



## **Restorative Justice and Sexual Offending in Scotland: Public protection and future restorative developments**

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### **Abstract**

Responding to sexual offending is complex. Perceptions of justice for survivors of sexual offending can be fluid and multi-dimensional. A justice gap is acknowledged relating to the limitations of what criminal justice can provide survivors. Restorative justice is framed as an inclusionary and emotionally intelligent justice response that can aid post-trauma survivor growth. Empirical research has found restorative justice participation can also benefit individual efforts to desist from further sexual offending. Restorative justice practice in Scotland has a patchwork history. Scottish Government has been cautious in extending restorative justice practice to sexual offending.

This article is informed by a critical review of contextual literature. A research gap is identified. The views of public protection professionals in Scotland, relating to restorative approaches to sexual offending, have yet to be researched. Justice social workers, Police Scotland Sex Offender Policing Unit (SOPU) officers and Multi-Agency Public Protection Arrangements (MAPPA) Coordinators, are a specialist professional group. Their unique public protection role will offer valuable insight into future research questions concerning restorative justice and sexual offending risk management, tension between criminal and restorative responses to sexual offending and desistance from further sexual offending. Future qualitative academic inquiry is proposed to address this research gap and to surface this specialist knowledge. Such views are likely to be beneficial to future RJ practice development as a response to sexual offending in Scotland.

### **Keywords**

Restorative justice, sexual offending, public protection, Scotland.

## Introduction

Responding to sexual offending is complex. Criminal justice is the dominant response to sexual offending in western countries (Brown, 2017). The limitations of criminal justice however, are well documented and have highlighted the inadequacies of processes; the negative experiences survivors<sup>1</sup> have; and its shortcomings in preventing future sexual harms (Clark, 2015). These limitations represent a justice gap (Keenan *et al.*, 2016). Despite attempts to address these limitations, such as specialist policing units dedicated to investigating sexual offending and the use of survivor impact statements prior to sentencing, survivors can feel disempowered, retraumatised and dissatisfied in their experiences of criminal justice (McGibbon and Humphries, 2021).

Kaleidoscopic justice refers to diverse perceptions of what justice means to survivors. Justice represents differing ideals informed by individual expectations, with varied desired outcomes. Common findings of survivor informed research have identified voice, participation, dignity, meaningfulness and prevention as critical components of justice for survivors (McGlynn and Westmarland, 2018).

In response to the diverse needs of survivors, restorative justice (RJ) is framed as an inclusionary and emotionally intelligent justice response (Wood and Suzuki, 2016). RJ is a survivor informed mechanism that seeks to engage individuals impacted by harms caused. It promotes a personalised reflexive approach for survivors, should they wish to engage with the person who caused harm (James and Hetzel-Riggin, 2021). Implicit in this, is the reconceptualisation of offending as a fracturing of interpersonal relations as opposed to merely a violation of law, and the need to address relational damage (Christie, 1977). RJ practice is diverse. RJ conferencing consists of facilitated in-person meetings between the survivor and person who harmed, with additional interpersonal supports present, termed communities of care (Walgrave, 2021).

Multi Agency Public Protection Arrangements (MAPPA) is the foundation of public protection and risk management in Scotland for people who have sexually offended. Responsible Authorities (RAs) work collectively to identify, manage and to address risks of reoffending (Scottish Government, 2022). Justice social workers, Police Scotland Sex Offender Prevention Unit (SOPU) officers and MAPPA Coordinators are a specialist group of professionals in this field. Their views have yet to be researched concerning restorative responses to sexual offending. Despite not being directly involved in RJ practice, these professionals will have experience of specialist risk assessment identification and planning, rehabilitative programmes and insight from their professional relationships with people who have sexually offended. This knowledge and experience will be valuable to future research questions concerning RJ and risk management, exploring possible tension between criminal and restorative approaches, and if and how RJ can complement existing rehabilitative efforts to promote desistance from sexual reoffending. It is acknowledged there is contention in whether RJ should be considered at all in this criminal justice context, and in doing so, whether its ideological roots are comprised. However, this is defended as a topic for academic inquiry given RJ as a response to sexual offending is an area of growing practice.

