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**Restorative justice: understanding the enablers and barriers to victim participation in England and Wales**

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**Abstract**

Since 2012 there has been significant government support for the expansion and use of restorative justice (hereafter, RJ) within the criminal justice system in England and Wales. This accords with not only international and national instruments but also good practice guidance that endorses RJ as a key justice mechanism. Nonetheless, evidence suggests very few victims participate or get the opportunity to participate in a RJ process.

This thesis explores the key factors that inhibit or, conversely, enable victims’ participation and the remedial action required to ensure participation levels are increased. The way the offer of RJ was made by criminal justice organisations within two separate police forces was explored through participant observation, semi-structured interviews (*n*=89) and analysis of official documents in order to understand and determine how the culture, mechanisms and approaches of criminal justice organisations and RJ services influenced and affected victim participation. Semi-structured interviews were also conducted with victims (*n*=24) and provided an understanding, from the victims’ perspectives, of their experiences of RJ and how the offer of RJ was made and received.

The thesis argues that ‘institutional inertia’ combined with the culture, mechanisms and approaches adopted by criminal justice professionals’ impact upon whether victims are given the opportunity to participate in a RJ intervention and subsequent participation. The findings of this study suggest that criminal justice professionals subjectively select ‘ideal RJ victims’ and do not make proactive and systematic offers of RJ to all victims. In stark contradiction to the RJ principle of ‘inclusivity’ victims are excluded and not routinely offered RJ. If RJ is to be fully integrated into the organisational culture and ethos of criminal justice then its agencies need to develop a culture of RJ based upon the principles of inclusivity and engagement, thus ensuring equal access to RJ for all victims.

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# List of Abbreviations and Acronyms

ACPO Association of Chief Police Officers

APCO Association of Chief Officers of Probation

ARD Adult Restorative Disposal

CJS Criminal justice system

CNA Common Needs Assessment

CPS Crown Prosecution Service

CSEW Crime Survey for England and Wales

DHSS Department of Health and Social Security

FGC Family Group Conference

FTE First-time Entrant

FW Final Warning

GBH Grievous Bodily Harm

IDVA Independent Domestic Violence Advisor

ISVA Independent Sexual Violence Advisor

MoJ Ministry of Justice

NACRO National Association for the Care and Rehabilitation of Offenders

NGO Non-Governmental Organisation

NJP Neighbourhood Justice Panel

NOMS National Offender Management Service

NPS National Probation Service

OPCC Office of the Police and Crime Commissioner

PCC Police and Crime Commissioner

PCSO Police Community Support Officer

PO Police Officer

PSR Pre-sentence Report

RAR Rehabilitation Activity Requirement

RJ Restorative Justice

RJCO Restorative Justice Hub Coordinator

RJF Restorative Justice Facilitator

RO Referral Order

ROP Referral Order Panel

SAR Specified Activity Requirement

SDP Restorative Justice Service Delivery Provider

SDPM Service Delivery Provider Manager

UNCRC United Nations Convention on the Rights of the Child

VCOP Code of Practice for Victims of Crime

VOM Victim-Offender Mediation

VPS Victim Personal Statement

VWCO Victim and Witness Care Officer

VWCU Victim and Witness Care Unit

WCU Witness Care Unit

YJ Youth Justice

YJB Youth Justice Board (YJB)

YJS Youth Justice System (YJS)

YOS Youth Offending Service

YOT Youth Offending Team

YRO Youth Rehabilitation Order

YRD Youth Restorative Disposal

# Chapter 1: Restorative justice: understanding the enablers and barriers to victim participation

## 1.1 Introduction

This thesis will explore victim participation within RJ processes to determine what the key factors are which inhibit and enable victim participation and what remedial action is required to ensure that participation levels are optimised. Understanding what affects victim participation levels in RJ is imperative if RJ is to grow in practice and adhere to its main principle of inclusivity; that ‘all parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future’ (Marshall, 1996: 37). The thesis will examine the implementation and delivery of RJ in two police force areas in England and Wales. It will also explore, from the victims’ perspective, how they were given the opportunity to participate in RJ and their experiences of RJ. The thesis will argue that ‘institutional inertia’ combined with the culture, mechanisms and approaches adopted by criminal justice professionals’ impact upon whether victims are given the opportunity to participate in a RJ intervention and subsequent victim participation levels. Therefore, it will be argued (in Chapter 8), to ensure RJ is fully integrated into the organisational culture and ethos of criminal justice, criminal justice agencies need to develop a culture of RJ based upon inclusivity and agency within their organisations. Embedding a RJ culture would ensure that professionals proactively and systematically offer all victims RJ at various junctures throughout victims’ journeys through the criminal justice system; therefore ensuring, in compliance with policy and guidance, that all victims have ‘equal access’ to RJ (Ministry of Justice, 2014).

This chapter introduces the current study. It begins by providing the definition and the main principles of RJ that will be discussed throughout this thesis. A comparison of the victims’ position within both RJ and the criminal justice system (hereafter, CJS) will be presented, followed by a summary of the recent governmental endorsement of RJ. The chapter will then provide a historical overview of victim participation within RJ interventions in England and Wales. The research rationale is then stated, followed by the research aims and questions. The chapter concludes by outlining the thesis structure.

## 1.2 Definition of RJ

RJ is a ‘deeply contested concept’ with ‘no single clear and established meaning’ (Johnstone and Van Ness, 2007: 6). However, whilst RJ is a contested concept that does not appear to have one single agreed definition, there are several main ‘ingredients’ necessary for an (alternative) justice process to be deemed as RJ. These RJ ‘ingredients’ include: the importance of the stakeholders involved in the offence coming together directly or indirectly to discuss what has happened, the harm caused and what needs to happen to repair that harm; empowering those affected by the crime; addressing the injury and the needs that result from the harm; and inclusion in the decision-making process and outcomes (ibid: 7). RJ is a type of justice, it is a ‘justice mechanism’ (Daly, 2016) that can enable victims to have an active part in the justice process, to be included, to be empowered, to have a voice, to ask questions and get answers, and to gain closure and move forward (Zehr, 1990; Shapland et al; 2011).

Notwithstanding that RJ does not appear to have one clear and agreed definition there is a definition of RJ that has been adopted by the Ministry of Justice (hereafter, MoJ) within its RJ Action Plan (2014) and by the Restorative Justice Council.[[1]](#footnote-1) The MoJ defines RJ as the ‘process that brings those harmed by crime or conflict, 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’.[[2]](#footnote-2) Therefore it is this definition adopted by the MoJ and Restorative Justice Council that will be used within this thesis.

Johnstone and Van Ness (2007: 6) see the three main concepts of RJ as being ‘encounter’; ‘reparative’; and ‘transformative’. The difference between these three concepts, according to Johnstone and Van Ness (2007: 17) is ‘where the emphasis is placed’. The ‘encounter’ concept, as in Marshall’s definition of RJ, is the foundation of the conceptual framework of this thesis. It emphasises the RJ ‘ingredients’ of a dialogic encounter between those affected by the crime (victim, offenders and communities of care) (McCold and Watchel, 2003), either in a direct face to face meeting or indirectly; and that the parties to a crime should be offered an opportunity to meet (or at least communicate) and decide the most satisfactory response to that crime’ (Johnstone and Van Ness (2007: 17). The ‘transformative’ concept emphasises the ‘transformation of people, structures and our very selves’ ibid: 17). Repairing the harm is the main focus of the ‘reparative’ concept.

### 1.2.1 RJ principles of ‘inclusivity’ and ‘engagement’

Again, whilst there is no clear consensus on the principles that define RJ (Johnstone and Van Ness, 2007), RJ commits to a set of universal moral principles. These provide a ‘framework for defining crime as a generator of harm’ (Pavlich, 2007: 619). ‘Criminal harms ought to be healed by addressing underlying individual (victims and offender) … needs’ and that the best society is a ‘consensually driven relational complex’ that must be preserved and or/restored through the active participation of its members (ibid: 618). Pranis (2007) agrees that there is no single definitive list of principles but states that there is an essential set of RJ principles which constitute the ‘restorative ethos’ (Gavrielides, 2007) - the principles of ‘inclusivity’, ‘stakeholder involvement’, ‘empowerment’ and ‘engagement’ (Braithwaite, 2002, 2004; Zehr, 1990; Van Ness, 2007). It is important, in the introduction to the current study, to set out, briefly, what these principles are and how they will be used in the study. Further elaboration as to whether these principles are to be found in the history of the developing practice of RJ in England and Wales can be found in Chapters 2 and 3 in relation to young offenders and adult offenders respectively.

It is the principles of ‘inclusivity’ and ‘engagement’ upon which this research project will focus. The principles of ‘inclusivity’ and ‘engagement’ incorporate the idea of ‘stakeholder involvement’, in which the victim, as one of the direct stakeholders in the process,[[3]](#footnote-3) is included in the decision-making and outcome processes and therefore include the principle of ‘empowerment’. ‘Empowerment’ is an emergent property of the RJ process and therefore occurs as an outcome process of ‘inclusivity’ and ‘engagement’ (Braithwaite, 2003).

The principles of ‘inclusivity’ and ‘engagement’ are significant in this study as they are the RJ operational values that support RJ’s normative values. RJ’s normative values are informed by a ‘peace-making approach to conflict’ (Pranis, 2007:62) and are based upon the moral principles outlined above. To ensure that those harmed or affected by the crime (victim, offenders and communities of care) (McCold and Watchel, 2003) have the opportunity to encounter, to meet (directly or indirectly) and to enter into a bi-directional dialogue, the principles of ‘inclusivity’ and ‘engagement’ must be adhered to. Without these principles being met then the ‘individual’ and ‘emergent’ principles and the intended outcomes (Pranis, 2007; Braithwaite, 2003) of RJ: ‘empowerment’ - ‘dignity’; ‘reparation’; ‘closure’; and ‘reintegration’ - cannot be achieved. Secondly, as outlined above and discussed in further detail in Chapter 2 and Chapter 3, the implementation of the operational/process values of ‘inclusivity’ and ‘engagement’ requires exploration if we are to determine and understand what the barriers and enablers are to victim participation in RJ in England and Wales.

‘Inclusivity’ has been described as being one of the ‘cornerpost values’ of RJ (Van Ness and Strong, 2006) and provides those harmed (within this thesis those harmed constitute victims and offenders)[[4]](#footnote-4) with the opportunity to be included and to have an ‘active involvement’ in the justice process. Inclusivity as an operational process includes inter alia: the ‘nature of the invitation offered’; the extent of stakeholder interests in the RJ process; the acceptance of alternative approaches – essentially the flexibility of and provision of a range of choices and options for participation; and communication (ibid). Marshall’s definition of RJ (1996: 37) states the main principle of ‘inclusivity’ to be that ‘all parties with a stake in a particular offence’ have the opportunity to ‘come to collectively deal with the aftermath of the offence’.

‘Engagement’ is the active participation of participants in RJ that enables collaboration. Inclusivity, as a principle, actively includes victims but it does not necessarily provide victims with collaboration – criminal justice professionals and RJ practitioners ‘engage **with** (emphasis added) offenders and others [victims], encouraging active and thoughtful involvement ‘(McCold and Watchel, 2003: 3). ‘Engagement’ does not necessarily mean an encounter/meeting between the victim and the offender (directly or indirectly) but that the victim has engaged in the decision-making process, ‘in defining and meeting their own needs …’ (Sawin and Zehr, 2007: 48).

Whilst previous research has explored what the principles of RJ are and their outcomes, this thesis applies the principles of ‘inclusivity’ and ‘engagement’ as a theoretical lens through which to examine how the culture, approaches and mechanisms adopted by criminal justice professionals affect victim participation and what, for victims, inclusivity and engagement mean.

## 1.3 Governmental endorsement of RJ

Since 2012 there has been significant governmental support in England and Wales in relation to developing and expanding the use of RJ within the criminal justice process. This governmental endorsement of RJ is evident in the plethora of policies and guidance, alongside financial investment, that have been witnessed since the adoption of the EU Directive (2012).[[5]](#footnote-5) The EU Directive (Directive 2012/29/EU of the European parliament and of the council) established minimum standards on the rights, support and protection of victims of crime, and stipulated that all victims of crime[[6]](#footnote-6) have the ‘right to receive information from the first contact with a competent authority … [on] the available RJ services’ (2012: 66).

Simultaneously, in November 2012 Police and Crime Commissioners (henceforth, PCCs) were elected in England and Wales for the first time. The role of the newly appointed PCCs was stipulated within the terms of the Police and Social Responsibility Act 2011. The Act stated that the role of PCCs was to be the ‘voice of the people and [to] hold the police to account … [and to be] responsible for the totality of policing’; this included setting the force budget. The following year, in November 2013, the government announced that they would be dedicating up to £29 million to the newly appointed PCCs and charities to help deliver RJ for victims over the forthcoming three years (2014-2016) (Ministry of Justice, 2013). In 2014 funding and responsibility for victim services were devolved from central government to the newly appointed PCCs and RJ was included within victims’ services. PCCs were expected to use the grants to either develop or commission a RJ service in their area to ensure that RJ was available to all victims of crime. The dedicated funding for RJ from the MoJ was not ring-fenced but was ‘earmarked’ within PCCs’ allocated victims’ services funding until 2016 (Justice Committee, 2016). However, since April 2016 funding for RJ has been incorporated within PCCs’ overall victims fund allocation and PCCs have been able to decide how much of their victim services funding allocation to dedicate to RJ.

Since the adoption of the EU Victims’ Directive in 2012 and the financial support provided to PCCs to establish and provide RJ services several legislative and policy instruments have been introduced that further illustrate governmental support for RJ. The Crime and Courts Act 2013 made it explicit that courts can use their powers to defer sentencing in order to allow for a RJ activity to take place. The Restorative Justice Council (2014) argued that this was the biggest development for RJ in England and Wales since the introduction of youth Referral Order Panels by the Youth Justice and Criminal Evidence Act 1999. Further legislative support for RJ was provided in 2014 by the Anti-Social Behaviour, Crime and Policing Act (2014) and the Offender Rehabilitation Act (2014) which saw RJ introduced as an optional activity that could be utilised within a diversionary out of court disposal, a Community Order or Suspended Sentence Order.

Despite the introduction, since 2013, of a number of statutes that have included RJ, the legislative framework for adult RJ in the CJS leaves adult RJ as an optional activity that can be accessed when deemed the appropriate course of action. In contrast the youth justice system (hereafter, YJS) is (meant to be) underpinned by the restorative principles of restoration, responsibility and reintegration (which were first outlined in the Crime and Disorder Act 1998 as underlying principles of youth justice) (see Chapter 3). However, even within youth justice (henceforth, YJ) RJ research has shown that RJ is not being delivered in accordance with the principles of inclusivity (see Chapter 3 and Chapter 8). Whilst the Youth Offending Service (hereafter, YOS) may be based upon a restorative ethos victim engagement and inclusion is still not, according to a recent thematic inspection conducted by HM Inspectorate of Probation (2016) and a study conducted by Rosenblatt (2014), a priority. Many have argued (Shapland et al, 2011; Dignan, 2002) that RJ is not being utilised to its full potential within the CJS due to it being an optional, non-mandatory process that is not fully integrated or mainstreamed within the CJS (for victims of adult offenders). RJ appears to be perceived merely as an optional extra that can be used if and when criminal justice professionals decide that it may be appropriate.

In addition to the financial support and statutory measures evidenced from 2012 onwards further endorsement of RJ was witnessed within the Code of Practice for Victims of Crime (hereafter, VCOP) (2013). The VCOP, initially introduced in 2005, was revised in 2013 and outlined the provision of services which victims of crime could expect, and RJ was included. The VCOP (2013) stated that victims were entitled to receive information from the police on RJ and how they could partake. The VCOP was further revised in 2015 and stipulated, for the first time, that statutory organisations including the police, youth offending teams, Victim and Witness Care units and the probation service must provide victims with information on RJ (Ministry of Justice, 2015). Victims’ entitlement to information on RJ and how they can participate currently (at the time of writing) differs depending on whether the victim’s offender is an adult or youth. Victims of adult offenders ‘are **entitled** to receive information on Restorative Justice from the police or other organisation that delivers Restorative Justice services for victims … including how … [victims] could take part. This depends on what Restorative Justice services are provided in … [the] local area’. Whereas, ‘if the offender is under the age of 18, … [victims] are entitled to be offered the opportunity by the Youth Offending Team in [their] area to participate in Restorative Justice where appropriate and available’ (Ministry of Justice, 2015: 35). This discrepancy between victims’ entitlements to RJ in adult justice compared to YJ was highlighted by the House of Commons Justice Select Committee in their 2016 report as an issue that the MoJ should address so that victims’ entitlements under the VCOP are equal (Justice Committee, 2016). However, at the time of writing, this discrepancy has not been addressed.

Furthermore, in 2012 the MoJ published the *Restorative Justice Action Plan for the criminal justice system*. The Action Plan set out a series of actions which the government, alongside restorative justice organisations, would drive forward ‘to bring about real change in the delivery and provision of restorative justice across England and Wales’ (Ministry of Justice, 2012: 1). The aim was that RJ would be a victim-led process, that, ‘if willing’, all victims could access at any stage of the criminal justice process (ibid: 1). The Action Plan acknowledged that despite the ‘well known’ victim-specific benefits RJ was ‘not being used enough’ (ibid: 1). The RJ Action Plan was then revised in 2013 and further revised in 2014 to take into account the ‘evolving criminal justice landscape, the significant progress already made in the development of RJ provision and the need for the MoJ and other organisations to adapt their roles to support RJ development in this new environment’ (Ministry of Justice, 2014: 3). The fourth iteration (and the most current edition at the time of writing) of the RJ Action Plan was published in 2017 and stated that whilst encouraging progress had been made by PCCs in developing and delivering RJ more needed to be done, inter alia, to ensure that victims of crime have equal access to RJ. The RJ Action Plan (2014, 2017) outlines the MoJ’s vision for ‘good quality, victim focused RJ’ that should be available to all victims and at all stages of the CJS. The Plan makes a commitment to three main values: equal access (victims should have equal access to RJ at all stages of the CJS irrespective of their location, the age of the offender or offence committed against them); awareness and understanding (people should have an ‘awareness and understanding of RJ, its benefits, what it entails and how to access it’); and good quality RJ (that is delivered by trained facilitators) (Ministry of Justice, 2017: 2). The most recent version of the RJ Action Plan (2017) commits to working with the Victims’ Commissioner to monitor compliance with the VCOP (2015) requirements.

The role of the Victims’ Commissioner is a relatively new role that commenced in 2010. The Victims’ Commissioner, whilst appointed by governmental ministers, is independent. Her[[7]](#footnote-7) role is to ensure that victims have an independent voice and that victims and witnesses are heard. She is ‘dedicated to promoting the interests of victims and witnesses’ (Victims’ Commissioner, 2019). Furthermore, her responsibilities include reviewing the VCOP and compliance with the Code and also promoting good practice across criminal justice services (including RJ) for victims. Since being in post the Victims’ Commissioner has published several reviews on the use of RJ in the CJS and made a number of recommendations. Most recently (2016) the Victims’ Commissioner stated that RJ services were ‘inconsistent in their accessibility, availability and inclusiveness’ and that RJ services should be inclusive and offered to all victims (Victims’ Commissioner, 2016: 5)

The financial investment, the legislation, the VCOP (2013, 2015) and the MoJ’s RJ Action Plans (2012, 2013, 2014 and 2017) all illustrate the recent and significant governmental support for RJ to ‘provide a solution and deliver justice even in relation to the most serious crimes’ (Herbert, 2011) and to ensure that all victims have the opportunity to participate in RJ at any stage of the criminal justice process, if they so wish. As set out in the international and good practice guidance RJ must form part of the criminal justice package for all victims regardless of gender, age, ethnicity, offence type and whether their offender is an adult or youth. All victims should be given information on RJ and how they can participate to allow them to make an informed decision (Ministry of Justice, 2014). This information, it is suggested, should be provided to victims by all criminal justice organisations and victim service providers in a ‘systematic’ and ‘proactive’ manner to ensure that all victims have equal access to RJ in accordance to international and national policy (Van Camp and Wemmers, 2016).

## 1.4 RJ and victims

### 1.4.1 RJ and victim participation levels

Historically (pre-2012) levels of victim participation were, in the main, extremely low in England and Wales. Previous research demonstrated that victims did not seem to have equal access to RJ, that provision for RJ was patchy and RJ schemes and initiatives were established and delivered on an ad hoc basis. There was no clear consistent approach to the service delivery of RJ. Research conducted between 2000-2012 found that victim participation levels in the schemes and initiatives evaluated ranged between 7% and 28% (Holdaway et al, 2001; Miers et al, 2001; Hoyle et al, 2002; Crawford and Burden, 2005). Many authors suggested that the low participation rates were due to victims simply not being offered RJ. They also argued that poor implementation of RJ initiatives or services contributed to the low level of victim participation (Newburn et al, 2002; Hoyle et al; 2002).

Research conducted since 2012 tends to suggest that despite international instruments, governmental support and good practice guidance there continues to be ‘recurring shortcomings of the practical application of RJ in England and Wales’ with regard to the number of victims that are given, or take up, the opportunity to participate in a RJ intervention (Hoyle and Rosenblatt, 2016: 32). Inadequate victim involvement in RJ appears to remain an issue (Victims’ Commissioner, 2016; Criminal Justice Alliance, 2019; Hoyle and Rosenblatt, 2016).

According to annual figures published by the Crime Survey for England and Wales (hereafter, CSEW) (2011-2018) on average[[8]](#footnote-8) only 6.6% of victims, when asked if they had been offered the opportunity to participate in RJ, could recall being offered RJ. The Victims’ Commissioner has voiced her concern with this low figure and noted that, despite the dedicated funding provided to PCCs for the delivery of RJ services between 2013 -2016, victim involvement in RJ remained low. Within YJ, regardless of the MoJ stating that youth offender Referral Order Panels (hereafter, ROPs) should operate on the RJ principles of ‘responsibility, reparation and reintegration’, victims’ involvement remains a rarity (Hoyle and Rosenblatt, 2016). Research suggests that victims are seldomly included in the youth offender ROP meetings and very few RJ conferences[[9]](#footnote-9) take place between victims and youth offenders (Rosenblatt, 2015a, HM Inspectorate of Probation, 2016). A thematic inspection conducted by HM Inspectorate of Probation in 2016 examined the use of Referral Orders (hereafter, ROs) and their effectiveness and found that the number of victims that were given the opportunity to be involved in the youth RO process was, in the main, low (however there were some youth offending teams that secured high levels of victim involvement). The numbers of victims that participate in the RO process has not, according to Hoyle and Rosenblatt (2016), changed over the past 15 years. As argued by Hoyle and Rosenblatt (2016: 30) RJ practices in the YOS are ‘repeating history’ through the ‘shortcoming’ of ‘inadequate victim involvement’; victim participation remains stubbornly low.

Meanwhile, RJ services provided by voluntary sector providers are being hampered by low referral rates (Criminal Justice Alliance, 2019; Shapland et al, 2017). Furthermore, the findings from these reports (ibid) also outline that the provision of RJ remains ‘patchy’ and access to RJ is a ‘postcode lottery’ (Justice Committee, 2016; Criminal Justice Alliance, 2019). Access to, provision of and service delivery of, RJ remains a ‘post-code’ lottery (Criminal Justice Joint Inspection, 2012: 5). There appears to be little continuity in the provision of RJ services and how victims are invited to participate in a RJ intervention (Bright, 2017). The Victims’ Commissioner stated that a ‘consolidated approach’ is required to ‘ensure an effective delivery of RJ’ (Victims’ Commissioner, 2016: 24).

In contrast, other jurisdictions report high levels of victim participation for cases involving both adult and youth offenders. These jurisdictions include Belgium, Austria and Finland (Van Camp and Wemmers, 2016; Honkatukia, 2015; Shapland et al, 2011). In these countries’ RJ is fully integrated within the CJS with a clear referral process (in New Zealand and Northern Ireland RJ is statutory for youth offending only). Jurisdictions in which RJ is mandatory or ‘partially integrated’ appear to achieve higher levels of participation (Dignan and Lowey, 2000). Furthermore, high participation levels ranging between 77% and 89% were also achieved by the government funded RJ pilot schemes conducted between 2001-2004 (Shapland et al, 2011). What then are the factors that enable other jurisdictions and enabled the Home Office funded RJ pilot schemes researched and evaluated by Shapland and her team (2011) to secure much higher levels of victim involvement? These disparities require analysis to allow the complexities of and barriers to participation to be fully explored and to understand what affects levels of victim participation.

### 1.4.2 RJ and victim specific benefits and satisfaction outcomes

RJ enables victims to be included in the decision-making process; to participate in the justice process and to have a voice. In contrast, the mainstream contemporary criminal justice process is often characterised as a justice process that disempowers and excludes many victims (O’Mahoney and Doak, 2017). RJ aims to give victims an active role in the process, to engage with the RJ process in a voluntary manner and to be able to voice, and have, their needs met. It has been argued that, within the CJS, victims are ‘conscripted’ into ‘operational roles’ which render them as passive components of the criminal justice process (Faulkner, 2001: 226; O’Mahoney and Doak, 2017: 63). The evidence suggests that victims are cast aside and excluded from the justice process (Sawin and Zehr, 2007) and the crime becomes the ‘property’ of the state (Christie, 1977). Unlike the adversarial CJS, which it is argued, disengages and disempowers victims (O’Mahoney and Doak, 2017), RJ aims to empower victims. RJ aims to empower victims through ‘inclusivity’ and ‘engagement’ in the RJ process. Victims can make an informed decision as to whether they wish to participate in a RJ intervention; RJ is a voluntary process that victims can access at any stage of their journey through the CJS, when they are ready to do so. Victims can also withdraw their participation from the RJ process at any point; they are part of the decision-making process and this includes the extent, breadth and depth of their participation.

