

## **“I JUST DON’T THINK THEY’RE TAKING IT SERIOUSLY”: PROFESSIONAL PERSPECTIVES ON THE BARRIERS TO TAKE-UP OF RESTORATIVE JUSTICE IN THE UK**

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### **Abstract**

Despite known benefits, the uptake of restorative justice (RJ) in the United Kingdom has been patchy. A need for further research regarding the systemic influences on RJ was addressed using a phased mixed-methods design. First, a survey of RJ professionals investigated general attitudes to known barriers to uptake. Results called for a more proactive approach to raising awareness; whether with the general public or in the process of making offers. Next, a sub-sample of the same RJ professionals was interviewed, with analysis producing three main themes: lack of national support for RJ; barriers initiating restorative services; and poor public understanding and awareness of RJ. Deficient national support was interpreted as the central reason for limited take-up. Underwhelming take-up is associated not only with programme-specific, but also with broader socio-political factors. Improved national governance and support would address not only funding, staffing, and relationships between services, but also take a longitudinal view by providing RJ systematically within education settings.

### **Keywords**

Criminal Justice System; Offenders; Probation; Restorative Justice; Victims

By side-lining the needs of those harmed, the criminal justice system (CJS) is failing those who are most impacted: victims, perpetrators, and their communities. In the UK, the location of the current study, the primary purpose of prison and probation is to prevent future victims by changing lives (Ministry of Justice [MoJ], 2023a). However, public confidence in the CJS's effectiveness and fairness is lacking; particularly among victims experiencing a criminal court case (Archer et al., 2022). Although victim-perpetrator meetings within a restorative justice (RJ) model provide the potential for victims to get 'more of what they want from criminal justice' (Strang et al., 2006, p.302), they are under-used in the UK with only approximately 6% of victims offered a meeting (Office for National Statistics, 2021). This is despite £29m of government funding through police authority areas (MoJ, 2013a), and promising evidence of reducing reoffending leading to recommendations to extend the use of RJ (McGuire, 2015).

Restorative Justice (RJ) gives victims the chance to meet or communicate with their perpetrator to explain the real impact of the crime, and holds perpetrators accountable helping them to take responsibility and make amends (Restorative Justice Council, 2024). By contrast, sanctioning in the CJS aims to: punish the offender, reduce crime, reform offenders, protect the public, and ensure payback (Sentencing Council, 2024). Using Wachtel and McCold's (2001) social discipline window, the emphasis of the two approaches contrast: 'doing to' (CJS) versus 'doing with' (RJ). However, currently RJ is subsumed into the CJS; operating as an alternative family of dispute resolution practices at various points in and around the CJS process. Therefore, in this paper we address the receptivity to RJ within the CJS.

Undoubtedly, the provision of services does not occur in a socio-political vacuum. Public attitudes towards the CJS affect the political direction that is taken regarding its services *and vice-versa*. Consistently, politicians and the media have pandered to punitive attitudes, often recycling the 'get tough on crime' mantra (Hough and Roberts, 1999). Although unintended, this retributive approach reinforces responsibility avoidance by doing little to help perpetrators to hold themselves accountable; with victims maintaining higher anger in the absence of perpetrators holding themselves directly answerable to them (Strang et al., 2006). The present study therefore aimed to identify the nature of the barriers to the take-up of RJ in the UK, by consulting with the people in the middle: professionals working with RJ.

## **The impact of restorative justice**

In this section, we review research findings on the benefits of RJ based on field projects across the UK. This frames our research: if RJ has observable benefits over-and-above CJS sanctioning, it draws into focus what factors may be preventing the system-wide realisation of these benefits.

Consistent with CJS record-keeping, RJ outcome evaluation predominantly focuses on perpetrator-level effects rather than victim-level effects (Strang et al., 2013). Meta-analytic reviews suggest that perpetrators that participate in RJ are less likely to re-offend at follow-up compared to perpetrators that do not consent to participate (see Latimer et al., 2005; Strang et al., 2013; Sherman et al., 2015). Furthermore, 79% ( $n=152$ ) of perpetrators interviewed about their RJ experience believed it would lessen the likelihood of them re-

offending (Shapland et al., 2007). This perception was sustained since the interviews took place several months after the RJ conference.

In terms of satisfaction, feedback from completing an RJ conference is similar for both parties, with 80% ( $n=152$ ) of perpetrators and 85% ( $n=216$ ) of victims stating they are satisfied (Shapland et al., 2007). Analogous proportions, 75% and 66% respectively, have been observed from research in London (Gavrielides, 2018). Such satisfaction is notable since the experience of the criminal (non-RJ) legal process has been described as leaving perpetrators and victims dislocated and dissatisfied (Molina, 2020). RJ has also been known to increase mutual understanding (Strang et al., 2006; Suzuki and Yuan, 2021; Martin et al., 2023) which may lead to a safer, less divided society (Zehr and Mika, 2003).

The RJ process is a chance for victims to have their say (Suzuki and Yuan, 2021; Martin et al., 2023); reclaiming their ownership of the conflict (Christie, 1977; Barton, 2003; Poulson, 2003). Not only can this process reduce victims' fear of revictimisation - a typical measure of the success of RJ - it can empower them and resolve unanswered questions (Strang et al., 2006). When asked about the impact of RJ, the majority (62%) of victims said that it had helped while a large minority (39%) even said they felt more secure (Shapland et al., 2007).

With the above positive effects, RJ can reap positive economic impact for society. Accounting for reduced rates of reoffending, £8 is saved for every £1 spent on RJ (Shapland et al., 2008). This is important given that, in the year 2021-22, a place in a UK prison cost approximately £46,696 per year (MoJ, 2023b). However, much depends on the process being successfully implemented.

