduction of this Victim Bill by the Government. It is a once in a generation opportunity to enshrine rights for victims of crime in legislation.

We are disappointed that an entitlement to information and access to Restorative Justice is not provided for within the draft Bill itself (rather than the Victims' Code of Practice). However, we welcome the opportunity to make recommendations to the Committee about how to improve the Bill and the Victims' Code to increase RJ provision.

What is Restorative Justice?

Restorative Justice empowers people affected by crime to communicate with the person responsible in a facilitated setting, through a face to face meeting, video shuttle or letter writing if preferable. Restorative Justice can be used to address any type of crime, as long as both parties consent, and the facilitators agree that it is safe to do so. It does not have to be a substitute for other measures, and can take place while people are serving time in prison.

Victims of crime often feel excluded, confused and revictimized by the criminal justice process. Restorative Justice brings them back to the heart of the discussion, and allows them to have their voices heard. Victims of crime, perpetrators and the friends and family of both parties can benefit from Restorative Justice.

[Government figures estimate](#) that 85% of victims of crime who engage in Restorative Justice are satisfied with the process. Data returns from PCCs, [which Why me? evaluate as part of our Valuing Victims work](#), indicate that victim satisfaction in the Restorative Justice process reaches up to 95%.

[This starkly contrasts findings by Victim Support](#), who found that nearly half of their clients (who did not access RJ) were unhappy with the way their case progressed, either in the reporting or investigation phase. Indeed, [victims risk](#) secondary victimisation through the

court process, as well as, conversely, through not having their stories heard. To date, under 10% of victims with a known offender are aware that they have been informed about Restorative Justice according to annual statistics from the [Crime Survey for England and Wales \(CSEW\)](#).

Why me? have a number of ambassadors who speak to the powerful effect Restorative Justice had for them as a victim. This includes [our ambassador Janika Cartwright](#), who suffered a violent knife attack at the hands of her former partner. He was convicted for attempted murder and remains in prison. She said that “taking part in Restorative Justice was the key that unlocked the door to my future”.

Why me? ambassador, Paul Kohler, who presented to the 2016 JSC RJ Inquiry, suffered a fractured eye socket, broken nose and extensive loss of blood, when he was beaten by attackers who forced their way into his home. For Paul, Restorative Justice “offered the chance of being able to ask those questions that we felt remained unanswered after the trial”.

Justice Select Committee points of interest:

The Government’s proposal to put the overarching principles of the Victims’ Code in primary legislation and set out key entitlements in secondary legislation, consulting on changes to the Code once the Bill is in force.

Following consultation with our beneficiaries, including people with lived experience and adult and youth RJ service providers from across the country, there was strong opinion that the key entitlements in VCoP as well as the overarching principles should be included in primary legislation.

[Evidence from the CSEW](#) shows that the duty to give info about RJ is not being met. Since it was introduced, the offer of RJ to a victim with a known offender has never risen above 10%. This is despite [evidence from the European Forum of Justice](#) that shows just having the option of Restorative Justice can make victims feel better, whether they choose to take it up or not. The legislation must work to increase this figure, in part by introducing clear responsibility and accountability mechanisms. We believe that enshrining 12 key entitlements in primary legislation would enable this.

Restorative Justice supports the delivery of three of the four key principles: ensuring victims are informed, ensuring victims are supported, and ensuring victims have their voices heard. The principles as laid out would benefit from the following adaptations if they are to be enshrined in primary legislation without the key entitlements:

- The third principle could be improved by amending it to *‘ensuring victims have their voices heard in a restorative setting’*.

- It is our view that the fourth principle – the victims’ right to review – should be changed to the victims’ right to complaint and scrutiny including the right to review.
- We advocate that a fifth principle which is to ensure that victims and the services which support them are involved in the design of services and design of the scrutiny mechanisms is introduced.

The key changes the Government should consider making to the Victims’ Code, including consideration of those already proposed by the Government in its response to the consultation.

[Why me?’s Valuing Victims Report 2021](#) found that victims who went through Restorative Justice in 2018/19 reported improved health and wellbeing, being better able to cope with aspects of life, having increased feelings of safety, and feeling better informed and empowered. Therefore, we recommend a statutory entitlement that ensures all victims are informed of Restorative Justice and have a right to access services. This should be a right of its own (rather than a subsection of the right to information).