This article is informed by a critical review of contextual literature. It is divided into four sections beginning with background information on restorative justice and its development within Scotland. Attention is then focused on sexual offending and desistance. RJ as a response to sexual offending is discussed with concerns and empirical evidence presented. The final section identifies a research gap and proposes future qualitative academic inquiry to address this. Future research would surface views of a specialised group of public protection professionals. Such views will likely to be beneficial to the future development of RJ practice as a response to sexual offending in Scotland.

## Contextual Background

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<sup>1</sup>*Survivor* is intentionally used throughout this article to refer to a person who has been harmed by experiencing sexual offending. It is acknowledged that this term is not favoured by everyone who has been harmed, who may prefer to define themselves in their own way.

## *Restorative Justice*

Restorative justice (RJ) is an umbrella term encapsulating broad ideas in conception and application (Walgrave, 2021). RJ has been defined variably as an ideal, set of values, a process, and outcome-driven practice (Garland, 2023). A unique element of RJ is that it seeks to empower people by encouraging engagement and dialogue, amongst those impacted by harm and those responsible. In doing so, it is thought to be better positioned to respond to survivor needs by promoting personalisation and reflexive practice, than a criminal justice system dominated by professionalisation and bureaucratisation (Christie, 1977).

RJ practice can take place

*'...at all phases of the criminal process, pre-arrest, diversion from court, pre-sentence and post sentence, as well as for offending or conflicts not reported to the police'* (Daly, 2016: 14).

This permits variation in practice to best suit the needs of individuals and their localised contexts. Meetings can take the form of mediation, family group conferencing, circle sentencing and RJ conferencing, with conferencing the most researched RJ practice to date, and the focus of this article (McMahon *et al.*, 2019).

Academic literature acknowledges dispute in where RJ practice should be located from existing criminal justice processes. RJ practice as a distinct and separate entity permits neutrality from criminal justice organisations, to maximise flexibility of practice, best adapted for individual survivor needs (Walgrave, 2021). However, institutionalisation as an optional component of criminal justice processes, is more likely to aid levels of referral, enhance public awareness, encourage professional standards, expand RJ training, and provide a level of financial security for further practice expansion (Daly, 2016). This debate is often framed in terms of a professionalisation of RJ (Keenan *et al.*, 2016).

RJ practice has been widely accepted across western countries as an appropriate response to low tariff<sup>2</sup> youth offending. Northern Ireland for example, since 2002 has used RJ either as diversion from court, or part of a court order and has experienced increased public awareness and growing levels of public support for restorative approaches (Keenan and Zinsstag, 2022). Symbolically however, only applying RJ to low tariff youth offending has promoted the misconception that RJ practice is only suitable as a response to low level harm (Maglione *et al.*, 2020). There is growing empirical evidence however, that finds RJ practice can be applied to higher tariff adult offending effectively, including responding to harm caused by sexual offending (Campbell Collaboration, 2017).

Empowerment is commonly identified in literature as a core benefit for survivors participating in RJ practice (Jülich and Thorburn, 2017). This is achieved through narration of personal experiences of harm, to reclaim what has happened to them emotionally, physically, and socially. This is thought to have therapeutic benefits to aid post-trauma growth (Chapman, 2023). Engagement with the person who has caused harm permits a level of accountability, achieved by asking pertinent questions. Having a clear understanding of offending motivations and understanding why they had been personally targeted, has been found to enhance feelings of safety (Coker, 2018).

RJ practice can strengthen interpersonal support networks, as communities of care are present during conferencing. This allows for a better understanding of how harm has been experienced, to inform support needs and actions tailored to fit each survivor. RJ demonstrates a trauma informed response. Research has identified a consistently higher level of survivor satisfaction when compared with survivor experiences of criminal justice systems (Daly, 2016).