Therefore, it is argued, that if RJ programmes are to adhere to the principle of inclusivity and engagement then victims should be provided with as much information as possible and options and ways found to include them (Achilles and Zehr, 2001). Access to RJ, according to international and national instruments (see below for further detail), should be equal for all victims regardless of the type of offence and regardless of the stage in the criminal justice process they are at when they elect to participate in a RJ intervention (European Parliament, 2012; Ministry of Justice, 2014; Ministry of Justice, 2015).

Further to the well-known victim-specific benefits which include: having a voice; explaining to the offender the impact the offence had on them; gaining answers to questions; being part of the decision-making process;[[10]](#footnote-10) being empowered; gaining closure and reducing levels of stress and fear (Zehr, 1990; Braithwaite, 2002; Angel; 2005) previous research has found the majority of victims are in favour of RJ (Restorative Justice Council, 2014). Many victims, if given the opportunity and support, state that they would participate in a RJ intervention (Stalans, 2005; Newburn et al, 2002). Hoyle et al’s (2002) evaluation of the Thames Valley restorative cautioning initiative found that many ‘non-participating’ victims were actually ‘non-attending’[[11]](#footnote-11) victims who, had they been given the option to take part in an indirect RJ (rather than a direct, face to face) process, would have (Hoyle, et al, 2002). Newburn and his team (2002) also noted that many victims had not been offered RJ or not offered different options to participate in a RJ process. Research funded by the government found that 90% of the victims who participated in a RJ process stated that they were very satisfied or satisfied with the process (Shapland et al, 2011). Higher levels of victim satisfaction, procedural fairness and trust are found within RJ in comparison to mainstream criminal justice (Shapland et al, 2011; Van Camp and Wemmers, 2013). Furthermore, 80% of the public believe that RJ should be available to all victims and offenders and that victims of crime should have the right to meet their offender (this figure rose to 85% for people who had been a victim of crime) (Restorative Justice Council, 2014).

These findings therefore suggest that it is not factors that stem from victims that affect participation.

## 1.5 Research rationale

Why then do so few victims participate in a RJ intervention in England and Wales? Understanding the barriers that affect victim participation and what processes are required to optimise participation in RJ is key to RJ’s success and to ensuring that RJ is properly integrated into the CJS. If RJ is to be fully integrated within the mainstream CJS and is to be a process of justice that is available to all victims, it is imperative that the barriers that determine whether a victim elects to participate or not are understood. Without determining what the barriers to victim participation are RJ runs the risk of being cast aside as just another ‘tool’ in the ‘toolbox’ of criminal justice. If RJ does not adhere to its main principles of inclusivity and engagement that enable victims to make an informed decision whether they wish to participate or not, and in what form that participation will be, then RJ faces the risk of excluding and disempowering victims. The very aspects of the CJS that RJ aims to counter are in contradiction to RJ’s own main principles.

### 1.51 Personal rationale for the research

As a trained and practicing mediator (in the social housing sector) I have for many years had an interest in mediation and RJ. I have seen first-hand the benefits that mediation has brought to social housing residents. My interest in RJ was fuelled further when I undertook my BA Hons degree in Criminology and Sociology. It was within an optional YJ module that I first gained an understanding of how RJ principles underpinned YJ and how RJ was embedded within YJ (in principle). My academic knowledge of RJ combined with my practical experience of community mediation within the social housing sector led me to research the use of RJ within the CJS in further detail. However, reading the RJ literature was disheartening. It was apparent that despite the plethora of research and evaluations demonstrating the benefits to both offenders and victims, RJ was not being practised in accordance with policy and guidance. Far too few victims were participating in RJ and it was this discrepancy between the benefits that RJ could bring for victims, combined with reported high victim satisfaction levels (compared to victim satisfaction in the CJS) that resulted in a desire to understand why RJ was not being used in a systematic and integrated manner throughout the CJS. What was hampering victim participation in RJ? Why was RJ not being routinely practiced? And why was RJ, in the main, confined to being used as a process in relation to youth offending and minor offences?

These issues perplexed me and led me to explore the issue of victim participation in RJ within my MSc Criminology and Criminal Justice (research methods) dissertation. The dissertation posed the question ‘what affects levels of victim participation in RJ?’ It was within the research for the dissertation that I studied and analysed Professor Joanna Shapland and her team’s government funded research of three RJ pilot schemes (2011). The research evaluated what works for victims and offenders and it was ‘the largest and most complete trial of restorative justice with adult offenders worldwide’ (Shapland et al, 2011: i). The evaluation considered the experiences of the participants and how they were approached. The processes that the schemes used were also evaluated.

Furthermore, and of the greatest interest to me, high levels of victim participation were secured. For me, these high participation levels appeared to suggest that there was some unique aspect(s) of these funded schemes. How had the schemes managed to achieve such high victim involvement and did this therefore suggest, as previous evaluations conducted by Hoyle et al (2002), Newburn et al (2002), and Crawford and Burden (2005) alluded to, that it was possibly the processes adopted by criminal justice organisations and RJ service providers that were hampering participation, not victim specific factors? There was a gap in the research and literature that if RJ was to, after many years of sitting on the margins of criminal justice, finally become embedded in criminal justice process, needed to be examined and understood.

## 1.6 Research aims and questions

The research aims to explore the implementation and delivery of RJ in two police force areas to:

* Evaluate levels of victim participation across restorative justice processes and schemes to gain an understanding of the issues and obstacles that affect victim participation.
* Explore the processes used by agencies to encourage victim participation.
* Determine if there is a correlation between the type of approach that is used by the agencies to the victims and the level of victim participation.
* Explore victims’ experiences of restorative justice.

## 1.7 The contribution made by this research

This study, unlike previous research, explores victim participation in RJ and victims’ experiences of RJ in England and Wales in the time frame in which it is a requirement for criminal justice organisations to provide all victims with information on RJ and how they can participate. The delivery of RJ is no longer being executed merely as a pilot or as an ad hoc service. RJ is now ingrained within statute, policy and guidance as a victims’ service that all PCCs should be delivering (whether the service delivery of RJ is provided and managed by PCCs themselves or commissioned out to external agencies). Therefore, in an era where it is a requirement to provide all victims with information on RJ and how they can access RJ, it is important to explore and understand from the victims’ perspective their experience of RJ and what factors impact victim participation.

The research has empirically explored both participating victims’ and non-participating victims’ experiences of RJ. How were they offered RJ? At what stage in their journey through the criminal justice process were they provided with information on RJ? Was the timing of the offer right? And, would they, if offered RJ again, refuse or accept the offer to participate in a RJ process? What factors influenced their decision to participate or not to participate? The exploration of these questions within this study provide a unique contribution to the RJ literature. This research explores the processes used by a number of criminal justice agencies, all of whom should be providing all victims with information on RJ. The author follows the victims’ journey through the criminal justice process from the victims’ perspective to determine if, and when, victims were offered RJ, who made the offer and whether victims were being offered RJ in a systematic, proactive and consistent manner and what factors influenced victims’ decision-making processes.

Furthermore an exploration of how the offer of RJ was made within two different police force areas and within several different criminal justice organisations is presented. Understanding and determining the organisational culture, mechanisms and approaches of the criminal justice organisations and RJ service delivery providers (hereafter, SDPs) enabled the researcher to understand what the enablers and barriers to victim participation were, not only for the victims themselves but from the perspective of criminal justice organisations and their staff (who were in different roles with respect to victims).

Combining data on the victims’ experience and the culture, mechanisms and approaches adopted by criminal justice professionals provides an original and detailed insight into the implications of the different approaches, attitudes and mechanisms adopted by criminal justice professionals upon victim participation in RJ.

## 1.8 Thesis plan

Following on from this introductory chapter, the introduction of RJ within YJ will be outlined. Key pieces of literature, research, legislation and guidance will be presented to provide an overview of the use of RJ in relation to youth offending. Chapter 2 will also discuss the growth and use of RJ from the perspective of the victim. The historical rise of the victim and victims’ rights will be outlined alongside pieces of key research to provide the reader with a detailed understanding of both victims’ rights and the use of RJ from the perspective of the victim of youth offenders. The use of RJ as a process within the CJS for victims of adult offenders will then be discussed in Chapter 3. Chapter 3 will also provide an overview of the relevant literature, research, legislation and guidance that supports the use of RJ for victims of crime committed by adult offenders. Youth and adult justice in relation to RJ are addressed separately within Chapter 2 and Chapter 3 due to the differences in victims’ rights to information on, and access to, RJ depending on whether the victim has been a victim of a crime committed by an adult or youth offender in England and Wales. Following these two literature review chapters (Chapter 2 and 3) the empirical research methodology will be outlined within Chapter 4. The findings from the empirical research will be presented in Chapters 5, 6 and 7. Firstly, Chapter 5 will present the findings from the participant observations and semi-structured interviews conducted with a number of Victim and Witness Care Officers (hereafter, VWCOs) employed within the four Victim and Witness Care Units (henceforth, VWCUs) (situated within the two police force areas) that participated in this study. The findings from the interviews and observations conducted with the VWCOs are discussed separately due to the intrinsic role the VWCOs have with victims. The VWCOs are the single point of contact for victims throughout their journey through the criminal justice process, once the offender is identified (refer to Chapter 5 for further details). Chapter 6 will then present the findings from the interviews conducted with victims, who had been offered the opportunity to participate in a RJ intervention, and who either elected to participate in RJ or declined the opportunity to participate in RJ.

The final findings chapter (Chapter 7) utilises the observation and interview data collected from a range of criminal justice professionals which included: RJ hub coordinators (hereafter, RJCOs), RJ facilitators (hereafter, RJFs), YOS staff and National Probation Service (hereafter, NPS) staff. The findings from the semi-structured interviews conducted with criminal justice and RJ personnel, both paid staff and volunteers will then be analysed to determine what the structures were for delivering RJ provision across the two police force areas in this study at the time of the fieldwork and what impact this had for victims. Finally, the concluding chapter, Chapter 8, summarises the key findings of the research, in relation to how RJ is currently implemented and integrated within the conventional CJS and how this affects levels of victim participation in RJ. Chapter 8 concludes by discussing the implications of the findings and the necessary measures that should be implemented by criminal justice agencies if we are to ensure that all victims of crime are offered information on, and the opportunity to participate in, RJ. This is in order to ensure that, in accordance with international instruments and policy guidance, RJ forms part of the complete criminal justice package for victims.

# Chapter 2: Restorative justice and youth justice

## 2.1 Introduction

There has, since the late 1990s, been a nearly continuous introduction of new or revised legislation that supports, endorses or outlines the use of RJ and its practice and the importance of victim input within both the CJS and the YJS in England and Wales. In addition to the influx of YJ and victim-orientated legislation there has been an abundance of research evaluating, exploring and determining the use, outcomes and experiences of RJ and new legislation in YJ. Despite this proliferation of legislation, guidance and research the question remains as to whether RJ lies at the heart of YJ in practice or whether it is just rhetoric?

The aim of this chapter is to provide an overview of the legislation, guidance and research in the field of RJ and YJ over the past three decades in order to understand how RJ has become instilled within YJ policy. The introduction and revision of legislation that supports RJ for young offenders and victims’ rights will be chronologically detailed and discussed further below. For the purpose of this chapter the main starting point is the Crime and Disorder Act 1998; 1998 and 1999 was a time of pronounced change within YJ. First, a brief overview of the emergence of a YJS based on RJ principles from 1985-1997 will be outlined below to provide the reader with a sufficient outline of legislation, policy and practice up to the chapter’s main starting point of 1998. The chapter will then present findings from previous RJ research in England and Wales that has explored the use of RJ within YJ. The chapter will argue that whilst there has been statutory development of the offer of RJ at regular milestones RJ is still not embedded in practice in YJ and victim engagement remains low and sporadic.

## 2.2 The emergence of a youth justice system based on RJ principles 1982-1998

The use of RJ as an informal out-of-court diversionary measure had begun to emerge within YJ prior to the Crime and Disorder Act 1998. During the 1980s and 1990s there were several guidance papers published and legislation passed that tightened the criteria for the use of youth custody (youth custodial figures had doubled between 1970-1978 (Crawford and Newburn, 2003)) and which expanded the use of community based sanctions and supported the goals of intervention and diversion (to effectively manage delinquent behaviour: ibid). These included the Criminal Justice Acts of 1982 and 1988.

The Criminal Justice Act 1982 expanded the use of schemes to divert young people from custody and the criteria that had to be met before custodial or residential sanctions could be imposed were tightened (the criteria for use of custody was again further tightened by the Criminal Justice Act 1988). The use of Community Service Orders was extended in the Criminal Justice Act 1982 to incorporate young offenders aged 16 years and over. Magistrates were given power to attach supervision activities to supervision orders. In conjunction with the Criminal Justice Act 1982 the 1988 Home Office Circular 14/1985 supporting and affirming the use of diversionary options including encouraging the use of informal warnings was published. In 1989 Farrington’s longitudinal research into delinquent behaviour was published. The research supported early intervention for young offenders and potential young offenders. The research argued that there are a number of risk factors that can increase the likelihood of young males offending and unless intervention takes place these delinquent young males are likely to carry on offending and embark on criminal careers that last way into adulthood (Farrington, 1989). Farrington’s research served to reiterate the importance of early intervention in preventing and managing potential offending.

Alongside the Criminal Justice Acts of 1982 and 1988, in which methods of diversion and alternatives to custody were expanded, the Department of Health and Social Security (hereafter, DHSS) provided, in 1983, £15million of funding to fund the development of ninety-five new diversionary projects. There was also much support to divert young offenders away from custody from the NGO (non-governmental organisation) NACRO’s (National Association for the Care and Rehabilitation of Offenders) youth crime division. Further to the legislative changes, DHSS funding and NGO campaigning and support, the UN Nations ‘Beijing Rules’ (UN Standard Minimum Rules for the Administration of Juvenile Justice) stated in 1985 that the incarceration of children should only take place as a last resort. Continued support against the use of imprisonment for young offenders came in the 1989 UN Convention on the Rights of the Child (hereafter, UNCRC). The UNCRC clearly stipulates in Article 3 that the best interests of the child should always be the primary consideration and that (in Article 37) custody, if it has to be used, should be for the shortest time possible.

### 2.2.1 The emergence of ‘youth’ RJ pilots in England and Wales

In addition to the introduction and affirmation of diversionary sanctions discussed above there were a small number of local ad hoc non-statutory VOM services that emerged in England and Wales during the 1980s.[[12]](#footnote-12) In 1985 the Home Office developed a number of pilot mediation schemes in Cumbria, Leeds, Coventry and Wolverhampton but regardless of the initial excitement and positive findings regarding victim satisfaction, funding did not extend beyond the pilot (Marshall and Merry, 1990). Whilst both the Leeds and Coventry probation schemes were ‘initially designed to work with less serious [adult] offenders … referred by the Magistrates Court’ both schemes ‘expanded their service to receive referrals from the local Juvenile/Youth Liaison Panel’ (Umbreit et al, 1996: 6, 7).[[13]](#footnote-13) However despite the withdrawal of Home Office funding three of the four pilot VOM schemes continued to practice through the support of local probation services (Davey, 2005). VOM though, in the main, remained relatively small-scale and confined to specific geographical locations (Dignan and Lowey, 2000).

The end result of this influx of diversionary and restorative based legislation, research and pilot mediation schemes was that both the number of youths being formally processed within the CJS and the number of youths in custody dropped dramatically in the mid to late 1980s in what was hailed as ‘the successful revolution’ of juvenile justice’ (Jones, 1984; cited in Crawford and Newburn, 2003: 10). The efficient management of young offenders through a bifurcated juvenile system of diversion and sanction delivered by centralised managerial control and multi-agency collaboration led some to claim that ‘something works’ with regards to youth offending (ibid: 10).

However, as will be discussed further below, this turn was reversed in the early 1990s with a nearly continuous growth in youth crime rates and custodial rates. The political mantra ‘something works’ was well and truly dropped in 1993 when the then Home Secretary Michael Howard prophesied that ‘prison works’ (though he was speaking about adults). There was throughout the 1990s a significant rise in the numbers of youths entering the CJS and a rise in custodial rates. The ‘increase in the numbers of young people … in prison [was] particularly marked’ (House of Commons, 1998). The Home Office’s 1996 Criminal Statistics report states that the number of young offenders sentenced to immediate custody in 1996 had risen by 50% since 1990 and that the number of 10-17 year old young offenders sentenced for indictable offences had, in 1996, risen for the third successive year (Home Office, 1997: 161). Furthermore, in 1997 the average number of young prisoners was 10,810, an increase of 12 per cent year on year (House of Commons, 1998). The ‘populist punitive’ political stance that emerged in England and Wales throughout the 1990s and included a demand to be tough on young offenders was not however universal. We do not have to turn too far to witness a different welfare and restorative-based approach to dealing with youth offending in other jurisdictions.

In Scotland the 1968 Social Work (Scotland) Act had paved the way for the welfare tribunal system of Children’s Hearings. Children’s Hearings were introduced and embedded in Scotland throughout the 1970s and 80s. Built and practiced upon principles of communitarianism, participation and diversion the hearings worked outside of the court to divert young offenders away from the formal court system (Bottoms and Dignan, 2004). The hearings were out-of-court, community-led hearing panels that whilst an alternative to the formal YJS were not restorative (victim involvement being one of the fundamental principles of RJ). The hearings can though be loosely classed as ‘partly restorative’ (McCold, 2000) as they incorporate and bring together both the offender and the community to deal with the offence (community involvement through the use of lay members of the public as panel members). The Children’s Hearings are not restorative as they (at the time) did not include any level of victim involvement at all (Bottoms and Dignan, 2004). Whilst the use of Children’s Hearings is not without its disadvantages with regards to the levels of discretion accorded to the reporter the system was hailed as actively contributing to the reduction in the number of youths being formally processed through the juvenile court system (in comparison the numbers in England and Wales rose, as stated above) (ibid).

### 2.2.2 The international growth of RJ in youth justice

During the late 1980s and early 1990s the use of restorative practice and welfare-orientated approaches to youth crime was growing across other jurisdictions. RJ was making inroads in New Zealand. In New Zealand the CJS implemented RJ practice in YJ as an attempt to incorporate both the cultural needs and differences of the indigenous Maoris and Pacific Island Polynesians and to ensure that families were more involved in deciding what responses should be taken when dealing with young offenders (Bottoms, 2003). Family Group Conferences (hereafter, FGC), in which offenders, victims and supporters meet together with an impartial facilitator and representatives of the CJS, were statutorily introduced to the YJS in New Zealand through the Children, Young Persons and Families Act 1989. The success of RJ within the New Zealand YJS steered the rise of RJ in Australia in which police-led restorative conferencing known as both ‘restorative community policing’ and the ’Wagga process’ began to take place in a specific police district (Wagga Wagga, New South Wales) in 1991, headed up by Terry O’Connell[[14]](#footnote-14) (whose impact on RJ in the UK will be discussed further below) (Shapland et al, 2011). The ‘Wagga’ restorative community policing process was expanded upon and a large scale RJ reintegrative shaming experiment[[15]](#footnote-15) (RISE) was embarked upon in Canberra, Australia (Dignan and Lowey, 2000).

There were then direct links between the New Zealand experience and the adoption of statutory restorative justice in Northern Ireland. Northern Ireland as a jurisdiction had a major political and judicial legitimacy deficit and historical inter-communal conflict challenges (Dignan and Lowey, 2000). After the Good Friday Peace Agreement in 1998 an overhaul of the justice system was embarked upon and RJ was statutorily introduced into Northern Ireland’s YJS in the Justice (Northern Ireland) Act 2002; by which all young offenders whose cases reach the youth court are mandatorily referred (if the young offender is in agreement) to a YJ conference (with the exception of those charged with an indictable only offence, where RJ is then discretionary).

There were also a number of continental European countries where VOM and FGC’s were being widely used during the 1990s, including in Germany, Finland, Norway and Belgium. In Austria and New Zealand VOM was in operation across all local jurisdictions (Dignan and Lowey, 2000). In North America, Australia and Norway youth offending panels (referred to as ‘Neighbourhood Justice Centres’ and Community Reparative Boards) were being used and were based on the restorative principles of inclusivity, community resolution and reparation.

### 2.2.3 Youth crime, justice and RJ in England and Wales 1989-1998

At approximately the same time that FGCs were statutorily introduced into the YJS in New Zealand the Children’s Act (England and Wales) was passed (1989). The Children’s Act 1989 separated the care and criminal jurisdiction of children into two separate jurisdictions. The care jurisdiction was to be dealt with through civil ‘family proceedings courts’ and the criminal jurisdiction dealt with through the juvenile court (now youth court) (Bottoms and Dignan, 2004). In 1990 the NGO ‘Family Rights Group’ in the UK invited several New Zealand practitioners to share their experiences of FGC’s and this led to a small number of FGC pilots within Child and Social Services developing. In 1994 Terry O’Connell (the Australian police officer who implemented restorative community policing) presented his experiences and findings to a large number of police officers (henceforth, POs) in Thames Valley Police in the UK. This led to Thames Valley police adopting restorative youth conferencing first as an experimental programme in 1994 and then formally in 1998 in conjunction with the introduction of the reformed cautioning process in the Crime and Disorder Act 1998 (Davey, 2005). The findings from the 1998-2000 evaluative research of the Thames Valley initiative in restorative cautioning, carried out by Hoyle et al (2002) will be discussed further below.

At approximately the same time that Thames Valley Police adopted an experimental ad hoc youth restorative cautioning and conferencing system NACRO published a briefing paper ‘*Family Group Conferencing’* (1995). The paper stated that there was the potential to introduce FGC at various points in the judicial process. In 1996 Terry O’Connell presented at an Association of Chief Police Officers (henceforth, ACPO) conference and this led to a 1997 RJ conference on the application of RJ and its use with young offenders in the UK being held in London.

Whilst it is evident that RJ was beginning to be integrated into YJ and also beginning to be used as an ad hoc, alternative YJ process in the UK in the early 1990s, it is in no way illustrative of the overall mood towards youth crime and justice in the UK. In general in the early 1990s there was a shift away from the non-interventionist approach of the 1980s, which can be defined by the 1988 Home Office statement that stated ‘most young offenders grow out of crime as they become more mature and responsible’ (Home Office, 1988: 6 cited by Squires and Stephen, 2005: 31), towards a public and political punitive stance regarding YJ. One of the main reasons for this shift was that there had been a number of ‘trigger events’ which led to a moral panic and widespread demonisation of youth (Jenks, 1996). These ‘trigger events’ included the murder of the toddler James Bulger by two young boys in 1993 and also the murder of the black 18 year old Stephen Lawrence. Youth were being portrayed as out of control, sick monsters (Bawdon, 2009) and there was a public demand for more punitive measures to deal with youth crime and anti-social behaviour.

These ‘trigger events’ contributed to the shift to a more correctionist and interventionist justice approach that crescendoed through criminal justice legislation from the mid to late 1990s; evident in the Crime and Disorder Act 1993 and the Criminal Justice and Public Order Act 1994 and epitomised in the Crime and Disorder Act 1998 (Bottoms and Dignan, 2004). The Criminal Justice and Public Order Act 1994 enabled youth courts to use new custodial sentences for 12-14 year old persistent offenders (Bateman and Hazel, 2014: 2). This demand for tougher punitive measures resulted in a CJS based on risk management and early intervention with a focus on managing offenders and those at risk of offending (McLaughlin and Muncie, 2013). There was an introduction of an array of interventions aimed at reducing the likelihood of young people offending. At this point it may serve well to note that the Criminal Justice and Public Order Act (1994) had introduced the Secure Training Order, 5 years after the abolition of Detention Centres and this introduction of rehashed Detention Centres may go some way to explaining the sudden rise in custodial rates that was evident in the mid to late 1990s (Smith, 2010).

In 1996 the Audit Commission report *Misspent Youth* highlighted that more needed to be done to deal with youth offending; it felt that youth offending had changed, youths were not growing out of crime (Smith, 2010; Squires and Stephens, 2005) and youth crime rates had (excluding a period during the mid-1980s when diversion programmes resulted in a downward turn – discussed above), on the whole, been growing annually in England and Wales since 1981 (Bottoms and Dignan, 2004). Youth cautions had up until the Crime and Disorder Act 1998 not been statutorily defined and there were large geographical disparities in the use of cautions (and the equivalent for more serious cases - caution pluses) with many offenders being given numerous cautions. Young offenders were on average being presented to the courts five times before being sentenced and the Audit Commission report highlighted the high levels of resource and cost associated with YJ. The report advised that earlier invention and management could reduce these costs (ibid).

Youth crime rates in England and Wales reached a peak in the mid-1990s and it was at this time that the battle for political leadership was beginning to fire up. The Labour Party had not been in power since being defeated by Margaret Thatcher’s Conservative Party in 1979 and even though youth crime rates had been rising at a significant pace the Labour Party were still seen as being soft on crime in comparison to the Conservative Party. With rising youth crime rates, the ‘trigger events’ of 1993 and the looming general election of 1997 the issue of youth crime was firmly on the political agenda and an easy ‘territory for political opportunism’ (Doob and Tonry, 2004). In an interview in July 1993 with Tony Blair (leader of the Labour opposition party) conducted by Jonathan Dimbleby, Blair clearly outlined that the Labour party’s stance on crime was to be: ‘tough on crime and tough on the causes of crime’ (BBC, 1993). The Labour party set out a strategy to ‘deal with the underlying causes of crime as well as those that are committing crime and should be brought to justice’ (ibid).

