



Policy Name: Restorative Practice (incorporating Restorative Justice Services) Policy Framework

Reference: N/A

Issue Date: 6 February 2023 **Implementation Date:** 6 February 2023

Replaces the following documents (e.g. PSIs, PSOs, Custodial Service Specs) which are hereby cancelled: N/A

Introduces amendments to the following documents: N/A

Action required by:

<input checked="" type="checkbox"/>	HMPPS HQ	<input checked="" type="checkbox"/>	Governors
<input checked="" type="checkbox"/>	Public Sector Prisons	<input type="checkbox"/>	Heads of Group
<input checked="" type="checkbox"/>	Contracted Prisons	<input type="checkbox"/>	HMPPS-run Immigration Removal Centres (IRCs)
<input checked="" type="checkbox"/>	Probation Service	<input type="checkbox"/>	Under 18 Young Offender Institutions
<input checked="" type="checkbox"/>	HMPPS Rehabilitation Contract Services Team	<input type="checkbox"/>	
<input type="checkbox"/>	Other providers of Probation and Community Services	<input type="checkbox"/>	

Mandatory Actions: All groups referenced above must adhere to the mandatory requirements, which are set out in section 4 of this Policy Framework.

For Information: Regional Probation Directors and Governors must ensure that any new local policies developed because of this Policy Framework are compliant with relevant legislation, including the Public Sector Equality Duty (Equality Act 2010). Section 6 of this document contains guidance to support the implementation of these.

Outside of section 4's mandated requirements, other guidance is discretionary with the caveated expectation that clear reasons to depart from the guidance will be documented locally. Any questions concerning departure from the guidance can be sent to the contact details below.

How will this Policy Framework be audited or monitored: Mandatory elements of instructions must be subject to management checks and may be subject to self or peer audit by operational line management or HQ managers, as judged to be appropriate by the managers with responsibility for delivery. In addition, HMPPS will have a corporate audit programme that will audit against mandatory requirements to an extent and frequency determined through the appropriate governance.

Resource Impact: No resource impact for community probation practitioners as referral and engagement with restorative justice practice and providers is contained within current community sentence management resource assumptions.

No resource impact for Heads of Offender Management, prison offender managers / probation practitioners as referral and engagement with restorative justice practice and providers is contained within current Offender Management in Custody (OMiC) resource assumptions. The policy

framework does not introduce new work as the activity can be completed as part of offending behaviour work and incorporated into supervision sessions.

Resource impact for HMPPS Restorative Practice hub (re:hub) will depend on volumes of referrals which are expected to rise. This will be mitigated by improved targeting of referrals which it is anticipated will off-set current workload dealing with inappropriate cases. Required re:Hub resource has been estimated via a separate Business Case and resource is in place. Referral volumes will be monitored.

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Deputy/Group Director sign-off: Nick Poyntz, November 2022

Approved by OPS for publication: Sarah Coccia (Executive Director Prisons) and Ian Barrow (Executive Director Probation), December 2022

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1. Purpose

- 1.1 The Judiciary and public should be confident that HMPPS manages the sentence of the Court in the most effective way, supporting individuals to lead positive, law-abiding lives and in doing so, reducing re-offending and preventing further victims. The Probation Service also has a statutory responsibility to provide services to victims of specified serious violent or sexual offences, for which the offender has been sentenced to 12 months or more in custody or detained under the Mental Health Act 1983; this is known as the Victim Contact Scheme (VCS).
- 1.2 Restorative practice (which incorporates restorative justice services) can, when delivered effectively, result in improved victim satisfaction and reduced reoffending, bringing benefits to victims, offenders and their communities. Under the Code of Practice for Victims of Crime (Victims' Code), all victims who report an offence have the right to be referred to support services, including restorative justice services. HMPPS play a role in enabling access to these services.
- 1.3 In 2014, the National Probation Service positioned itself as a referral agent rather than a direct provider of restorative justice services. It sought to ensure that the knowledge, experience, capacity and value of locally commissioned services was maximised, whether that was delivered through Police Crime Commissioners (PCCs) budgets or purchased from Community Rehabilitation Companies (CRCs) via the rate card. The unification of Probation Services presents an opportunity to confirm the Probation Service's position on the provision of restorative justice services and HMPPS's broader commitment to incorporating restorative practice in service delivery both in prisons and the community.
- 1.4 The purpose of this policy framework is to ensure that offender managers / probation practitioners (working in both community and prison settings) and victim liaison officers (VLOs) understand their professional responsibilities in the referral and suitability assessment process for restorative justice services. It will support regional commissioning of such services, ensuring it is evidence-informed and provides positive outcomes to victims, offenders and the wider public. This framework will also provide guidance on how restorative practice more generally, can be incorporated in the day-to-day interactions with victims accessing the Victim Contact Scheme and all people on probation/in prison.