## **Barriers to realising restorative justice**

The extant research has identified several themes, explored below to formulate the current problem that is the frame for our research. What emerges is the influence of systemic factors inhibiting the implementation of RJ. The current study took place in the UK, aiming to build upon research investigating the barriers to the take-up of RJ here; and draw wider implications.

In England and Wales, funding has been provided to police and crime commissioners - elected officials overseeing their local police forces - to enable them to make RJ services available to victims of crime (MoJ, 2013a). Furthermore, a Victim's Code has been introduced giving victims the statutory right to receive information about RJ (MoJ, 2013b). Surprisingly however, national crime survey data for March 2011 to March 2020 indicate that in only 6.3% of incidents is the victim given the opportunity to meet with the perpetrator (ONS, 2021). Other research even indicated that a substantial proportion, 69% of victims and 50% of perpetrators, had never even heard of RJ (Gavrielides, 2018).

Patchy implementation of RJ has been related to RJ *gatekeepers*, also referred to as street-level bureaucrats (Lipsky, 2010). The RJ gatekeeper has been defined as a key player in the legal system, such as a police officer, who makes the decision over who qualifies for RJ (Clairmont and Kim, 2013). According to Lipsky (2010), for the proper implementation of government policy, street-level bureaucrats need to be balanced moral agents. Operational demands, Lipsky suggests, including workload and targets, lead them to adopt compromises

that simplify their moral landscape –prejudicial treatment that reflects public expectations. This occurs for instance when older adult victims are perceived as too vulnerable to go through the process (Avieli et al., 2021), or, where due to major injuries/consequences the gatekeeper assumes that the victim must have a retributive motive for reporting (Hoekstra, 2022).

The context of the RJ offer was investigated in two separate police forces by Banwell-Moore (2023). Findings from observation and interviews suggested a lack of a proactive approach (see also Martin et al., 2023 in a forensic mental health context). Corroborating research in London (Gavrielides, 2018), Banwell-Moore (2023) noted that victims were not routinely actively offered RJ. Professionals were “protective and selective” with only ideal victims being selected; and decisions frequently being made on the victim’s behalf. Indeed, sparse application of RJ has been linked to police opposition to deferring control to victims, budgetary constraints, and lack of training (Marder, 2020).

A related theme is the finding that RJ is often viewed as unsuitable for victims of serious crimes including sexual offences and intimate partner violence (Daly, 2006; Banwell-Moore, 2023). Notwithstanding the projected desire for retribution, this selectivity bias has been attributed to organisations’ concerns about re-traumatising the victim (Burns and Sinko, 2023; Martin et al., 2023). Where RJ is used professionally in violent offence cases however, not only are rates of repeat offending reduced (Sherman and Strang, 2007), but victim satisfaction is high (Walters, 2015; Bright, 2017; Gavrielides, 2018).

The above UK results supported findings from a report for the restorative justice council (Bright, 2017). The research employed focus groups of RJ practitioners ( $n=15$ ), and telephone interviews with RJ service managers ( $n=11$ ) and victims ( $n=6$ ) to investigate barriers to the victim take-up of RJ. Barriers were identified in: engaging perpetrators; offence-type exclusion (sexual and domestic abuse); attrition between stages of RJ; and, general issues in contacting participants. The main barrier to take-up of RJ, as stated by the professionals, was their inability to access victims’ information in order to initiate the process. These results may be considered in the overarching context of the CJS’s lacklustre commitment to devolve decision-making to victims (Marder, 2020; Banwell-Moore, 2023).

Overall the delivery of RJ has been fragmented and ad-hoc, rarely embedded in law and failing to penetrate the formal CJS. O’Mahony and Doak (2017, p.12) contend that RJ was the subject of ‘policy lip-service’ until selected jurisdictions moved to enshrine various forms of RJ within legislation. In England and Wales for instance, Part 2 of sch.16 of the Crime and Courts Act 2013 inserted a new section into the Powers of Criminal Courts (Sentencing) 2000 Act, to defer sentencing to allow for RJ intervention to take place (see MoJ, 2014). However, adequate implementation requires time and considerable investment, including adapting the adversarial working culture of key agencies including the police, prosecutors, lawyers, and members of the judiciary.

### **The current study**

The existing research, reviewed above, was largely contiguous with the aforementioned introduction of the Victim’s Code (MoJ, 2013b) and the new sentencing powers (MoJ, 2014). Data collection for the current study was completed at a markedly later time, 2021/22,

when areas in England and Wales had experienced restorative services funded via police and crime commissioners for at least 5-years. In this study we therefore aimed to build upon the prior research, seeking to understand the systemic issues identified underpinning limited information sharing, and whether services are not proactive in securing participant engagement.

Whereas previous research with UK samples has used qualitative methods and specified groups of either victims or offenders (Gavrielides, 2018), or included restorative justice coordinators (e.g., Bright, 2017), the current investigation took a wider angle. Here we sought to discover the views of *any* UK professionals that support perpetrators and victims with RJ or refer them to RJ services.

The research consisted of a quantitative and a qualitative phase. First, an online survey was designed to uncover barriers to the take-up of RJ from the perspective of RJ facilitators, managers and those that refer into RJ. This was then followed by a qualitative phase: an interview with a sub-set of participants to explore their survey responses in-depth. The process, described below, was conducted online to allow for nationwide participation. The question guiding the current research was 'what are the barriers to the take-up of restorative justice from the perspective of professionals involved in RJ?'

The mixed methods design helps mitigate issues that could occur with using only one method of data collection and can provide complementary information (Wisdom and Creswell, 2013). The two phases' methodology including the results of the phases are detailed over the coming sections.