The Labour Party was elected to power in 1997 and immediately set out their ‘radical shake-up of youth justice’ (Pitts and Kuula, 2005: 147) in the white paper *No More Excuses- A new approach to dealing with crime* (1997). *No More Excuses* responded to the issues set out in the 1996 Audit Commission report *Misspent Youth.* The issues that the report outlined included a lack of focus on youth offending and a lack of co-ordination amongst the agencies involved (Rix et al, 2011). As one of the responses to these issues the Labour government announced in the *No More Excuses* paper their plans to introduce a Youth Justice Board (hereafter, YJB) and Youth Offending Teams (hereafter, YOTs) (both were introduced in the Crime and Disorder Act 1998). The main aim of the YOTs (whose constitution closely resembled the multi-agency diversion panels such as the Northamptonshire Diversion Units of the 1980s: Pitts, 2001) was to co-ordinate the provision of YJ services and provide multi-agency intervention (Crawford and Newburn, 2003) to ‘prevent offending by children and young persons’ (Crime and Disorder Act 1998, section 37). The *No More Excuses* paper stated that an approach based on the three RJ principles of restoration, responsibility and reintegration was to underpin YJ (Home Office, 1997).

Simultaneous with the 1997 *No More Excuses* paper was the establishment of the NGO ‘Restorative Justice Consortium’ (they were renamed in approx. 2012 the Restorative Justice Council), who have been key in bringing together organisations and individuals who are interested in RJ in England and Wales. The Restorative Justice Council are now a professional independent membership body for the field of restorative practice and provide quality assurance and a national voice advocating the widespread use of restorative practice and RJ (Restorative Justice Council, 2019).

## 2.3 The youth justice system: a radical overhaul 1998-2008 – a decade of Labour

The measures set out within the 1997 White Paper *No More Excuses* and the recommendations of the 1996 *Misspent Youth* Audit Commission Report were statutorily implemented in the Crime and Disorder Act 1998. The Act overhauled the YJS, in what Jack Straw, New Labour’s Justice Secretary (at that current time) hailed as the ‘most radical shake-up of youth justice in thirty years’ (Pitts and Kuula, 2005: 147). The shift from a welfare approach to a correctionalist, managerialism and interventionist approach to YJ was instilled and presented as a reform package that was to steer YJ away from ‘an exclusionary punitive justice ... towards an inclusionary restorative justice’ (Muncie, 2000: 14). The main principle of YJ (as stated in Section 37 of the Crime and Disorder Act 1998) was to ‘prevent offending by children and young persons’. This ‘radical shake-up’ outlined a number of key provisions for children and young people that focused on crime prevention, intervention and diversion; and were underpinned by the RJ principles of restoration, responsibility and reintegration that would ensure that New Labour were, as promised in their party election manifesto ‘tough on crime, tough on the causes of crime’ (BBC, 1993).

The Crime and Disorder Act 1998 statutorily extended the youth offending interventions into the pre-crime arena of prevention and intervention for those deemed to be at risk of offending or re-offending (Smith, 2010) and established the YJB (the national oversight body for YOTs) and YOTs. The Act expanded community sentences and the cautioning process was reformed. The expansion of community sentences saw the introduction of youth action plan orders, reparation orders and parenting orders. The use of restorative conferencingwas not statutorily included in the Act, however the use of RJ was extended through it being used as a supplement to community orders. These new community sentences could be used when a compensation order was not imposed and were meant to be restorative in nature and to ‘ensure that the victims’ views’ were ‘sought before an order is made’. If the victim does not want direct reparation then reparation that is community based can be imposed (Home Office, 1997d: 14).

The statutory formalisation of ‘cautions’ was aimed at bringing both consistency to the policy and practice of cautioning (which up until the Crime and Disorder Act 1998 varied widely across and between police forces and had been developed with little legislative intervention: Hoyle et al, 2002) and introducing a restorative approach to cautioning. The Act placed emphasis on the police delivering ‘final warnings’ (hereafter, FWs) in a restorative context. Several options for FWs were made available to use: restorative conferencing; a restorative warning (which should include a specific reference to the victim) and a standard FW (Holdaway and Desborough, 2004). When FW’s were given the young offender was referred to a YOT and expected ‘unless … inappropriate to do so’ to participate in a programme of rehabilitation which should have an element of reparation (Crawford and Newburn, 2003: 13). Police and YOTs were encouraged to use the new FW as an appropriate referral point for RJ conferences (ibid).

One of the unintended consequences of FWs was that, up until the amendment in the Legal Aid, Sentencing and Punishment of Offenders Act 2012, they could only be issued once and after this point the young offender would then enter the court system. Many argued that the managerialist, interventionist and restorative approach that underpinned the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999 alongside the punitive measures of the Criminal Justice and Public Order Act 1993 (which introduced the Secure Training Order) resulted in a ‘net-widening’ of the YJS (Cohen, 1979; Goldson, 2005). The statutory footing given to cautioning resulted in a clear progressive vertical YJ ladder that increased the number of first-time entrants to the YJS and increased the number of youths being sentenced to custody (Bateman, 2005). Regardless of these unintended consequences the Crime and Disorder Act 1998 extended the use of RJ both through being used as a supplement to youth orders and out-of-court disposals and also through the reformed cautioning of ‘reprimands’ and FWs; thus ensuring that out-of-court disposals and community sentences were based on the principles of diversion, early intervention and RJ principles of responsibilisation, reparation and reintegration for young offenders (Hoyle et al, 2002).

Following soon after the Crime and Disorder Act 1998 a number of restorative interventions, schemes and evaluations took place. First, after the establishment of the YJB and the introduction of FWs within the Crime and Disorder Act 1998, the YJB launched a development fund, inviting bids from social services directors and voluntary organisations to introduce a range of different types of intervention programmes. These intervention programmes included a number of FW programmes. Several of these FW programmes were specifically restorative in the nature of their intervention. A national evaluation of the youth FWs projects was carried out by Holdaway and Desborough (2004). Second, evaluative research of the YOT pilot schemes was also undertaken and was published by Holdaway et al in 2001. The findings in relation to both the restorative FW intervention programmes and the YOT pilot schemes will be discussed further below.

Concurrent to the YOT pilot scheme and the FW intervention programmes (and their evaluations) the government commissioned (under the Crime Prevention Programme) a 15-month evaluation study of seven RJ schemes. The research was conducted from July 1999 – November 2000. The aim of the evaluation was to discover ‘what works’ in reducing crime and re-offending (Miers et al, 2001: v); evaluate what elements of the RJ schemes were most effective in reducing crime; and provide recommendations and best practice for schemes to be mainstreamed (ibid). The schemes included five schemes that dealt with young offenders, one of which was established in 1985 as part of the Home Office funded reparation schemes (discussed above); the other four were subsequently established between 1992 and 1998. Miers et al’s findings were published in 2001 and are also discussed further below.

In the midst of the pilots and evaluative research (outlined above) and following fast in the wake of the shake-up to the YJS outlined within the Crime and Disorder Act 1998 was the Youth Justice and Criminal Evidence Act 1999. This Act made further substantial and fundamental changes to YJ. The mandatory court RO and the ROP were announced and affirmed that a reformed ‘new youth justice’ system based upon restorative values was emerging (Goldson, 2000). Whilst it was within the Crime and Disorder Act 1998 that the shift to a restorative path was laid out, it was the introduction of the RO and ROP within the Youth Justice and Criminal Act 1999 which, combined with the restorative elements of the Crime and Disorder Act 1998, illustrated a clear and fundamental shift towards an inclusionary YJS with underlying restorative values. For many the combination of the Crime and Disorder Act 1998 and the Youth Justice and Criminal Act 1999 were deemed to be such a radical overhaul of YJ that it constituted a ‘new youth justice’ (ibid).

RO’s were piloted in 11 areas from July 2000 before being rolled out nationally in April 2002. The evaluation of the RO pilots was carried out and published by Newburn et al (2002) and will be discussed further below. The RO is a mandatory court order that must be imposed upon all first-time offenders (with some exceptions) who plead guilty (this restriction of use to first-time offenders only has subsequently been retracted in the Legal Aid Sentencing and Punishment of Offenders Act 2012). The RO is a court order that refers the offender to a ROP. The panel is comprised of one YOT worker and (at least) two community members, the young offender, the young offenders’ family and the victim (where appropriate ‘considering informed consent and risk assessment’) may be present (Ministry of Justice/Youth Justice Board, 2018: 19). YOTs were given, within the Youth Justice and Criminal Evidence Act 1999, statutory responsibility to administer panel meetings. ROP’s are based on the underlying principles of restorative justice: restoration, reintegration and responsibility (ibid: 30). The contract that is constructed and signed in the ROP meeting must always contain some form of reparation (ibid: 33). This reparation should be directed to ‘the victim, or, if there is no identifiable victim or the victim does not wish to participate, then reparation should be to the local community’ (ibid: 33).

The removal of the requirement that police reprimands or warnings were to be given only at police stations was passed in the Criminal Justice and Court Services Act (2000). The lifting of this requirement allowed restorative conferences to be introduced, which could be held away from police stations. Furthermore, in 2000 there was governmental endorsement encouraging ‘restorative community policing’. This paved the way for the development of restorative policing and for the subsequent introduction and use of Youth Restorative Disposals (henceforth, YRDs) that could be delivered at street level (YRD’s were initially piloted in 2008 and will be discussed further below).

In 2001 the government, after already funding a number of RJ practices and pilots as part of their major Crime Reduction Programme initiative and giving RJ statutory footing through the introduction of RO and ROP’s in the Youth Justice and Criminal Evidence Act 1999,[[16]](#footnote-16) further commissioned and funded a £7 million programme that included the implementation of three pilot schemes and the evaluation of the schemes. The evaluative research was funded by the Home Office under the auspices of its Crime Reduction Programme ‘which sought to develop evidence-based practice in in a variety of areas of crime prevention and criminal justice’ (Shapland et al, 2011: 8). Whilst these RJ pilots were primarily focused on working with adult offenders two of the three schemes included young offenders. The schemes were funded until 2003/4 and the final evaluations were completed in 2008. The research findings were published in four separate stages (Shapland et al 2004, 2006, 2006 and 2008 and will be discussed below).

In 2004 the Home Office commissioned and published *Best Practice Guidance for Restorative Practitioners.[[17]](#footnote-17)* The *Best Practice Guidance for Restorative Practitioners* provided guidance for restorative practitioners and set out: ‘the full range of skills that a practitioner needs to have to deliver safe and positive restorative processes; [the] core elements of running a restorative process’ and ‘the critical importance of restorative practice based on a set of core skills, knowledge and principles’ (Restorative Justice Council, 2011: 4). Following on from this guidance the YRD was developed in 2007. The YRD was developed by the YJB in partnership with the ACPO, the MoJ and the Department of Education (known then as the Department for Children, Education and Families) as a new option for police use. Initially piloted across eight police forces between April 2008 and September 2009 the YRD was an initiative developed to provide POs with more discretion and flexibility to enable low level offending and anti-social behaviour by young people (10-17 year olds) to be dealt with quickly, efficiently and informally through a restorative disposal process. The aim of the YRD was, in addition to providing officers with more discretion and flexibility to deal with young offenders, to reduce the number of first-time entrants (hereafter, FTE’s) to the YJS and reduce re-offending rates. The number of FTE’s had grown at a continuous rate peaking in 2007 at 110,784 (Ministry of Justice/Youth Justice Board, 2016).

Up until the Legal Aid, Sentencing and Punishment of Offenders Act (2012) the YRD was only an option for low-level incidents, where there was an admission of guilt and where there was a practical option for an apology or for the young person to put right the harm or loss they have caused (the use of YRD’s was extended and amended within the Legal Aid, Sentencing and Punishment of Offenders Act, 2012). When the police issued a YRD YOTs were to be informed. The aim was to reduce the chances of the young person in question formally entering the YJS through the identification of early risk factors and implementation of early intervention and support processes.

The further expansion of RJ as a process of YJ was outlined in the governments’ *Youth Crime Action Plan* published in July 2008. The plan aimed to reduce the number of FTE’s into the YJS by a fifth by 2020. As stated above, the number of FTE’s had grown considerably to 110,784 in 2007. The Plan also included measures to expand the use of RJ and embed RJ in YJ more widely; including the use of the YRD as a tool in reducing recidivism rates; the use of RJ as a part of a range of community orders; and the improved use of reparation (‘that reparation should be a fundamental part of any community sentence for a young offender’) (HM Government, 2008: 50; 51).

Whilst there were a number of guidance papers and research evaluations surrounding YJ undertaken and published during 2001-2008, there were no new legislative statutes or amendments passed with regards to YJ. In 2008 the new generic community order, the 'Youth Rehabilitation Order' (hereafter, YRO), was introduced in the Criminal Justice and Immigration Act 2008. The YRO supplanted the array of youth community orders previously available at sentence which included: the Supervision Order, the Curfew Order, the Community Rehabilitation order and the Action Plan Order. The introduction of the new YRO allowed a range of requirements that included action plans, activities, curfews, supervision and reparation to be attached as conditions to the order (the majority of the eighteen conditions available to use were available prior to the introduction of the YRO and the abolition of the previously existing community sentences: Sutherland, 2009). Whilst there is no specific referral to RJ, reparation is in the statute. One of the four purposes of sentencing, as set out in the Criminal Justice and Immigration Act 2008 is for the young offender to make reparation to persons affected by the offence and this can be through a specified activity ‘whose purpose is that of reparation … involving contact between an offender and persons affected’ (Criminal Justice and Immigration Act 2008: 7,123).

ROs and YROs have become the two main community sentences used with young offenders. ROs have become the most likely community sentence to be imposed (60% of total community sentencing and 41% of total juvenile sentencing), followed closely by the YRO (which accounted for 27% of total guilty and 39% of the total community sentences passed). Figures released by the MoJ (2015) state that out of the total number of young people proceeded against and found guilty (30,949) in 2014-2015 ROs and YROs accounted for 99% of all community sentences and 68.5% of sentencing outcomes for young offenders found guilty (2014-2015) (Ministry of Justice/Youth Justice Board, 2016).

The final restorative approach to YJ during the 2000s was Community Resolution which was piloted across four police forces before being rolled out. The Community Resolution approach is a non-statutory informal out-of-court disposal for the police that was introduced by the government in the *Review of Policing* (2008) as a new proportionate and victim-focused tool that could be used by the police to deal with low-level offending. Whilst not wholly restorative the Community Resolution can be deemed to be ‘partly’ restorative in its approach of providing resolution at a street level away from the formal CJS and including victims’ views (Criminal Justice Joint Inspection, 2012). The main findings of the pilot evaluation stated that police time was freed up by using the Community Resolution approach and that victim satisfaction levels (as with RJ) were high (ibid). The use of RJ within Community Resolution will be discussed below.

It is evident that during the decade 1998-2008 there was a radical legislative overhaul of YJ which was supported through the vast evidence-based research that was undertaken. The decade began with the introduction of the Crime and Disorder Act 1998 and continued with nearly continuous growth in YJ legislation. YJB and YOTs, ROs and referral panels, out-of-court reprimands and FWs, community sentences, YRDs and YROs were all piloted or introduced in an aim to provide a number of key provisions for children and young people that focused on crime prevention, intervention and diversion; and which were underpinned in theory by the RJ principles of restoration, responsibility and reparation. The use of RJ amongst the police forces had over the last decade begun to increase (ACPO, 2012).

The journey to restorativeness had in policy and principle begun. However to what level RJ was being implemented beyond policy and promise into actual practice in terms of a wholly restorative approach that fully incorporates the victim and their views’ will be discussed further below. It must be reiterated at this point that the number of FTEs into the YJS had regardless of the proliferation of supposedly restorative focused legislation, continued to grow at an alarming rate. The number of FTEs and the number of young offenders in custody peaked in 2007. In 2007 the number of FTEs was 110,784 and there were 2,932 young offenders being held in custody (Ministry of Justice/Youth Justice Board, 2016).

Before discussing the growth and expansion of RJ within YJ during 2010-19 an overview of the growth in emphasis on victims’ rights both in the UK and internationally will be provided.

## 2.4 Why the shift to RJ? The rise of victims’ rights

Over the past few decades there has been growing recognition amongst academics and successive governments that victim participation improves the overall efficiency and effectiveness of the adversarial CJS. Victim participation increases victim satisfaction levels and reduces the number of ‘cracked trials’ (Henham, 1999; ACPO/CPS, 2012). Without victim or witness participation then there can rarely be justice (ACPO/CPS, 2012). ‘Recent Crown Prosecution data suggests that in 2017/18 nearly 29% of cases that failed to secure a conviction did so due to a victim or witness stopping engagement’ (HM Government, 2018: 28). A wide array of political and academic research has found that in order for the CJS to work effectively and efficiently; and for the general public to be law-abiding, it has to be perceived that the CJS is fair and trustworthy (Tyler, 1990). Victims’ perceptions of procedural fairness impact upon victim satisfaction (ibid).

It has been argued that many victims feel that there is an imbalance between the victim and the offender with the CJS perceived as being offender-orientated and in which their voice is not heard (Walklate, 2007; Robinson, 2003). Many victims express dissatisfaction with the criminal justice process and have a lack of trust in the current CJS (Roberts et al, 2012). Increased public confidence in the process of criminal justice and decreased levels of public punitivity can be achieved if the public are more informed and involved in the sentencing process (ibid). Victim participation improves the overall efficiency and effectiveness of the CJS (Ministry of Justice, 2014; Mawby, 2007): ‘Victims need support and information so they remain confident and engaged and have the tools so they can understand and challenge decisions’ (HM Government, 2018: 28).Therefore, as will be further discussed in Chapter 3, the government has come to hold the needs and concerns of the victim, and consequently the public, as being central to the CJS.

This shift to a focus on the needs and concerns of the victim and the role of the victim within the CJS can be explained by the shift to a consumer driven society; in which the individual sees the CJS as a consumer and therefore is vocal with regards to the service that it provides. Bottoms (2003), discussing the appeal and growth of RJ in contemporary societies, argues for a macro-level explanation, as theorised by Bouteiller (a Dutch criminologist), who sees there having been a shift in contemporary society since the demise of a production society in the 1980s to a consumer service society and hence a shift away from traditional local communities and social groups to individualistic and technology-based forms of social arrangements. This shift has resulted in a new form of moral individualism and moral relativism and in turn this societal shift changes how we, as a society, view crime. As a consumer society we expect a certain level of service and are aware that we, as the consumer, can place expectations upon the service provider. Put bluntly the legitimisation of criminal law is a necessary process to ensure compliance. This legitimisation was previously evident through the moral cohesion of the community, however as society has become more individualised and consumer driven we no longer see crime as mainly against the state but primarily as acts against individuals.

The rise of the victim and the shift of ownership of the crime and the harm it has caused to no longer remaining the property of the state but becoming the property of the people has resulted in a new moral code (Christie, 1977). It is the harm that the individual victim has suffered that provides the new moral code as the individual victim can be related to more than an abstract crime/act of harm against the state. RJ as a social policy provides our rapidly changing society (such significant societal changes can result in crime, risk and fear) with a normative clarification that provides moral clarification and moral pedagogy (Duff, 2003). RJ also provides a new moral tool with which to deal with the harms that have been committed against individual victims. The adversarial administrative-bureaucratic legal system is able to deal with state and abstract crimes but, argues Bottoms (2003: 104), is unable to deal effectively with ‘inter-personal quarrels … arising in ongoing relationships’. This new moral code and moral pedagogy combined with the neo-liberalist principle of individualism (individual responsibilisation) has paved the way for the development of RJ within YJ. Victims can be seen to be able to, through participation in RJ, play a moral pedagogical role (see also Vanfraechem, 2015). Many victims participate in a RJ process for altruistic reasons – they want the young person to learn from the experience and not re-offend (Van Camp and Wemmers, 2013).

RJ, as also discussed in Chapter 1 and Chapter 3, therefore provides victims with the opportunity to play an active role in the decision-making process. As Marshall’s (1996) definition of RJ illustrates, RJ enables victims to ‘resolve collectively [with all the other parties involved] how to deal with the aftermath of the offence and its implications for the future’. Victim participation in RJ is empowering and as a ‘consumer’ of justice victims are able to make informed decisions as to the outcome of the process. Research has found that victim satisfaction levels are higher for victims who have participated in a RJ process than for victims who have only been through the mainstream criminal justice process (Shapland et al, 2011). Victims perceive the RJ process to be ‘procedurally just’ which therefore improves victim satisfaction (Tyler, 2000).

### 2.4.1 The international growth of victims’ rights

The growth and expansion of RJ within YJ in England and Wales can, in part, be attributed to the international growth of victims’ rights in criminal justice (and RJ) processes. As will be discussed in more detail in Chapter 3 there have been several directives and recommendations by the Council of Europe and the United Nations that have served to further expand and reinforce the rights of victims of crime and the use of RJ over the past three decades.

These international directives and recommendations include: the *UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (A/RES/40/34) (1985); the Council of Europe’s Recommendation No. R(99)19 *(Mediation in Penal Matters*)(1999); the United Nations *Draft Declaration on Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (1999*) and the 2012 *EU Victims Directive (2012/29/EU) of the European Parliament and of the Council*. The directives and recommendations urge ‘access to judicial and administrative processes, restitution, compensation and assistance for victims’ (Victims of Crime Office, 2016) and set out minimum standards for victim services in relation to victims’ rights to provision of information, support and participation in criminal justice including RJ (Bolivar et al, 2015).

## 2.5 A new focus on RJ - the ‘rehabilitative revolution’ 2010-2019 (post-Labour)

The proliferation of legislation witnessed between 1998-2008 resulted in a YJS that had been expanded both in scale and reach (Goldson and Hughes, 2010) and which by 2008 was a patchwork of early intervention, diversion, out-of-court disposals, community and custodial sentencing which in theory was underpinned by the principles of RJ and victims’ rights.

Since 2010 there has been another resurgence of legislation that advocates RJ; an almost continuous, prolific growth of legislation that both directly and indirectly supports and expands the use of RJ primarily, but not exclusively, within the CJS.

Prior to the general election of 2010 the Conservative Party’s manifesto had focused on the need to create a ‘Big Society’ that could mend ‘broken’ Britain (Cameron, 2009). The coalition government led by the Conservative Party’s leader David Cameron came into power in May 2010 and Cameron immediately reiterated that he wanted to build a society in Britain ‘in which we do not just ask what are my entitlements, but what are my responsibilities, one where we don't ask just what am I owed, but more what can I give’ (Wintour, 2010). The Conservative Party’s ‘Big Society’ and collective community responsibility ethos was argued by Cameron (Cameron, 2009) to be aimed at creating the opportunity for community engagement, in which ‘families, individuals, charities and communities … come together to solve problems’. Simultaneously the coalition government set out their programme of policies for the next five years (HM Government, 2010). The government outlined in *Coalition: Our programme for government* their intention to introduce a ‘rehabilitation revolution’ (HM Government, 2010: 23). The ‘rehabilitation revolution’ would, according to the government, ensure ‘fairness in the justice system’ through ‘introducing more effective sentencing policies … overhauling the system of rehabilitation to reduce reoffending and [providing] greater support and protection for victims of crime’ (ibid: 23). The programme also outlined the government’s intention to introduce measures to deal with anti-social behaviour and low-level crime, including the use of RJ processes such as Neighbourhood Justice Panels(ibid: 24).

In addition to this individual and collective responsibilisation the coalition government announced a package of spending cuts as part of an accelerated deficit reduction programme following the global and national financial economic crisis of the late 2000s. The HM Treasury’s 2010 *Spending Review* set out the accelerated cuts to public spending and included a total spending cut of £81billion across the CJS (Victim Support, 2010). The spending cuts included a 23 per cent reduction to both the Home Office and MoJ budgets and a reduction in funding of 20 per cent to the police by 2014/15 (Roberts and Silvestri, 2012). Evidence provided by the MoJ’s RJ evaluation undertaken by Shapland et al (2008), an economic analysis of interventions for young adult offenders carried out by Matrix Evidence (2009) and the *Victims Justice* report by Victim Support and the Restorative Justice Council (2010) all highlighted the wealth of savings that RJ is able to deliver. The findings argued that every £1 spent on RJ can result in up to £9 saving, RJ can provide £185m savings over two years and over ten years can provide a net benefit of £1billion.

The Coalition programme for justice outlined that a ‘rehabilitation revolution’ would be introduced. This was presented in the *'Breaking the Cycle: effective punishment, rehabilitation and sentencing of offenders*' Green Paper, published in December 2010, in close succession to the HM Treasury’s *Spending Review* of October 2010. It is argued that the apparent move to a ‘rehabilitative revolution’ was due not to an ideological shift but to the fiscal climate and the cost savings that a rehabilitative and restorative approach can secure (Pemberton, 2015). The paper highlighted the opportunities for the use of restorative policing in delivering victim satisfaction and approaching low-level offending by youth and adult offenders. It acknowledged a 14% reduction in reoffending in the pilot schemes, the role of the victim in the CJS, and the need to reduce expenditure. The paper alluded to the wider cost to society of crime, a cost that it argued extends way beyond the CJS, estimated at £36.2bn, which is, in the majority, a cost borne by victims (according to the *Breaking the Cycle* paper: Ministry of Justice, 2010: 7). Emerging from the evaluative research carried out over the past decade is, according to the *Breaking the Cycle* paper (ibid: 2), a developing evidence base that illustrates how the CJS can be delivered in a more cost efficient and effective manner through the use of rehabilitative and restorative approaches. Such approaches it was said reduce offending and re-offending and improve victims’ outcomes through prevention, early intervention and diversion (ibid: 2). Criminal justice services can, according to the Coalition government, be delivered by the private and voluntary sector which through their specialist knowledge and experience can become more involved in providing criminal justice services and offender management through localised rehabilitative programmes (ibid).