2. Evidence

- 2.1 Whilst there is no universally agreed definition of restorative practice, it is widely considered to be **an approach to working with individuals or groups, that focuses on interactions that seek to repair or prevent harm**. It can be helpful to consider restorative practice as a continuum, ranging from less formal or structured interactions intended to prevent harm, through to more formal methods centred on restoring relationships and repairing harm. Restorative justice is defined by the Ministry of Justice (MoJ) as **'the process that brings those harmed by crime, and those responsible for the harm, into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward'**. Restorative justice can, therefore, be considered part of the wider field of restorative practice.
- 2.2 Victims who access restorative justice services (typically restorative justice conferences) report increased levels of satisfaction with the justice system. They can feel empowered, better informed and have improved feelings of safety and personal wellbeing. Those that have perpetrated harm, report that participating in restorative justice increased their insight into the impact of their offending; when targeted appropriately restorative justice reduces the likelihood of serious and persistent offending. It also offers value for money to the taxpayer,

as evidenced by research undertaken by the University of Sheffield in 2007.¹ There is therefore evidence that restorative justice can have a number of positive outcomes, for victims, offenders/perpetrators of harm and the wider public.

2.3 It is not always possible, or appropriate to bring those harmed by crime and those responsible for it, together in communication to access restorative justice services. There are, however, opportunities for the principles of restorative practice to inform day-to-day interactions with both people on probation/in prisons and victims, and by doing so improve outcomes for all parties.

3. Outcomes

3.1 Implementation of this policy framework will support operational delivery by:

- Confirming the organisation's definition of both restorative practice and restorative justice
- Ensuring that those who commission or refer people on probation/in prisons or victims to restorative justice services have a clear understanding of the evidence base and where referrals should be targeted.
- Reconfirming that there are no blanket exclusions in accessing restorative justice services for certain offence types.
- Clarifying the organisation's approach to the use of restorative justice in sexual abuse cases.
- Clarifying the role of offender managers / probation practitioners, Victim Liaison Officers and line managers in the referral and suitability assessment process for restorative justice services.
- Explaining the remit of HMPPS's Restorative Practice Hub (re:hub), Restorative Justice Board and the restorative justice approval panels.
- Providing guidance on how restorative practices can be incorporated in work with people on probation and victims more generally.

4. Requirements

Advice to court

4.1 Where restorative justice services are available, report writers must, in line with the target criteria, identify potentially suitable cases and where appropriate, include relevant information in advice to court, to assist sentencing decisions. Guidance to support probation staff at court can be found at 6.4.

Community Offender Manager (COM) / probation practitioner sentence management responsibilities

4.2 Probation practitioners should familiarise themselves with the locally available restorative justice services. The organisation seeks to prioritise restorative justice services for the cohort of people where evidence indicates there are the highest levels of confidence that positive outcomes will be achieved. As such, all people on probation (except sensitive and complex

¹ Ministry of Justice Research Series 10/08 June 2008

cases) who satisfy all of the following target criteria must be made aware of the referral process for locally available restorative justice services, as part of sentence-planning:

Target criteria

- OGRS between 25-74
- Two or more convictions for violence and/or offences against property (see 4.4 and 4.5 for exceptions)
- Index offence has an identifiable victim
- Person on probation accepts the basic facts of the offence

4.3 When a person on probation satisfying the above criteria requests a referral to restorative justice services, and the Community Offender Manager/probation practitioner has assessed that it is suitable and safe to pursue from a victim's perspective (in accordance with the Victims Code²), then a referral should be made to the appropriate restorative justice provider within fifteen working days of the request being made. This must then be recorded on the authority system. This will enable the provider to undertake the restorative justice suitability assessment and plan contact with the person on probation.

Referrals outside the target criteria

4.4 Whilst the definitions of a sensitive or complex case can vary between restorative justice providers, Community Offender Managers/probation practitioners must obtain managerial oversight prior to signposting, referring or sharing information with a restorative justice service provider when they have identified or assessed the case as having any of the following factors:

- sexual violence or abuse
- domestic abuse or intimate partner violence
- victim is a child
- hate or extremism (TACT)
- loss of life as a result of the offence
- organised crime group
- limited access/high profile
- management at MAPPA Level 2 or 3
- concern about a specific vulnerability of anyone likely to be involved in the process

4.5 For all sensitive and complex cases, Community Offender Managers/probation practitioners (with the endorsement of their line manager) must also apply to HMPPS re:hub so that if appropriate, a restorative justice approval panel can be convened and a decision reached on suitability before proceeding to signpost, refer or share information with a restorative justice service provider. Further guidance on the role of re:hub can be found at 6.16 and information about restorative justice approval panels at 6.17.