A pre-requisite of RJ participation is to acknowledge personal responsibility for offending. RJ provides opportunity to explain the context of offending behaviour, as well as an opportunity to demonstrate remorse. Levels of responsibility are often deepened through RJ participation (Koss, 2014). Exploring how this outcome may complement rehabilitative efforts to desist from sexual reoffending is a research question of proposed future research in this article. It is thought RJ participation permits collective recognition of a new identity away from offending and causing future harms (Kirkwood and Hamad, 2019). Such arguments connect with reintegrative

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<sup>2</sup> Low tariff offending commonly denotes offending that has caused lower levels of significant harm.

shaming theory (Braithwaite, 1989). This emphasises the way in which individuals and communities form normative expectations through shaming and how individuals cope with emotions caused by a fracturing of these norms and societal disapproval. Interpersonal reconnection is thought to influence regulation of behaviour by promoting a moralising form of control (Braithwaite, 1989).

RJ participation of key family and friend supports, of both survivor and person who harmed, is likely to enhance wider understanding of offending, its causes and consequences (Ward and Fortune, 2014). It may also enhance knowledge of risk factors associated with offending. This is relevant as it promotes a preventive collective approach to offending that may complement existing public protection efforts (McCartan and Kemshall, 2023). However, this remains disputed. Arguments in contextual literature suggest this is an idealised account of community engagement, when communities of care may resist survivor accounts of harm, re-enforce power imbalances, and be closed to broadening knowledge of offending contexts (Klar-Chalamish and Peleg-Koriat, 2021).

Exploring if and how restorative approaches can be complementary to public protection risk management, are further research questions of proposed research. This will include inquiry into the potential rehabilitative impact of communities of care, as well as the challenges wider RJ participation may present.

### *Scotland and Restorative Justice*

External RJ policy, guidance and legislative change have been a significant contributing factor in Scotland's current RJ development (Zinsstag and Wisenfeld Paine, 2023). *EU Victims Directive 29/2012* for example, sought to strengthen the rights and voices of people impacted by offending and acknowledged the need to provide support to those impacted. The *United Nations Handbook on RJ Programmes* (2020) provides good practice in design, implementation and evaluation of RJ programmes, to encourage practice development within countries.

Development of RJ practice in Scotland has history dating back to mediation service provision of the 1970s<sup>3</sup>. What is striking is the patchwork nature of restorative development since then, and how recent Scotland's first RJ policy was launched in 2017, which identified key RJ principles for practice (Scottish Government, 2017). As with England and Wales, RJ practice in Scotland has primarily been used as a response to youth offending (Maglione *et al.*, 2020). An Action Plan was launched in 2019 with the intention to make RJ practice readily available to all by 2023 (Scottish Government, 2019). This ambitious deadline was postponed and despite Scottish Government remaining committed to national RJ development, there has been no renewed deadline proposed. Community Justice Scotland<sup>4</sup> have responsibility for national development of RJ, but practice remains limited and variable (Hamad *et al.*, 2020).

The Scottish Government states RJ

*'...gives victims the chance to meet, or communicate with, the relevant people who have harmed, to explain the impact the crime has had...giving them a voice within a safe and supportive setting...it also provides those who have harmed an opportunity to consider the impact of their crime and take responsibility...with the aim of reducing the likelihood of re-offending.'* (Scottish Government, 2017: 6).

This sentiment frames RJ in Scotland as both a process for those harmed to be heard, as well as outcome focused practice, by aiming to reduce reoffending. Despite these ambitions, there remain fundamental issues in the organisation and delivery of Scotland's RJ practice. Questions of availability of practice, funding, training, data sharing between organisations, public awareness and processes of referral, remain unresolved (Nascimento, 2021). Tensions between existing localised and centralised RJ practice models are identified (Maglione *et al.*, 2020). There is improving, yet inconsistent knowledge of RJ, and referrals to RJ, amongst criminal justice professionals (Butler *et al.*, 2024). Resolving these questions is fundamental to the expansion and development of RJ practice in Scotland; they are reflected in the research questions of this article's proposed research.

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<sup>3</sup> See Kirkwood and Kritikos (2024) for a detailed history of Scotland's RJ development.

<sup>4</sup> See [Community Justice Scotland](#) website for publication of national RJ developmental progress reports.

RJ empirical research within Scotland is an expanding area of academic inquiry. Specific evaluations of practice have evidenced high levels of satisfaction for individuals impacted by offending. Evaluations have found that survivors report feeling heard and listened to, being able to hold others to account and feeling involved in future action planning (Butler *et al.*, 2024).