With regards to young offenders the *Breaking the Cycle* paper states that to prevent offending by young people the MoJ will simplify out-of-court disposals and increase the use of RJ. An overhaul of the out-of-court disposal process aimed to ensure that young offenders (who in the main commit low level offences) could be dealt with without entangling them in the net of the CJS: ‘Under the current system of out of court disposals, young offenders are automatically escalated to a more intensive disposal, regardless of the circumstances or severity of their offence’. The paper acknowledges that ‘informal intervention could be more effective in making the young person face up to the consequences of their crime, provide reparation for victims and prevent further reoffending’ (Ministry of Justice, 2010: 68).

The paper justifies this ‘rehabilitative revolution’ by a number of statistics that highlight the significant costs incurred through punitive penal measures and the failure of such investment to reduce the prison population. The shift to a CJS that has a dominant rehabilitative focus is argued to ensure that monies invested will prevent offending instead of being spent on dealing with the consequences of offending (ibid: 38).

In 2010 the ‘Independent Commission on Youth Crime and Antisocial Behaviour’ published its *Time for a fresh start* report on the YJS and concluded that a ‘fresh start’ in responding to youth crime and delivering YJ in England and Wales was required and RJ should ‘become the standard means of resolving the majority of cases either pre-trial where prosecution is an alternative option, or when children and young people are convicted by a court’ (Independent Commission on Youth Crime and Antisocial Behaviour, 2010: 5).

Following on from the ‘*Independent Commission on Youth Crime and Antisocial Behaviour’* report the MoJ commissioned *Best Practice Guidance for Restorative Practice* was published by the Restorative Justice Council in 2011*.* This was an updated version that outlined best practice and research and practice developments since 2004. The guidance was developed in conjunction with practitioners, researchers and commissioners and illustrates how RJ was being developed across and within the sectors and in a coherent and structured manner (also evident in the introduction of the 2010 National Occupational Standards in restorative practice and the announcement of a forthcoming practitioner Code of Practice and a new register: Restorative Justice Council, 2011). The requirement to reduce expenditure and cut levels of crime and the ability of RJ to achieve both was cited (by the Rt. Hon. Sir Allan Beith at a Restorative Justice Conference in June 2012) as reasons why the government was committed to increasing the use of RJ (in addition to RJ being in the interests of the victim) (Addidle, 2012).

After the publication of *Breaking the Cycle* (2010) and the HM Treasury’s Spending Review (2010) ACPO produced, in 2012, guidance notes on RJ and minimum standards *'Restorative Justice Guidance and Minimum Standards’* (ACPO, 2012). The ACPO guidance (2012) was published to introduce national minimum standards of RJ practice within the police; to provide an overview of the national context of RJ; and to provide clarity for police forces and their officers as to what RJ looks like and when and how it should be used. The guidance states that RJ is a ‘victim focused resolution that holds young people (or adults) to account and is either an alternative disposal to, or a complement to, the formal justice system’ (ACPO, 2012: 4) and provides a clear framework (through the use of a matrix system) that can be used for RJ; detailing the difference in approach and delivery in comparison to Community Resolution and other more formal CJ options.[[18]](#footnote-18)

In 2011 the MoJ sought expressions of interest from local areas to test Neighbourhood Justice Panels (hereafter, NJPs) for a two year period. The NJPs were ‘consistent with the government’s vision for the Big Society’ (Ministry of Justice, 2012: 24) and aimed to ‘involve community representatives in finding restorative solutions to anti-social behaviour and low level offending’, and to ‘provide greater support for victims’ through holding them ‘central to the process’ (Ministry of Justice, 2012: 6; Ministry of Justice, 2014: 33). NJPs were piloted in fifteen areas. The pilot NJP areas began accepting referrals from between May and December 2012 (Ministry of Justice, 2014: 5). Whilst the NJPs were not centrally funded the scope of offences was centrally defined by the MoJ and included ‘behaviours which were suitable for informal resolution’. The NJPs accepted referrals for both youth and adult offenders from a number of referring agents including the police and YOTs. Referrals included young people who had committed anti-social behaviour, graffiti and damage to or theft of public property and who were being dealt with through the criminal resolution process (Ministry of Justice, 2014).

Further legislation which amended and extended both the array and use of out-of-court informal and formal sanctions and the use of formal court sanctions was introduced in the Legal Aid Sentencing and Punishment of Offenders Act2012 (implemented in April 2013). The restriction on the use of RO’s and other out-of-court disposals for first-time offenders was retracted in section 136 and permission was granted for the use of out-of-court disposals (including RJ) in cases where previous disposals had already been used. The aim was to allow the multiple use of out-of-court disposals in order to end the automatic escalation to the CJS and to curtail the number of first-time entrants, discussed above. The Legal Aid Sentencing and Punishment of Offenders Act2012 also withdrew the use of penalty notices for disorder, reprimands and FWs for young offenders, whilst replacing them with ‘youth cautions’ and ‘youth conditional cautions’. However unlike the previous cautioning process the Act removed the requirement that the Crown Prosecution Service (CPS) had to provide authorisation for any conditional cautions. Youths receiving either a caution or conditional caution must be referred to a YOT. Depending on whether it is the first time a caution/conditional caution has been issued the YOT must or may arrange for the young offender to participate in a rehabilitation programme (Legal Aid Sentencing and Punishment of Offenders Act, 2012).

In November 2012 the MoJ published its *Restorative Justice Action Plan for the Criminal Justice System.* The plan set out a series of actions for the government, with the help of RJ partners, to bring about change in the delivery and provision of RJ across England and Wales’ (MoJ, 2012: 1). The MoJ also announced that responsibility for overseeing the RJ Action Plan was to be passed to (the newly established) RJ Implementation Board (ibid: 7). In close succession to the RJ Action Plan the draft Anti-Social Behaviour Bill was published (mid-December 2012) in response to the government’s white paper *Putting victims first: more effective responses to anti-social behaviour* and a public consultation regarding the proposed ‘Community Remedy’ component of the Bill was announced.

The 2012 draft Anti-Social Behaviour Bill that preceded the Anti-social Behaviour, Crime and Policing Act 2014 recognised that many police forces were using informal non-statutory community resolutions and conditional cautions with little consistency or victim input. Victim input and public endorsement was now seen to be crucial to the effectiveness of out-of-court disposals and to the disposals being seen as ‘proportionate but meaningful sanctions’ (Home Office, 2012: 98). The ‘Community Remedy’ component of the Anti-Social Behaviour, Crime and Policing Act 2014 (which came into force in October 2014) was designed to provide more consistency, transparency and victim/community involvement in how local police forces areas deal with low-level offending and anti-social behaviour. The ‘Community Remedy’ document was to be prepared by each local policing body in consultation with local authorities and to be subject to a level of public consultation prior to implementation. The document must contain a list of appropriate actions (depending on the particular case) that can be carried out by a person who has committed either an act of anti-social behaviour or low-level offending. The document and each action must assist in either rehabilitation or punishment of the offending person or it must ensure that they undertake an act of reparation (Anti-social Behaviour, Crime and Policing Act, 2014: 67). The Restorative Justice Council, in response to the ‘Community Remedy consultation’,[[19]](#footnote-19) stated that ‘the Community Remedy is a real opportunity to provide more systematised, high quality and consistent use of RJ by the police forces’ (Home Office, 2013: 7). In addition to the introduction of the Community Remedy the Act gave courts the power to impose, within youth orders, activity requirements (Bateman and Hazel, 2014). However, within the Act no specific reference was made to RJ or restorative practices – only the act of reparation and that ‘reasonable efforts’ must be made to ‘obtain the victim’s views’ of the anti-social behaviour or offence and what actions (‘listed in the community remedy document’) the offender should carry out (if any) (Anti-Social Behaviour Act , 2014: 69).

In November 2013 the government announced that they would be dedicating up to £29million to PCCs and charities to help deliver RJ for victims over the next three years (Ministry of Justice, 2013). The YJB published its own press release in November 2013 stating that as part of a new RJ development grant (part of the wider MoJ RJ drive) the YJB would be distributing £2 million across the 158 YOTs to provide YOT staff RJ facilitation training and RJ advanced-level training. The RJ training was to enable YOTs to use RJ in more serious and complex cases and within community and custodial sentences (RJ was, in the main, being used in low level offences, out of court disposals and RO’s) (Youth Justice Board, 2013). The YJB’s publication of *National Standards for Youth Justice Services* in April 2013 outlined national standards for the YJ services to ensure that restorative interventions are delivered in accordance with the Restorative Justice Council’s *National Occupational Standards* and *Best Practice Guidance for Restorative Practice* (ibid) and that RJ should be ‘an underlying principle for all youth justice disposals, from out of court disposals and Referral Orders to Youth Rehabilitation Orders, and within custody’ (Ministry of Justice, 2012b cited in Daniels, 2013).

RJ was incorporated within the VCOP (2013) (which was revised in 2015). The VCOP (2015) outlines victims’ entitlement to RJ. Victims’ entitlements differ depending on whether the crime has been committed by a young person or an adult. For victims of youth crime the VCOP states that 'if the offender is under the age of 18, you are **entitled** to be offered the opportunity by the Youth Offending Team in your area to participate in Restorative Justice where appropriate and available’ (Ministry of Justice, 2015: 35). Whereas for victims of adult offenders the VCOP states that they are ‘**entitled** (emphasis added) to receive information on Restorative Justice … including how you could take part’ (ibid).

The MoJ and YJB produced the *Youth Out-of-Court Disposals: Guide for Police and Youth Offending Services* document in 2013, endorsed by ACPO and the CPS it provides advice and guidance on the practical implementation of the out-of-court-disposal framework following the enactment of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 in April 2013. The document contains very clear guidance and detailed reference to the use of RJ both informal and formal and the importance of the role of the victim in RJ (Ministry of Justice/Youth Justice Board, 2013).

The *Restorative Justice Action Plan for the Criminal Justice System* was revised in November 2014 and outlined the action plan for the period to March 2018 (Ministry of Justice, 2014). The MoJ set out their vision for RJ within the plan. The vision was for ‘good quality, victim-focused RJ to be available at all stages of the criminal justice system’ and success would mean ‘victims have **equal access** to RJ at all stages of the CJS irrespective of their location, the age of the offender or offence committed against them, and that, people have an **awareness and understanding** of RJ’ and for RJ to be ‘**good quality**’ (ibid: 2).

The most recent RJ guidance was provided within the MoJ and the YJBs’ *Referral Order Guidance* (2018) and the YJB’s *Guidance on the use of out-of-court disposals* (2019). The *Referral Order Guidance* (2018) reiterated that ‘youth offender panels operate on restorative justice principles’ and that they should be ‘conducted restoratively and in accord with the principles and ethos of restorative practice’ (Ministry of Justice/Youth Justice Board, 2018: 19). Furthermore the guidance states that it ‘is **essential** that victims are invited and welcomed to be part of the RO process and that victims should have the ‘opportunity, as a matter of course, for a face to face meeting with the YOT Restorative Justice or Victim Liaison Worker’ (ibid: 31). Following the *Referral Order Guidance* the YJB’s *Guidance: How to use of out-of-court disposals* (Youth Justice Board, 2019, 3.4) outlined that victims ‘should have the opportunity to give fully informed consent to any involvement in any out-of-court process, particularly in any restorative processes’.

It is evident that there has been a shift in government policy towards a more restorative approach to YJ. Following the very detailed review above, we can conclude that this shift is evident within the proliferation of legislation and guidance published since 2010 and the government’s stated imperative to ‘embed’ RJ within YJ (Ministry of Justice, 2012). However this shift appears to still be cautious and it is notable that there is little prioritisation given to RJ over other rehabilitative options (Dignan, 2007). RJ is not fully integrated at every stage of the YJS.

One question that we can consider is: why have the government now, over the past nine years (2010-19), decided to go full steam ahead with embracing and supporting the use of RJ? RJ, has since the 1980s when RJ first began to be used in England and Wales, struggled to gain any substantial credence and statutory footing (with the exception of statutory footing given within the Youth Justice and Criminal Evidence Act 1999 to ROs). Is it that RJ has grown from the grass roots simultaneously with the economic downturn and therefore provides the state with the tools in which it can forge ahead with its welfare retraction whilst appearing to be turning its focus to the needs of the victim? Chapter 3 posits that the restorative shift to a ‘new youth justice’ in conjunction with emerging European legislation, the victim paradigm shift and the fiscal crisis (and the subsequent state retraction) witnessed since the late 2000s has created the right ‘societal ecological’ framework for RJ to align itself as a cost-effective and viable justice process that can respond to victims’ needs and reduce re-offending in both adult and YJ (Pemberton, 2015).

Regardless of the reasons, there has clearly been the introduction of, and the amendment(s) to many pieces of YJ legislation, statutes and guidance papers surrounding the use of RJ and the rights of the victim. These legislative changes, introductions and guidance endorse the implementation, integration and practice of RJ within both the adult and YJ systems, but it is clear that there has been particular attention to bringing into force measures for RJ both as diversion (by the police) and the youth courts. If we are concerned solely with policy and legislative change, these measures have taken RJ from the margins of the CJS and provided RJ with the real opportunity to embed itself as an aspect of mainstream criminal justice (Gough, 2012). The question is then whether the measures have actually been used as envisaged? To what extent is YJ actually restorative? If, as evidenced and consistently outlined in guidance, policy and research, the fundamental principle of inclusivity and victim participation are imperative to RJ then is the YJS in England and Wales wholly restorative or just ‘partly’ restorative?

## 2.6 The extent of the role of the victim in RJ: research findings

During the past two decades a number of research evaluations have been undertaken to explore the effectiveness and outcomes of RJ in relation to the numerous legislative introductions and amendments endorsing RJ.

Figures released by ACPO (2012), the Criminal Justice Joint Inspection (2012) and the MoJ/YJB (2016) all highlight the significant use of informal resolutions, RO’s and YRO’s to deal with young offenders during the period 2012-2016. ACPO (2012) found that 33 out of 43 police forces were using some form of RJ, with the majority of forces using some form of informal resolution (which includes Community Resolution and Level 1 ‘street’ RJ); the widespread use of informal resolution was found to be predominately used to deal with young offenders. RO’s and YRO’s accounted for 99% of all community sentences and 68.5% of all sentencing outcomes for young offenders found guilty. However, regardless of the widespread use of informal resolutions, ROs and YROs there is no research at the sentencing or implementation stages as to the conditions that are attached to court sanctions or out-of-court disposals; and to what degree these conditions are restorative and to what extent victims are involved. Therefore in order to determine to what extent RJ is being implemented in practice within the YJS the findings of the research evaluations undertaken over the past two decades will be explored in relation to victim participation.

The findings in relation to the position of the victim will now be discussed in a chronological order to argue that despite the statutory introduction of RJ within YJ since the Crime and Disorder Act 1998, the victim has not been, in practice, a central figure with regards to participation (direct or non-direct) and therefore the YJS is only ‘partly restorative’. Despite the central position given to the victim in policy, victims and their needs are (often) merely given ‘lip service’ and the position of the victim continues to be a peripheral one within YJ (Holdaway et al, 2001: 87).

### 2.6.1 Youth offending teams and reparation orders

Reviewing the initial findings that emerged from the evaluation carried out by Holdaway et al (2001) on the pilot YOTs and reparation orders (including reparation orders and FWs) a picture is presented that depicts the needs of the victim being somewhat forgotten in practice. Low levels of victim participation in a restorative process were achieved, with only 7% of victims participating either directly or indirectly. The main objectives of the YOTs and the new orders introduced within the Crime and Disorder Act 1998 set out to address the offending behaviour of young offenders through early intervention using systematic evidence-based processes and the use of reparation and, therefore, the needs of the victim tended to be ignored.

In practice the use of RJ has been minimal and victims have played only a small part in any form of reparation or mediation. Holdaway et al (2001) found that the act of reparation all too often comprised a letter of apology – which was in many cases not sent – and does not constitute RJ (as it is a one-directional process and not a bi-directional dialogue between victim and offender, which is argued to be a key facet in RJ: Van Camp and Wemmers, 2013). Concerns were raised by Holdaway and his team that acts of reparation should be more creative and tailored to the individual needs of both the offender and victim. ‘Tokenistic’ and ‘formulaic’ acts of reparation, they said, do little to serve the interests of the victim and can leave victims feeling dissatisfied owing to the absence of involvement in decision making (as well as other reasons such as not being given the opportunity to participate or to make an informed choice). If acts of reparation are handed out from a formulaic menu then the RJ principles of inclusivity and ownership of the conflict (Christie, 1977) are negated. Participating victims discussed, in Holdaway et al’s (2001) evaluation, how their needs had not been met in regard to the formulaic acts of reparation. Victims felt a direct meeting with the young offender would have been more beneficial. Reparation alone does not constitute RJ. The MoJ recognises and acknowledges that for a process to be deemed restorative there must be victim involvement.

Whilst there was support and enthusiasm for RJ approaches within the YOT teams and a clear directive through Home Office guidance that the victim, where appropriate, should be consulted, the number of victims who were consulted was low and there were wide disparities across the pilot YOTs in Holdaway et al’s research. These geographical differences can, in part, be due to a lack of training or clear accountability as to who (be it the police, SDP or YOT worker) is responsible for the delivery of RJ. The method of invitation also varied across YOT teams and impacted upon levels of victim participation. This finding is further supported in Shapland et al’s 2011 research and subsequent research. Victims who were merely expected to opt-in through a letter of invitation rarely did so. Victims who received a telephone call inviting them to participate were more likely to accept the invitation. The method of invitation is an important factor in relation to the decision to participate or not (Victim Commissioner, 2016).

Several other key issues appear to explain the low levels of victim consultation and low levels of victim participation found in Holdaway et al’s evaluation of YOTs and reparation orders. Holdaway et al (2001) found that some YOT workers expressed resistance to consulting the victim, with some completely ignoring the victim. This lack of victim focus was most evident in the YOT workers who came from a CJS background (and were therefore predominately offender-oriented). The offender focus of the YOTs and YJS was acknowledged by participating victims who expressed that the interests of the offender dominated the process. Despite the interests of the offender being seen as paramount victims did state that they were pleased to have been invited, to be able to have participated and felt the experience was overall a positive one. They would participate in RJ again and would recommend RJ to others.

### 2.6.2 Restorative cautioning

In 1998 the Thames Valley police embraced restorative cautioning and all POs administering a caution were trained to use a restorative script to allow a structured facilitated discussion to take place between the offender and the victim. However the findings illustrate that in the majority of restorative cautions there was no victim present (Hoyle et al, 2002). Hoyle et al (2002) state that in approximately 82% of the cases where a victim was identified the meeting was not attended by the victim. Many absent victims, even though they stated that they had not wanted to attend a face-to-face, direct meeting, said that they would have, given the opportunity, been present or had an input (through a non-direct process) to the proceedings. Therefore many ‘non-participating’ victims are in fact ‘non-attending’ victims. Hoyle (2002) argues that many victims wish to participate in a RJ process. Many said they would not spontaneously agree to participate in a RJ process but given the necessary support and opportunity would participate at some level.

Some of the reasons for the extent of ‘non-participating’ victims were that some were not informed of the forthcoming RJ intervention, for some victims who were informed they had simply not been invited to attend or participate. The non-participating victims who had received an invitation to attend but did not stated that they were not able to participate due to work commitments and some felt apprehensive about participating. Furthermore, Hoyle et al’s (2002) research findings on restorative cautioning highlighted the offender focus of the police which appeared to impact on levels of victim participation (whether that effect was direct or non-direct).

More recently, the draft Bill of the Anti-social Behaviour, Crime and Policing Act 2014 recognised that many police forces were using informal non-statutory community resolutions and conditional cautions with little consistency or victim input (Home Office, 2012: 67).

### 2.6.3 RJ youth offender schemes – ‘caution-plus schemes’

A 15-month research study, commissioned under the government’s Crime Reduction Programme, conducted across seven RJ schemes between December 1999 and June 2000, aimed to determine ‘what works’ in crime reduction and re-offending. Five of the schemes dealt with young offenders and therefore it is only the findings in relation to these five schemes that will be outlined and analysed here in relation to the restorativeness of YJ RJ programmes. The research carried out by Miers et al (2001) was undertaken during a tremendous period of change in YJ. The schemes (three of which were in their infant stage) were, all, faced with significant disruption due to the introduction of YOTs in Spring 2000. The development stage of the schemes appeared to be a significant factor in the variations of case referral numbers received across the five schemes.

The findings allude to a lack of restorativeness and questions, due to a severe deficiency in victim involvement, how these schemes could even be referred to as RJ schemes. Miers et al (2001) state two of the youth RJ schemes were nothing more than ‘caution plus’ schemes, which were specifically focused on diverting the young offender from the courts. The remaining three schemes (all in their infant stage) were of mixed orientation (focused on both the young offender and the victim) and dealt with young offenders post-arrest or pre-sentence (diversionary). The offender-oriented ‘caution-plus’ schemes had the lowest levels of victim contact and both did not use either direct or indirect RJ (referred to as mediation in the research evaluation) as primary types of intervention – focusing instead on indirect reparation (to the wider community) and victim awareness as methods of intervention. Based on the principles of inclusivity and party involvement (Marshall, 1999), the complete exclusion of direct RJ, the minimal use of indirect RJ (<5% of cases) and the minimal number of cases that resulted in contact being made with victims render these two schemes non-restorative. All the schemes (with the exception of the Gloucestershire scheme) had low levels of victim participation (ranging from 1% - 25%). The low levels of victim inclusion were mainly the result of training, resources, funding and organisational issues; issues that were exacerbated by the introduction of the YOTs in Spring 2000 and the infancy of three of the five schemes.

The exception to the rule was the Gloucestershire scheme. Gloucestershire achieved over 50% victim participation rates. These high levels of victim involvement can be attributed to the secure funding that Gloucestershire was in receipt of (Miers et al, 2001). However, out of the total 4,285 case referrals across of all the schemes only two cases referred were victim-initiated referrals. Very few victims when initially contacted had any awareness of the existence of the schemes; illustrating that public awareness of RJ was at that time minimal. Public awareness of RJ is still an issue fifteen years on, with the Victims’ Commissioner (2016) and the Restorative Justice Council (Bright, 2017), inter alia, calling for public awareness and access to RJ programmes to be improved.

The most common RJ intervention used across all the schemes was indirect RJ in the form of a letter of apology. Victims expressed that they appreciated sincere letters of apology; however the use of letters could leave victims cautious as to the genuineness of the apology; and amendments or revisions by case workers were not appreciated. Victims valued clearly agreed outcomes and there was some disappoint with acts of reparation or compensation. This disappointment seemed to be related to unfulfilled agreements and supports further research that evidences that victim satisfaction is intrinsically linked to being kept informed and being involved in the decision making even if the outcome is not deemed as a success (Van Camp and Wemmers, 2016).

A number of victims felt that the process had taken too long (this was the most cited negative aspect of the RJ process). A lack of follow-up in some of the cases left the victim feeling that they have been, as one victim put it, ‘left high and dry, never … being informed of the offenders’ reaction to their input’. Victim satisfaction appeared to stem from the levels of information received rather than from the restorative aims and principles of the process. Participating victims were provided, through the information gleaned in the RJ process, with peace of mind. The majority of participating victims (either direct or non-direct participation) stated that they were very satisfied or satisfied with their involvement in the RJ process but some victims found the direct VOM or RJ conference process, as with Holdaway et al’s (2001) findings of formulaic acts of reparation, to be too structured and prescribed.

### 2.6.4 Referral Orders and Referral Order Panels

The findings of Holdaway et al (2001); Hoyle et al (2002) and Miers et al (2001) regarding victims not being given the opportunity to attend or participate (directly or indirectly) in a RJ activity were replicated in the findings of the Home Office evaluation on the introduction of ROs and ROP meetings (conducted by Newburn et al, 2002). Many absent victims (53%) stated that they would have attended the ROP had they been given the opportunity. Many had not been invited or not been given sufficient information, or the support to enable them to make an ‘informed choice’ to attend. Given the necessary support and opportunity many non-present victims would have been involved in a restorative process whether direct or indirect.

Newburn et al (2002) found that there was a significant lack of victim participation; victims were both under-represented as panel meeting attendees and under-represented in the panel outcomes. Low levels of victim participation occurred, - with only 28% of cases having victim involvement in some form - only 13% of panel meetings had a victim present. These low levels of victim participation were in stark contrast to the victim involvement levels anticipated by the CJS agency staff involved in the ROP process. The staff interviewed voiced concerns as to the low levels of victim participation and expressed the benefits of having a victim present at the panel meeting. It appears that the low levels of victim participation were, on the whole, due to barriers regarding implementation, specifically in relation to the invitations to the victim to participate (actually contacting the victim and inviting them), the method of invitation, and information and preparation.

Many victims were not invited to participate in any form. The majority of the youth offender panel members (85%) agreed that more should be done to encourage victims to attend and that in the small number of panel meetings (13%) which were attended by a victim the outcome and meeting was more restorative. The majority of agreed panel contracts included, as mandatorily specified, an act of reparation but these acts tended to be community focused. Just under half of the panel agreement contracts included community reparation and only 7% incorporated direct reparation to the victim or payment of compensation. The main act of reparation was in the form of a written apology; however concerns were raised in regard to written apologies not being sent to the victim. Crawford and Newburn (2003) further highlight these concerns regarding direct reparation to the victim by stating that the activities carried out as part of the RO resembled the activities undertaken in other community penalties. The scope for variation and creativity were available but whether they were realised was another thing.