4.6 When a person on probation is seeking access to restorative justice services and the victim is participating in the VCS, the Community Offender Manager/probation practitioner must notify the relevant VLO within five working days of being notified. VLOs will respond in line with 4.17.

4.7 Where a person on probation is seeking access to restorative justice and is being managed by multi-agency public protection arrangements (MAPPA), the Community Offender

² *The Code of Practice for Victims of Crime in England and Wales and supporting public information materials - GOV.UK (www.gov.uk)*

Manager/probation practitioner must share this information with the other agencies actively involved in the management of the case.

Activity during engagement with restorative justice services

- 4.8 The Community Offender Manager/probation practitioner must monitor progress and record known outcomes on the authority case management and sentence planning systems.
- 4.9 As part of arrangements to facilitate the safe management of a restorative justice service, a probation practitioner (or other HMPPS staff) may be identified as part of the person on probation's support network. Support expectations should align to the role practitioners play in promoting rehabilitation and community integration.
- 4.10 The Community Offender Manager/probation practitioner should be mindful that engagement with restorative practice interventions and restorative justice services may prompt issues regarding the emotional wellbeing of an individual. Practitioners are expected to be alert to changes in dynamic risk factors and deploy approaches that are sensitive to equality and diversity needs.
- 4.11 The Community Offender Manager/probation practitioner must provide information on any locally available restorative justice services to people on probation who report being a victim of a crime whilst subject to probation supervision within ten working days of the disclosure.³ Providing information about local provision is not an indication of suitability for a particular restorative justice service.

Prison Offender Manager (POM) sentence management responsibilities

- 4.12 Prison Offender Managers must adhere to the same requirements for people in prison as Community Offender Managers, as set out at 4.2 – 4.11, when responsible for management of the sentence is in custody. POMs should familiarise themselves on the available restorative justice services accessible via the prison establishment and liaise with community probation practitioners to understand the offer in relevant geographical areas.
- 4.13 As in the community, all potential restorative justice referrals must be routed through the Prison Offender Manager to ensure the referral and suitability process is followed, with due regard to the dynamic risk assessment of the person in prison and the overall management of the sentence.

Victim Liaison Officers' (VLO) responsibilities

- 4.14 When a victim participating in the Victim Contact Scheme (VCS) requests information about restorative justice services, the VLO must provide it within ten working days.
- 4.15 When a restorative justice service provider requests information about a victim participating in the VCS to inform a suitability assessment, the VLO must:
- Obtain managerial oversight
 - Share this information with the COM/probation practitioner or POM responsible for managing the sentence of the person on probation/in prison
 - Contact re:hub if it is a sensitive and complex case
 - Seek the victim's consent to share information before proceeding

³ The Person on Probation should be encouraged to report being a victim of a crime to the police and access support, which can include Restorative Justice, as set out in the Victim's Code.

- 4.16 VLOs must provide relevant victim information to the restorative justice service provider to inform its suitability assessment within ten working days of consent being provided, if endorsed by a line manager or re:hub (for sensitive and complex cases).
- 4.17 When a request for restorative justice services is initiated by the person on probation/in prison and the identified victim is participating in the VCS, the suitability of the person on probation/in prison to participate must first be confirmed before the VLO undertakes a preliminary discussion with the victim. The VLO must only proceed to discuss restorative justice with the victim if they assess it as appropriate, in consultation with the COM/POM and the VLO line manager. If there are any concerns, contact should be made with re:hub to support the decision making.
- 4.18 When a victim has sought access to restorative justice services, this must be recorded on the Victims Case Management System.
- 4.19 Supplementary guidance for VLOs on supporting victims in accessing restorative justice can be found at 6.24 and 6.33. VLOs should also refer to the Probation Service's Victim Contact Scheme policy framework and the VLO Restorative Justice Guidance, which can be found on EQuIP here - *Victims*

Line management responsibilities

- 4.20 Line managers have a responsibility to provide oversight on the quality of individual assessments, delivery of restorative practice approaches and the appropriateness of referrals to restorative justice services.
- 4.21 In cases where the offender/perpetrator of harm meets the target criteria (as per 4.2), there are no identified vulnerability factors and no assessment of the case being sensitive or complex, the line manager may make the decision to endorse progression of a referral to restorative justice services. They must continue to provide management oversight during the process. If circumstances change or new information comes to light the line manager may make the decision to stop the process. At any point they can seek advice from re:hub.
- 4.22 If an offender/perpetrator of harm or victim signals an interest in pursuing restorative justice, and they meet the criteria for being a sensitive and complex cases (as per 4.4), which includes all cases where there is sexual offending, hate crime or extremism (TACT), the line manager must initiate contact with re:hub, or direct the COM/probation practitioner, POM or VLO to make contact with re:hub. If the case proceeds to a restorative justice approval panel, the line manager will be expected to contribute directly to the panel. If the decision is made to endorse engagement with a restorative justice service, the line manager will continue to provide oversight of the case in conjunction with re:hub.
- 4.23 If the situation arises that a consensus cannot be reached with re:hub or the approval panel on how to manage a case, a line manager may consider pursuing the escalation route, via formal HMPPS governance arrangements, to the Restorative Justice Board. Details can be found on EQuIP here - *Restorative Justice*
- 4.24 Line managers will be mindful of the potential personal impact, on individual staff members, of working with people engaging with restorative justice services. Appropriate signposting and support should be offered in line with Human Resource policies and available staff services.