Why me? propose amendments (**in bold**) to Rights 3 and 4 of the current Victims’ Code of Practice which would strengthen the access to Restorative Justice if no stand alone right to Restorative Justice is included in the code. These amendments have been developed with [the Restorative Justice Council](#).

Right 3: To be provided with information when reporting the crime, **including information about Restorative Justice services.**

3.4 If the offender is an adult, you have the Right to receive information about Restorative Justice from the police **and a trained restorative practitioner** and how to access Restorative Justice services in your local area. If the offender is under the age of 18, you have the Right to receive information about Restorative Justice from the Youth Offending Team.

3.5 Although the police are responsible for providing you with information on Restorative Justice initially, **all service providers must support the offer of this information at multiple stages of the criminal justice process so that you may make an informed choice as to whether you wish to explore it. Information about RJ should always be provided by a trained and experienced RJ practitioner who will be able to answer any questions you have about it.**

Right 4: To be referred to services that support victims, **including Restorative Justice services**, and have services and support tailored to your needs.

4.2 Throughout your case, all service providers must give you the opportunity to be re-assessed if you tell them how your needs have changed. **This should include referral to Restorative Justice services.**

4.4 Services that support victims, **including Restorative Justice services**, are there to help you cope and, as far as possible, recover after a crime. Access to support is free, even if the crime hasn't been reported to the police. For further information about the support in your area, contact your local Police and Crime Commissioner or visit: www.gov.uk/get-support-as-a-victim-of-crime

We also propose that the description of the National Homicide Service be amended as follows:

What is the National Homicide Service? The National Homicide Service is a free service that provides emotional, practical, specialist and peer support to families bereaved by murder or manslaughter, including after an act of terrorism. **The National Homicide Service can also offer a referral to a specialist Restorative Justice service.**

Paragraphs 6.6,7 and 8 provide that a victim has a right to be heard on whether to prosecute or use an out of court disposal. This is compatible with the Government's intention to give victims a voice. However, in 6.7 the last sentence, 'where this is not possible for practical reasons, the police or the Crown Prosecution Service will tell you why', is an example of how agencies can escape any real obligation to take victims' views into account. Victims need to feel confident that they will be kept informed and properly consulted about the outcome.

- We recommend that the Police and CPS are obliged to hear victims' views before deciding whether to prosecute.
- We also recommend that they be held accountable for their delivery of this duty, and so clear guidelines layout when this can be deemed impractical should be put into the Code.

Why me? has over a decade of working with victims of crime and they consistently report that Police and Probation staff were often gatekeepers and made decisions about who was suitable for RJ. There was a very strong feeling that the Police needed training in RJ and how to communicate it to victims with clear referral routes.

- Why me? recommend that detailed guidance should be produced in consultation with agencies and service users about how the measures in the Bill can be implemented and monitored. This guidance should set out repercussions for compliance failures. This would ensure consistent access to RJ for victims across the entirety of England and Wales. It would also contribute to meeting statutory authorities' duties under The Public Sector Equality Duty legislation.
- We recommend that PCCs no longer have the ability to enforce blanket bans for Restorative Justice on certain crime types, and that time limits are removed in order to empower victims to decide for themselves. The extensive safety and risk assessments

used in standard RJ services are enough to ensure no damage is done during the RJ process.

The Government's proposals to amend the role of the Victims' Commissioner.

Why me? Director Lucy Jaffé has been on the Advisory Board of OVC since 2017 and has noted the difficulty of the OVC in upholding victims rights because of previously limited powers.

We welcome the amendment in the draft which strengthens these powers - especially in enabling the VC to make recommendations at any point in time, to lay an annual report before parliament, and require named agencies in that report to respond to recommendations made. This is a significant strengthening of the powers.

With the proposed transfer of powers to keep the operation of the Victims' Code under review from the Victims' Commissioner to Police and Crime Commissioners (PCCs), Why me? encourage the issuing of clear reporting guidelines to all Police and Crime Commissioners so that consistent monitoring is carried out across all areas.