Hoyle and Rosenblatt’s recent study of youth offender panels in 2016 has reiterated Newburn et al’s (2002) findings regarding a ‘copy and pasting’ of limited formulaic reparation activities. Hoyle and Rosenblatt (2016: 43) argue that due to the ‘professionalisation of community panel members’, community members are assimilated into the ‘YOT culture’. The ROPs, in their study, were ‘offender-focused’ and were ‘often about the well-being of the young person’. Reparation was often side-lined and victims were rarely present or involved in the ROP process. Only one panel meeting (out of 39 ROP meetings observed) had a victim present. Furthermore, Hoyle and Rosenblatt (2016: 43) state that despite the proliferation of legislation and policy ‘committed to widening the use of RJ’ there is ‘no evidence of a paradigm shift’ in YJ (ibid: 45). The YJS is subject to the same shortcomings regarding the implementation and use of RJ as it was two decades ago - a ‘concentrated effort toward change’ is required to ‘realise the potential of RJ’ (ibid: 46).

A final and important point of consideration in regard to the lack of victim participation in the RO process is the conflict and tensions found between two key objectives of the Crime and Disorder Act 1998. One of the objectives of the Crime and Disorder Act 1998 was to speed up the process of YJ through ‘fast-tracking’. In practice the objective of ‘fast-tracking’ has ‘the unintended consequence of jeopardising the attainment of other important objectives’ (Holdaway et al, 2001: 25) including the RJ principles of restoration, responsibility and reintegration (which were outlined in the Crime and Disorder Act 1998 as underlying principles of YJ). The process of fast-tracking also conflicts with the requirement to consult victims and for victims to be directly involved in acts of reparation or RJ. Securing victim participation takes time and preparation which conflicts with the objective of ‘fast-tracking’. It appears that the managerial justice frame dominates the RJ frame; thus impeding the ability for RJ to be fully adopted due to time constraints (the initial RO panel meetings have to be held within 20 days of the court issuing the order) which result in low use of RJ and low victim participation. VOM takes time, preparation and support (victims are less likely to participate without these) and YOT workers interviewed by Holdaway et al (2001) expressed concerns as to the insufficient availability of these key components.

In practice it appears that the voluntary and non-coercive practices of RJ and reparative activities that include the victim are deemed as ‘optional extras’ to be considered only if they do not impinge upon the aim to ‘fast track’ speedy YJ proceedings (Bottoms and Dignan, 2004: 161-162). According to Bottoms and Dignan (2004) there is a danger that there is a focus on the use of ‘speedy’ standardised reparative interventions that draw upon principles of ‘coerced restitution’ rather than principles of restoration, responsibility, reintegration and reparation.

### 2.6.5 Final Warnings

Holdaway and Desborough (2004) carried out an evaluation of thirty YJB development fund projects that introduced various FW intervention programmes. The YJB *Guidance on developing restorative practice with young offenders and victims of crime* (2000) identified that RJ interventions,[[20]](#footnote-20) according to the YJB enable young offenders to be ‘directly accountable to their victims … offering them the opportunity to volunteer to make reparation’ and it is this guidance that Holdaway and Desborough refer to in the FW evaluation report (Youth Justice Board, 2000 cited in Holdaway and Desborough, 2004: 29). The evaluation found that regardless of: 1) the guidance provided by the YJB; 2) the importance placed upon police within the Crime and Disorder Act 1998 that FW’s should be ‘restorative’, prevent reoffending and take into account the victims’ views and 3) nearly half (43.7%) of the thirty FW intervention projects stating they were RJ intervention projects, very few FW’s were indeed restorative (in regards to victim input). In total only 20% of all the FW’s given were restorative; 16% were restorative warnings (where specific reference was made to the victim) and only 4% were actual restorative conferences (where the offender met the victim). Only a very small number of FW’s had a victim present (3.4%). As found in Holdaway et al's (2001) evaluation of YOTs and reparation orders the main restorative intervention used was a letter of apology (27%). The other interventions measured by Holdaway and Desborough (2004) as restorative were: victim awareness; letter of apology; indirect reparation; direct reparation; victim offender mediation; and family group conferencing.

Assumptions were made by POs regarding victims' reluctance to engage and these assumptions were at times, according to Holdaway and Desborough (2004), unfounded and led to low levels of restorative conferences and warnings – suggesting that POs were making decisions on behalf of victims. FW’s could only be delivered by a PO and this resulted in the PO being the gatekeeper to restorative conferencing and restorative warnings. Some of the reasons cited for this lack of victim involvement were: insufficient time to effectively engage with the victim; victim reluctance to engage and (some) YOT police staff attitudes to RJ – some YOT police staff implied that holding restorative conferences was not appropriate work for them and should be assigned to other YOT workers. Furthermore, restorative conferencing was not given any priority by the police YOT staff. This lack of prioritisation of RJ over and above other rehabilitative options is a point reiterated by Dignan (2007). Dignan (2007) argued that RJ was not given any prioritisation. RJ appeared to be just another tool in the toolbox. Cutress (2015) also discussed the issue of RJ just being one of many tools that police could use in dealing with young offenders (see below).

### 2.6.6 Youth Restorative Disposals

The 2011 evaluation (Rix et al, 2011) of the YRD pilot that was carried out across seven police force areas, whilst limited in its analysis of victim participation, found that the implementation and usage of the YRD was varied across the six pilot forces and worked best when implemented within a force that had a pre-existing RJ strategy. Another key factor in the varied success of implementation was found to be in the level of training and the number of officers trained – there were regional variations found across the forces – some forces carried out initial training whilst other forces had ongoing training. The training variations related to the RJ approach taken by each pilot area (stand-alone or holistic). These differences in training may explain the concerns raised by some of the victims interviewed.

Some of the victims expressed concerns that the YRD was not thoroughly delivered by the POs, who ‘just filled in the form and took the young person home’ (Rix et al, 2011: 29) and in cases of corporate theft there were examples of POs presuming that the security guards (the corporate victim) would automatically participate. One victim stated that they could not recall being invited to participate (ibid).

The YRD process was, in the main, viewed positively by victims, with victim satisfaction generally very good. Victims felt that the YRD was a good mechanism to allow the young offender to understand the impact of their offending; many of the victims did not want to see the young offender criminalised but did want an apology. The desire for the young offender not to be criminalised demonstrates that many victims and members of the public are in favour of sanctions that aid rehabilitation and reparation (King and Maruna, 2009). A large majority of victims who participate in RJ do so not to receive financial compensation and not to ensure that the offender is harshly punished (ibid). Participating in the YRD process allowed the views of the victim in relation to the outcome to be taken into consideration and this was perceived by victims to provide an educational benefit to the young offender (Rix et al, 2011).

This perceived educational benefit is conceptualised by Bolivar (2015) as the victim taking on a pedagogical role in the RJ process in which victim input is used to benefit the offender. Many, including Wright (1996) and Ashworth (2000) have argued that victims are ‘prostituted’ and used as ‘victims in the service of offenders’ in a process that can be deemed to be offender focused. The recent Victims Commissioner’s research on RJ stated ‘that too much emphasis was placed on the needs of the offender and the outcome RJ would bring them’. The report recommended that victims’ needs ‘had to be considered as equally important to the RJ intervention [and that] in order to achieve this parity for victims, RJ services should be inclusive and offered to all victims’ (Victim Commissioner, 2016: 23).

In the YRD evaluation, there were variations in levels of victim satisfaction regarding the final YRD outcome agreement, with some expressing dissatisfaction at a lack of follow-up to, and completion of, the outcome agreement (more so in outcome agreements that consisted of letters of apology, compensation or reparation). Whilst specific figures are not provided in the evaluation it may be assumed that victim satisfaction was impaired due to a written apology being the outcome in the majority (70%) of YRD’s. This potential dissatisfaction was acknowledged in previous research, outlined above, which demonstrated that when written apologies were given as an outcome it could led to victims’ being circumspect as to the genuineness of the apology.

The YRD evaluation omits any statistical data regarding the number of victims who participated (either directly or non-directly). POs interviewed referred to occasions when the victim did not wish to participate, however it is not then clear as to how the POs (who state that the YRD was delivered without the victim in such cases) were able to deliver the ‘restorative’ element of the YRD. As Cutress (2015) argues YRD’s delivered with no victim input or presence do not constitute RJ. The majority of the YRD’s delivered in the YRD pilot were level 1 instant/street (very few were level 2 conferences) and were used to mainly deal with relatively minor offences. In total 52% of YRD’s were used for theft and shoplifting offences with assault/less serious wounding accounting for 22% of YRD’s and criminal damage 19% (Rix et al, 2011). This again reiterates that there is scope to expand the use of level 2 YRD’s to effectively deal with a wider array of offences. The curtailment of YRD’s to minor offences was also evidenced in Miers et al (2001) evaluation of RJ schemes.

Cutress’ research (2015) explored levels of victim involvement and restorative practice within the police’s use of (YRD’s) in two police force services in England and Wales. Cutress (2015) determined that all too often the restorative disposal failed to involve or consider the victim, therefore rendering the restorative disposal ‘partly restorative’ (McCold, 2000). The principle of ‘inclusivity’ which is fundamental to RJ was cast aside and the inclusion of the victim often ignored in level one ‘street’ RJ. For many of the YOT workers and POs in the research their focus laid with the offender. Providing victim services was not a key element for some agency staff (Crawford and Newburn, 2003; Cutress, 2015) as the CJS and the police were predominately outcome- and offender-oriented. As discussed earlier this ‘offender focused’ perspective may affect the levels of victim participation due to a lack of focus on and contact with the victim. Cutress (2015: 191) argued that despite the ‘repeatedly stated ‘victim focused’ aims of the two police force services police-led RJ may not be as victim-centric as intended’. Most victims were ‘neither consulted nor involved in the delivery of a restorative caution or disposal’.

### 2.6.7 RJ – the gold standard

Amongst all the evaluative research that has been undertaken on the use of RJ in YJ there is one evaluation that provides a ray of hope. Shapland et al’s (2011) evaluation of the three MoJ RJ pilot schemes illustrates that when embedded and implemented correctly RJ can secure high levels of victim participation, increased victim satisfaction levels, reductions in re-offending rates and cost-savings. The MoJ pilot schemes secured 89% victim participation in the cases that involved youth offenders. The key contributory factors to these high levels of victim participation and victim satisfaction were the ‘presumption in favour’ that was given to the RJ scheme, the high levels of ‘rigorous training, the expectations of high quality and an internalisation of restorative values’ (Shapland et al, 2011: 61). Shapland et al’s (2011) research demonstrates that where RJ programmes give a higher priority to victim involvement and victim contact, have dedicated highly trained personnel and are effectively managed then higher levels of victim attendance can be achieved.

### 2.6.8 Additional factors impeding victim participation

The tone of the main victim-oriented organisations in the UK is one favouring services over rights. The victim support philosophy is that of a service oriented to victims rather than increased rights. This support for increased services rather than rights improves the position of the victim whilst not putting pressure on the issue of the offenders’ human rights and not challenging the status quo too much. The differing assumptions and conceptions of victimhood found between RJ and victim support practitioners can be explained by Rappaport’s (1981) ‘empowering and the prevention-needs model’ (Rappaport, 1981 cited by Pemberton, 2015: 228). Victim support practitioners mainly fall under the ‘prevention-needs’ category instead of the ‘empowering’ category. They are fore mostly concerned with protecting victims and preventing secondary victimisation (Pemberton, 2015). This prevention-needs focus of victim support practitioners provides one possible explanation as to why levels of victim participation are still low in RJ. Practitioners who are mostly concerned with safeguarding and protecting victims and preventing secondary victimisation (rather than empowering victims) fall into the ‘preventing needs’ category, not the ‘empowering’ category (ibid). By erring on the side of caution and attempting to protect victims then RJ is in practice only a ‘semi-inclusive’ process. If through caution we are making the process of RJ a ‘semi-inclusive’ process then we are making the same mistakes as the criminal justice system; as the conflict and decision is taken out of the hands of the victim (Christie, 1977). By taking on the role of decision maker, RJ is at risk of leaving victims feeling dissatisfied with the process. By not giving the victim sufficient information, not inviting them to participate either directly or non-directly the legitimacy of RJ is at risk. Victim referrals from victim support services have been found to be low (Shapland et al, 2011).

Another issue with implementing RJ under the umbrella of the CJS is that RJ becomes outcome –orientated (as the CJS is). Outcome-orientation processes can be subject to strict time-frames and are predominately offender focused (Bolivar, 2015). This is due to the dominating offender-focus of CJS agencies in which the development of RJ regardless of ‘all the talk of restoring victims … is … offender-focused and is likely to become more and more so as it becomes implemented in the CJS’ (Johnstone, 2002: 81).

## 2.7 Conclusion

Despite the proliferation of legislation over the last twenty years that has resulted in a mosaic of community-based, restorative-driven informal and formal out-of-court disposals and court disposals for young offenders, RJ is not being used or implemented fully. Low levels of victim participation are evident within every ‘restorative’ sanction that has been introduced in the YJS. This consistent lack of victim involvement is impacting on the element of restorativeness within the YJS, as without the active participation of the victim YJ can only ever, at best, be ‘partly restorative’ (McCold, 2000). The involvement of the victim is fundamental to the RJ principle of inclusivity in which: ‘all parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future’ (Marshall, 1996: 5). However, in practice this principle does not appear to be adhered to within the YJS.

Regardless of the proliferation of legislation, policy, guidance and research, all endorsing the benefits that RJ can and does bring to YJ, it is clear that the position of the victim, as documented in the research reviewed above, is a peripheral and marginal position. All too often the victims’ views and needs have been cast aside as criminal justice professionals appear to repeatedly fail to give victims the opportunity to have their voice heard or to participate in some form of RJ. CJS agents take on the role of ‘decision-maker’ and in many instances do not allow victims to make an informed decision, do not invite the victim to participate or choose not to use RJ as a process at all, or choose to use RJ for minor offences only. Research has demonstrated that many victims, would, with sufficient information, support and preparation participate either directly or indirectly (Hoyle, 2002; Newburn et al; 2002).

We know from the wealth of research that when the victim is involved in the restorative process the benefits to the victim are substantially greater in terms of victim satisfaction and perceptions of procedural fairness (Sherman and Strang, 2007; Hoyle, 2002; Shapland et al, 2011). Thibaut and Walker (1978) outline how it is the process, the procedural fairness of the process, that positively influences victims’ satisfaction with the RJ intervention. We also know that restorative approaches save time and money (ACPO, 2012; Shapland et al, 2011). However for RJ initiatives to work to their optimal potential we must ensure that victim participation in RJ is improved.

The main barriers to victim participation are not victim-initiated, as research suggests that victim-specific concerns regarding retaliation and fear of repeat victimisation have an effect on victim participation levels but are low and are comparable with victims who decline to participate in the CJS process (Hoyle, 2002). Victim satisfaction levels are higher in comparison to the victim satisfaction in the mainstream CJS and the majority (90%) of victims that participate in RJ would recommend the process to other victims (Restorative Justice Council, 2019). The main barriers to the successful implementation and use of RJ in the YJS appear to derive from the outcome- and offender-orientated frame that dominates both the CJS and the YJS. Regardless of policy and pockets of practice of RJ, RJ is being implemented under the umbrella of the CJS which is focused on risk-assessment and effective and fast processing of cases. The CJS dominating framework appears to impede the development and use of RJ.

RJ, whilst already playing an important role in addressing youth crime, needs to be embedded in practice across the system. The question, even given the research above, remains as to how best this can occur. We know that when implemented in the CJS in England, RJ falls down in contacting and involving victims, but we do not necessarily know how best to contact victims, offer RJ and then involve victims in preparing them for the process – simply because the existing system is dominated by an offender focus. This embedding of RJ requires a paradigm shift.

The task of the research reported in this thesis is to start to specify how best to contact victims, offer RJ and set up structures which will enable such a paradigm shift to a CJS ‘based upon reconciliation and restoration’ and ‘restorative practice’ (Daniels, 2013: 307). First, however, it is important to set the scene as far as RJ and adult offenders is concerned.

# Chapter 3: Restorative justice and adult offenders

## 3.1 Introduction

As discussed in the last chapter, over the last two decades there has been an increase in the prominence of RJ in both policy and practice in England and Wales in relation to young offenders. RJ is now, in YJ policy, what would be termed ‘partially integrated’ (Dignan, 2002) within the CJS in England and Wales and available to use as a diversionary, complementary and parallel justice process, i.e. as an informal resolution (diversionary), as an out of court disposal (parallel), as an activity attached to a court sanction (parallel) and as a post-sentence (complementary) process for young offenders. However, we have also seen that RJ is seldom delivered and practiced in accordance with the RJ principles of (victim) inclusivity (Zehr, 1990) and stakeholder involvement (Dignan and Lowey, 2000).

The position of RJ in the CJS in regard to adult offending will be explored within this chapter to determine to what extent RJ has gained a statutory footing and to what extent RJ is used in practice for adult offending in accordance with the principles of inclusivity and stakeholder involvement. A chronological overview of legislation and policy guidance endorsing adult RJ in England and Wales alongside a brief overview of the international growth of adult RJ legislation will be provided. In addition the findings of previous adult RJ research in England and Wales will be examined. This chapter will argue that despite theory and research that supports the use of RJ for adult offending the statutory development of adult RJ has been minimal and unlike YJ the current legislative framework for adult RJ is patchy and tokenistic. Adult RJ mainly continues to be informally delivered at many different intervention points.

## 3.2 Differing aims or a differing justice culture?

As stipulated in s. 142 of the Criminal Justice Act 2003 the main principles of sentencing for adult offenders are centred on the punishment, reform and rehabilitation of adult offenders in conjunction with the protection of the public and the making of reparation to those affected by the offending. This is in contrast to the main principle of YJ as being ‘to prevent offending by children and young persons’, based on the principles of restoration, responsibility and reparation, which strongly points towards the use of RJ. Whilst the principle of reparation is included in the aims of the CJS (adult offending) the other two RJ principles of responsibility and restoration are omitted and the principle of reparation appears to mainly be in relation to material compensation.

One reason as to why the main aim(s) of the justice process differ(s) between the YJS and the adult CJS may be due to the development of RJ being influenced by the current justice climate and the ‘justice values’ (Shapland et al, 2011: 180) of the public and victims. A moral pedagogical role is adopted in regard to how to treat young offenders. Young offenders are perceived as likely to ‘grow out’ of crime and more likely to learn from the experience of RJ and therefore change their offending behaviour (Vanfraechem, 2015) – thus adhering to the RJ cultural value of ‘rehabilitation of the offender’. Many (Bottoms, 2003; Vanfraechem, 2015) argue that RJ as an alternative justice process has been able to successfully make inroads in YJ due to RJ being seen as ‘an attractive form of moral clarification and moral pedagogy (based on the suffering of the victim) … to contemporary penal policymakers’ in regards to youth offending as youths ‘are the traditional subjects of moral pedagogy’ (Bottoms, 2003: 103). Adult offending on the other hand is not seen as something that one grows out of, nor is adult offending seen as minor (Dignan, 1992). A more punitive justice climate prevails within the adult CJS with sentencing being centred on ‘punishment’ (Criminal Justice Act 2003, s142). One only has to turn to the consistently stubbornly high adult custodial figures in comparison to the decreases achieved over the past decade in youth custodial numbers to witness the differing justice values and climate.

Over the past few decades (since the 1980s) there has been a societal shift from a production economy to a consumer service economy, a rise in individualism and a shift to individual responsibilisation. Crime and offending are no longer viewed as offending against the state but as against the individual victim(s), hence leading to concerns with the harm caused to the victim (Bottoms, 2003). There has been a rise in the appeal of a *gemeinschaft* (organic, humanistic, community) approach to dealing with certain ‘supra-individual requirements within modern legal systems’ (Bottoms, 2003: 102). However, it is argued that despite the rise in the appeal of a *gemeinschaft* approach and concerns with the harm caused to victims by crime, the dominant bureaucratic-administrative law approach to offending negates the victim, places ownership of the offence with the state and is unable to deal effectively with inter-personal issues and offences (Bottoms, 2003; Christie, 1977). Braithwaite (2002b) argues that state power has come to be exercised through what he calls ‘state regulation’. ‘State regulation’ encourages society to settle minor conflicts (low-level offending typically committed by young persons) themselves whilst the state still exercises power over more serious offences (including those committed by adults) (ibid).

The ‘justice values’ of RJ (moral pedagogy, moral clarification and responsibilisation and rehabilitation) and its principles of ‘stakeholder involvement’ and ‘inclusivity’ are akin to the characteristics found and outlined above within a *gemeinschaft* law approach, responsibilisation and individualism (consumer culture). This may provide some explanation as to why, in both England and Wales and other jurisdictions, the development of RJ has been witnessed, and why in the main the development of RJ has been within the field of YJ (Bottoms, 2003).

One final contributory factor to the rise of RJ legislation in both YJ and criminal justice is the paradigm shift to a focus on the victim. Since the 1980s we have witnessed the rise in services to victims and victims’ rights. Victims are now perceived as ‘consumers of criminal justice systems’ who could and should play a central participatory role in justice being achieved (Henham, 1999; Walklate, 2007: 4). Victims have begun to demand to have lay participation in the decision making of justice and to play an active role in which their voice is heard (Henham, 1999; Bottoms, 2003; Walklate, 2007).

The rise of the victim will be discussed further below to illustrate that RJ as a social movement has been able to gather momentum (in terms of governmental endorsement and policy) due, in part, to the rise of the victim and victims’ rights. First though, the emergence and use of adult RJ will be detailed to explore how RJ has begun to be partially integrated in CJ (for adult offending) through legislation and guidance.

## 3.3 RJ: an ad hoc process pre-2003

The emergence of RJ (for use with adult offenders in England and Wales) is discussed in this section in relation to the two decades leading up to 2003 - 2003 being the first statutory entry point for adult RJ in the CJS, when adult RJ was introduced as one of several reparation activities options by the Criminal Justice Act 2003 and 1983 being when the first pilot court-based adult RJ scheme commenced in South Yorkshire. In the Criminal Justice Act 2003 reparation was outlined as one of the five purposes of sentencing. The Act allowed for reparation as part of: a conditional caution; as an activity attached to a community sentence; as a rationale for deferred sentencing; and also as part of three new sentences (custody plus, custody minus and intermittent custody - which were never implemented) (Liebmann, 2007).

Despite the lack of statutory footing given to adult RJ pre the Criminal Justice Act 2003 RJ was being practiced in the adult offending field. There were a small number of local ad hoc non-statutory VOM schemes stemming back to the 1980s that dealt with adult offenders at pre-prosecution, sentencing and post-sentencing stages. These ad hoc schemes tended to be initiated by individuals within the police, probation and prison services alongside individuals within Victim Support (Wright, 1996). For example, the South Yorkshire Probation Service piloted adult RJ as an adjunct to the court pre-sentencing stage. The pilot was one of the first ‘court-based’ schemes of its type and commenced in November 1983. It ran for approximately three years and had apparent success in terms of reconciliation and providing a forum within the ‘shadows of the law’ for real communication between victims and adult offenders to take place (Smith et al, 1988).

In addition to this limited number of local ad hoc VOM initiatives a feasibility study was carried out in 1983 for a mediation scheme in Coventry and in 1984 Marshall (on behalf of the Home Office) undertook a review of the types and numbers of mediation and reparation projects that were established in England and Wales. This was followed by a second review in 1985 carried out by Marshall and Walpole. The reviews were commissioned by the Home Office in the wake of the ‘*Reparation by offenders: Survey of current British Projects’* report published by the National Association of Victims Support Schemes (now known as Victim Support) in 1982*.* This report outlined the growing number of local small ad hoc RJ schemes that were emerging and recognition by the government that prison was a costly and ineffective sanction (Liebmann, 2007). The subsequent Home Office reports (Marshall, 1984; Marshall and Walpole, 1985) depicted that whilst there was only a small number of reparation and mediation projects the numbers were increasing at a relatively fast speed: 36 projects in 1985 compared with 19 in 1984; 13 of 36 projects were probation/court-based schemes dealing with adult offenders (Liebmann, 2007). Concurrent to the 1984 and 1985 Home Office reports the Parliamentary All-Party Penal Affairs Group (which had close links with probation) published (in 1984) the report ‘*A new deal for victims’* supporting the use of reparation and mediation in the CJS. The concepts of reparation and mediation endorsed within the report, alongside the growth in interest in RJ, were given further sustenance by the then Home Secretary Leon Brittan; and in 1985 the Home Office funded four RJ experimental programmes across England (of which three included adult offenders), evaluated by Marshall and Merry, whose report was published in 1990.

The three funded adult RJ pilot schemes were: Leeds Mediation and Reparation Scheme; Coventry Reparation Scheme; and the Wolverhampton scheme. The schemes were all implemented at the court stage of the CJS but all had different aims (Shapland et al, 2011; Marshall, 1990). The Wolverhampton scheme dealt with (alongside juvenile referrals) low-tariff pre-sentence offences committed by young adult offenders whereas the Leeds Mediation scheme aimed to trial the use of adult RJ on high-tariff, pre-sentence offences. The Coventry Reparation Scheme worked across various stages of criminal justice but primarily focused on pre-sentence at the magistrates’ court with young adult offenders; with the aim of bringing victims and offenders into communication with one another through the process of mediation (RJ). The three adult RJ pilot schemes were funded for two years (1985-1987) but the funding did not extend beyond the pilot stage. Both Leeds and Coventry continued to practice, after the government funding for the pilot ceased. Leeds secured their funding from Leeds Probation Service which recognised the benefits of RJ (Shapland et al, 2011: 17). However many probation services were reluctant to dedicate probation resources to reparation and mediation as the main focus of the service was perceived to be the offender (Wright, 1996).