## **Method: quantitative phase**

### **Design**

The initial online survey aimed to elicit data useful to guide the follow-up interviews. The explanatory sequential design acknowledges the perceptions of the individual participants, while building a collective representation which is necessary to combat issues that could arise with a small interview sample (Wisdom and Creswell, 2013).

### **Participants**

Participants were purposefully sampled via the local police and crime commissioner's office, and then via snowball sampling. To be included, participants had to work in the UK. One survey, completed by a participant from Canada, was therefore excluded. As shown in Table 1, a variety of UK sites/locations were included, thereby reducing the effect of anomalous local factors (Shenton, 2004).

The participants ( $N=31$ ) were professionals engaged in RJ across the UK, with an average age of 52 (range: 24-91). The sample included 16 men and 15 women. On average, time in their current role approached 5-years (range: 3-months to 21-years); with over 16-years in the criminal justice field (range: 3-months to 44-years). The affiliations and roles of participants are given in Table 1.

**Table 1. Affiliations, locations and roles of professional participants**

	N	%
<b>Affiliation</b>		
Restorative Justice Service	12	
Youth Offending Team	5	
Emergency Services	5	
Victim Support	3	
OPCC	2	
Local authority	1	
Unspecified	3	
<b>Location</b>		
Hampshire	11	35.5
Essex	5	16.1
Gloucestershire	3	9.7
Lancashire	2	6.5
Durham	1	3.2
East Anglia	1	3.2
Northern Ireland	1	3.2
Wiltshire	1	3.2
UK unspecified	4	12.9
<b>Professional role</b>		
RJ practitioner	16	51.6
RJ coordinator/manager	11	35.5
Police sergeant	3	3.2
RJ ambassador	1	9.7

*Note.* 'RJ practitioner' includes facilitator, practitioner and officer: all responsible for working with the RJ participants and facilitating the process. 'RJ coordinator/manager' is often responsible for a team of RJ facilitators in a specific area but depending on the size of the team and area they may also facilitate RJ processes themselves. Specialist 'police sergeant' is grouped separately as they act as a referrer into an RJ service and may also promote and educate others on RJ. An 'RJ ambassador' is similar to that of the police sergeant as they work to educate and promote RJ.

## Materials

The main portion of the survey had fourteen statements, developed from our review of the literature. In addition, as the project was facilitated by the local police and crime commissioner's office (PCC), an informal conversation with the local PCC's RJ lead provided some guidance regarding the issues they had experienced. Many of the points discussed with the RJ lead were empirically supported. For example, RJ is often seen as unsuitable for victims of sexual offences and domestic violence (e.g., Daly, 2006), and, the phenomena of limited information sharing between organisations, and limited referrals into RJ services (Bright, 2017). Therefore, these research findings guided the current survey design.

The survey's statements explored a variety of potential barriers such as 'RJ is not appropriate for victims of sexual offences' (for a full list of items see Results, Table 2). The participant was asked, 'To what extent do you agree with the following statements', with response options (coded 1-5) from 'strongly disagree' to 'strongly agree'. The participant was given the opportunity to explain any of their responses via a text box. Finally a question asked participants to select which offences, in their experience, had RJ been referred for. A putative list of offences was provided, again with an open text box (for complete list of items see Results, Table 3).

### **Procedure**

Initially the third author, in their capacity of research manager at the local PCC, sent recruitment emails to potential participants. To increase the sample breadth, the survey was emailed to various RJ service managers with a request to forward the email to colleagues that would be suitable. The survey link was also included in a bulletin from the 'RJ Council' and 'Why-Me?' which are organisations with an appropriate participant population.

At the start of the survey, the participant was provided with a full participant information sheet to read through before confirming their consent to participate. The first eight questions were general and demographic items. The main part of the survey took approximately 10-minutes to complete. The final question asked participants if they would be willing to be contacted for a follow-up interview online. Those that agreed provided a contact email address.

### **Results: quantitative phase**

After exclusions, a final sample of 31 participants provided complete surveys with no missing data. Since the quantitative data results contributed descriptive statistics to develop the interview questions, a simple frequency analysis was conducted. Table 2 presents median values for each statement.

**Table 2. Participant questionnaire responses (1=strongly disagree to 5=strongly agree)**

Item	Statement	<i>Median (N=31)</i>
1	Other professionals in the criminal justice system are sufficiently aware of restorative justice	2
2	It would be beneficial for the general public to have more awareness of restorative justice and how the process works	5
3	There are too many restrictions on offender-initiated self-referrals for restorative justice	3
4	Other support or intervention services within the criminal justice system do not see restorative justice as a priority for	4

	offenders or victims	
5	Other support or intervention services could be more proactive with restorative justice referrals	5
6	Restorative justice is more frequently used in cases with youth offenders than adult offenders	3
7	In my professional experience of restorative justice, I have seen a more beneficial impact for the victim- than offender- participants	3
8	Victims and offenders of serious crimes ( <i>e.g. serious sexual assault, grievous bodily harm</i> ) would benefit more from restorative justice than those involved in low level crimes ( <i>e.g. property theft</i> )	3
9	In my experience, most offenders take part in restorative justice because they want to help the victim, not for their own benefit ( <i>e.g. to upset or manipulate the victim, to get a reduced sentence</i> )	4
10	In my professional experience, I am aware of a lack of confidence from victims in the suitability of restorative justice for their case	3
11	Restorative justice is not appropriate for victims of sexual offences	1
12	Services/practitioners/support workers make the decision not to refer victims to restorative justice due to the perception that the process can be harmful to the victim	4
13	The most appropriate time for restorative justice to be introduced to a victim is during the initial police interview	2
14	Restorative justice is a suitable response to low-level offences as an alternative to typical sentencing ( <i>e.g. community service</i> )	4

Analysis of survey results revealed some notable patterns. Statements where there was a clear majority to the responses were identified as key barriers to explore in the interviews. For example, for the statement concerning the benefit of more public awareness of RJ (item 2), and also the statement concerning the need for more proactive referral mechanisms (item 5), almost all ( $n=30$ , 96.8%) of the participants selected 'strongly agree' or 'somewhat agree' with strongly agree being the most common response.