5 Constraints

5.1 The restorative justice services offer will vary between probation regions and Probation Delivery Units (PDUs), reflecting local arrangements, the available commissioned rehabilitative services and reducing re-offending priorities.⁴ There is no requirement for regions to commission restorative justice services and whilst some may have in-house restorative justice provision, it is also feasible there will be some PDUs where access to restorative justice is more limited. There will be similar variation across the custodial estate.

6 Guidance

Principles of restorative practice

6.1 Restorative practice has featured in most societies as a form of conflict resolution, long before formal criminal justice systems were established. It has also been a part of probation practice for the last four decades, with probation officers trialling restorative approaches in the 1970s and 80s, which increased the understanding of victims' needs, culminating in the introduction of VCS. Increasingly, restorative practice is being used to address conflict and harm in a number of settings including schools, mental health services, neighbourhoods and places of work. Practice ranges from less formal interactions intended to prevent or resolve low-level conflict (such as restorative conversations), through to more formal methods of restorative justice, which bring those affected into communication, to rebuild relationships after significant harm. In keeping with its origins, restorative practice continues to be effective in improving access to, and experience of the justice system and is underpinned by a set of values:⁵

- **Empowerment:** enabling all participants to have an active role in determining how to address their needs, as they see them.
- **Honesty:** a commitment to truthfulness and openness.
- **Respect:** treating all participants with dignity, compassion and equal consideration.
- **Engagement:** active ownership of the process by the stakeholders themselves.
- **Voluntarism:** That participation of victims, offenders and others that are affected, is voluntary and based on free, informed and ongoing consent.
- **Healing:** repair of the damage caused by the events and behaviour.
- **Restoration:** acknowledging the harm caused by crime and meeting the needs of those affected.
- **Personal accountability:** Assisting those who have caused harm to acknowledge and take responsibility for harm and reparation.
- **Inclusiveness:** foster and support the meaningful participation of those affected.
- **Collaboration:** devising and agreeing shared solutions.
- **Problem-solving:** working towards a positive future for everyone.

6.2 These principles align with the objective to *Prevent Victims by Changing Lives* and HMPPS's commitment to advance equality and inclusion. With an improved understanding of the principles of restorative practice, it can be confidently applied to interactions with both victims and people on probation/in prison at any point, in the course of service delivery.

Examples of restorative justice

⁴ This could include internal police or police crime commissioner-based services and/or services based at Court.

⁵ National Occupational Standards for Restorative Practice.

6.3 The restorative justice services made available to victims and people on probation will be heavily influenced by regional probation reducing re-offending plans, police crime commissioner's priorities, the local commissioned rehabilitative service offer and third sector arrangements. The offer within the custodial settings will also be influenced by similar factors. In all cases, such services should meet the definitions in 2.1 and be underpinned by the restorative principles set out in 6.1. Restorative justice takes many forms and facilitators will work with participants to determine which is most suitable and prepare and support them with the process. Restorative justice can include:

- Face-to-face in person meetings between the person on probation and victim
- Meetings facilitated via digital conferencing technology
- Communicating by letter
- Recorded interviews or videos
- Indirect communication through the facilitators (shuttle)

Courts and restorative justice

6.4 Court staff should familiarise themselves on the locally available restorative justice services. Potential cases should be identified in line with Effective Proposal Framework (EPF) information, indicating to the Court that a more detailed assessment for restorative justice may be available post-sentence. Report writers should not unduly raise judicial expectations about restorative justice being accessed post-sentence, as participation is voluntary for both the victim and the person on probation/in prison, and subject to a suitability assessment by the all the professionals involved, including the RJ service provider.

6.5 The principles of restorative practice can also inform the content of advice to Court as set out in *Determining Pre-Sentence Reports: PI 04/2016*. Pre-sentence reports can amplify the victim's voice and empower the offender to express both their needs and how their relationships with others might be repaired. Report authors should also consider how sentence options might promote community integration and where appropriate, use this to inform sentencing proposals.