Whilst the Home Office experimental schemes were still being piloted (1985-1987) and the small number of ad hoc schemes (approx. 36 in 1985) continued to practice reparation the Kettering Adult Reparation Bureau was set up as a three year pilot project at the end of 1986. The Kettering Adult Reparation Bureau was the first adult pre-prosecution scheme in England and Wales to trial VOM as part of a diversionary process for adult offenders at the pre-prosecution stage. The scheme was aimed exclusively at adult offenders and diverted offenders to a RJ programme either pre-prosecution as an activity attached to the non-statutory and discretionary caution-(at the discretion of the police and probation officers: Wright, 1996) or at the pre-sentencing court stage. However due to a lack of non-police referrals the scheme was, predominately, a pre-prosecution project (Dignan, 1992).

Regardless of the small cohort of ad hoc RJ schemes and the Home Office funding of pilot schemes additional legislation to incorporate reparation and mediation was not incorporated within the Criminal Justice Act 1988. The Act dealt with the issue of reparation and victims’ needs by including a requirement that courts must provide reason(s) for omitting a compensation order when sentencing (Wright, 1996). One of the main reasons for this was that there were several negative findings in the research evaluation conducted by Marshall and Merry (1990) in relation to the use of reparation as diversion. Despite a small positive effect found in re-offending rates among offenders who had participated in direct, face-to-face RJ the research stated that where reparation was used as a method of diversion the victim ‘invariably loses out’ as selection of referrals to diversionary RJ tended to be based upon the offender (offence type or offender characteristics); thereby negating victims’ needs (Dignan, 1992). Another contributory factor to the diminished interest in RJ was the punitive turn that the Conservative government took in the late 1980s in the face of the rise in both public fear of crime and crime rates (evidenced in the first British Crime Survey conducted in 1982) (Green, 2007; Liebmann, 2007). This punitive turn away from RJ by the government was confirmed in the 1990 Home Office White Paper *Crime, Justice and Protecting the Public.* The White Paper stated that ‘VOM services showed that there was confusion whether (mediation and) reparation were for the benefit of the victim or a means of rehabilitating the offender’ (Home Office, 1990a, cited by Zedner, 1994: 237)

However, despite this dampening of governmental enthusiasm for RJ there was continued use of cautions as a means of diverting offenders from the CJS being conducted at local level (cautions were the main diversionary tool, albeit non-statutory). The Home Office, who had for many years been encouraging the increased use of youth cautions, extended encouragement beyond youth cautions to adult cautions in 1990 (Dignan, 1992). Thus, it may be argued that this encouragement to increase the use of adult cautions may have inadvertently allowed for the continuation of alternative diversionary methods being conducted at local level including the use of reparation and RJ as part of a caution.

The Kettering Adult Reparation Bureau pilot which began in 1986 was completed by 1990 and the scheme was then expanded across Northamptonshire during 1990/1991. The evaluation of the Kettering adult scheme was published in 1991 (Dignan, 1991). The research stated that the Kettering scheme differed substantially from the four Home Office pilot schemes in terms of its organisational structure and that it (Kettering) was exclusively focused upon adult offenders[[21]](#footnote-21). There was also an overriding commitment to the principle of reparation and to resolution. This commitment to both the victim and the offender ensured that due care and consideration of case referral decision-making in conjunction with consideration of the victims’ needs was delivered. Dignan’s 1991 study of the Kettering Adult Reparation Bureau reported reductions in recidivism rates; positive victim satisfaction levels and potential significant cost-savings to the CJS (which he stated could be secured through a wider use of RJ) (Dignan, 1991). Around the same period (early 1990s) another adult RJ scheme was established in the West Midlands and provided RJ as diversion at pre-prosecution and pre-sentencing stages for both young offenders and young adult offenders (Dignan, 1992).

Whilst some of the schemes evaluated closed (such as Wolverhampton), several other schemes such as Leeds and Coventry continued to provide a service and additional ad hoc schemes were established. According to Miers et al (2001) and Dignan and Lowey (2000) there was a perpetual flux of schemes launching and closing and this was mainly due to the continual funding issues that schemes faced. The issue of short-term and limited funding continued to be (and still continues to be at the time of writing) an on-going issue, evidenced with the closure of Mediation UK in 2006 (originally the Forum for the Initiatives in Reparation (FIRM) – founded in 1984) due to funding issues. Despite the fragility of project-based, short-term funding and voluntary RJ practices there were estimated to be approximately twenty RJ schemes (across both adult and youth offending) practising at the end of 1995 (Wright, 1996). Thames Valley Police within the Aylesbury area were at this point (circa 1994) launching their ad hoc ‘restorative cautioning’ experiment in which they adopted a restorative approach to cautioning. The ad hoc scheme is often (wrongly) referred to as being specific to youth offenders. Despite the majority of restorative cautions being administered to youth offenders the use of restorative cautions was not limited to youths and did include adult offenders (Hoyle et al, 2002).

Further to the experimental ‘restorative cautioning’ in Aylesbury the Leeds Mediation and Reparation Service and the Coventry Reparation Service that had formed part of the 1985 Home Office funded pilot project continued to provide a RJ service to adult offenders. Both these schemes again formed part of a further research project - a cross-national evaluation of mediation in criminal conflict – that was undertaken by Umbreit and his team and published in 1996 (Umbreit et al, 1996). The cross-national research found that there were high levels of victim satisfaction and victims who participated in RJ were less likely to fear re-victimisation and less likely to have feelings of anger or resentment (ibid).

Further to the above RJ schemes, pilots and research evaluations additional endorsement of RJ was provided by the Association of Chief Officers of Probation (hereafter, ACOP). ACOP published a policy statement in 1996 encouraging probation services to explore the use of reparation and mediation as a process. ACOP also advocated victim and offender dialogue (Wright, 1996). Therefore despite the lack of governmental support evidenced through the absence of RJ within the legislative framework for adults, RJ was continuing to be used at local level within approximately 20 schemes (Wright, 1996). In 1997 members of Mediation UK established the Restorative Justice Consortium (known as the Restorative Justice Council since 2012) to bring together RJ schemes and groups (ibid). The Restorative Justice Council is, today, the main ‘independent third sector membership body for the field of restorative practice – providing quality assurance and a national voice and advocating the widespread use of … RJ’ (Restorative Justice Council, 2016).

## 3.4 A plethora of RJ pilot schemes and evaluative research 1999-2001

Following in quick succession to the statutory introduction of RJ in YJ in 1998 and 1999 alongside the expansion of restorative cautioning in the Thames Valley (amongst other continued RJ initiatives) and the success of RJ in YJ (Liebmann, 2007) the Home Office commissioned report entitled: *Restorative Justice: An Overview* was published in 1999 (Marshall, 1999). The report provided an overview of RJ theory, practice, outcomes and previous evaluative research across England and Wales. Marshall (1999) outlined (alongside other benefits to the offender, community and CJS) the victim specific benefits of RJ and the potential cost-benefits of RJ at both at pre-prosecution and pre-sentencing CJ intervention points. Marshall’s report highlighted that there was a tendency to view and use RJ as a process restricted to only minor offences. Marshall (1999) argued that victims of serious offending have more to gain from RJ than victims of minor crimes in relation to reduced levels of trauma and fear. The report encouraged the phased development of RJ in the CJS and argued that RJ principles could inform ‘every aspect of the work of all criminal justice agencies’; with specific reference made to the feasibility of restorative policing and restorative prisons (Marshall, 1999: 20).

Simultaneously to this 1999 report, the Home Office undertook both a review of sentencing and a review of the criminal courts. The Halliday report on the review of sentencing was published in 2000 entitled: *Making Punishment Work: A Review of the Sentencing Framework* and stated that custodial and non-custodial sentencing needed to rehabilitate offenders and reduce re-offending whilst reserving prison as a last resort (Liebmann, 2007). Custodial sentences had been growing at unprecedented rates. In 1998 the prison population in England and Wales had grown by over 25% in three years, increasing from 51,084 in 1995 to 65,727 in 1998 (Berman and Dar, 2013). The Auld Report that reviewed the criminal courts, the ‘*Review of the Criminal Courts in England and Wales’* (2001), proposed alternatives to sentencing such as RJ and called for the government to consider widening the use of RJ into the field of adult offending (ibid). However it must be noted that despite these proposed alternatives and legislation introduced in 2013 that allows for deferred sentencing (see below) the prison population in England and Wales has continued to rise over the past 18 years and is, at the time of writing, 82,676 (Sturge, 2019) whilst victim participation in RJ remains low (see below). At the turn of the millennium, however, there continued to be an absence of state guidance or legislation ratifying the use of adult RJ. It was deemed that there was ‘insufficient robust research evidence (from this country at least) on the effects of RJ … in practice, particularly on reoffending’ (Moxon, 2001: iii). There then commenced a plethora of Home Office commissioned reports, evaluations and pilot schemes. These pilots and evaluations were commissioned to measure the use and effectiveness of RJ in both the fields of youth and adult criminal justice in a bid to determine what works in reducing reoffending and increasing victim satisfaction. The adult RJ evaluations and pilots conducted will be presented and discussed below to illustrate how during the period 1999-2003 there was a shift towards the potential statutory use of adult RJ.

In July 1999 the Government commissioned a 15-month evaluative study of seven RJ schemes as part of the Crime Reduction Programme. The study sought to determine what impacts and cost-effectiveness RJ could deliver through ‘robust research evidence’. Out of the seven schemes evaluated five schemes dealt with youth offenders and two - West Yorkshire and West Midlands - dealt with both young offenders and young adult offenders. Both the adult RJ schemes (West Midlands and West Yorkshire) were of a ‘mixed orientation’ in that the aims of the schemes were both to give the victim the opportunity to have a dialogue (direct or indirect) with the offender and for the offender to accept responsibility and repair the harm caused (Miers et al, 2001: 16). Both these probation funded schemes had been practising since 1985 and had formed part of the Home Office 1985 pilot reparation project and this allowed for a retrospective analysis of the two adult RJ schemes (in Leeds, West Yorkshire and Coventry, West Midlands) to be conducted. Both projects used RJ pre-sentence but West Yorkshire also had an intervention point post-sentence (ibid) (however there were other post-sentence RJ initiatives including the proxy-victim RJ initiative at Long Lartin prison (Marshall, 1999)). The main research findings from the Home Office 15-month evaluation, published in 2001 (Miers et al, 2001), contributed to and supported Marshall's (1999) overview on the practice, impact and outcome of RJ by stating that reductions in re-offending rates had been achieved. Interestingly the West Yorkshire scheme was the only scheme to achieve statistically significant decreases in re-offending and therefore based on the fact that over half of the RJ cases dealt with by West Yorkshire were for very serious offences it was postulated by Miers et al (2001) that RJ was potentially more effective (and cost-effective) in ‘high tariff’ cases (ibid: 82). These findings substantiated the findings on the use of RJ initiatives in cases of serious violence in Canada undertaken by Umbreit et al (1999). The Canadian research highlighted that ‘the principles of RJ can be applied in … cases of severe violence’ including murder and sexual assault (Umbreit et al, 1999: 340).

## 3.5 A place for RJ in dealing with serious and adult offending

Further to the Home Office Crime Reduction Programme exploratory 15 month evaluation of seven schemes in England and Wales, an international review of RJ was conducted by Miers in 2000 (2001) and funded by the Home Office Crime and Criminal Justice Unit as part of the ‘Crime Reduction Research Series' (which included the major Crime Reduction Programme initiative). The review (Miers, 2001)evaluated the development, implementation and position of RJ across twelve European countries and included an overview of RJ programmes in Australia, New Zealand and the USA. The aim of the review was to inform policy development in England and Wales (Miers, 2001). The review provided a detailed overview of RJ programmes and the differences across the RJ programmes in terms of scope, legal base and implementation and illustrated the widespread implementation of RJ initiatives across Europe. All of the European countries reviewed had implemented RJ provision for both adult and young offenders – the main focus for many though was predominantly upon young offenders and tended to therefore include only minor offences and was offered at various intervention points in the CJS (ibid). The research demonstrated that regardless of issues surrounding the disproportionate number of young offenders, first-time and property offenders there was substantial evidence that RJ (in comparison to mainstream CJ interventions) was providing numerous positive outcomes for both the victim and offender (adult and youth). Both victim and offender satisfaction levels and levels of procedural justice were high and victims were able to achieve closure with offenders accepting responsibility (ibid).

RJ adult offending initiatives were continuing to expand as an ad hoc process separate from government funded pilots. A post-sentence custodial initiative was launched by the Restorative Prison Project in 2000 which aimed to promote post sentence RJ within the prison environment. The project was launched across three prisons in England and Wales; however the scheme was less interested in creating opportunities for offenders and victims to meet and focused upon victim awareness and restoring familial relationships (Dignan, 2007).

In 2001 the government further commissioned and funded a £7 million programme, also part of the Crime Reduction Programme, that included the implementation of three pilot RJ schemes and the evaluation of the schemes (the research findings were published in four separate stages: Shapland et al. 2004, 2006, 2006 and 2008). The government funded RJ schemes were unique in that they were funded primarily to work with adult offenders (two of the three schemes included young offenders but for the purpose of this section only findings relating to adult RJ will be discussed) and in relation to serious offending (but not sexual assaults or domestic abuse). Due to the very nature of the offences RJ was implemented (in the main) at pre-sentence, sentencing and post-sentencing stages (Shapland et al, 2011). The aims of the research were to explore and determine the effect of RJ on adult offending rates and victims’ needs (ibid). Shapland et al’s (2011) evaluation findings illustrated that when embedded and implemented correctly through internalisation of ‘restorative values’, high quality training, funding and sufficient case referrals RJ programmes were able to secure high levels of victim participation, high victim satisfaction levels in comparison to victim satisfaction levels in the CJS, reductions in re-offending rates and provide a potential cost- saving of £9 for every £1 invested in RJ and of £6,000 per offender in reduced reconviction rates (the reductions in re-offending rates and cost savings were only statistically significant in the JRC conferencing scheme).[[22]](#footnote-22)

The authors contended that the results from the research demonstrated that when RJ is used in the case of adult offenders and serious crimes it can result in considerable victim-specific benefits and that ‘restorative justice for adult offenders should be put onto a statutory basis as soon as possible’ at every stage of the criminal justice process (ibid: 186). The recommendation for RJ to be ‘put on a statutory basis as soon as possible’ echoed the recommendations made by Marshall (1999), Miers (2001) and the Auld Report (2001) that the government should widen the use of RJ into the field of adult offending and develop RJ in the CJS at ‘every aspect of the work of … criminal justice agencies’ (Marshall, 1999: 20).

The findings from Shapland et al’s (2011) evaluation that evidenced the cost benefits, reductions in re-offending rates and increased victim satisfaction levels have, since publication, been endorsed and widely publicised by the government, the MoJ, the Restorative Justice Council, and many other RJ advocates and since 2008 the use of RJ has developed and momentum has increased both in public policy and (at a slower pace) in actual practice. This is not to argue that the findings of the evaluation were solely responsible for the development and increased momentum of adult RJ. However, it appears that Shapland et al’s (2011) findings of cost benefits, reductions in re-offending rates and increased victim satisfaction combined with the continued use of RJ on a local ad hoc level alongside the youth legislative framework and the austerity cuts that have been a consistent facet in criminal justice since 2008 have resulted in the state hailing RJ as able to ‘provide a solution and deliver justice in relation to the most serious crimes’ (Herbert, 2011).

As evidenced above the era of Conservative-led governments was a period that bore witness to an explosion of RJ pilot schemes and subsequent research evaluations, mainly government funded, which sought to determine and evidence the specific benefits to the victim and the offender of RJ. Many of the later evaluations also sought to calculate the cost-benefits to the CJS of implementing RJ initiatives at various intervention points for both adult and young offending. The plethora of research evaluations in England and Wales appear to have, in part, been influenced by the rise of the victim and victimology from the mid 1980s and also in part by the growth of RJ across other jurisdictions and the publication of European and United Nations legislation and guidance papers that sought to elevate and improve the position of the victim and the use of RJ in criminal justice. Miers’ international review of RJ (2001) provided a picture of the widespread endorsement of RJ across Europe and detailed its implementation and legal base within twelve European countries. The importance of victims' issues and the introduction of European legislation and guidance will now be briefly discussed to allow the reader to understand how the rise of the victim and the growing concerns for the welfare of victims over the past three decades have paved the way for the growth of adult RJ legislation introduced within the Criminal Justice Act (2003) in England and Wales. Following on from this the package of RJ policies introduced in England and Wales between 2003 and 2018 in relation to adult offending will be presented.

## 3.6 Welfare of the victim

In order to comprehend how RJ has grown in stature over the past three decades we must turn to the rise of the victim and victims’ rights that have also taken great strides over the same period. Through understanding the elevation of the victim and victims’ rights we are able to appreciate how the paradigm shift to a more victim focused CJS (again in principle and policy) has provided the right breeding ground for RJ to, through ‘frame alignment’ (Entman, 1993 in Pemberton, 2015), become instilled within the CJS.

The ‘victim’ paradigm shift has enabled RJ to ‘frame’ itself in a 'victimological guise' (Pemberton, 2015) within the CJS as a victim-focused justice process. Pemberton (2015) argues that the fiscal crisis witnessed since the late 2000s combined with the victim paradigm shift and a shift to individual responsibilisation and state retraction has created the opportunity for RJ to align itself as a cost- effective and viable justice process that can respond to victims’ needs and reduce re-offending.

The promotion of the position of the victim in the CJS can, according to some, be traced back to the rise of the victim movement and the second-wave feminism of the 1960s and 1970s (Shapland et al, 1985; Green, 2007). The penal reforms of the 1960s saw the plight of the victim promoted through the introduction of the Criminal Injuries Compensation Board in 1964, the establishment of the National Association of Victim Support Schemes in 1974 and the rise of victimological academic research (Hoyle, 2007). The victim had for a long period been ‘disenfranchised’ from the CJS, forgotten and silenced (Dignan, 2005; Green, 2007) - a ‘non-person of criminal justice’ (Shapland et al, 1985). Victimological research illustrated that many victims perceived the CJS as being offender-orientated in which their voice goes unheard (Walklate, 2007; Robinson, 2003). Many victims expressed dissatisfaction with the criminal justice process and had a lack of trust in the current CJS (Roberts et al, 2012). A lack of participation, lack of ‘voice’ and a lack of acknowledgement of the impact of crime can result in victims experiencing ongoing anger, dissatisfaction and lack of trust and confidence in the CJS (Robinson, 2003; Roberts and Erez, 2004).

The first national victimisation survey in England and Wales, the British Crime Survey (hereafter, BCS), was conducted in 1982 and collected data on victimisation incidence and prevalence. The data collected detailed social, economic and demographic victim data alongside victims’ responses to crime. The BCS evidenced a ‘dark figure’ of unreported crime committed against vulnerable marginalised groups of victims and high levels of public fear regarding crime (Hoyle, 2007; Green, 2007). Rising crime rates were being experienced, with high levels of public concern regarding crime and violence and a prevalent view that ‘nothing works’ (Martinson, 1974) in reducing reoffending. There was growing recognition amongst academics, victim movement groups and the government during the 1980s and 1990s that in order for the CJS to work effectively and efficiently, for the general public to be law-abiding and for victims to report crimes, the CJS must be perceived to be fair and trustworthy (Tyler, 1990) and that victims should play a greater role in the CJS (Hoyle, 2007).

The victim began to be seen as a ‘consumer of criminal justice services’ who could and should play a central role in justice being achieved (Walklate, 2007: 4). Research highlighted the importance of victim engagement within criminal justice as through increased victim participation and victim engagement higher levels of victim satisfaction can be achieved and the overall efficiency and effectiveness of the CJS can be improved. Without victim or witness participation then there can rarely be justice (Henham, 1999; ACPO/CPS, 2012). Therefore in order to counter the negative CJS experiences of many victims and to increase crime reporting levels a number of policies were implemented to promote the position of the victim (Green, 2007).

### 3.6.1 Victims’ rights and services

In an attempt to improve the position of the victim the Home Office published the Victims Charter in 1990, which outlined a code of best practice that was aimed at ensuring victims were better informed and supported through their criminal justice journey. Whilst only a code of best practice; it did pave the way for the revised Victims Charter in 1996 and the introduction of Victim Personal Statements (hereafter, VPS) in 2001. Victims were given the right to input into the sentencing process through the VPS. The VCOP (2005) stated that the VPS could be read by the judge or read out to the judge by the prosecutor (Booth and Carrington, 2007) (see below for further details). The introduction of the VPS has provided victims with the opportunity to take a more active role in the criminal justice process.

The Home Office in 2002 made a commitment to promote ‘victims’ justice’ and this commitment was endorsed by the introduction of the Victims Advisory Panel. The Victims Advisory Panel was established with the intent of providing victims of crime with a forum in which they could have their say in the reform of the CJS and the developments of services and support for victims of crime (Hoyle, 2007; Ministry of Justice, 2013). The Victims Advisory Panel was later abolished in 2013 because it was said it no longer served a purpose due to the appointment of the first Commissioner for Victims and Witnesses in 2010 (Ministry of Justice, 2013). The VCOP then followed the 2002 statutory introduction of the Victims Advisory Panel. The VCOP (2005)[[23]](#footnote-23) set out the minimum level of services that a victim should receive from statutory agencies (Mawby, 2007; Booth and Carrington, 2007). The revision of the VCOP in 2013 sought to further increase victim participation and input within the criminal justice process and victim satisfaction levels by expanding the use of the VPS to enable victims themselves, at the discretion of the court, to read out (or have played out, where recorded) their VPS in court (therefore victims are no longer reliant on a proxy to convey their VPS: Roberts and Erez, 2004). The VCOP also outlines the provision of services which victims of crime can expect, and RJ is included. Victims are entitled to receive information from the police on RJ and how they can partake. More recently in 2015 the VCOP was further revised and extended the duties to victims to a wider remit of service providers and also stated that victims must be given information (from their first contact provider) on the availability of RJ services and victim contact information must be given by the police to the service providers (Ministry of Justice, 2015: 1.24). This has expanded and formalised the role of the third sector in the provision of victim and RJ services.

Since 2013 specific funding for victims’ services has been provided by the MoJ to the PCCs to allow for victims’ services to be delivered at local level. In November 2013 it was announced that up to £83million funding for victims’ services including the provision of RJ was to be allocated over a three year period. A specific allocation of £29million was earmarked by the government to help PCCs and charities deliver RJ for victims over three years across the CJS (Ministry of Justice, 2013). This specific victims’ services funding continues to be allocated by the MoJ to PCCs. Funding for RJ is, at the time of writing, included within PCCs’ victims’ services funding pot but is no longer ringfenced and therefore is subject to being cut to fund other victims’ services. The House of Commons Justice Committees’ (2016) *Restorative Justice* review stated that funding for RJ should not be ring-fenced until RJ is available nationally.

The 2016 publication of the *Restorative Justice* report by the House of Commons Justice Committee which sought to ‘consider the effectiveness of restorative justice (RJ) provision across the criminal justice system’ and ‘examine the evidence base for the effectiveness of restorative justice’ outlined that ‘a legislative right for victims of crime to access RJ services is a laudable goal which should be worked towards, once existing concerns about capacity have been addressed’ (Justice Committee, 2016: 3,13).The *Restorative Justice* report recommended that a consultation on the legislative right to RJ should be included within the consultation on the proposed Victims’ Law[[24]](#footnote-24) – which would supersede the current non-statutory VCOP (ibid). At the time of writing the MoJ’s consultation on the proposed Victims’ Law has still not commenced. However, the *Victims Strategy* was published in September 2018 and outlined the government’s key commitments to: ‘strengthen the Victims’ Code, and consult on the detail of victim focused legislation, including strengthening the powers of the Victims’ Commissioner, and delivering a Victims’ Law’ (HM Government, 2018: 8). Furthermore the strategy acknowledged that ‘a victim’s journey through the justice system – whatever the path and outcome – should not result in them becoming a victim of the process, as well as the crime’ (ibid: 10). The *Victims Strategy* (2018) outlines that victims are not always being informed of their entitlements from the VCOP and that RJ is, within the VCOP, one of the entitlements on which statutory organisations should provide victims with information. Lastly, the strategy states that PCCs will be required ‘to make sure that restorative justice services are available in their areas’ (2018: 31).

## 3.7 The impact of Europe and the United Nations on RJ development in England and Wales

There have been several directives and recommendations by the Council of Europe, the EU and the United Nations that have served to further expand and reinforce the rights of victims of crime and the use of RJ over the past three decades. These include the *UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (A/RES/40/34) which was published in 1985. This document set out basic principles of treatment for crime victims, based on compassion and respect for human dignity. ‘The Declaration urges access to judicial and administrative processes, restitution, compensation and assistance for victims’ (Victims of Crime Office, 2016). In 1999 the Council of Europe’s Recommendation No. R (99)19 *(Mediation in Penal Matters*) defined mediation as ‘a process whereby the victim and the offender can be enabled, voluntarily, to participate actively in the resolution of matters arising from the crime through the help of an impartial third party or mediator. The reference only to the victim and the offender as parties does not exclude other persons (legal and physical) participating in the mediation’ (Council of Europe, 2000: 21).