**Table 3. Offence types reported as having been referred into restorative justice**



Type of offence	Number of Participants (N=31)	Percent (%)
Robbery	27	87
Assault	27	87
Burglary	27	87
Theft	26	84
Anti-social Behaviour	26	84
Sexual Assault	24	77
Rape	23	74
Murder	23	74
Driving Offences	22	71
Knife Crime	21	68
Manslaughter	19	61
Intimate Partner Violence	18	58
Arson	17	55
Fraud	16	52
Trespassing	13	42
Drug Dealing	12	39
Abduction	8	26

In addition, the most frequent response was 'strongly disagree' (n=20, 64.5%) for the statement regarding the inappropriateness of RJ for victims of sexual offences (item 11). Relatedly, there was general agreement with the statement regarding the perception of harm to the victim being a common reason for not referring to RJ (item 12).

Table 3 gives summary statistics for the types of offences that participants stated had been referred for RJ. Evidently, the most common offences referred into RJ were assault, robbery, and burglary, whilst the least common were abduction, and drug dealing. Interestingly, 24 participants (77%) said they had previously had a RJ referral for sexual abuse and 18 (58%) said the same for intimate partner violence.

The survey also gave participants the opportunity to write down any other offence types referred into RJ not included on the list. The responses included: death by

dangerous/careless driving (n=1), attempted murder (n=1), and social media cases such as distributing indecent images (n=1).

## **Method: qualitative phase**

### **Design**

An interview design was used to explore further the responses that the participants had given to the survey. This phase focused on adding content validity by providing more in-depth accounts. Semi-structured interviews, analysed from an inductive perspective, allowed for suitably in-depth exploration. To enhance the dependability of the qualitative data the research process was guided by Shenton (2004).

### **Participants**

The interview participants (N=11) were recruited from the online survey where they were informed that if they participated, they would be included in a prize draw to win a “£25 Amazon voucher”. The sample size for thematic analysis should be large enough to identify reliable patterns within the data which is likely to require a minimum of six participants (Braun et al., 2016). The first twelve participants that agreed to participate in the interview were contacted. Of these, eleven responded and participated in the interview; five identifying as female and six as male. Age ranged from 24- to 91-years, and time in RJ role ranged from 6-months to 21-years.

### **Materials**

As mentioned, the interview questions were influenced by the responses received from the survey. Once the analysis of the quantitative responses had been completed, it became clear that there was a consensus among the participants for some of the questions. As the participants for the interview were from the already existing participant population, it was important that these questions reflected their perspective. Therefore, to avoid response bias, the questions were developed to be open-ended whilst following the general direction from the survey. To maximise research credibility, considering diverse perspectives (Shenton, 2004), discussion with the third author (research lead at the local police and crime commissioner’s office) supplemented regular research supervision between the lead investigators.

As the interviews were semi-structured, 12 topic questions were developed as part of the interview guide, then each interview participant was asked questions from this guide, as appropriate. An example interview question was, ‘Do you believe there is a way to create more confidence in RJ among victims?’

### **Procedure**

#### *Procedure for participants*

Participants were contacted by email with potential interview times and the information sheet. After selecting a time, they signed a consent form and were provided with a weblink for the online interview. At the outset, the participant was asked if they were both willing to be recorded and in a private location. If they agreed they were asked if they had any questions about the pre-information, before the recording was started. At the conclusion, participants were asked if there was anything else they would like to add before the recording was stopped. Post-interview, each participant was entered into a random prize draw for the Amazon vouchers. The winners were emailed the voucher via the university.

#### *Procedure for analysis and interpretation of data*

Eleven interviews (duration:  $M=26$ -minutes 40-seconds) were completed and audio recorded. Transcripts were produced verbatim and identifying information was redacted. To increase conciseness and readability unnecessary speech repetitions and hesitation markers were removed from the transcripts. Laughter and pauses longer than 5-seconds were also noted.

Thematic analysis (TA) was chosen as it allowed for an inductive approach, providing flexibility in pattern identification without being limited to a particular theoretical perspective (Braun et al., 2016). The TA followed six steps (Braun and Clarke, 2006): immersion in the data; coding interesting pieces of speech with words/phrases to demonstrate meaning; grouping codes into themes; reviewing the themes to check they accurately represent the data; finalising key-themes and sub-themes; and, summarising the findings using themes and quotations/references to the data.