[Why me?'s Valuing Victims project](#) has evaluated PCC funding of Restorative Justice data that is held by the Ministry of Justice for the past seven years. Our 2021 report found that the quality and breadth of data received by the Ministry of Justice is poor, meaning that it is difficult to draw reliable conclusions about the provision and impact of Restorative Justice in different areas. Having clear guidelines on monitoring and evaluation of RJ would provide an important insight into where Restorative Justice is working effectively, and where improvements are needed. This affects not only Restorative Justice, but wider victims' services provisions too.

The Government proposals to place a duty on the relevant criminal justice agencies (the police, the Crown Prosecution Service, HM Courts & Tribunals Service, Youth Offending Teams and HM Prison and Probation Service) to collect data and keep under review their delivery of the Code.

A multi-agency approach is often the most effective approach to victims getting a timely and needs-driven service, especially in regards to RJ. These agencies would benefit from clear framework and guidance on data collection in regards to the Code to ensure consistent reporting across all touch-points before, during and after the CJ process.

The publication of monitoring data would encourage co-operation and provision of data, as those collecting the data would then understand precisely what it is used for and would have a stake in driving up the accuracy of reporting and also ensuring that their local-level metrics are as good as they can be.

We recommend that nationally agreed core metrics are agreed for RJ delivery and that local agencies, principally PCCs, but also HMPPS are obliged to report against them annually.

We also recommend that it becomes a statutory requirement for locally collected metrics to be published by PCCs and other agencies listed above annually and collated centrally by the Ministry of Justice.

The Government's proposals on the role of the inspectorates, including an improved focus on victims, and a new power for the Government to direct aspects of their work.

We welcome new powers for relevant Ministers to direct joint thematic inspections of victim services.

- We recommend that it could be strengthened by a requirement for an annual review by the Victims Minister, which should be laid before Parliament on how well agencies are delivering against the victims' rights in legislation.
- [Based on our youth justice work](#), we recommend that Restorative Justice is included as a quality criteria for HMI Probation inspections of Youth Justice services which informs the final overall standard; include restorative approaches as well as direct victim offender work to evidence good practice. This would improve the current system, in which inspection of RJ is dependent on either an inspector who has an interest in RJ, or the RJ worker actively advocating for time with an inspector.

What implementation, resourcing and accountability challenges exist with respect to the Victims Bill?

We welcome the Victims Funding Strategy to bring national oversight and governance as well as multi-year funding. Despite some planned increase in funding resources, our view is that services will be severely challenged to meet their duties unless more funds are provided.

Between 2013- 2017 the coalition Government ringfenced £23m for the establishment of 42 RJ services across the country by Police and Crime Commissioners. There was also significant investment in Youth Justice (£6m). Having a ringfenced budget for RJ is an essential element of ensuring that duties under the new legislation will be delivered.

We recommend the Government introduces a ringfenced budget for Restorative Justice, as the JSC's own 2016 Inquiry stated that "**there is clear evidence that restorative justice can provide value for money by both reducing reoffending rates and providing tangible benefits to victims**". Ideally, budgets should be allocated for a minimum of five years, enabling services to retain workers and provide continuity of service as well as save money through less contract changes.

Whether there should be any further measures included in the Bill?

Why me? held a forum on the Victims' Bill with RJ practitioners and those who have experienced RJ and a consistent theme that came up was that RJ provisions across the country are a postcode lottery. There should be a responsibility for the MoJ to report on and provide oversight and support of delivery of Victim Bill duties across England and Wales. In line with Government policy to level up and ensure that everyone has the same opportunity, we recommend the following:

- Implementing a national action plan on Restorative Justice. There is urgency to make sure there is a national plan delivered against a backdrop of consistent oversight and inspection of services.
- A dedicated communications plan and budget for government and agencies listed in the Code to ensure that frontline professionals are aware of what is required of them. The plan should be co-produced by communications experts, and take into consideration the different needs of different audiences.
- Naming a Minister and senior civil servant tasked with delivering the RJ action plan
- The publishing of an annual RJ report on the national action plan progress which is laid before parliament.