6.6 Where there are opportunities for probation staff to work in partnership with restorative justice service providers in the Court setting, these should be maximised.⁶

Providing information on restorative justice services to the person on probation/in prison

6.7 No person should be automatically denied access to restorative justice solely on the basis of offence type. Nonetheless, it is important that offender managers/probation practitioners understand that the evidence suggests such services are *most* effective with those who have a pattern of committing property and violent offending, posing a medium to high risk of re-offending.

6.8 COMS/probation practitioners and POMs are supported in the identification of potential cases where restorative justice may be suitable by the target criteria at 4.2. This policy framework also provides guidance with the handling of sensitive and complex cases outside of the target criteria, where restorative justice is under consideration, ensuring the safety of all participants.

⁶ Part 2 of Schedule 16 to the Crime and Courts Act 2013 inserts Section 1ZA into the 2000 Act which makes it explicit that courts can defer sentence post-conviction to allow for a RJ activity to take place. The role of the Probation Service in supporting this activity is out of scope in this Policy Framework and will be agreed locally, based on available resource.

Target criteria

- 6.9 COMs/probation practitioners and POMs should use the target criteria set out in 4.2 to determine which people on probation/in prison are *routinely* provided with information about local restorative justice services, including how they are accessed, to ensure referrals are evidence informed. All offender managers/probation practitioners should exercise judgement on how best to broach the subject of restorative justice services and the appropriate level of detail, on a case-by-case basis. This will be determined by the individual's assessed readiness to change and feelings towards the victim. COMs/probation practitioners and POMs should also check that participation in restorative justice is not incompatible with a person on probation's sentence requirements, licence or other measures which may prohibit contact with the victim.
- 6.10 At the point of sentence-planning, some people on probation/in prison may demonstrate feelings of remorse, a strong motivation to desist from offending and already be seeking avenues to repair any harm caused. In such cases, providing in-depth information on available restorative justice services and potential benefits, would be appropriate. Conversely, the person on probation/in prison may meet the target criteria but will not yet be demonstrating openness to engagement and will express entrenched negative views towards the victim. Nonetheless, it remains important to provide basic information about restorative justice services so that the person on probation/in prison is aware that it is an option that they, the victim or the COM/probation practitioner or POM may wish to revisit at a later date.
- 6.11 For people on probation/in prison outside of the target criteria (but not deemed a sensitive case), probation practitioners should exercise discretion and judge the appropriateness of initiating a discussion about restorative justice services, based on knowledge of the individual and their offending history.

Restorative justice services in sensitive cases (including sexual offending)

- 6.12 While restorative justice services can have positive outcomes with a range of offence types, the limited evidence of effectiveness in cases of hate crime, extremism, domestic abuse and sexual offending, is less clear. In such cases, accessing restorative justice services also carries with it a number of risks which must be robustly managed for all parties, including the community.
- 6.13 Offences of this nature are likely to be supported by deeply entrenched attitudes or committed in the context of significant power imbalances or established patterns of controlling behaviour. Restorative justice may provide the victim with a voice and an opportunity for a satisfactory resolution to justice proceedings, but also invites the possibility of re-victimisation. When offences are committed in the context of intimate relationships or family life, victims may also feel obligated to accept an apology, offer forgiveness or re-admit the person on probation into the home. In cases of sexual offending, there is also a risk that the person on probation may derive a sense of power or enjoyment in witnessing the victim recount the offence and its impact.
- 6.14 For these and cases which otherwise may be high profile or complex in nature (as per 4.4), managerial endorsement is required to initiate an application to re:hub and before proceeding with any type of referral to a restorative justice services. Management oversight with an accompanying rationale should be clearly recorded on the case recording system to demonstrate that consideration of a restorative justice intervention is deemed appropriate and what action has been taken. Re:hub will respond to enquiries and upon review of the available information, make the decision to convene the approval panel.

HMPPS restorative practice hub, board and restorative justice approval panel

- 6.15 HMPPS' restorative practice hub (re:hub), established in 2019, co-ordinates restorative justice across the organisation (both prison and community), managing associated risks, assuring standards and developing quality of practice.
- 6.16 Where there is added complexity to a potential restorative justice referral requiring specialist advice, COMs/probation practitioners and POMs (with the endorsement of their line manager) should contact re:hub using the email address rehub@justice.gov.uk, following the process outlined on EQuIP here - *Restorative Justice*. In addition, consideration of restorative justice for sensitive and complex cases (as per 4.4) including all sexual offending and TACT cases, must be routed through re:hub and the restorative justice approval panel.
- 6.17 The restorative justice approval panel, chaired by re:hub, provides a robust mechanism for screening and supervising sexual offending and TACT cases and facilitates restorative justice decisions related to other sensitive and complex cases managed. It operates for potential restorative justice cases both in custody and the community and consists of subject matter experts and case specific representatives. It carefully considers the risks and benefits of restorative justice in each case presented and makes an overall assessment as to suitability of restorative justice. Notification of the outcome of the approval panel is provided to the victim and person in prison/on probation. How the outcome is communicated to individuals will be agreed on a case-by-case basis. If the case proceeds, the panel remains involved, and continues to supervise the process.
- 6.18 Where cases are not deemed suitable there is an appeal process; cases can also be resubmitted to the panel where circumstances have changed. The Restorative Justice Board provides governance for the approval panel and acts as an escalation point if required. Practitioners can find the contact details and processes relating to re:hub and the approval panel on EQuIP here - *Restorative Justice*