## Sexual Offending

Sexual offending encompasses a range of sexual violence and harmful behaviour. It can be complex to define due to wide variation across socio-cultural and legal contexts both within and across countries (Brown, 2017). Poor levels of prosecution and conviction across criminal justice systems have contributed to a justice gap experienced by survivors and a loss of confidence in criminal justice systems. It is suggested this also contributes to non-reporting to police for investigation (Gillen, 2019). It is difficult to determine levels of sexual offending given underreporting, but it is much higher than official recorded data (Thornton, 2021).

Sexual offences in Scotland are legally defined within Sexual Offences (Scotland) Act 2009. This established a statutory definition of consent as free agreement (McPherson *et al.*, 2021). Reporting of sexual offending has more than doubled over the past decade. Despite this, sexual offending represents approximately 5% of all offending data (Scottish Government, 2023). Scotland has a growing population of survivors and an increasing population of people who have sexually offended, against a wider context of criminal justice resourcing constraints (Constance, 2024<sup>5</sup>). This financial context is relevant as approaches that support both survivors and people who have offended, in a cost-efficient manner, are likely to gain traction at government level. Some estimates have suggested RJ could save an estimated £17 million of criminal justice public funding (Grimsey Jones *et al.*, 2023).

Sexual offending can be enacted by all ages and genders.

*'Whilst perpetrators and victims may be of all genders, the majority of perpetrators are male (both adult and adolescent) and the majority of victims are female.'* (NOTA<sup>6</sup>, 2023).

The impact of experiencing sexual offending can cause significant life-long emotional, physical, social and financial harms (Herman, 2015). Internalised trauma and shame can exacerbate harm experienced, particularly when perpetrated by a family member (Koss 2014). Most sexual offending occurs in the context of pre-existing relationships, whether relations are intimate, familial or friendship based. Emotions of betrayal and broken trust can add further complexities in how sexual offending is experienced (Keenan *et al.*, 2024).

Moral panic theory has been used to explain public perceptions and attitudes towards sexual offending (Berryessa, 2022). This identifies public fear towards a specific issue or group that challenge societal values and wellbeing. Public fear can be exaggerated by news media reporting and give rise to panic and new policy and legislation designed to contain the threat. Societal awareness of rehabilitation, understanding of sexual offending risk factors, and how social integration can support efforts to desist from further sexual offending, remains limited and misunderstood (Klein and McKissick, 2019). People who sexually offend can be subject to conditions of annual notification requirements, restriction of movement and face employment restrictions, that despite having broad public appeal, lack an evidence base in their effectiveness to prevent future sexual offending (Harris, 2016).

People who have sexually offended generally have lower reconviction levels than non-sexual offending populations, are generally compliant with public protection measures and if they do reoffend, tend to do so at a lower level than other people with non-sexual offending patterns (Jones and Neal, 2019). Though this varies

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<sup>5</sup> Angela Constance MSP Cabinet Secretary for Justice and Home Affairs statement on 10.10.24 to Scottish Parliament, can be read in full here [Justice Secretary: Statement on Scotland's prison population - gov.scot](https://www.gov.scot/Information/Justice/Justice%20Secretary%20Statement%20on%20Scotland's%20prison%20population)

<sup>6</sup> National Organisation for the Treatment of Abuse (NOTA) is a professional multi-agency organisation dedicated to enhancing the work of professionals involved in working with people who have sexually offended [NOTA](https://www.nota.org.uk/). The objective of NOTA is the prevention of sexual harm.

in each case due to a range of complex dynamic factors (Lussier and Beauregard, 2018) Sexual offending is perpetrated by individuals with differing characteristics, personal sexual development histories and individual offending contexts. Despite public perception, research has suggested people who sexually offend do not radically differ from people who commit other types of offending (Wortley *et al.*, 2014).

*'...people who commit sexual offences are less likely to be abnormal "monsters" and more likely to be representative members of society.'* (McCartan and Richards, 2021: 2).