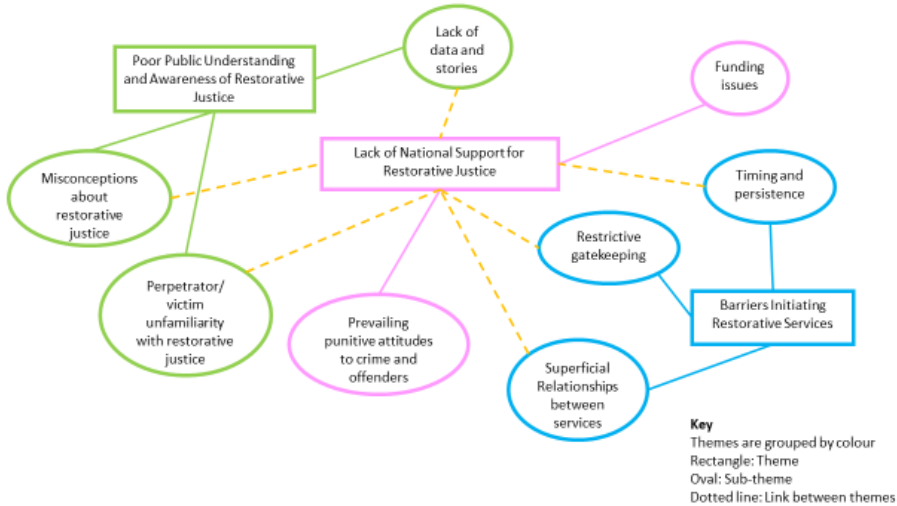
### **Results: qualitative phase**

The thematic map in Figure 1 shows the inter-relation of the themes and subthemes interpreted from the data in the context of the research question ('What are the barriers to the take-up of restorative justice from the perspective of professionals involved in RJ?').

The most prominent theme identified was *Lack of national support for RJ*. Citizens are guided by leaders in government, who influence their perspective on the world and highlight priorities in public and private life. This theme reflects the idea that the government does not prioritise RJ. Lack of national support reduces the strength of coordination and resources provided to support RJ services which affects take-up. This theme is located in the middle of the thematic map (Figure 1) because it is interpreted as the epicentre or fundamental cause of the other barriers.

As discussed later, the main findings from this study do not map neatly on to those from previous research which identifies the main barrier to victim take-up of RJ as the inability to locate eligible participants. Although this finding is discussed in the theme *Barriers initiating restorative services* (theme 2), it overlooks the overarching context to the barriers to the take-up of RJ. The current findings suggest that despite the work that is done by RJ services, the most impactful barriers are contextual.

**Figure 1: Thematic map of analysis from interviews with professionals**



### **Theme 1: lack of national support for restorative justice**

Participants emphasised the lack of support from the government and on a national level. For example: 'I think there's so much politics, I just don't think they're taking it seriously at the moment.' (Ralph, Ambassador). Interestingly, participant Ralph had taken part in an RJ process as a victim and later began working as an RJ ambassador. Other participants also lamented the lack of a national strategy or political agenda. In particular Callum (Co-ordinator) noted that, 'the placement of where restorative organisations sit, they just seem outsiders already' which indicates that there may be a perceived lack of acceptance within the CJS. This also links to the theme that discusses the *superficial relationships between services* and could provoke a discussion around re-positioning RJ.

#### *Sub-theme: prevailing punitive attitudes to crime and offenders*

The lack of national support was discussed in the context of previous and current attitudes to crime and rehabilitation in the UK which have been influenced by the focus on punishment among leadership figures and the media. Eight participants mentioned the punitive attitudes held nationally towards wrongdoers and the impact this may be having on RJ, e.g.,

I think this is the problem because as I said, we are a very punitive society. Everybody wants to judge other people. We want to see the guilty punished once, if not twice. (Callum, Coordinator)

Ralph (Ambassador) also noted the lack of desire for change to the CJS retorting derisively 'if the system isn't broken, it doesn't need fixing', while volunteer Max opined 'they're set in their ways, they know their way of doing things'.

### *Sub-theme: funding issues*

The lack of national support also has an impact on the funding available for RJ within PCC local areas and counties nationwide. The 'postcode lottery' of RJ financing was captured by Patrick (Practitioner):

some restorative justice providers are really poorly financed, depending on who finances them. Some police and crime commissioners have bought-in to restorative justice and are given a lot of money for restorative justice.

Patrick represented the view that RJ's availability was dependent on varying organisational attitudes and patchy commitment.

The funding issues experienced by RJ services were said to have led to low staffing levels, and consequently services depending on the availability of volunteers; which is not always reliable or sufficient. If there is a lack of volunteers then it can fall to just a few paid staff which can put additional strain on those staff, particularly in a wide geographic area.

we cover the whole area of [REDACTED] yet there's only two RJ facilitators and it's a big area to cover with just two. (Kirsty, Co-ordinator).

## **Theme 2: barriers initiating restorative services**

This theme reflected general service issues that can reduce the stability and reach of service provision and hence the likelihood of take-up. Participants remarked that the lack of national consistency in RJ meant that some agencies have an automatic opt-out process, 'the default was they would automatically be taken as opting out of restorative justice' (Charlie, Practitioner). Consequently, and contrary to their statutory right to be informed, the victim would not participate unless they were independently aware of RJ and then proactive in seeking it. While sentenced individuals may in principle be more accessible, participants noted experiencing logistical barriers, e.g., 'sometimes they move around prison to prison all the time' (Lydia, Practitioner).

### *Sub-theme: timing and persistence*

This sub-theme reflected the difficulties that RJ services face with respect to the timeline of RJ and what is the most appropriate moment to offer it to victims. Here the analysis uncovered some contradictory views, with some participants suggesting that RJ should be offered soon after an offence (e.g., Sophia, Lydia) or at multiple points in time (Erin). Others however, warned that repeatedly offering RJ can be negative for a victim:

the issue as well is – it's not only when the offer is made, but how many times. And you've got to be careful you don't make it too often. (Patrick, Practitioner)

The benefits of introducing RJ early on was said to include that it could reduce the likelihood of re-traumatising the victim of a serious offence through a court process:

I would love to see more use of pre-sentence RJ, but largely because it would save a lot more pain for people through the process. (Callum, Co-ordinator)

Similarly, volunteer Max said: 'If it is offered earlier on, it might even avoid the criminal justice experience altogether'. These participants believed victims should be made aware of all support available to them, including RJ, at the time that the offence is reported. This could then be followed up with a conversation to introduce the victim to the general idea of RJ before asking them if they would like to participate.

