

BRIEFING

**THE COST OF AN ENTITLEMENT
TO RESTORATIVE JUSTICE**

March 2017

1. Introduction

In 2016, the CJA – with the support of its 120 member organisations – committed itself to seeking to secure an entitlement in law to restorative justice (RJ) for victims of crime in England and Wales.

In order to make a credible case for the introduction of what is widely-regarded as one of the most effective remedies for victims of crime, it became clear that it was necessary to establish the total cost, something without which policymakers and politicians would be unlikely to concede any prospect of an entitlement in law.

In spite of their potential importance, such national costings did not currently exist. So the CJA has now developed - with the support of a reference group of expert member organisations - a national cost framework for the delivery of restorative justice.

This indicative framework, detailed below, demonstrates that restorative justice could be provided across England and Wales for appropriate offences for **£30.5m** per annum.

2. For which offences ('qualifying offences') should victims have an entitlement to Restorative Justice?

a. Indictable and triable-either-way offences

We work on the basis that offences without an 'identifiable victim' would *not* qualify for an entitlement to restorative justice. These include **Drug offences; Possession of weapons; Public order offences** and **Miscellaneous crimes against society**.

Offences that *would* qualify include **Violence against the person; Sexual offences; Robbery; Theft; Criminal Damage** and **Arson**.

Research (commissioned by the City of London Police) is currently being carried out into the appropriateness of victims and perpetrators of **Fraud** participating in restorative justice. Findings will be released in mid-2017. It may sometimes be difficult to identify victims of this offence but we share the general expert belief that RJ can usefully, as with other offences, teach fraud offenders about the true impact of their offences and give them an opportunity to desist from further offending. Consequently, we accept that RJ should be available for this offence where possible.

b. Summary non-motoring offences

There is a catalogue of some 800 summary non-motoring offences, ranging from **littering** and **salmon poaching** to **TV licence offences**. RJ would not be relevant for the vast majority of these because there is no easily identifiable victim.

We have, however, identified eight categories of summary non-motoring offence that do have victims and are potentially appropriate. These are **Common assault; Causing intentional harassment, alarm or distress; Causing harassment, alarm or distress; Causing fear or provocation of violence; Racially aggravated harassment, alarm or distress; Offence of harassment; Stalking** and **Unauthorised taking or driving of a motor vehicle**.

c. Cautions

Given that cautions necessarily involve an admission of guilt, we accept they should lead to an offer of restorative justice for a victim when related to a 'qualifying' offence.

3. How many convictions and cautions are there annually?

a. Indictable and triable-either-way offences

The number of individuals convicted in England and Wales in calendar year 2015 for RJ-qualifying indictable and triable-either-way offences was **186,178**. Individuals convicted is the most reliable signifier available as the Ministry of Justice (surprisingly) does not measure the exact number of victims. There were an additional **42,477** cautions in 2015 for these offences.

2015 is the most recent year for which complete annual figures are available. Statistics from the Crime Survey for England & Wales and early quarterly court figures suggest that the number of convictions remained stable during 2016.

| Qualifying Offence | Individuals Convicted | Cautions |
|-----------------------------|------------------------------|-----------------|
| Violence against the person | 28,728 | 6,241 |
| Sexual offences | 6,885 | 1,074 |
| Robbery | 4,722 | 69 |
| Theft | 105,244 | 19,387 |
| Criminal Damage & Arson | 27,923 | 13,671 |
| Fraud offences | 12,676 | 2,035 |
| Total | 186,178 | 42,477 |

b. Summary non-motoring offences

The number of individual convictions in England and Wales in calendar year 2015 for all summary non-motoring offences was **536,885**. **82,174** (15 per cent of those convictions) were for RJ-qualifying offences.

There were **48,812** cautions for all summary non-motoring offences. Although no breakdown of cautions by individual offence type is published by the Ministry of Justice, we estimate the same 15 per cent of all such cautions were in respect of RJ-qualifying offences.

| RJ-Qualifying Offence | Individual Convictions | Cautions |
|---|-------------------------------|------------------------------|
| Common assault | 54,913 | |
| Causing intentional harassment, alarm or distress | 3,696 | |
| Causing harassment, alarm or distress | 6,502 | |
| Causing fear or provocation of violence | 7,891 | |
| Racially aggravated harassment alarm or distress – (including writing or words) | 1,586 | |
| Offence of harassment | 5,515 | |
| Stalking | 335 | |
| Unauthorised taking or driving of motor vehicle | 1,736 | |
| Total | 82,174 | 7,322 (15% of 48,812) |

In total, this means there are an estimated **318,151** RJ-qualifying cases annually for which restorative justice might be deemed an appropriate subsequent intervention.