Responses to sexual offending have tended to favour a punitive approach to criminal justice sentencing. People who have been convicted of high tariff sexual offending are likely to receive a custodial sentence or a community sentence, with conditions of community supervision and compulsory rehabilitative treatment. More recently, punitive discourse has been challenged with the emergence of life course perspectives and strengths-based approaches to rehabilitation (McCartan and Richards, 2021). RJ and reintegrative shaming represent an alternative to the labelling and marginalised lifestyles that public protection measures can indirectly cause, dependent upon effective RJ social integrative outcomes (Zgoba and Mitchell, 2021). This raises questions as to whether RJ can be compatible with public protection measures in Scotland, as there appear to be tensions between restorative and criminal approaches to sexual offending. This will be explored further in proposed research.

### *Desisting from Sexual Offending*

Desistance theory is concerned with the personal process in which people embrace a new alternative identity, away from offending. Most desistance research has focused on pathways from non-sexual offending, with sexual offending desistance less prominent (Farmer *et al.*, 2015). Reasons for desisting are divided between external factors (such as an intimate relationship, rewarding employment) and internal factors (personal cognitive transformations). A combination of both is believed to be applicable for why most people change their offending behaviour (Bottoms *et al.*, 2004).

Desistance theory has received criticism for ignoring the influence of wider social context on offending behaviour, emphasising individual responsibility and downplaying situational offending, and for desistance research being largely focused on experiences of western, white males (Weaver *et al.*, 2023). In response, this has allowed for a more nuanced and holistic socio-structural understanding of desistance to emerge.

People who have sexually offended experience their desistance journey differently from people who have non-sexually offended. There are desistance factors more prominent for sexual offending. Research identifies development of emotional intelligence, capacity for emotional intimacy, desire for redemption and motivation for change, and specialist treatment, as important (Garant and Ouellet, 2024).

Life course perspectives suggest offending becomes less prominent as people mature. This is applicable to sexual offending as research has identified that sexual offending decreases with age, though not in every case (Harris, 2014). Despite the importance of external factors, internal factors are acknowledged as more critical to desistance efforts, than for non-sexual offending (Harris, 2014). This is supported by Farmer *et al.* (2015), who found a deeper personal understanding of the advantages and disadvantages of sexual offending, and feeling optimistic about the future, contributed to personal cognitive transformation. These studies were focused on desistance from sexually offending against children.

Of external factors, social integration is found to reduce sexual offending risks longitudinally (Lussier and Beauregard, 2018). Quality social reconnections established through effective social relations and social activities, encourage desistance efforts by helping to manage the stigma associated with sexual offending and encourages the adoption of normative social values (Garant and Ouelette, 2024).

Despite these findings, there is little evidence of how offence related factors such as the type of sexual offending, its frequency, the type of survivor targeted and the level of significant harm caused, influence desistance (Vidal *et al.*, 2020).

Rehabilitative treatment programmes are informed by the perception that people can and want to change their sexual offending. That programmes are mandated as treatment conditions of sentencing, could dispute personal levels of motivation to change. Programmes utilise a cognitive behavioural framework based on strengths-based approaches and positive role modelling (McCartan and Richards, 2021). A strengths-based approach acknowledges people who have sexually offended have character strengths as well as deficits. In doing so, it frames people as more than the sum of their offence.

Contemporary treatment programmes are informed by the Good Lives Model (GLM) (Keenan *et al.*, 2024). GLM is a framework for promoting the attainment of a meaningful good life. A good life is represented by valued outcomes known as human goods, which can vary in priority, yet are common to all. GLM suggests it is the way human goods are achieved that influences sexual offending. It is a model that seeks to enhance internal capacities and external resources, to achieve non-offending attainment of these goods. Empirical evidence has validated GLM as a practice framework for understanding and addressing offending behaviour, to lead more fulfilling and less harmful lives (Keenan *et al.*, 2024).

Scotland's rehabilitative treatment programme for sexual offending is *Moving Forward: Making Changes* (MF:MC)<sup>7</sup>. MF:MC is informed by GLM principles and desistance theory. The programme was evaluated in 2016, but was not outcome focused. MF:MC facilitators were found to be supportive of GLM principles. However, it acknowledged a need for revision of content manuals and training (RMA, 2016). Justice social workers trained in MF:MC, have applied knowledge and experience of GLM and desistance principles relevant to sexual offending. This group of professionals are well positioned to comment on the compatibility of RJ to rehabilitative treatment. As justice social work is informed by relationship-based practice and trauma informed intervention, they are likely ideally situated to provide post RJ support to people who have offended (Hamad and Kirkwood, 2019).