Referring and preparing a person on probation for restorative justice services

- 6.19 Before initiating a referral for restorative justice services, the probation practitioner should ensure that the person on probation understands the following:
- What the local restorative justice offer entails.
 - All parties are treated with dignity and respect and can benefit from the process, but it is primarily victim-focused and repairing the harm caused to them.
 - The basic facts of the offence must be accepted.
 - Participation in restorative justice is voluntary.
 - Victims can decline to participate or choose to opt out at any point.
 - Person on probation / in prison can decline to participate or choose to opt out at any point.
 - Specific restorative justice services may not be deemed appropriate even if both parties wish to participate.
- 6.20 Participation in restorative justice is voluntary, and probation practitioners should ensure that there are no negative consequences for the person on probation, should they decline to participate or withdraw at any point. It should also be made clear, that whilst the person on probation may seek restorative justice, the victim may not, or choose to engage in the process and then later opt out. Good planning for restorative justice will involve the probation practitioner preparing the person on probation for this possibility.
- 6.21 The probation practitioner, recognising the needs and circumstances of the person on probation, should also highlight the potential benefits for them in accessing restorative justice services. Whilst these will be specific to the individual, they are likely to include:

- Better insight into the impact of their actions on others.
- The opportunity to make reparation, repair harm and rebuild relationships.
- A chance to move forward from accepting responsibility for harm caused to an offence-free future.
- An increased sense of community integration.

6.22 Restorative justice can run in parallel or be sequenced with interventions in the same way as other activities undertaken by the person on probation. The probation practitioner should judge what is most appropriate as part of the overall assessment to ensure that reducing re-offending and protecting the public remain the priority. Whilst a person on probation must not be directed to participate in restorative justice, interventions that may prepare them for participation or support a reduction in re-offending and harm should be incorporated in the sentence plan and enforced in line with other sentence management activities, as part of a licence or sentence with a Rehabilitation Activity Requirement (RAR). This may include Accredited Programmes, Structured Interventions, Approved Suite of Probation Practitioner Toolkits and Commissioned Rehabilitative Services, as deemed suitable by the probation practitioner. There are a range of desistance-focused exercises included in the interventions suite which support participation in restorative justice by helping people on probation:

- Deal with feelings of shame, blame, guilt and culpability.
- Practice active listening and effective communication.
- Build confidence and positive connections.
- Develop empathy.

6.23 Probation practitioners should refer to intervention-specific guidance to ensure activities are targeted and delivered as intended. Probation practitioners should also explore both with the restorative justice provider and the person on probation, how they will best be supported with participation. This will include the ongoing exchange of dynamic risk information with the provider; if appropriate identifying appropriate individuals to be part of a support network and putting measures in place to support the wellbeing of the individual. It may also involve attending restorative conferences in their professional capacity, noting themes that emerge, de-briefing, or providing practical assistance with fulfilling any subsequent restorative justice outcome agreement.⁷ It is important that the outcome agreement not only protects the public but reflects the best interests of the community, who may not be directly represented in the conference. Probation practitioners should use the outcome agreement (which may for example, include a commitment to address substance misuse or mental health issues) to form the basis of future change work, whilst the person on probation is motivated and engaged to do so.

MAPPA, VCS and restorative justice

6.24 In line with the evidence, most suitable restorative justice services referrals, initiated by interest expressed by the person on probation, will not involve MAPPA or victims eligible for the VCS. Where they do, it is vital that when a person on probation is seeking restorative justice, this information is shared with partners involved in the active risk management of the

⁷ A restorative justice process may result in an outcome agreement outlining the actions that have or will be taken to repair harm. It is typically drawn up by the facilitator and signed by the participants.

case in accordance with MAPPA. This will prompt partners to exchange information which may enhance the service provider's suitability assessment and for risk management plans to be reviewed. Based on the risk and complexity of the case, professional judgement will need to be applied as to whether this information should be shared ahead of any scheduled meetings. If participation in restorative justice services does commence, an update on progress would form part of the probation practitioner's general update at MAPPA meetings.

