



An Roinn Dlí agus Cirt
Department of Justice

Promoting and supporting the provision of Restorative Justice at all stages of the criminal justice system

Policy Paper

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1. Introduction

This paper outlines the Department of Justice's intent, in line with the Programme for Government *Our Shared Future* commitment, to continue to promote and support the provision of restorative justice at all stages of the criminal justice system.

Restorative justice is not suitable for every offender or every victim. Where it is suitable however, a broad range of research has identified clear benefits, most notably positive impacts on recidivism rates of certain offenders, who in certain cases are provided the opportunity to make good the harm they have done, and high satisfaction among participating victims, who can express their feelings and experience to the offender and seek reparation and commitments on future behaviour.

In the belief that restorative justice leads to better outcomes when it is utilised, the Department's aim is to ensure that safe, high quality restorative justice is accessible to all persons who could benefit from participation.

2. Policy Context

This policy paper has been prepared to meet specific, time-bound commitments made regarding the provision of restorative justice in Ireland.

- **Programme for Government:** Under its mission to build stronger and safer communities, the PfG makes the commitment to “work with all criminal justice agencies to build capacity to deliver restorative justice, safely and effectively”.
- **Justice Plan 2023:** To achieve the Programme for Government commitment, under Goal 3 to strengthen community safety, reduce reoffending, support victims and combat domestic, sexual and gender based violence, Justice Plan 2023 commits to nine strategic objectives to be prioritised over the next two years, including “Deliver restorative justice safely and effectively”. In line with this commitment, Action 91 of Justice Plan 2023 commits to continuing to promote and support the provision of restorative justice at all stages of the criminal justice system.

Further commitments to making restorative justice more widely accessible are also found in several other strategies and policies in recent years, including:

- the 2020 plan [Supporting a Victim's Journey](#), which recommends establishing a new multi-agency group to scope requirements for an ‘integrated, consistent, visible and high quality Restorative Justice service for vulnerable victims who wish to pursue that pathway’;

- the 2021-2027 [Youth Justice Strategy](#), which references restorative justice several times, including to support (both adult and child) victims of youth offending and enhance diversionary options and support for perpetrators at different stages of the youth justice process;
- the [Victims Charter](#) (revised in 2020), which outlines victims' entitlements to restorative justice in policing, probation and forensic mental health contexts; and,
- the [2019-2021 Action Plan for the Joint Management of Offenders](#), which includes a commitment to the development of joint arrangements regarding restorative justice services.

3. Restorative Justice

Restorative justice is defined in Irish law as any scheme through which, with the consent of each party, a victim and an offender or alleged offender engage with one another to resolve, with the assistance of an impartial third party, matters arising from the relevant offence or alleged offence.¹ It aims to enable all those affected by an offence to participate actively in repairing the harm done and to find a positive way forward.

Restorative justice often takes the form of a dialogue (whether in person or indirectly) between a victim and an offender (and other persons they invite to participate), when both parties agree voluntarily to communicate. It may also involve a process in which the offender or the victim participate in a similar dialogue with their family and/or other relevant persons, with the goals of identifying the needs arising from an offence, addressing and repairing the harm done, and/or preventing a reoccurrence of that harm. Restorative justice is subject to a range of safeguards, including voluntary participation, recognition of the harm done, preparation and risk assessment, confidentiality, staff training, and service monitoring and oversight.

The use of restorative justice as a response to offending is supported by rigorous international evidence, indicating high levels of victim and offender satisfaction with the process, positive results for supporting victim recovery and offender desistance from crime, high levels of compliance with actions that are agreed through restorative justice, and strong participation from those offered the chance to engage.

Restorative justice is now legislated for, and used widely, in many countries around the world. In Europe, a recent legal framework supports making restorative justice available with all

¹ Criminal Justice (Victims of Crime) Act 2017, s.2

offences, and at all stages of the criminal justice process.² It provides that all victims and offenders should be given the information and opportunity to determine whether restorative justice is right for them, that restorative justice services should adhere to core principles and standards, and that criminal justice institutions and professionals have an essential role in supporting victims and offenders to access restorative justice services. It recognises that restorative justice is not for everyone, and that national policies and services must account for specific vulnerabilities, and for the dynamics of certain types of serious and complex offences, to be as inclusive as possible.