It is worth noting that participants can decide to take part in an RJ process at any time. Lawrence (Practitioner) for example stated, 'I've not long finished a murder that took place 16-years ago...so there's no timeline on restorative justice.' Another factor emphasised was that the RJ process itself is time consuming both for its facilitators and its participants; who may spend years preparing for a RJ meeting. The sensitive nature of RJ requires it to become a slower process which could reduce the likelihood of take-up for people or services that want a 'quicker fix':

Some agencies or organisations kind of maybe are looking more to get a quicker fix - to be able to solve the problem in sort of real time rather than it take a series of weeks and months and potentially years. (Sarah, Facilitator)

### *Sub-theme: superficial relationships between services*

For RJ services, building relationships with CJS organisations is essential to get referrals. Most participants mentioned that they would receive referrals from various services including the police, prison/probation, and victim support. It is common however for inter-agency communication to be slow; Patrick (Practitioner) highlighted that often people forget about RJ so 'you have to keep going out and reminding people there's RJ here'. There was also mention of an ongoing training need for these services to build understanding and rapport,

we have quite a large training programme in [REDACTED]. We're very involved with [REDACTED] police in training, right across the board: probationers, specials, detectives. (Lawrence, Practitioner)

The reason why these relationships are so important was highlighted by Lydia (Practitioner) explaining the extreme difficulty of progressing an RJ case without pre-existing relationships with probation, victim liaison officers, and offender managers in custody. Without these prior relationships the essential initial communication cannot be established.

### *Sub-theme: restrictive gatekeeping within delivery agencies*

The majority of participants specifically mentioned gatekeeping as a barrier to RJ take-up and the analysis identified gatekeeping as linked to many of the other barriers. Restrictive gatekeeping was associated with misconceptions held about RJ that may influence decision-making about using it for certain offence types (e.g., intimate partner violence).

Restrictive gatekeeping was considered deeply detrimental in disempowering people as expressed by Callum (Coordinator): 'by not allowing people to take control of that destiny for themselves.' Although the purpose of RJ is to give back control to the victim, many organisations are found to 'act on behalf of their victim' (Patrick, Practitioner). When organisations make decisions *for* the participants, it creates ethical issues around capacity and whether individuals are allowed to make their own choices:

I also think that people who are working with victim's offenders, they get to know them, they have feelings about them, they have feelings about their capacity, about their mental health...They make decisions based on that, almost like they're making a decision for the potential participants. (Erin, Practitioner)

### **Theme 3: poor public understanding and awareness of restorative justice**

All participants bemoaned the lack of knowledge the public has about RJ, with some noting that 'they don't know it exists, they don't know about it' (Max, Volunteer). Others spoke more about an obliviousness to RJ. More public awareness was discussed by several participants as something that would make the introduction of RJ to a victim an easier process. When asked about ways to instil more confidence in RJ amongst victims, Sophia said:

I think, yeah, it's more education and awareness of it prior to necessarily needing that kind of service, I think could be beneficial.

#### *Sub-theme: misconceptions about restorative justice*

Nearly all participants said that they believed RJ referrals and take-up were affected by services not fully understanding RJ. We considered this a core barrier to the take-up of RJ as it linked into many of the other identified themes.

For some agencies misconceptions boiled down to a lack of understanding around how RJ operates: 'Police officers did not understand what restorative justice means and how it is implemented in new services' (Charlie, Practitioner). Participants identified that this creates a training need at various levels of the CJS. In addition, when discussing interacting with professionals, Lydia (Practitioner) stated that 'people have got such strong views over something they barely know anything about'. This could be a reason why gatekeeping problems are repeatedly identified in research into barriers to RJ uptake.

For other agencies it is a persistent lack of awareness that RJ is available in their area, as recognised by Kirsty (Co-ordinator):

Our particular RJ champion has twice now mentioned the possibility of an RJ

process in court to the offender's counsel and twice, she's been told in court that there isn't an RJ service because NPS don't do RJ.

Participants had a variety of examples from people they knew or worked with who had specific misconceptions about RJ. Patrick (Practitioner) for instance stated 'I was speaking to a probation officer just last week, an experienced probation officer, about a potential case and then she brought up the point that "it's domestic violence so we won't take it", and I went, "we will".' Furthermore, as raised in *superficial relationships between services* (sub-theme, Theme 2), some participants identified a need for training to challenge misconceptions of RJ being a soft option or an alternative to punishment or the consequences.

*Sub-theme: perpetrator/victim unfamiliarity with restorative justice*

Participants clearly expressed that the parties involved had individual perspectives on RJ. These perspectives can act as a motivating factor, for example, 'it's the victims who are looking for the answers, rather than the offender who's looking to take responsibility' (Lawrence, Practitioner). Or they can create doubt and reservations, 'you know sometimes you can be your own barrier' (Ralph, Ambassador) which can manifest in many ways. When asked what the greatest barrier to RJ is, Callum emphasised that both parties involved in an RJ process are fearful which may contradict traditional views of perpetrators.

The greatest barrier...fear. People's fear of exposing their emotions because it's quite unknown as well. So a bit of fear of the unknown, fear of meeting the other person, fear of actually seeing the other person. (Callum, Coordinator).