Public protection is aimed at managing and containing identifiable risks associated with sexual offending (Harris, 2017). Multi-Agency Public Protection Arrangements (MAPPA) is the foundation of public protection in Scotland (Scottish Government 2022). Previous offending is taken as an indicator of future risk and mitigated through risk management planning and evaluation (Nash, 2019). Public protection is governed by a risk matrix, whereby those assessed as representing the greatest levels of risk, receive the highest level of MAPPA management and RA supervision and monitoring intensity<sup>8</sup>.

MAPPA Coordinator responsibilities are outlined in national guidance. They support RAs, manage notifications and referrals, facilitate training and support as appropriate, quality assure MAPPA processes and documentation, and ensure the right professionals are brought together within prescribed timescales (Scottish Government, 2022). Public protection is professional led and excludes non-professional participation. A public health approach to sexual offending by contrast, includes communities and is aimed at prevention through public education and awareness (Brown, 2017). RJ seeks to engage those directly impacted by offended and communities of care. MAPPA Coordinators will be invaluable to future research questions exploring the compatibility of RJ with public protection, their possible tensions and how such tensions might be addressed.

RAs with lead responsibilities for managing people with sexual offences in the community are either justice social work or a Police Scotland Sex Offender Policing Unit (SOPU). There is limited research published on SOPUs. Several academic databases were searched without success.

Each of Scotland's 13 local policing divisions have a dedicated SOPU, with an objective to promote public protection through prevention and early intervention. SOPU police officers differ from their policing colleagues. They are trained to use specialist accredited risk assessment tools to measure stable and dynamic factors associated with sexual offending. There is a MAPPA requirement for SOPU officers to share relevant information

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<sup>7</sup> *Moving Forward: Making Changes* (MFMC) will shortly be replaced by the revised programme *Moving Forward 2 Change* (MF2C).

<sup>8</sup> MAPPA has classification 3 levels, reflecting the level of management and resourcing required for effective risk management, with MAPPA Level 3 the most intense level.

and to work collaboratively with non-police RA colleagues. The Violent and Sex Offender (ViSOR) database<sup>9</sup> is an information storage and sharing system that can be accessed and updated by all RAs (Scottish Government, 2022). SOPS officers will conduct unannounced home visits in partnership with justice social workers. These responsibilities require SOPS officers to establish a professional relationship at some level, with people who have sexually offended, to monitor and risk assess effectively. This experience will likely provide insight when exploring future research questions of RJ, risk factors and risk management.

### Restorative Justice and Sexual Offending

Restorative justice (RJ) practice as a response to sexual offending, has a history that is not readily captured in academic literature, for reasons of survivors wanting to shun publicity and to avoid wider criticism from those who oppose such practices (Keenan and Zinsstag, 2022). RJ practice development has been driven by survivor demand, with it primarily located as a component of existing criminal justice practice, though not in every case (Moore *et al.*, 2021).

To date, the Scottish Government has been cautious in extending RJ practice to cases of sexual offending, initially suggesting it to be unsuitable as a response to gendered offending (Scottish Government, 2017). Gendered offending, including sexual offending, often consists of patterns of coercion and there is unease as to whether RJ practice may permit patterns of controlling behaviour to continue (Stubbs, 2007). In 2022, Scottish Violence Against Women Network (VAW) wrote an open letter to the Scottish Government denouncing any moves to extend RJ practice to sexual offending.

*'...RJ in a context which fails to see the complexity of women's lives, and the ongoing impact of [domestic and sexual violence] may in fact limit women's agency and opportunities for independence and work to the benefit of her abuser...*

*We therefore maintain that RJ is not suitable for the vast majority of sexual violence cases, if at all. It cannot be removed from the overall landscape for women in a patriarchal society.<sup>10</sup>* (VAW Network, 2.9.22).