4. How many victims want restorative justice?

The Institute for Criminal Policy Research’s pre-sentence restorative justice evaluation, published in 2015, found that 446 victims out of 1,201 (37 per cent) expressed an initial interest in restorative justice. The 2015 Crime Survey for England & Wales showed that 44.2 per cent of victims who were offered the opportunity to meet their offenders accepted.

These figures are broadly consistent with 2015 polling by Ipsos MORI for the Restorative Justice Council which found that 38 per cent of people said they would want to meet their offender if they were the victim of a crime and the offender had pleaded guilty. Of actual *victims* asked this question, 46 per cent said yes.

On the basis of the CSEW and Ipsos MORI evidence, we estimate a victim take-up rate of 45 per cent.

5. How many offenders would agree to restorative justice?

Joanna Shapland's widely-respected 2008 evaluation of three restorative justice schemes showed that 48 per cent of all offenders agreed to take part.

Some restorative justice practitioners suggest this take-up rate might now be higher due to improved awareness and quality of service. However, Heather Strang and Lawrence Sherman's extensive 2007 review of restorative justice found that where offenders initially agree to take part in an RJ programme, 30 per cent of them will subsequently not participate. This dropout rate will therefore almost certainly countermand any increased take-up rate since 2008. On that basis, Shapland's 48 per cent estimate of take-up by offender is considered by us to be sufficiently robust.

6. Total numbers of offences where restorative justice might be applied

On the basis of (4) and (5) above - 45 per cent of victims seeking restorative justice if it were available as an entitlement, and 48 per cent of offenders agreeing to participate in such a process - we estimate, at 21.6 per cent of qualifying offences (45 x .48), there would be **68,721** cases annually where RJ might be sought.

a. Indictable and triable-either way-offences

| Qualifying Offence | Individuals Convicted | RJ sought (x .216) | Cautions | RJ sought (x .216) |
|-----------------------------|-----------------------|--------------------|---------------|--------------------|
| Violence against the person | 28,728 | 6,205 | 6,241 | 1,348 |
| Sexual offences | 6,885 | 1,487 | 1,074 | 232 |
| Robbery | 4,722 | 1,020 | 69 | 15 |
| Theft | 105,244 | 22,733 | 19,387 | 4,188 |
| Criminal Damage & Arson | 27,923 | 6,031 | 13,671 | 2,953 |
| Fraud | 12,676 | 2,738 | 2,035 | 440 |
| Total | 186,178 | 40,214 | 42,477 | 9,176 |

b. Summary non-motoring offences

| Qualifying Offence | Individual Convictions | RJ sought (x .216) | Cautions | RJ sought (x .216) |
|---|-------------------------------|---------------------------|-----------------|---------------------------|
| Common assault | 54,913 | 11,861 | | |
| Causing intentional harassment, alarm or distress | 3,696 | 798 | | |
| Causing harassment, alarm or distress | 6,502 | 1,404 | | |
| Causing fear or provocation of violence | 7,891 | 1,704 | | |
| Racially aggravated harassment alarm or distress – (including writing or words) | 1,586 | 343 | | |
| Offence of harassment | 5,515 | 1,191 | | |
| Stalking | 335 | 72 | | |
| Unauthorised taking or driving of motor vehicle | 1,736 | 375 | | |
| Total | 82,174 | 17,748 | 7,322 | 1,582 |

7. Cost per case

We accept the argument that developing rigidly fixed unit costs for the delivery of RJ creates a risk that practitioners might ‘rush through’ certain cases. We appreciate that each person must go through the process at their own pace and in a manner in which they feel safe and confident in the outcome.

However, we take the view that it is still both practicable and, more important, necessary to produce *estimated* average figures for the length of time and money spent on certain types of cases.

It is not possible to source from a single current provider average expenditure per restorative justice process for different types of victims and offenders. (‘Commercial sensitivity’ has been repeatedly cited.) It is correspondingly difficult to rely on Police and Crime Commissioners, currently the largest commissioners of RJ, for such intelligence as

they have tended to commission by area and length of time, not per case. However, there are some useful specific figures in the public domain.

An evaluation of the Youth Restorative Intervention in Surrey shows that the cost to the Police & Youth Service of administering an intervention per case is £360. In this evaluation they multiplied hourly pay by 1.6 to factor in overheads.

Bristol, Gloucestershire, Somerset & Wiltshire CRC, as a contractor, charges £459 per unit for its RJ service, which it describes as giving victims the chance to meet and communicate with the service users who committed harm and targeted victim work with service users. This is unlikely to be as extensive as the service provided by a volunteer-supported organisation but serves as a helpful cost barometer.

In 2013 the Ministry of Justice commissioned the University of Kent and the London School of Economics to determine unit costs for certain programmes in the criminal justice system. It found that the standard cost for a criminal justice Project Officer was £29 per hour. This took into consideration overheads such as office space. They estimated that every one hour of face-to-face client engagement required another nine hours background work. This figure was based on 2008/9 costs; its inflation-adjusted equivalent in 2017 is £35.