*Sub-theme: lack of data and participant stories*

Within the theme of public understanding of RJ, many participants spoke about the absence of publicity around qualitative data as a *contributor* to the lack of awareness. Participants were specific about the importance of using real stories and case studies rather than just cold statistics when discussing RJ. This type of qualitative data can create something real for people to identify with, as noted by Ralph (Ambassador):

There's statistics out there at the moment and numbers and figures being flown around but half the people don't even believe 'em. You know what's going on at the moment, this is hard to grasp until you actually have a tangible - something that you can see and almost feel, then ... until that point it doesn't become real.

Similarly, Erin (Practitioner) emphasised the value of impact case studies:

We try to capture case studies all the time, and we're trying to have a bigger presence on social media...I feel like it is the kind of service that if people hear about the success stories and people hear about how it can be so impactful, that can make a big difference.



## **Discussion**

A successful criminal justice system (CJS) requires the confidence of victims, perpetrators, and communities; stakeholder interests that RJ is uniquely well-placed to reconcile. Currently however, confidence in the CJS is low, particularly among victims and defendants (Archer et al., 2022). RJ offers the potential for victims and perpetrators to process and move on from the offence, rather than morally disengaging. One should expect this to be challenging for all parties, requiring systemic support. Across survey and interview however, our results suggest that professionals in the RJ field find the requisite national and governmental patronage for the challenge is lacking. As reviewed below the current findings support but match imperfectly with those from previous studies which have implicated gatekeeping, participant engagement, and limited tendering for RJ as the main barriers. While the present research has corroborated these findings, it has also identified broader issues. Below we integrate the current results with the literature, in the context of the research question: 'from the perspective of professionals, what are the barriers to the take-up of restorative justice?'

The views of the 31 RJ professionals were unequivocal in the survey, strongly agreeing that greater awareness of RJ among the general public would be beneficial. Accordingly, this was a main theme in the interviews with participants highlighting that neither victims nor perpetrators have awareness of RJ before being presented with it as a possibility at an emotional time. This supports Gavrielides (2018) who found that neither party had heard of RJ before. Not recognising the phenomenon of restorative meetings, much less their benefits and broad applicability, indicates a deficit not only in victims' services and criminal case processing but also our education system. Unless RJ is introduced early and often, punitive responses are unthinkingly expected - because that is the way things have always been done; irrespective of its consequences/effectiveness. Some schools – primary and secondary - have implemented 'restorative practices' (RPs), i.e., approaches that seek to build and maintain relationships so that when there is conflict it can be addressed restoratively. Importantly, the schools' literature contends that the introduction of RP works best when it begins with the organisation's leadership and is reflected in core priorities and all interactions (Thorsborne and Blood, 2013). Isolated RJ interventions are otherwise overwhelmed by the dominant punitive culture.

Relatedly, survey participants disagreed that other CJS professionals were sufficiently open to or aware of RJ. In the interviews, participants bemoaned encountering prejudicial attitudes; indeed, limited awareness of RJ within the CJS was raised as a major source of frustration. Restrictive and assumptive gatekeeping stops victims and perpetrators from being able to make decisions about their own lives. Gatekeeping was previously identified as a major barrier to the take-up of RJ (Clairmont and Kim, 2013; Avieli et al., 2021; Banwell-Moore, 2023). Our interview participants stated that the main barrier for prospective participants is fear, echoing an earlier finding (Gavrielides, 2014). Meeting the victim is a frightening prospect for many perpetrators, but navigating an RJ process could offer a much-needed sense of identity associated with making amends. Under-resourced gatekeepers making presumptions about perpetrators' capabilities may unwittingly reinforce perpetrators' limited self-determination, whereas pursuing RJ may open up a unique opportunity to move forward with personal responsibility. Likewise, not supporting

a victim to consider the possibility of a meeting may perpetuate an inhibited sense of self and agency due to their victimisation.

We also found consistent strong agreement that partner support or intervention services in the CJS lacked initiative in identifying RJ referrals. Relationships between services were reportedly characterised by unresponsive communication, with RJ seen by the partner agencies in limited terms: that is, time consuming. A reliance on unresponsive referral agencies suggests that RJ services are not using administrative 'case extraction' as recommended some time ago (Bright, 2017). The current findings therefore support Bright (2017), where inability to find information on eligible participants was the main barrier to victim take-up of RJ. Further, some partner agencies were said to automatically opt victims out of interest in RJ activity. This would appear to contradict victims' rights under the Victims' Code (MoJ, 2013b) suggesting, at best, that this code of practice is not being routinely applied.

In recognition that the timing of the offer cannot be generalised and must be sensitively case-specific, survey participants tended to disagree that the most appropriate time for RJ to be introduced to a victim is during the initial police interview. Victims may experience deep loss, not unlike the grief response of the dying patient (Kübler-Ross et al., 1972). Kübler-Ross's stages include denial, anger, bargaining, depression, and acceptance, with prior stages continuing to be experienced even after acceptance has been reached. It is therefore not reasonable to expect that an initial police contact is always the best time to broach the possibility of a restorative meeting. Notwithstanding synthesised recommendations for trauma-sensitive RJ implementation (Burns and Sinko, 2023), there is an absence of empirical research on the effect of the timing of the RJ encounter including the effect of regular repeated offers.

In this vacuum, various practices thrive. Survey participants generally agreed that the perception that the process can be harmful to the victim is the reason gatekeepers make the decision not to refer victims to RJ. This was also one of the significant barriers identified in the prior literature where RJ has been viewed as potentially re-traumatising for victims of interpersonal violence/abuse (Daly, 2006; Burns and Sinko, 2023; Martin et al., 2023). Our professional participants however unanimously disagreed with this, and supported this with evidence of having worked with referrals in cases of sexual assault (77% of professionals) and intimate partner violence (58% of professionals). This mismatch indicates a need for further research regarding the obstacles specific to sexual/domestic abuse cases and whether RJ meetings are successful for victims of these offences. Reviews of the limited literature suggest however that, when supported and safeguarded, sexual violence victims experience empowerment rather than traumatisation (Wager, 2013).