However, following survivor demand, a national consultation in Scotland was undertaken. Survivors of sexual offending expressed a need to have access to RJ practice, should they choose to pursue it (Thriving Survivors, 2021). International RJ research has consistently shown that survivors want to have the choice of participating in RJ practice, rather than it be denied to them (Moore *et al.*, 2021).

Thriving Survivors<sup>11</sup> have proposed a national service for survivors and, in partnership with Community Justice Scotland and Edinburgh Napier University, is currently piloting the development and evaluation of RJ practice for survivors of sexual offending in Scotland (Zinsstag and Wisenfeld Paine, 2023). It is hoped that the proposed research detailed within this article will contribute to the further development of RJ practice in this field.

Opponents are primarily concerned with survivor safety, the perceived weakening of criminal justice as a response to gendered offending, and opportunities during RJ practice for a continuation of patterns of coercion and abuse (Armstrong, 2021). Re-traumatisation may be heightened if a survivor feels compelled to accept partial blame for sexual offending or pressured to accept an apology (Stahlman, 2017). Further concerns expressed in academic literature suggest RJ practice in this field is higher risk for survivor safety, than when RJ is applied to lower tariff non-sexual offending. This is due to the likely power dynamics and perceived vulnerabilities of survivors (Pali, 2017). There are added complexities for interfamilial sexual offending,

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<sup>9</sup> ViSOR is scheduled to be replaced by an updated information sharing database.

<sup>10</sup> See [Scottish Women's Groups voice concern about proposals for restorative justice on survivors of domestic and sexual violence – womensgrid](#) for a full copy of the open letter addressed to Scottish Government as a response to national RJ planning.

<sup>11</sup> Thriving Survivors is a charity supporting the recovery of those impacted from traumas of sexual violence. See [Thriving Survivors](#) website for further information.

especially if family members are part of communities of care. However, such concerns are the starting point for survivors who desire RJ practice, rather than the denial of this opportunity outright (Zinsstag, 2017).

Variability of RJ practice, sample size and a lack of record keeping to readily identify the type of sexual offending, can limit generalisability of empirical research findings (Daly, 2017). However, despite these limitations, evidence does identify a common finding in that survivors feel they have benefited from RJ practice and are satisfied with their experience overall, including safety arrangements (Burns and Sinko, 2021). Empirical research has tended to come from specific RJ projects and evaluations in Australia, New Zealand, United States of America and Belgium (Keenan *et al.*, 2016). There has been less empirical research conducted on RJ outcomes for people who have sexually offended (Keenan and Zinsstag, 2022).

The empirical research that has focused on this, though small in scale, is largely positive about RJ outcomes. RJ participation creates a more meaningful experience of accountability for those who have offended (Wolthuis, 2020). Further outcomes identified from empirical research include improved empathy levels towards the survivor, a deeper and meaningful understanding of their responsibility for causing harm, a strengthening of personal support networks, a sense of remorse and having given something back to the survivor (Lauwaert and Maruna, 2016). To demonstrate remorse and wanting to do something positive to support survivor post-trauma growth, are identified as motivating factors for people who have sexually offended to engage in RJ (Russell and Cochrane, 2023).

Increased empathy is a contested variable in sexual offending desistance literature. Empathy deficit theory (Tibbels *et al.*, 2024) suggests limited empathy is a precondition to sexually offend, as it demonstrates a rejection of survivor empathy in choosing to offend and cause harm. Empathy and its impact on desistance remains inconclusive, largely due to variation of empathy definition, how it can be meaningfully developed and how empathy deficit can be entwined with limited relational intimacy, cognitive functioning abilities and level of social skills (Tibbels *et al.*, 2024). The RJ outcome of enhanced empathy towards the survivor, requires further academic inquiry in to if and how this contributes to sexual offending desistance, in proposed future research.

Empirical RJ research has had limited focus on social integration outcomes post RJ. Of the studies that have, RJ participation did support reconnection and reintegration into immediate family contexts, but this did not necessarily translate into wider community integration, (Keenan and Zinsstag, 2022). RJ and Circles of Support and Accountability (COSA) are both approaches that encourage connection and integration with community. COSA provides opportunity for people who have sexually offended to voluntarily engage with community volunteers, to aid development of social connection and social activities (Dwerryhouse *et al.*, 2020). RJ and COSA can improve public awareness and education of sexual offending, helping improve public attitudes and willingness to enhance integration efforts (Dwerryhouse *et al.*, 2020). Exploring if and how social integration is more likely from RJ participation, will be a further proposed research question. There is a research need to further understand specifically of *how*, *why* and *whether* RJ contributes to desistance efforts as despite growing empirical evidence, it remains small scale (Suzuki, 2020).