4. Restorative Justice in Ireland

In Ireland, restorative justice is currently used in many parts of the country and stages of the criminal justice process, and with various offence types. This includes with lower tariff offences as part of diversion from prosecution or conviction, as well as post-sentence to help meet the needs of people affected by some of the most serious offences. Restorative justice is delivered by the Probation Service (with youth and adult offending, pre-sentence and post-sentence), by An Garda Síochána (within the Garda Youth Diversion Programme), and by several geographically bounded Community-Based Organisations that receive referrals at specific points in the criminal justice process.

[Recent research](#) by Restorative Justice: Strategies for Change (RJS4C Ireland) estimated that, in 2019, around 850 cases involved restorative justice in Ireland. Of these, approximately 280 were offences that had an identifiable victim, and the victim chose to participate in some form in around half of such cases.

4.1 Scale and savings

Alongside the benefits restorative justice offers to victims, people who offend, and the wider community in terms of increased desistance from offending, the use of restorative justice at all points in the criminal justice system in Ireland may also offer a substantial saving to the State. As a point of reference, the annual budget of the Probation-funded Restorative Justice Services in 2019 was [€369,000](#), and that of Restorative Justice in the Community in 2020 was [€163,000](#). In 2019, those organisations delivered 319 and 200 cases, respectively, overwhelmingly involving adult offenders referred by the District Courts between conviction

² Council of Europe Recommendation CM/Rec(2018)8 concerning restorative justice in criminal matters. See also Venice Declaration on the Role of Restorative Justice in Criminal Matters, December 2021 (<https://rm.coe.int/0900001680a4df79>).

and sentencing, of which [58 and 36 cases](#), respectively, featured direct or indirect involvement of victims.

Utilising figures from 2007, the 2009 National Commission on Restorative Justice's [final report](#) estimated, with caveats, that, if restorative justice were widely applied, between 3,265 and 7,250 cases of restorative justice would take place per year in relation to adults before the criminal courts alone. The Commission projected that between 290 and 579 persons due to be sanctioned before the courts could be diverted from being given a custodial sentence, where a restorative option is applied, and that this diversion could lead to a reduction of between 42 and 85 prison spaces per annum, leading to a cost saving of €4.1 to €8.3 million.³ While these figures and costings could be updated, the correlation between increasing restorative justice cases and decreasing prison population and associated costs is clear.

In order to achieve an appropriate level of savings, and to offer the opportunity to participate in restorative justice to all those who might conceivably benefit from the process, the capacity of restorative justice services requires further expansion. With only 25 regional services operating in this area, RJS4C Ireland research identified significant geographical gaps in the service provision in some parts of Ireland. Similar gaps were identified in certain stages of the criminal justice process. The judiciary have also repeatedly expressed a clear desire for greater restorative justice options, with some noting the absence of geographically appropriate options.

Most recent figures, [prepared by RJS4C](#), estimated that the total number of restorative justice cases reported was 1,056 in 2020. This figure is an estimate as it counts cases that use different RJ models, and mixes cases completed with cases referred for different services. The figure is indicative of the scale of provision, therefore, but is not definitive. While initial figures have been produced for 2022, they do not yet include youth cautions. After removing youth cautions from the relevant previous year figures, while they show a slight increase for 2022 (413) based on 2021 (395) and 2020 (340), they are significantly down on the 2019 figure of 721.

It is reasonable to conclude that Ireland is yet to use restorative justice to its maximum potential, that the use of this process would increase greatly if it is more widely available, and that this would result in significant savings to the State.

³ Elsewhere, one systematic review of research including seven UK-based experiments found that restorative conferences involving victims reduced reoffending at a level that produced a savings eight times the cost of delivery ([Strang, et al., 2013](#)). Focusing on cases involving victim-offender dialogue, the Criminal Justice Alliance estimated that, if restorative justice were available as an entitlement in England and Wales, there would be 68,721 cases per year ([2017](#)) at an estimated cost of £30.5 million annually. This report assumed paid caseworkers delivered all cases; delivery by volunteers or by trained professionals in partner organisations would reduce costs.