- 6.25 MAPPA level one cases will receive managerial oversight in line with the MAPPA level 1 Policy Framework and Touchpoints Model. When the VLO notifies the Probation Practitioner that a victim is seeking access to restorative justice, this information should be recorded on nDelius and treated as sensitively as other victim information provided by VLOs. Guidance can be found on EQuIP here - *nDelius - Probation Practitioner Guidance-Recording VLO Liaison on NDelius*

Services offering a 'Victim Awareness' approach

- 6.26 Restorative justice service providers may offer alternative services to those listed in 6.3, that do not involve communication between the victim and person on probation, but instead aim to improve general victim awareness. Typically, the objective of victim awareness work is to help people understand the consequences of crime for victims. It differs from restorative justice in that it does not aim to restore connections with family or the community, nor to repair any of the harm caused by the offence. Evidence suggests that victim awareness work is difficult to target, can induce shame and potentially cause harm. It also may not sufficiently take account of cultural differences of emotional expression and can lead to disproportionately poor outcomes for people in minority groups. (Refer to paragraph 7 further resources)
- 6.27 In the first instance, the probation practitioners should consider the criminogenic needs of the person on probation, the existing suite of strength-based interventions and the evidence base for victim awareness work, before initiating a referral.

Applying restorative practice approaches in sentence management and interventions

- 6.28 Whilst a person on probation's contact with the Probation Service is involuntary, there is still ample opportunity for probation practitioners to work restoratively in the management of the sentence. Adopting a restorative approach can help build and maintain effective relationships, supporting delivery of the sentence and addressing challenging behaviour and non-compliance. Many of the features of restorative practice will already be recognised by probation practitioners and complement the strength-based approach woven into probation practice as part of reflective practice supervision standards engagement skills. Restorative practice is underpinned by a style of communication which is open, empathic and non-judgemental, with a focus on building relationships and removing barriers to community integration.
- 6.29 Probation practitioners can use the sentence planning process to help the person on probation identify their victim/victims, the harm caused and explore the support or interventions required to avoid re-offending. Approaching sentence-planning restoratively is also conducive to it being a collaboration between the probation practitioner and the person on probation, increasing ownership of the objectives and engagement with the plan. For people on probation who meet the target criteria, this also present a good opportunity for the probation practitioner to signpost to available restorative justice services.
- 6.30 The therapeutic relationship between the probation practitioner and person on probation is challenged by its involuntary nature and the fact that non-compliance and unacceptable behaviour must be addressed by the probation practitioner, often in the form of further sanctions. The probation practitioner should actively involve the person on probation, setting

expectations and boundaries for the relationship from the offset and when the relationship suffers setbacks, approach difficult conversations in a restorative and procedurally justice manner which seeks to rebuild the alliance. Further information on effective approaches to sentence management can be found in the Sentence Management Policy Framework (due to be published March 2023).

- 6.31 Unpaid Work, whilst clearly a form of punishment, can be informed by restorative practice. 'Community Payback' promotes its reparative nature and the role the community can play in nominating beneficial projects. Placement coordinators should consult with regional stakeholders (which can include community and victim groups) to identify suitable projects. When delivering Unpaid Work projects supervisors should ensure that the benefits to the community are clearly communicated to the person on probation. Probation practitioners should also use any supporting sentence management appointments with the person on probation to identify any links between their offending, motivation for an offence-free future and the reparation they perform in the community.

Referring and preparing a person in prison for restorative justice services

- 6.32 It is possible that a person in prison may develop an interest in restorative justice through contact with providers operating within a prison, through the chaplaincy or other means. It is vital that referrals are routed through the POM and the person in prison is prepared for participation in line with the guidance set out at 6.19-23. This work can be completed as part of offending behaviour work and incorporated into supervision sessions.
- 6.33 POMs should consider which resources available on EQuIP are most appropriate, based on the individual needs. Keyworkers should refer to the OMiC keyworker guidance for information on how to work with people in prison in a way which promotes desistance, supports engagement with restorative justice and appropriately safeguards people from harm.

Restorative practice and Victim Liaison Officers' responsibilities to victims

- 6.34 VLOs apply the principles of restorative practice in interactions with victims of the most serious sexual and violence offences. The VCS enables victims to fulfil their statutory rights by making representations in parole and pre-release processes and VLOs are instrumental in ensuring the victim's voice is heard and afforded dignity and respect. When done well, VLO work can be transformational for the victim, improving feelings of safety in their community and satisfaction with the justice system.
- 6.35 Whilst restorative practice is recognisable in VLO activity and to be encouraged, it is crucial that VLOs are clear on their responsibilities when victims seek access to restorative justice through a service provider, in particular the VLO role in suitability assessments and the sharing of information.
- 6.36 Under the Code of Practice for Victims of Crime (Victims' Code), all victims who report an offence have the right to be referred to support services, including restorative justice services. Victims (including those that may be people on probation/in prison) can request restorative justice, but it is always voluntary and must be agreed by all involved, to be safe and appropriate.
- 6.37 As set out from 4.14 to 4.19, VLOs must follow the victim's lead in discussing restorative justice services, responding to the individual need of the victim in how that information is provided and what additional support that victim may need as part of that exercise. A victim may wish to discuss the option of restorative justice, that alone providing the feeling of

empowerment. VLO Restorative Justice Guidance (found on EQuIP here - *Restorative Justice*) supports VLOs in identifying cases where referrals might be appropriate, and those more complex cases, requiring line management oversight. Line managers should seek advice from re:hub for sensitive or complex cases, including in cases where sexual offending is a feature.