Despite the policy-basis (MoJ, 2014) our participants, regrettably, saw themselves as outsiders within the CJS; operating in the absence of a national strategy and without coordinated funding. Funding and emphasis in business planning is naturally seen as an index of value recognition, and shortfalls here may be associated with a punitive operating environment.

Our participants were not purists, and indeed the use of imprisonment is not incompatible with RJ: opting-in is possible at any stage in the criminal justice process (CPS, 2023, 10 February; House of Commons Justice Committee, 2016). RJ is not limited to being offered as an alternative to prison and probation – the combination of RJ and rehabilitative activities can maximise the potential of both (Latimer et al., 2005). Potentially therefore, the RJ lens could support the re-positioning of community justice agencies towards the achievement of restorative outcomes.

As with any research the present results should be considered in the context of the participant population. Participants were all professionals working with RJ who volunteered their time; in 11 cases this also included a lengthy follow-up interview. Their commitment to contribute may associate with more extreme support for RJ and greater frustration at implementation problems, relative to other RJ professionals that did not participate. The participants did not, of course, include RJ users, and therefore do not provide a direct victim or perpetrator perspective. Although frontline professionals are well-placed to reflect both perspectives, the present research may not include extremes of positive and negative experience that may be more likely in a direct/user sample.

### **Implications for policy and practice**

Lack of national support was an unexpected finding but does echo results from a study into the cultural impact of RJ on the Chinese criminal justice system (Wing Lo, 2012). Absent the requisite leadership and promotion, public awareness and understanding suffers - impeding RJ implementation. Undoubtedly, the identification of eligible cases remains a key barrier. The systemic barriers implicated in the present findings require stronger leadership to achieve the buy-in and partnership working required. Offender managers, i.e., probation practitioners in prison and in the community, are well-placed to notify RJ providers of suitable cases and provide relevant information including regarding the victim. The RJ service can then proactively offer the possibility of a restorative process. Effective partnership working may include more joined up structures, requiring co-location (shared office space) between CJS agencies and RJ services, and/or a systematic programme of secondments to RJ services. In sites with co-location, particularly with an RJ-advocate manager, Banwell-Moore (2023) found greater encouragement, direct and indirect, of RJ service offers – and greater victim engagement.

Relatedly, rather than relying solely on chance referrals by frontline practitioners, service-level information sharing agreements are needed to enable RJ services to extract, and sensitively pursue, eligible cases from administrative data. This may be supported by initiatives like the 'defense-victim outreach' in the United States, whereby victim outreach specialists engage with the accused's legal team as a conduit for the victim's interests and concerns. Approved information sharing should also facilitate the sharing of professional expertise, via stories or peer observation of RJ, to tackle the culture of victim protectionism and increase knowledge, skills and attitudes. RJ services and their advocates could accordingly enhance their media activity.

Given the indications in the current study that victims were not being automatically informed of the possibility of a restorative solution, a system is needed to ensure the

Victims' Code (MoJ, 2013b) is reliably applied. This monitoring system must eliminate automatic opt-out of RJ and offence-type exclusions, so that all victims have access to RJ.

The above concerns may be moderated by the establishment, in some areas, of 'victim care hubs' (see e.g., <https://www.hampshire-pcc.gov.uk/police-and-crime-commissioner-delivers-multi-million-pound-service-for-victims-of-crime-in-hampshire-and-isle-of-wight>). Victim care hubs provide emotional and practical support, case updates, and options for RJ; at any time and without pre-requiring reporting of a crime. They provide co-location by being situated in major police stations while being staffed by teams from the national charity Victim Support, alongside specialist providers commissioned by the police and crime commissioner's office.

A more overarching response however, involves a public education approach. Many UK schools have embraced restorative practices as a means of building a communitarian culture (e.g., McCluskey et al., 2008). Nevertheless, RJ itself could receive greater focus and prestige throughout the education system. It is common for students to get into fights, arguments or bullying whilst at school. These scenarios are an opportunity for a restorative solution to take place and support the students to repair their relationships. If school disciplinary procedures were more restorative, including this 'restorative' tag being explicitly used, then a wider pool of victims and perpetrators may be interested in this option should they become involved in crime in the future.

## **Conclusions**

Victims and perpetrators have limited confidence in the system currently that centres on serving "just deserts" (punishment proportionate to crime seriousness) rather than the individual needs of those harmed. Restorative justice (RJ) offers the potential to repair the tear in the web of relationships caused by crime, and instil hope in a safer society. The current study contributes to the literature by providing updated and complementary evidence of the barriers to the implementation of this initiative in the UK. After consulting with the experts-by-experience, i.e., professional practitioners, new data were obtained and interpreted. Participants emphasised a lack of public understanding and awareness of RJ, including a lack of awareness of RJ within the criminal justice system, and internal paralysis regarding RJ implementation. These themes all lead back to a central organising theme: lack of national support for restorative justice.

## **Conflict of Interest Statement**

The authors have no conflict of interest in this research to disclose. Although the second author now works for HMPPS, they were a student at the University of Portsmouth during the research process. The views expressed in the paper are not those of HMPPS nor the Ministry of Justice, and nor do they represent Government policy. Similarly, the third author works for the Hampshire Police and Crime Commissioner's Office. The authors do not consider this position to have biased the current research as this author had no role in the process of data collection, analysis or results interpretation

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