4.2 Developing Restorative Justice in Ireland: Actions to Date

In response to the Programme for Government commitment, the [Department of Justice 2021 Action Plan](#) included restorative justice among its strategic objectives to be prioritised over the next three years. The goals include enhancing community safety; to reduce reoffending; to support victims; and to respond to gender-based violence. The 2021 Action Plan outlined five actions around restorative justice:

- Action 158: Map the current state of play of restorative justice (Q1)
- Action 159: Activate a restorative justice website (Q1)
- Action 160: Develop options for an appropriate mechanism and process to create awareness and availability of restorative justice at all stages of the criminal justice system with consistency of service ensuring quality in training and practice (Q3)
- Action 161: Consult with stakeholders on options and finalise a policy paper on the most appropriate choice (Q3)
- Action 162: Publish policy proposals (Q4)

In relation to Actions 158 and 159, the Department of Justice funded a group of restorative justice experts and researchers to map the delivery of restorative justice in Ireland, and to publish their findings on a new website. [This website](#) was launched in January 2021. It includes the findings of that mapping exercise, and around 35 case studies illustrating the use of restorative justice and restorative practices in criminal justice settings, among other resources.

In relation to Actions 160 and 161, Criminal Justice Policy worked with experts to develop a [briefing paper](#) for the Criminal Justice Strategic Committee (CJSC) that outlined the attributes of a successful restorative justice service, and gave four options for the delivery of restorative justice services in Ireland. These were:

1. Strengthen existing capacities within current structures
2. Establish dedicated Restorative Justice Coordinators across all relevant agencies
3. Establish a national Restorative Justice Delivery Service coordinated by the Department of Justice, with regional multi-agency partnerships responsible for service provision
4. Establish an autonomous, national Restorative Justice Agency

Following the approval of the CJSC, Criminal Justice Policy presented these options to stakeholders at two consultation workshops in July 2021. Overall, 259 persons attended, with a broad range of representatives from across the statutory, community and voluntary sectors, restorative justice practitioners, academics, victim services, and experts from Northern Ireland. There was unanimous positive feedback on the work that was done to-date and on

the identified attributes of a successful restorative justice service to provide safe and high-quality services, accessible to all those who could benefit from participation.

Work completing Action 161, developing a policy paper, and Action 162, publishing that paper, has been ongoing, delayed in part to a shifting national context.

Justice Plan 2022 and Justice Plan 2023 have made subsequent commitments to continue progressing this work, with the latter most recently committing to continuing to promote and support the provision of restorative justice at all stages of the criminal justice system

5. Policy Proposal

In light of the clear and positive benefits of restorative justice to victims, offenders, and the State, and mindful of the opportunity to increase current levels of provision of restorative justice services, it has been identified that Option 1, to strengthen existing capabilities within current structures, represents the preferred policy option as it represents the best prospect to make the most significant impact with the greatest efficiency at this time.

Pursuing this policy option will enable the further development of restorative justice provisions in a manner that continues to deliver immediate services while also future proofing for expansion and development when the provisions of restorative justice are more established and numerous across the State.

In pursuing Option 1, engagement with the Probation Service and the provision of dedicated funding will provide significant ongoing support for the provision of restorative justice at all stages of the criminal justice system, and help expand such services into all geographical areas of the State so that there are viable options available to the judiciary and to victims and offenders wherever appropriate.

6. Next Steps

The policy review of the Criminal Justice (Community Sanctions) Bill 2014 commenced in 2020. The working group, which is composed of officials from the Department of Justice and the Probation Service, has recently agreed a draft report of this review. This review aims to place the principle of prison as a last resort on a statutory footing, and to outline the full suite of community-based sanctions available to the judiciary during the sentencing process. The policy review proposes the inclusion of a new Head which specifically provides for restorative justice. Once this review is approved, work will commence on preparing the General Scheme of the Bill.

Following the agreement and publication of this policy paper on restorative justice, the Department of Justice is to examine the costs associated with next stages of the work. This will consist of examining current funding provisions with a view to considering the need to increase such funding as appropriate, particularly in light of potential impact of the policy review of the Criminal Justice (Community Sanctions) Bill 2014.