- 6.38 Information should only be shared with a provider with the victim's consent and the VLO should not complete the suitability assessment itself or be responsible for deciding whether restorative justice should commence. This is the responsibility of the service provider and overseen by re:hub in sensitive or complex cases.
- 6.39 When a victim is seeking restorative justice and multi-agency public protection arrangements are in place, it is the COM/probation practitioner or POM, responsible for the management of the person on probation/in prison who is responsible for sharing this information with partners involved in the active risk management of the case. However, in line with guidance VLOs should share any relevant information with the COM/probation practitioner or POM, to prompt discussions which will inform a suitability assessment and review of the risk management plan.
- 6.40 The opportunity to engage in restorative justice services may arise for a victim participating in the VCS, when the offender/perpetrator of harm is detained in prison or a mental health setting. Accessing such services (and potentially entering into communication with the offender/perpetrator of harm) has the potential to be empowering for the victim and help alleviate anxiety or fears about the offender's eventual release. In such circumstances, VLOs should contribute information to inform the suitability assessment as and when requested, in line with this policy framework.
- 6.41 The requirements set out in this policy framework between 4.14 and 4.19 relate strictly to victims who are accessing the VCS. VLOs do not have responsibility for providing information about restorative justice services to victims either outside of its scope nor those that are eligible but declined participation.

Diversity considerations and restorative practice

- 6.42 HMPPS is committed to equality and inclusion, and it is vital that offender managers/probation practitioners and VLOs recognise and respond to individual diversity needs, in all aspects of service delivery. For restorative justice services, the target criteria for COMs/probation practitioners, POMs and for VLOs, in conjunction with the application of management oversight, ensures that signposting and referrals are evidence informed. It also safeguards against potential bias or false assumptions about who (based on protected characteristics) may be interested or most suited to participate in restorative justice. Information and support with participation in restorative justice should be culturally sensitive, take account of maturity issues and be gender responsive. There may be some members of minority groups, lacking confidence in the formal justice process, for whom restorative justice may be particularly powerful. When making referrals offender managers/ probation practitioners and VLOs should ensure that relevant diversity information is communicated to the provider to ensure provision is fully accessible. Consideration should also be given to how related organisations or community groups may support participation.
- 6.43 HMPPS aims to deliver faith-inclusive services and it is recognised that faith can be a strong protective factor, playing a significant role in a person on probation/in prison's desistance journey. Similarly, for a victim, belonging to a faith community may be the source of comfort and healing from any harm caused. It is important that COMs, POMs and VLOs understand that the practice of faith is a personal experience, and that the interpretation of religious requirements, beliefs and observances can vary. Whilst the principles of restorative practice might align with an individual's declared faith identity, offender managers and VLOs should

guard against assumptions that an individual may therefore be predisposed to participate in restorative justice services. Probation practitioners and VLOs should approach discussions and potential referrals with the same amount of care and sensitivity as those without a declared faith.

- 6.44 In accordance with the faith-based communities national partnership framework, probation practitioners should, where possible, explore how connections with local faith organisations might be used to foster community integration for a person on probation and form a part of risk management planning. This may include adopting a supporter role during participation in restorative justice services.

7 Further resources

Code of Practice for Victims of Crime in England and Wales 2020

Determining Pre-Sentence Reports: PI 04/2016

Does Restorative Justice Affect Reconviction - Ministry of Justice Research Series 10/08
June 2008

Faith-based Communities National Partnership Framework

Principles of Restorative Practice - Restorative Justice Council

Probation Service Management of MAPPA Level 1 Cases Policy Framework

Probation Service's Victim Contact Scheme Policy Framework - *CCRC & HMPPS Victim Contact Scheme Protocol*

Restorative Justice and Restorative Practice HMPPS Evidence-based Practice Summary 2018 (internal use only)

Reflective Practice Supervision Standards (internal use only)

Sentence Management Policy Framework (Due March 2023)

United Nations Handbook on Restorative Justice Programmes 2020

Victim Liaison Officer Restorative Justice Guidance - *VLO Guidance - Restorative Justice (RJ)*

Workshop on National Occupation Standards for Restorative Practice, National Occupation Standards and re:hub

7-minute Briefing Therapeutic Relationships (internal use only)