Simultaneous to the Council of Europe’s Recommendation on *Mediation in penal matters* was the United Nations *Draft Declaration on Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (1999*). Jumping forward a decade the EU Victims Directive (2012/29/EU) of the European Parliament and of the Council 2012 established the minimum standards on the rights, support and protection of victims of crime. The EU Directive (which all EU countries that agreed to adhere had to be compliant with by November 2015) replaced the former EU Framework Decision 2001/220/JHA and set out minimum standards for victim services in relation to victims’ rights to provision of information, support and participation in criminal justice (Bolivar et al, 2015). Article 12 of the EU Victims Directive (2012) established the right of victims to safeguards to ensure that ‘victims who choose to participate in restorative justice processes have access to safe and competent restorative justice services’ (EU Directive, 2012: 69) and that victims are offered information on the availability of restorative justice services and that victims who participate in restorative justice services are treated in a ‘respectful, sensitive, tailored, professional and non-discriminatory manner’ (ibid: 65). The compliance and integration of the EU Victims Directive in the VCOP 2015 illustrates further support for the use and development of RJ in England and Wales. Furthermore, the *Restorative Justice* 2016 report by the House of Commons Justice Committee also makes reference to the EU Victims Directive.

## 3.8 The legislative framework of RJ in the adult CJS (2003-2019)

As aforementioned it was not until the Criminal Justice Act 2003 that RJ was first given statutory footing in the adult CJS. The Act outlined reparation as one of the five purposes of sentencing and allowed for reparation as: part of a conditional caution; as an activity as part of a community sentence; as a rationale for deferred sentencing and also as part of three new sentences (custody plus, custody minus and intermittent custody - which were never implemented) (Liebmann, 2007). Whilst cautions and conditional cautions were formalised and reformed for young offenders within the Crime and Disorder Act 1998 this reformed cautioning-plus process did not extend to adult offenders until the Criminal Justice Act 2003 (sections 22-27). The Act provided a statutory development to the non-statutory police caution, known as the ‘simple caution’ through the introduction of the ‘conditional caution’. Conditional cautions were aimed at first–time offenders (adult) or minor adult offences as a method of diversion from prosecution. The conditional caution allowed specific conditions, either rehabilitative or reparative to be attached to a caution as an ‘appropriate and effective means of addressing an offender’s behaviour or making reparation for the effects of the offence on the victim or the community’ (Criminal Justice System, 2004: 2). RJ is one of the processes that was outlined as a condition that could be attached (if both the offender and the victim agree) to the conditional caution. RJ is outlined as a condition not within the Act itself but within the statutory Code of Practice (*SI2004- 1683)* that governs the use of conditional cautions under Part 3 of the Criminal Justice Act (Ministry of Justice, 2013) and as Dignan (2007) states no privilege or prioritisation was given to RJ and RJ as a condition to a caution is purely permissive. However whilst the use of RJ is only permissive through the 2003 Act it does provide credence to the use of RJ as a condition to a caution thus providing the opening for the use of RJ by the police beyond their informal ad hoc use of RJ prior to the Act.

In addition to the statutory footing given to conditional cautions provision was made in the Act (section 147) for RJ as a Specified Activity Requirement (hereafter, SAR) of a Community Order. Community Orders replaced the range of community sentences which had previously been available and statutorily introduced RJ as a SAR. The SAR (as laid out in the Criminal Justice Act 2003, section 201) ‘may consist of or include activities whose purpose is that of reparation, such as activities involving contact between offenders and persons affected by their offences’. No reference to RJ is found within the 2003 Act but RJ is referred to as an intervention within the Sentencing Guidelines for the Criminal Justice Act 2003 (Sentencing Council, 2004) that may be suitable ‘as an additional or alternative part of the sentence’ across low to high sentencing ranges within the community sentence and suspended sentence band (ibid: 9).

RJ is also incorporated in the Crime and Courts Act 2013. This Act states that courts can use their powers to defer sentencing in order to allow for a RJ activity to take place. The Restorative Justice Council (2014) argued that this was the biggest development for RJ in England and Wales since the introduction of youth ROPs within the Youth Justice and Criminal Evidence Act 1999.

Deferred sentencing was initially introduced in the 1970s and then amended in the Criminal Justice Act 2003 and further revised in the Crime and Courts Act 2013. Prior to the Crime and Courts Act 2013 there was no explicit reference made to RJ as a specific activity for which judges or magistrates could defer sentencing.

The VCOP (2013), explicitly outlines that victims of adult offenders are ‘**entitled** to receive information on RJ from the police, including how to take part. This is dependent on the provision of RJ in your local area’. In regard to victims of youth crime the VCOP (2013) states they are ‘**entitled** to be offered the opportunity by … Youth Offending Team to participate in voluntary restorative justice activities where appropriate and available’ (MoJ, 2013: 28). As discussed above, the VCOP was again revised in 2015 and given statutory force. The VCOP (2015), in addition to extending the duties to victims to a wider remit of service providers, stated that victims must be given information (from their first contact provider) on the availability of RJ services (Ministry of Justice, 2015: 1).

In 2014 the Offender Rehabilitation Act 2014 repealed the Specific Activity Requirement (hereafter, SAR) - outlined within the Criminal Justice Act 2003 - and replaced it with the Rehabilitation Activity Requirement (henceforth, RAR). RJ was statutorily permitted as a specified RAR that can be imposed as part of a community order or suspended sentence. RJ is the only intervention that the Act specifically mentions as an activity, thus providing further legislative support to the use of RJ with adult offending.

Further to the legislative use of RJ as a caution or activity attached to a community order RJ can be used as a diversionary informal tool by the police to deal with low level adult offending. The Adult Restorative Disposal (hereafter, ARD), to be given by the police, was not put in statute, but the use of ARDs was given government endorsement within the *'Breaking the Cycle: effective punishment, rehabilitation and sentencing of Offenders*' Green Paper published in December 2010 which served to expand the use of ARDs beyond their informal ad hoc use. The paper highlighted the opportunities for the use of restorative policing in delivering victim satisfaction and approaching low-level offending by both youth and adult offenders. The use of RJ as an informal resolution for adult offenders was further supported by the ACPO in their guidance *'Restorative Justice Guidance and Minimum Standards’* published in 2012. The guidance states that RJ is a ‘victim focused resolution to a crime’ that holds ‘offenders, either young people or adults directly accountable to their victims’ and is either an alternative disposal to, or a complement to, the formal justice system (ACPO, 2012: 4). However despite the government endorsement of ARDs in 2010 the ACPO guidance on the use of RJ and Community Resolutions (ACPO,2012) makes no reference to ARDs but does provide a clear framework (through the use of a matrix system) that can be used to determine when RJ would be suitable. The guidance outlines the out-of-court disposal framework which includes the Community Resolution. A Community Resolution is an informal out-of-court disposal that can be used (with the agreement of both the offender and victim) to deal with minor offences committed by both adult and youth offenders. A Community Resolution should be reparative and has a menu of conditions that can be attached, including RJ.[[25]](#footnote-25) The need for a Community Remedy document for each PCC area was outlined within Section 101 of the Anti-social Behaviour, Crime and Policing Act (2014). The Community Remedy document is a list of punitive, reparative and rehabilitative actions that the victim can choose from for their offender to undertake. The widespread use of informal resolution was though found to be predominately used to deal with young offenders (ACPO, 2012).

As discussed in Chapter 2, the Coalition government outlined their intention in 2010 within the *Coalition: our programme for government* to introduce measures to deal with anti-social behaviour and low-level crime committed by adult and youth offenders. Measures included the use of RJ processes such as NJPs. NJPs were piloted as part of the government’s ‘rehabilitative revolution’ that sought to ‘ensure fairness in the justice system’ and ‘provide greater support and protection for victims of crime’. Involving victims in the NJP process was ‘considered to be central’ (Ministry of Justice, 2014: 33).

Further support for the use of RJ for offences committed by both adult and young offenders was provided in the MoJ’s *Restorative Justice Action Plan for the Criminal Justice System* published in November 2012. The plan stated that to ‘ensure that **all** (emphasis added) victims of crime get access to high quality restorative justice key strategic actions are needed’ (Ministry of Justice, 2012: 2). The plan announced that it sought to ‘establish the necessary levers to enable RJ to be embedded nationally’. The plan was updated and re-published in November 2014 ‘*Restorative Justice Action Plan for the Criminal Justice System for the period to March 2018’* – thus illustrating the MoJ’s vision for ‘victim-focused RJ to be available at all stages of the CJS’ (Ministry of Justice, 2014: 2).

RJ is a process that has since 2003 been introduced in the CJS (for adult offenders) at pre-prosecution, pre-sentencing and sentencing stages. However the extent to which it has made inroads in policy and practice within the CJS is very limited. At the pre-prosecution stage RJ has been endorsed as an informal resolution that can be used as a diversion from the CJS whilst at the prosecution stage RJ is merely one of a list of reparation options that can be attached to a conditional caution. Another recent development (2013) at the pre-sentencing stage is the option to defer sentencing for RJ to take place but its use has been minimal (Kirby and Jacobson, 2016). The extent to which RJ is even being adopted at each intervention stage in accordance with the principle of inclusivity and to the principle of stakeholder involvement (Marshall, 1996) will be evaluated further below to argue that RJ appears in practice to be a rarity. The legislative framework for adult RJ in the CJS leaves adult RJ as an optional activity that can be accessed when deemed the appropriate course of action, thus, leaving RJ as a bolt-on, an additional extra.

## 3.9 RJ post-sentence: an omission

RJ is also used at the post-sentencing stage but, in common with the lack of legislative prescription for what happens after sentence, there is no specific legislative provision. Since the 1980s a small number of prisons and probation services have utilised RJ as a process in order to deal with the aftermath of the harm caused by the offence. However the use of RJ in prisons remains sporadic and patchy regardless of research that suggests that prisons can and should be restorative (Marshall, 1999). Edgar and Newell (2006) argue that the potential for RJ in the prison environment to respond to victims’ needs in the aftermath of serious offences and reduce re-offending rates is considerable. A small number of prisons state that part of their key work is RJ *e.g.* HMP Bullingdon and HMP Winchester and there has since the mid 1980s been a small number of prisons and probation services which claim to have adopted a restorative approach (Bristol, Leeds and Norwich) (Newell, 2002) with Leeds Victim Offender Unit and the West Midlands Victim Unit being the best known examples of prisons in which a regular mediation service has taken place (Dignan, 2007). Restorative prison initiatives such as the Sycamore Tree Project (a victim awareness course for prisoners run by the Prison Fellowship organisation – a Christian charity that ‘teaches the principles of RJ’: Prison Fellowship, 2016) have, and are (at the time of writing) being carried out in a number of prisons. The Sycamore Tree project runs in prisons across the UK - and whilst not ‘fully restorative’ is ‘partly restorative’ as offenders meet a ‘proxy victim’, are able to have a bi-directional dialogue with a victim (albeit not their own victim) and are offered the opportunity to make a voluntary symbolic act of reparation (Prison Fellowship, 2016; McCold, 2000; McCold and Watchel, 2003).

However, RJ work that is undertaken post-sentence either in the prison setting or post release is very much determined by the endorsement and enthusiasm for RJ by individual criminal justice agents (Edgar and Newell, 2006). As Marshall (1999) said, prisons can be restorative and do not have to be only punitive. As long as it is perceived that RJ is not compatible with the needs and aims of prison then RJ will continue to remain a justice process that is available only for minor offences (Edgar and Newell, 2006). Two decades ago the ACOP (1996) encouraged probation services to develop the use of RJ between victims and offenders; a decade later Edgar and Newell (2006: 26) reiterated the benefits of post-sentencing RJ but noted that ‘the prison service lacks experience in restorative justice work’. A further decade on (2019) and the practice of post-sentencing RJ appears to still be minimal and hinged upon the goodwill of individual probation and prison staff to push forward RJ.

## 3.10 Victim inclusivity: the extent of victim participation in RJ

As detailed above the legislative framework for adult RJ in the CJS at the intervention points of pre-prosecution, prosecution and at sentence is limited and RJ sits on the side-line of the CJS for adult offenders as an optional extra. Within this section the findings of previous research on victims and their participation in RJ initiatives will be explored where the offender is an adult. Victim inclusivity is paramount to RJ adhering to its principle of inclusivity and to RJ being a process that brings all parties involved in the offence together to collectively deal with the aftermath of the offence (Marshall, 1996). Amongst all the research evaluations and pilots undertaken in which RJ was initiated with adult offenders, high levels of victim satisfaction have been found between victims who participated either directly or indirectly. However victims’ opportunities to participate in RJ appear to be relatively limited – low levels of participation are the norm – only a minority of victims encounter their offender in either an indirect or direct face-to-face RJ meeting.

Upon reviewing the research evaluations of adult RJ programmes that have explored levels of victim participation there are very few research evaluations that have been conducted specifically on adult RJ initiatives in England and Wales and thus very limited data on levels of victim participation. The evaluation undertaken by Miers et al (2001) reviewed seven RJ schemes, 5 of the schemes only worked on cases with young offenders whereas two of the schemes both adult and young offenders. Out of the two adult and young offenders schemes in Miers et al’s (2001) evaluation analysis it is only the data on adult RJ carried out by the West Midlands scheme that is provided here – due to data on the West Yorkshire young offenders and adult cases being combined – and the data provided is in relation to the number of RJ case referrals made by the Crown Court. Despite its limitations the research provides relevant data regarding victim participation in RJ interventions: only a very low number of cases in the West Midlands scheme resulted in a direct or indirect RJ process taking place (only 7.8% of victims participated). Miers et al’s (2001) report does not provide any reason or further information regarding the low level of cases. However, Dignan (2007) suggests that courts are often reluctant to defer sentencing due to the pressures of providing speedy and efficient justice.

This pressure within the court process is further demonstrated in the recent House of Commons Justice Committee (2016) review *Restorative Justice* and within the MoJ funded (with assistance from the Underwood Trust charity) RJ pathfinder pilot (Kirby and Jacobson, 2015)*.* The House of Commons Justice Committee review infers that there is conflict between the provision of RJ at the pre-sentence court stage and the requirements of the Courts and Tribunals Service ‘Better Case Management’ initiative[[26]](#footnote-26) – which practically rules out any opportunity for deferment of sentencing for a RJ activity to take place due to the emphasis on timeliness and dealing with the case at the time of first appearance (Justice committee, 2016). Kirby and Jacobson’s (2015) evaluation of the pre-sentence RJ pathfinder pilot was conducted from February 2014-May 2015. The pilot pathfinder was carried out across ten Crown Court centres across England and Wales and cases included all offence types except homicide, attempted murder, domestic abuse and sexual offences. The main findings were that the number of people that participated in a conference was lower than expected. The low number of participants could, in the main, be attributed to the low levels of contact made with identified victims, with the main issues surrounding data-sharing and the best time to contact victims.

Data-sharing was problematic due to the police holding contact information on victims, for the RJ provider obtaining these personal data was difficult, lengthy and complicated. Each pilot site had to negotiate and develop data sharing arrangements with the relevant police force. These bureaucratic barriers have consistently been flagged up throughout evaluative research in RJ and RJ practice and were issues exposed by both Miers et al (2001) and Shapland et al (2011) and more recently within the *Victims Strategy* (2018) (which recommended that effective multi-agency partnership working would ’ensure that information is shared more efficiently’ and enable ’collaboration between the right agencies’ (HM Government, 2018: 13)). The RJ court pathfinder pilot also noted that there were issues surrounding when to contact the victim, should contact be made before or after the offender had made their plea? The evaluation report states that there was a concern that the victim might face disappointment if they expressed an interest in the sentence being deferred for an RJ activity only then to find out that the offender was pleading not guilty. However research conducted by Van Camp and Wemmers (2016) argued that victims should be offered RJ right from the point of when they report the crime.

Putting the issues of contacting victims aside, a reasonable percentage of victims (37%) said, when contacted, that they were interested in RJ. Victims were contacted by telephone; many knew little or nothing about RJ, particularly pre-sentence. Based on the low level of victim participation secured in previous schemes, acquiring 37% victim interest was a reasonable achievement. The report does not discuss the reasons why 63% of victims were not interested in RJ when initially contacted. However there are a number of reasons cited for the RJ pathway pilot cases that resulted in being abandoned once initiated (39 in total). Victim withdrawal accounted for 20 out of 39 abandoned cases (where a reason was given), whilst a further 4 cases failed to proceed because of other factors relating to victims’ capacity or availability to engage. Causes of victim withdrawal were said to include fear about meeting the offender face-to-face; a belief that closure had already been achieved; work commitments making involvement in RJ difficult; and the effects of being told by the police that the offender would receive a lesser sentence following participation in RJ. Offenders’ lack of willingness or capacity to engage accounted for 8 of the adjourned cases which failed to proceed to RJ activities (Kirby and Jacobson, 2015: 22). These findings correspond with other research findings as to the reasons for victim non-participation.

There were a number of cases that were not adjourned despite there being an interested victim and a guilty plea. Out of 21 non-adjourned cases only 6 cases cited victim or offender (50/50) withdrawal. The main reasons cited for non-adjournment were that: the court declined to adjourn (7 cases); there were concerns regarding the victim or offender suitability or risk (4 cases); post-sentencing RJ was under consideration (2 cases); the defence objected (1 case) and the guilty plea was only partial (1 case). Without further data on why the courts declined to adjourn or what the concerns were regarding victim or offender suitability the following point can only be an assumption. Taking into consideration previous research it may be other factors such as the pressure on the CJS to provide fast and efficient justice and the role of the 'gatekeeper' - *e.g.* the defendants' and respondents' representatives - that affected these non-adjournment cases. ‘Gatekeepers’ (in this example defendant and respondents' representatives) make decisions on behalf of their client, be it the victim or the offender (Hill, 2002; Suzuki and Wood, 2017). The victim and the offender should be able to make an ‘informed choice’ whether to participate or not. However, interestingly, out of the 179 cases in which the defendant pleaded guilty, 82% of these were subjected to an adjournment. A high percentage, 63% in total, resulted in either a direct conference or an indirect RJ activity; the majority though, were a direct conference (55 cases/59%). These victim participation figures support the findings of Hoyle (2002) and Newburn et al’s (2001;2002) RJ evaluations that state when victims are given the opportunity to participate in a RJ intervention, many accept the offer.

The government funded pilot research undertaken by Shapland et al (2011) across three pilot schemes that ran from 2001-2003/4 also provides data on victim participation levels. The data provides an insight into the actual levels of victim participation in a restorative process involving adult offenders only. REMEDI secured victim participation in a restorative event in 13% of adult cases that were deemed suitable for RJ and in the JRC Northumbria scheme adult conditional caution cases 15% resulted in an RJ event that included the victim (directly or indirectly). Whilst Shapland et al’s (2011) research suggests that overall 77% of victims agreed to participate in cases involving an adult offender the actual number of cases in which a victim did participate was much lower at approx. 60%. There appears (from the data) to be a number of factors that contribute to the decrease in the numbers of victims agreeing initially to participate and then to actual participation and these include: offenders refusing to participate; victims refusing to participate (victims refusing to participate after initial agreement only accounts for 26%) and victims not being able to be contacted post-agreement.

Furthermore, research on the use of ARDs by POs carried out by Cutress (2015) found that POs were using ARDs with little or no victim input and decision making on behalf of the victim was a common occurrence. POs rarely referred a case to a RJ conference unless encouraged and reminded to do so by the referral agency and most RJ conducted by POs was in the form of level 1 street RJ (ibid). Whilst the use informal resolutions to deal with cases has increased significantly from 0.5% of all cases (adult and young offenders) in 2008 to 12% of all cases (adult and young offenders) in 2011 (Criminal Justice Joint Inspection, 2012: 16) there are no data that confirm what percentage of informal resolutions are restorative and to what extent there is any victim involvement. The thematic inspection of the use of RJ in the CJS conducted by HMIC/HMCPSI (2011) stated that only three out of the five police force areas in the inspection used RJ and community resolutions (informal out-of-court disposals) for adult offenders, thereby creating a ‘post-code lottery’.

Whilst the data on victim participation levels in adult RJ cases are limited it can be argued that they are similar to the overall low victim participation levels found across all the evaluations of RJ schemes (for both adult and young offenders) conducted in England and Wales. Victim participation rates range (across youth and adult RJ) between 7 – 28%. These figures of between 7-28% victim participation are the number of cases referred that resulted in either a face-to-face or indirect RJ activity (Miers et al, 2001; Hoyle et al, 2002; Newburn et al, 2001; 2002). Caution must be taken with these figures as these low figures appear to be recorded in different ways and from different starting points – Shapland et al’s (2011) high victim participation figures were taken from the point at which cases were deemed suitable and were not calculated at the point that an actual RJ activity takes place (though, perhaps because RJ was speedily administered once agreement was obtained, few participants dropped out after agreeing). More recently the CSEW (2015-2016) reported that only 4.2% of victims[[27]](#footnote-27) (where the offender was known to the police) could recall being offered the opportunity to participate in RJ (Office for National Statistics, 2016). This is a drop from 7.2% in 2015 and is the lowest proportion of victims offered RJ since 2010, despite specific RJ funding allocated to PCCs in 2013 (Victims’ Commissioner, 2016). The *Victims Strategy* (2018) also recognises that ‘only 4% of victims were aware that restorative justice had been offered (where an offender had been identified)’ (HM Government, 2018: 29).

Therefore over the past two decades, despite the plethora of research and the proliferation of legislation endorsing and formalising RJ, levels of victim participation in RJ continue to remain stubbornly low. Overall levels of victim participation (in which an actual RJ activity involving the victim either directly or indirectly took place) remain low; despite many victims (90%) who have participated in RJ, stating that they would recommend RJ to other victims (Restorative Justice Council, 2016) and high levels of public support for RJ programmes (Stalans, 2005). This is further supported by the findings of a public opinion poll conducted by the Restorative Justice Council in 2016, which found that 80% of the respondents thought that ‘victims of crime should have the right, if they want to, to meet their offender and tell them the impact of the crime’ (Restorative Justice Council, 2016: 1).

The research discussed above demonstrates that adult RJ is not being delivered in accordance to the RJ principles of ‘inclusivity’ and ‘stakeholder involvement’. In both policy and practice RJ remains an under-utilised and stand-alone marginal justice process in England and Wales.

## 3.11 Conclusion

In England and Wales, in regard to adult offending, RJ has a minimal statutory footing in the CJS. In comparison to RJ in the YJS adult RJ in the CJS in England and Wales appears to be the poor relation. Whilst there has been a proliferation of legislation endorsing the use of RJ in youth offending the same cannot be said to be true in the field of adult RJ. The introduction of adult RJ can be described as merely tokenistic in that it has been incorporated as one option amongst an array of reparation options that can be accessed as and when it is deemed of use or as and when the offender or victim requests RJ. There is no clear ‘presumption in favour’ towards RJ and unlike RJ in the YJS RJ is not the first process of justice that is used to deal with adult offenders. Adult RJ has over the past three decades continued to be practiced locally and sporadically and schemes are still subject to either a lack of funding or short-term funding (the issue of funding will be discussed further in Chapter 7 and Chapter 8). The only exception to this is where a specific allocation of £29million was made by the government to PCCs and charities to help deliver RJ for victims over three years in 2013 across the CJS (Ministry of Justice, 2013). However, as outlined above, since 2016 funding for RJ has not been ringfenced (earmarked).

Where RJ is being delivered in the CJS it is not being delivered in accordance with its main principles of inclusivity and stakeholder involvement with low levels of victim involvement being found for many reasons, including not obtaining victim contact details, not contacting victims, perceptions of not having time to adjourn for RJ and lack of provision of and sympathy with RJ post-sentence. McCold and Watchel’s (2003: 3) ‘RJ typology states that for a RJ process to be ‘fully’ restorative it must actively involve all three primary stakeholders – victims, offenders and ‘communities of care’. Victim-offender mediation (hereafter, VOM) includes the two primary stakeholders but excludes their communities of care and therefore is ‘mostly restorative’. When only one group of primary stakeholders are involved, RJ processes are only ‘partly restorative’. Therefore the majority of adult RJ being delivered in England and Wales is at best ‘partly restorative’.

There is considerable scope for the expansion of RJ in adult offending and serious offences. This chapter has referred to several research evaluations and Home Office reports that support the expansion of RJ across the CJS and in particular in serious cases at post-sentencing stage. Further state support in regard to legislation and funding is required if adult RJ is to move from the fringes of the CJS to become a key component of the CJS.

# Chapter 4: Methodology

## 4.1 Introduction

If RJ is to be delivered in accordance with the main principles of inclusivity and engagement and to become a key component of the CJS and YJ we must understand the enablers and barriers to victim participation. As outlined in Chapter 1, this study, unlike previous research, explores victim participation in RJ and victims’ experiences of RJ in England and Wales in the time frame in which it is a requirement for criminal justice organisations to provide all victims with information on RJ and how they can participate. Before discussing the methodological approach adopted in this study, it is beneficial at this point, given the detailed review of the literature and research provided in Chapter 2 and Chapter 3, to remind the reader of the main aims of the study. The study aims to: explore the processes used by agencies to encourage victim participation; determine if there is a correlation between the type of approach that is used by the agencies to the victims and the level of victim participation; and explore victims’ experiences of RJ.

This chapter begins by outlining the epistemological and ontological position of the researcher and how these perspectives determined the methodological approach adopted in the study. The chapter goes on to explain the selection of the two police force areas that participated in the study and provides an overview of the structures of the police force areas, including their RJ service delivery models. The data collection methods are then outlined and justified. The research was split into two phases, which are presented separately within this chapter. Phase 1 of the research consisted of participant observation of, and semi-structured interviews with, criminal justice professionals along with analysis of official documents used by professionals. Phase 2 of the research consisted of semi-structured interviews with victims. Finally, ethical issues and data analysis are discussed.