The amount of time spent on a successful face to face intervention has varied across a number of studies. However, 15-20 hours is representative. At a lower level a successful outcome may not necessarily require a full restorative conference but may be by mediation through letters, for example. However, at the upper level, a successful restorative outcome for a victim of a serious violent crime might take 40 hours. It is on the basis of this variance that we estimate hours of engagement by offence in the table below.

We consequently use a cost estimate of £35 an hour per employee and estimates of 40 hours engagement for *convictions* for sexual offences, 35 hours for cases involving violence against the person, 20 hours for robbery and 12 for theft, criminal damage and arson. We estimate ten hours for convictions for common assault, five hours for all harassment offences and five hours for unauthorised taking or driving of a motor vehicle.

Allowing for the less complex nature of RJ where a *caution* is involved, while recognising it still to be a serious matter for a victim, we allow 15 hours in such cases for sexual offences, 10 hours for violence against the person, eight hours for robbery and four for theft, criminal damage and arson. We estimate four hours for cautions for all summary non-motoring offences.

Indictable and triable-either-way cases

| Offence | Individuals Convicted | RJ sought | Hrs | Total hours | Cautions | RJ sought | Hrs | Total hours |
|-----------------------------|-----------------------|-----------|-----|-------------|----------|-----------|-----|-------------|
| Violence against the person | 28,728 | 6,205 | 35 | 217,175 | 6,241 | 1,348 | 10 | 13,480 |
| Sexual offences | 6,885 | 1,487 | 40 | 59,480 | 1,074 | 232 | 15 | 3,480 |
| Robbery | 4,722 | 1,020 | 20 | 20,400 | 69 | 15 | 8 | 120 |
| Theft | 105,244 | 22,723 | 12 | 272,676 | 19,387 | 4,188 | 4 | 16,752 |

| | | | | | | | | |
|-------------------------|----------------|---------------|----|----------------|--------|--------------|---|---------------|
| Criminal Damage & Arson | 27,923 | 6,031 | 12 | 72,372 | 13,671 | 2,953 | 4 | 11,812 |
| Fraud | 12,676 | 2,738 | 10 | 27,380 | 2,035 | 440 | 4 | 1,760 |
| Total | 186,100 | 40,196 | | 669,483 | | 9,176 | | 47,404 |

Summary non-motoring offences

| Offence | Individual Convictions | RJ sought | Hrs | Total Hours | Cautions | RJ sought | Hrs | Total hours |
|---|------------------------|---------------|-----|----------------|--------------|--------------|----------|--------------|
| Common assault | 4,913 | 11,861 | 10 | 118,610 | | | | |
| Harassment Offences | 25,525 | 5,512 | 5 | 27,560 | | | | |
| Unauthorised taking or driving of motor vehicle | 1,736 | 375 | 5 | 1,875 | | | | |
| Total | 82,174 | 17,748 | | 148,045 | 7,322 | 1,582 | 4 | 6,328 |

8. Total Cost

On the basis of the workings above, the estimated annual national cost for restorative justice following qualifying convictions for indictable and triable-either-way offences would be **£23,431,905** (669,483 hours x £35). The cost for cautions would be an additional **£1,659,140** (47,404 hours x £35).

The cost for qualifying summary non-motoring offences would be **£5,181,575** (148,045 hours x £35) and a further **£221,480** for cautions (6,328 hours x £35).

Consequently, the annual national cost for providing restorative justice where it might practicably be delivered for all convictions and cautions for indictable, triable-either-way and summary non-motoring offences would be **£30,494,100**.

9. Volunteer involvement

As per para 7, all workings are based on the assumption of paid caseworkers supervising each case. However, we are mindful that restorative justice has often historically placed voluntary and community participation at the root of its practice and this ethos continues to this day. Many high quality providers of restorative justice in the third sector make extensive use of volunteers through a variety of models.

All such organisations have – inevitably – a lower cost base than private or public sector providers. Consequently, were an entitlement to restorative justice to be secured for all victims of crime in England and Wales the actual costs of commissioning such a provision would in practice almost certainly be lower than the £30.5m estimate, based –

conservatively for cost purposes – on the employment of paid staff to deliver this much-needed benefit.

10.Thanks

A number of CJA member organisations gave tirelessly of their time and expertise in helping us complete this piece of work – through reference group and face-to-face meetings, provision of advice and review of work in progress. This briefing does *not* represent the individual view of any CJA member organisation but we are enormously grateful to Escaping Victimhood, the Institute for Criminal Policy Research, the Restorative Justice Council, Victim Support, Why Me? and Witness Confident for their help. We are also particularly grateful to Porticus UK for their support.

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