Despite these identified RJ outcomes, caution is expressed in perceiving RJ participation as rehabilitation. RJ is not a rehabilitative programme and should not be regarded as such (Walgrave *et al.*, 2021). This is relevant because it raises questions about the timing of RJ. Survivors rightly determine if and when RJ is right for them. The proposed research will explore the likely impact if RJ is undertaken concurrently with MFMC, or if it will likely have greater significance for desistance, once MFMC has completed.

### **Proposed Future Research**

The proposed research is underway by the author. A critical literature review was undertaken. Several academic databases were used to identify relevant contextual academic material using keyword search terms such as *restorative justice and sexual offending*. Peer reviewed literature published in the past 10 years was favoured, to promote currency and integrity of research. Abstracts were then read to determine their relevance to this research proposal, before reading, analysing and coding relevant literature. A research gap was identified during this process. The views of public protection professionals in Scotland, relating to restorative approaches to

sexual offending, have yet to be researched. Justice social workers, Police Scotland Sex Offender Policing Unit (SOPU) officers and Multi-Agency Public Protection Arrangements (MAPPAs) Coordinators, are a specialist professional group. Their unique public protection role will likely provide an important evidence base for considerations of future RJ practice development in this field in Scotland.

Specifically, qualitative empirical work will address the following questions: (1) What is the level of understanding and support for RJ as a response to sexual offending amongst public protection professionals in Scotland? (2) What are their views on RJ compatibility with existing rehabilitative treatment in Scotland? (3) What are their views on RJ compatibility with existing risk management measures in Scotland? (4) What needs to be prioritised to expand RJ practice as a response to sexual offending in Scotland?

Purposive sampling was used to target the most appropriate research population, to conduct semi-structured audio-recorded interviews. An interview schedule was utilised to enable data comparison, structured by the research questions. A total of 47 interviews have been completed to achieve data saturation (x6 MAPPAs Coordinators, x9 SOPU officers, x32 Justice Social Workers). Ethical approval was granted by the University of the West of Scotland Academic Integrity and Ethics Committee. Additional ethical approval was secured from Police Scotland and from several local authorities. Data analysis is currently ongoing. Reflexive thematic analysis is being applied to anonymised transcripts of interviews, to identify emerging findings.

Apart from the constraints associated with qualitative research, this research is limited by the low number of SOPU officers participating, given their importance as an RA within MAPPAs processes. Research findings will be disseminated in further peer reviewed publication and shared with the local authorities who participated, Police Scotland and Community Justice Scotland, who lead national RJ practice development.

## Conclusion

This article has acknowledged the justice gap criminal justice systems have for survivors of sexual offending. It is thought that RJ is better than criminal justice responses to respond to survivors' kaleidoscopic justice needs. The Scottish Government has framed RJ as a process and outcome driven practice.

Reporting of sexual offending has doubled over the past decade in Scotland. An increasing survivor population and increasing sexual offending population have resourcing implications, at a time when there is governmental funding constraint. RJ, as a cost-efficient approach that has the potential to deliver outcomes for survivors and for people who have sexually offended, is likely to receive favourable support within this economic context.

RJ practice as a response to sexual offending is expanding due to survivor demand. Opponents have raised safety concerns. However, empirical research has shown that RJ practice *in general* can provide high levels of survivor satisfaction and delivered in accordance with survivor safety needs. There is less empirical research focused on RJ outcomes for people who have sexually offended. Research outcomes of empathy development and a deeper sense of responsibility are identified.

Further research is proposed with a professional public protection workforce, to further understand how RJ could contribute to existing risk management and public protection efforts in Scotland, and how and why RJ can contribute to sexual offending desistance. The specialised knowledge and experience of these professionals is a valuable evidence base to inform future RJ practice development in Scotland, as a response to sexual offending.

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