## 4.2 Epistemological and ontological perspectives

The researcher took a primarily qualitative strategy of enquiry through an interpretative framework that incorporated participant observations and semi-structured interviews (Cresswell, 2007). An interpretative framework and qualitative approach were employed as the researcher sought to both understand the culture, mechanisms and approaches adopted by the criminal justice professionals and how these affected the offer of RJ. The researcher also sought to determine how victims were offered the opportunity to participate in a RJ intervention and what led them to choose to either accept or decline the offer and following that decision what their experience of the RJ process was. Adopting an epistemological interpretivist position enabled the researcher to explore and understand the culture, mechanisms and approaches of criminal justice professionals and victim decision-making process and experiences (Flick, 2009). Culture is a ‘shaped set of meanings, values, interpretations and practices or habits … shared between members of a community … [which] gives rise to the ‘rules of the games’ embodied in institutions’ (Karstedt, 2012: 375). Therefore understanding the meaning of individuals behaviour and distinguishing what was unique within the practices of criminal justice organisations was necessary to address the research aims and questions in this study. The aims of the research (as set out in Chapter 1) were to gain an understanding of the issues and obstacles that affect victim participation, explore the processes used by agencies to encourage victim participation and explore victims’ experiences of RJ.

Interpretivism is one of two contrasting epistemological positions. Interpretivists seek to understand the phenomenon under study through the perspectives of the individuals who actually ‘live’ and experience that phenomenon (Bachman and Schutt, 2011). Interpretivism is a ‘verstehen’ (understanding) approach to social science research that in the words of Weber (1947 cited in Bogdan and Taylor, 1975: 13-14) attempts to gain an ‘interpretive understanding of social action’ in order to see things from that ‘person’s point of view’. In contrast, positivism adopts a scientific approach to social science research which suggests that the social world can be studied objectively and ‘measured’ in the same way as the natural sciences (Jupp, 2012). The epistemological position of positivism is grounded in the principle that knowledge is gained through quantifiable facts that provide the basis for laws (Bryman, 2012: 28).

## 4.3 Methodological approach

A comparative study was undertaken to explore and determine how the two police force areas with a total of four RJ hubs, three RJ SDPs, seven YOTs and several NPS teams approached the implementation, service and delivery of RJ. Research has evidenced that RJ provision in England and Wales is ‘patchy’ and victims are subject to a post-code lottery of RJ availability (Justice Committee, 2016; Victims’ Commissioner, 2016). Furthermore, research has also illustrated that there is a lack of consistency in the implementation of RJ nationally with RJ initiatives and schemes failing due to poor implementation and due to the ingrained cultures and attitudes found within police forces (Justice Committee, 2016; Hoyle and Rosenblatt, 2016). Therefore a comparative approach was adopted for this research to determine what the distinctive cultures, mechanisms and approaches were within each criminal justice organisation. Conducting comparative research can provide detailed knowledge on the similarities and differences between different institutions and organisations (Karstedt, 2012). One of the benefits of conducting comparative research is ‘simply to learn from the experiences of others’ and use these learnings to help shape good practice (Pakes, 2010: 4).

## 4.4 The two police force areas

The research was conducted within two of the forty-three police forces in England and Wales. Within these two police force areas there were a total of four PCC funded RJ hubs, four VWCUs (one within each of the four RJ hubs), three RJ SDPs, four teams of RJ volunteers (one volunteer team for each of the RJ hubs), seven YOTs and two NPS teams.

It was initially intended to include three police force areas within the study. However, after initial exploratory pre-research meetings with the three ‘gate-keepers’ from the three police force areas it became apparent that one of the police force areas did not have one single RJ hub, but rather three separate RJ hubs due to the geographical composition of the area. This internal variation complicated the research as it was initially intended to include only three RJ delivery service providers. However, during the initial pre-research meeting it also became apparent that one of the three police force areas was undergoing a number of internal structural and staff changes which would impede the field observations and interviews. Therefore it was decided that only two police force areas (including the police force area with three RJ hubs/ SDPs) would be included in the research study.

### 4.4.1 The structure of RJ provision within the police force areas

The two police force areas were very different in their geographical composition. Police force area 1's geographical area covered (at the time of writing) just under 2,000 square miles and had a diverse multi-cultural population of circa 1.65m. In contrast police force area 2’s geographical area spanned nearly 1,500 square miles but had a much smaller and less diverse population of just over 600,000. Whilst the VWCUs in police force area 1 were established in October 2014 and the VWCU in police force area 2 was established in February 2015 the direct delivery of RJ services force-wide, through the creation of PCC RJ hubs in both police force areas, did not commence until January 2015 in police force area 1 and not until January 2016 in police force area 2.

The service delivery model for RJ differed between the two police force areas. Police force area 1 had three PCC funded RJ hubs and three RJCOs. Each RJ hub and its RJCO were co-located within one of the three VWCUs, which in turn were based within one of the three police force centres within police force area 1. Each VWCU and RJ hub were responsible for the delivery of victim services within their specific geographical area. In police force area 1 each RJ hub had its own individual RJ service delivery provider (SDP) (see *Table 1* below). The three RJ SDPs had tendered for and won the service contract to deliver RJ provision for the PCC funded RJ service and had been delivering RJ provision since the establishment of the PCC RJ service in January 2015. Each of the three RJ SDPs had its own team of RJFs and was responsible for its own specific geographical area. Some of these RJFs had been trained in RJ by the RJCOs but some had already had training prior to the PCC RJ service commencing or were trained by the SDP managers (see *A* *brief history of RJ provision within the police force areas* in Chapter 7). Essentially each RJ hub in police force area 1 outsourced their RJ work and the RJCOs acted as the RJ single point of contact for external and internal departments and agencies within their area; scoping and managing RJ enquiries and case referrals; referring suitable cases onto their RJ SDP; raising RJ awareness; and providing sequentially.

Before outlining the structure of RJ provision in police force area 2 it is beneficial at this point to provide an illustration of the structure of RJ provision for victims of crime committed by adult offenders within police force area 1 (Table 1).

##### Table 1: The structure of RJ provision: victims of adult offenders (police force area 1)

Referring agencies RJ hubs (responsible for scoping and outsourced external managing RJ case enquiries and service delivery provider referrals, and sending referrals to external service delivery provider for geographical area)

Victim and Witness Care Unit

RJ service delivery provider 1 and volunteer facilitators

RJCO - RJ hub 1 (located within Victim and Witness Care Unit 1)

Probation

RJ service delivery provider 2 and volunteer facilitators

RJCO - RJ hub 2 (located within the Victim and Witness Care Unit 2)

Police

RJ service delivery provider 3 and volunteer facilitators

RJCO - RJ hub 3 (located within the Victim and Witness Care Unit 3)

Other victim services

Police force area 2 had just one force-wide RJ hub which was located at its force headquarters. The RJ hub had its own office which was located at the police headquarters and on the same corridor as the VWCU. At the time of the study the RJ service in police force area 2 was in its infancy. The RJ hub was established in January 2016 but at this point the focus was very much on setting up the service, devising and implementing processes and recruiting volunteer RJFs. The RJ hub had a team of three paid staff members (including one RJCO)[[28]](#footnote-28) and RJ provision was delivered by a team of volunteers who were directly trained, managed and supervised by the RJ hub staff (see *Table 2* below for an illustration of the structure of RJ provision within police force area 2). The first batch of volunteer RJFs were trained in June 2016 and did not start working on any cases until August 2016 due to having to wait for the vetting process to be completed.[[29]](#footnote-29)

RJ provision for victims of youth offenders was, within both police force areas, provided by the YOTs. However the YOTs were able to refer cases into the RJ hubs and did, at times, utilise the help of the RJCOs (in police force area 1 and 2) and the volunteer RJFs (in police force area 2) with particular cases. The RJCOs also provided, when requested, training to YOT staff members.

##### Table 2: The structure of RJ provision: victims of adult offenders (police force area 2)

Referring agencies RJ hub

(responsible for managing RJ enquiries, referrals and provision of RJ)

Victim and Witness Care unit

Police

Probation

RJ hub volunteer facilitators

RJCO - RJ hub 1 (located within Victim and Witness Care Unit 1)

Other victim services

## 4.5 Access

### 4.5.1 Police force area 1

Initial pre-research meetings with the main institutional gatekeepers within both the police force areas had already taken place prior to the research ethics application submission. These meetings had been held whilst the researcher was submitting her PhD research proposal. Permission to conduct the research was gained verbally from the institutional gatekeepers.

Access was secured for police force area 1 via the RJ development manager, whom the researcher had met at a local RJ conference. The RJ development manager was employed by the Office of the Police and Crime Commissioner (hereafter, OPCC) to implement the new RJ service for police force area 1 which was established in April 2015. Access was approved and provided verbally (via the RJ development manager) by the Head of Integrated Victim Care. The RJ development manager then arranged for the researcher to meet the three RJCOs and it was one of these who organised the necessary clearance checks. Pre-research meetings were then arranged and conducted with the RJCOs for each of the three RJ hubs located across police force area 1. It was these three RJCOs who then provided direct access to the VWCUs to conduct participant observations and interviews. Contact email details for the three RJ SDP managers, NPS staff and YOT staff were also provided by the RJ hub coordinators. The potential research participants were then either approached via email or telephone call to introduce the researcher, research and to request interviews. The RJCOs, in all four of the RJ hubs, acted as ‘locators’ in terms of suggesting and recommending suitable research participants and took up the role of ‘de facto research assistants’ (Biernacki and Waldorf, 1981) (see *Sampling* section). Interviews with RJFs were secured via an email request for research participants that was forwarded from the researcher by the RJ delivery service provider managers (see *Sampling* and *Interviews* below for further details).

### 4.5.2 Police force area 2

Access to police force area 2 was requested during a meeting to discuss the research project with the Chief Executive for the OPCC. The contact details for the Chief Executive had been provided by the PCC himself, who had kindly previously participated in an interview for the researcher’s MSc dissertation. Precursory emails, a meeting and subsequent emails resulted in access being approved. The Chief Executive at the OPCC for police force area 2 arranged for a meeting between the researcher and the OPCCs’ Policy and Community area lead manager. This manager subsequently arranged for the necessary vetting checks to be conducted and for the initial meeting with the RJ service manager, where the research plan was discussed, to take place.

Access to the VWCUs was, as with police force area 1, secured via the RJCO. The RJCO directly introduced the researcher to the VWCU manager whilst the initial descriptive observations were being conducted in the RJ hub.[[30]](#footnote-30) The VWCU manager arranged the date for the researcher to conduct the participant observation and interviews with the VWCOs. Contact details for NPS staff members were also provided by RJCO and initial contact was made by email. Contact was made with YOT staff member from one of the two YOTs in police force area 2 via the RJ hub coordinator. Interviews with two YOT staff members were secured by the researcher directly. The two YOT staff members attended a RJ conference that was held by police force area 2 and which the researcher attended as part of her observations. The research project was discussed at the conference and both YOT staff members verbally agreed to take part; they subsequently initiated contact for the researcher with their YOT RJ/victim worker. Interviews with RJFs were secured via one of the RJ hub team members. This member of staff forwarded an introductory email and request for research participants from the researcher to the RJFs, who then contacted replied direct to the research.

## 4.6 Phase 1: Criminal justice professionals

The criminal justice organisations that took part in the research were: RJ hub staff (RJCOs and team members); RJ SDP managers; VWCOs and VWCU team leaders; YOT staff members and NPS staff members. *Table 3* below provides a summary of the organisations, criminal justice professionals and the number of participant observations and semi-structured interviews conducted during phase 1 of the research.

Table 3. Summary of qualitative participant observations and semi-structured interviews with criminal justice professionals*[[31]](#footnote-31)*

|  |  |  |
| --- | --- | --- |
| Organisation/professionals | Hours of observations | No. of semi-structured interviews |
| RJCOs (RJ hub 1, 2 and 3 in police force area 1; RJCOs in RJ hub 4 in police force area 2) | RJCO1 = 7 hours 30 minutes  RJCO2= 7 hours 30 minutes  RJCO3= 7 hours 30 minutes  RJCO4 and team = 15 hours  Total = 37 hours 30 minutes | RJ hub 1 *n*=1  RJ hub 2 *n*=1  RJ hub 3 *n*=1  RJ hub 4 *n*=3  Total *n*=6 |
| RJ SDP managers (SDP1, SDP2 and SDP3 in police force area 1) | 0 | SDP1 *n*=1  SDP2 *n*=1  SDP3 *n*=1  Total *n*=3 |
| VWCOs and VWCU team leaders (VWCU1, VWCU2 and VWCU3 in police force area 1 and VWCU4 in police force area 2) | VWCU1 = 7 hours 30 minutes  VWCU2 = 7 hours 40 minutes  VWCU3 = 7 hours 30 minutes  VWCU4 = 6 hours 45 minutes  Total = 29 hours 25 minutes | VWCU1 *n*=8  VWCU2 *n*=11  VWCU3 *n*=15  VWCU4 *n*=9  Total n=43 |
| YOS staff members | 0 | *n*=13 |
| NPS staff members (police force area 1 and 2) | 0 | police force area 1 *n*=2  police force area 2 *n*=3  Total *n*=5 |
| RJFs (police force area 1 and 2)  (SDP1, SDP2, SDP3 and SDP4) | SDP4 = 26 hours 30 minutes  Total = 26 hours 30 minutes | SDP1 *n*= 4  SDP 2 *n*=4  SDP3 *n*= 4  SDP4 *n*= 7  total *n*= 19 |
| Total | 93 hours 25 minutes | 89 |

### 4.6.1 Sampling

Due to the lack of knowledge of the availability of RJ in different geographical areas the use of random sampling was not viable to select the police force areas that formed the sample. As discussed above, initially three police force areas were selected due to their geographical closeness to one another and due to the researcher having met the main stakeholders from two of the three police force areas prior to the research study commencing. Securing access to the three police force areas was made easier due to these connections. Thus, the three police force areas were selected purposively. Bryman (2012: 428) states that purposive sampling is the ‘fundamental principle for selecting cases and individuals in qualitative research’. Purposive sampling ensures that the research questions are placed at the ‘forefront of sampling techniques’ and that the sample is strategically selected to answer the research questions. As previously explained, only two police force areas participated in the study.

Whilst the sites (the RJ hubs, RJ SDPs, VWCUs, NPS and YOT staff) were purposively selected, they were the criminal justice statutory organisations that the VCOP (2015) stated should offer information on RJ to victims in those areas. The RJCOs from the four RJ hubs within police force area 1 and 2 were purposively selected and from these initial key stakeholders the purposive sampling method was utilised to obtain further research participants. All four RJCOs acted as ‘locators’, locating potential research respondents; their role as RJCOs was to manage all of the RJ enquiries and referrals. These referrals came from an array of referral points. The main bulk of enquiries came from POs, probation, the YOTs, the VWCUs and victims themselves. The RJCOs were the main gatekeepers and as ‘locators’ were able to easily develop ‘referral chains’ due to already being in close contact with potential participants (Biernacki and Waldorf, 1981). The RJCOs, as ‘locators’, acted as ‘de facto research assistants’ (ibid). However as Biernacki and Waldorf (1981: 153) state in their discussion on the use of snowball sampling in their research on opiate users, engaging research assistants is an ‘analytically distinct’ methodological problem for snowball sampling; the researcher needs to be able to trust that their ‘de facto research assistants’ ‘understand the goals of the research and present the project to others in an acceptable and serious manner’.

Whilst snowball sampling was not used in this study the RJCOs did act as both ‘locators’ and ‘de facto research assistants’ and it was imperative that they understood ‘the goals of the research’ to ensuring that the researcher was able to access relevant organisations and personnel. The RJCOs, in particular RJCO2 and RJCO4, proved to be invaluable to the research in regard to initiating access and contact with participants. The RJCOs, due to their occupation, had easy access to data, were aware of potential participants and were able to make the initial contact with possible interviewees or provide the researcher with contact details. When contacting possible respondents, the researcher was able to explain that she had been working with the RJCOs and they had given her their details. This appeared to give the research project extra credibility. Control was exercised by the researcher over the initial contact made by the RJCOs to potential research participants to ensure that the selection of respondents included individuals from the necessary criminal justice organisations and from within the different teams within these organisations (for example, the YOS consisted of 7 separate YOTs across both police force areas). Control over the ‘referral chains’ ensured that the sample was reflective of the ‘general characteristics of the population in question’, and that it contained individuals from the selected organisations and occupations that offered RJ to victims and victim themselves (ibid: 155).

The researcher did not exclusively rely on the RJCO ‘de facto researchers’ to locate potential research participants. A number of research participants were secured by the researcher making direct contact herself. As Biernacki and Waldorf (1981: 147) discuss: ‘occasionally contacts and referral chains can be initiated fortuitously’, this is ‘not entirely a process of chance but results from an increasing sensitivity and attentiveness to information related to the study’s focus that develops as the researcher becomes steeped in the research area’. Through the researcher attending potentially relevant RJ events and meetings to gain an in-depth insight into and understanding of RJ provision and delivery in both police force areas, opportune meetings with criminal justice professionals led to research ‘referral chains’. For example, contact was made with YOT staff in police force area 2 through an opportunistic meeting at a conference, which then led to them suggesting the possibility of their RJ/victim worker being willing to be interviewed. These contact details were provided and initial contact was made by the researcher. Regarding the interviews with NPS staff members, 3 of the 5 NPS staff research participants were secured by the researcher utilising the search engine ‘Google’ to find contact and email details for the probation staff. Introductory emails were sent, by the researcher, to the two NPS victim liaison officers and one NPS offender manager who worked for a probation service team within police force area 2.

### 4.6.2 Data collection

Participant observations, in tandem with semi-structured interviews, were used to determine if, when, and how criminal justice professionals offered RJ to victims. Conducting semi-structured interviews in tandem with participant observation provides data that can be compared to see if they corroborate one another (Mason, 2017). This ensured methodological triangulation. Methodological triangulation is the process of ‘applying different methodological approaches’; which can ‘maximise the validity of research’ by allowing the researcher to capture, through different methods, different aspects of the research issue (Jupp, 2012: 306). Applying triangulated methods to the same cases (the persons observed in the field are then also interviewed) enables the researcher to make a ‘case-related analysis of both types of data’ to determine professionals routines and their actual knowledge of their actions and routines (Jupp, 2012: 306). Adopting a ‘between-method triangulation’ (ibid) enabled the researcher to capture and explore criminal justice professionals ‘operational culture’ compared to their ‘oral culture’ (Waddington, 1999). Methodological triangulation added ‘more breadth’ and ‘more depth’ to the researcher’s understanding of criminal justice professionals’ routines of informing victims of RJ (through observations) and their knowledge of their modes of action and routines (via interviews) (Jupp, 2012: 306; Mason, 2017). Individuals do not always practice what they say they practice; so, determining the actual working routines of the RJCOs and VWCOs in the research and their attitudes towards, and knowledge of, RJ, were of importance. This was achieved through the application of both method approaches - participant observation and semi-structured interviews.

Furthermore, official documents used by several of the criminal justice organisations in relation to RJ processes and victim correspondence were collected.Collection of official documents included victim correspondence letters and leaflets used by the VWCOs, RJ hub staff, RJ SDPs and YOTs to inform victims of their criminal justice case or RJ case progress, provide victims with information on the RJ process and service, or to invite them to participate in a RJ intervention. In addition to the collection of ‘official’ documents an exploration of the NICHE and WMS computer systems[[32]](#footnote-32) (used by police staff including: POs, VWCOs and RJ hub staff) was undertaken. This provided the researcher with some background quantitative data that aided the researcher’s insight and understanding of the RJ processes being researched (Mason, 2017).

### 4.6.3 Participant observations

Participant observation of an institution’s working environment can enable an understanding of the working practices, processes and culture to be achieved that cannot be determined through interviews alone or analysis of written policies or procedures (Hodgson, 2000). The aim of the participant observations was to gain a detailed insight and understanding of the working practice of the RJCOs and VWCOs.

The VWCOs (n=43) were the main point of contact for victims throughout their journey through the CJS and constituted nearly half of the phase 1 criminal justice professional sample population (*n*=89). The participation observation of this sample population provided clarity on the mechanisms and processes adopted by the criminal justice professionals and victims’ journeys through the criminal justice process. Participant observation also enabled an insight as to whether processes differed between members of staff. The RJCOs in the police forces in this study were employed by the PCCs to deliver RJ and were responsible for the delivery and management of RJ provision. The RJCOs worked closely with the VWCUs and therefore gaining a detailed insight and understanding of the working practice of both the RJCOs and VWCOs was important to achieving the aims of the study.

Participant observation enables the researcher to gain a detailed understanding of the institutional environment that one is researching (Kupchik et al, 2012); and allows the researcher to immerse themselves within the field ‘to identify important and relevant issues’ without the ‘constraint of precoded … predetermined (and possibly ethnocentric) categories … and … learn from the jurisdiction more directly’ (Hodgson, 2000: 144). Conducting observational fieldwork within an institutional setting can ensure that researchers ‘analyse how situations are created’ without being ‘held captive’ by existing data or perspectives (Kupchik et al, 2012: 326) and for the researcher to assess how in practice, new policies or programmes shape actual criminal justice practice. Bortner and Williams (1997) used the method of observation in their research to assess how a new ‘treatment oriented’ programme was being implemented by criminal justice professionals within a youth correctional institute. Through observation Bortner and Williams (1997) were able to determine that the reality of the new programme implementation was very different to what was intended. Furthermore participant observation allows the researcher to observe the ‘mundane, obvious and natural grounds of routine action’ (Kupchik et al, 2012: 324); to observe what is actually happening rather than what criminal justice professionals say is happening (Ackroyd and Hughes, 1992). Professionals can find it difficult to verbalise what they do every day or what considerations they take into account when choosing what response to make in each case. Though an observer cannot ‘read the mind’ of the professional, he or she can note what words are used, what documents are called up and what interaction there is with other members of the team. All too often throughout the current research study criminal justice professionals professed to the researcher how RJ was incorporated into their working routine, however the observations illustrated a very different picture.

Observations included observing the RJ hubs at work (including contacting criminal justice professionals and victims; briefing VWCOs) observing the VWCOs, observing RJ strategic board meetings, observing VWCO training sessions (police force area 2), attending RJ training sessions for POs (both police force areas), attending and participating in RJF level 2 training session, attending and observing a RJ awareness raising workshop for Inspectors and Sergeants (police force area 1), and attending RJ annual conferences (police force area 2). Extensive participant observation took place over a 12 month period – see. *Table 3.* The individual participant observation sample population will be discussed further below. Firstly, it is important to provide an explanation of how the participant observation data are deployed in the thesis.

The main purpose of the participant observation was to provide the researcher with a detailed understanding of the institutional environments being researched, the mechanisms and approaches adopted by the criminal justice professionals and when, throughout the victims’ journey, throughout the criminal justice system victims were being offered RJ. The findings of the VWCOs, RJCOs and RJFs observational data are drawn upon in Chapters 5 and 7 to provide further support to the interview findings and to give a detailed first-hand insight into how, if and when VWCOs raised the topic of RJ with victims and the implications of the processes and mechanisms adopted. Furthermore the *Findings from the VWCO participant observations* section has been included in Chapter 5 to illustrate the importance of co-location (see Chapter 5’s section on *Co-location* for an in depth discussion).

#### 4.6.3.1 Participant observation – RJ coordinators

Initial ‘descriptive observation’ took place with the RJCOs within their workplace. There are three stages of participant observation; descriptive observation being the first stage (Spradley 1980: 34). The ‘descriptive’ stage enables the researcher to gain an insight and understanding of the ‘complexity of the field’ and to develop ‘lines of vision’ (Flick, 2009: 227). This descriptive stage of observation with the RJCOs preceded the ‘focused observations’ that were subsequently conducted with the VWCOs. Conducting initial ‘descriptive observation’ provided an understanding of the ‘processes, language and everyday activities of the setting’ (Coffey, 2012: 216) of the RJ hubs and the organisations that they worked with. The RJCO descriptive observations provided an insight into the working practices of all four VWCUs[[33]](#footnote-33) and meant that when the ‘focused’ and ‘selective’ observations of the VWCOs were undertaken the researcher was, in the main, already a familiar face to the VWCOs. This made it possible to build rapport and trust with the VWCOs. It was important to view each research subject as a ‘dialogical partner’, not an object (Koepping, 1987 cited in Flick, 2009: 229) and, for the researcher, not to be seen as an ‘outsider’ but as a ‘professional stranger’ committed to understanding ‘through the eyes of the other’ whilst also maintaining ‘distance’ to ensure that one does not go ‘native’ (ibid: 229).

The three RJCOs from police force area 1 were situated within the three VWCUs. Each RJ hub (which comprised of one RJCO) was situated within one of the three VWCUs. All three RJCOs worked in an open plan office which housed the VWCOs. The office was made up of hot-desks and therefore the RJCOs did not have a dedicated working space. Despite not having a formal allocated desk all three RJCOs did regularly sit at the same desk. As is further discussed in Chapter 5, in relation to co-location and reminding VWCOs about mentioning RJ, each of the three RJCOs’ desks was situated amongst the VWCOs. Therefore the RJCOs were physically part of the team and they were also perceived as, and acted as, part of the team. They attended the daily VWCOs briefings and regularly chatted to the VWCOs in both a work and personal context, including going to lunch with the VWCOs. The 3 RJCOs were not only well known to the VWCOs in their office but also to the other VWCOs in the other VWCUs as there were times that they visited one another (their fellow RJCOs) at one another’s main office. They also conducted RJ training together, worked collaboratively to promote awareness of RJ both internally and externally and occasionally worked on cases that were referred to their colleagues’ (RJCOs) geographical location. The RJCOs also covered one another’s workload when one was on annual leave.

In the case of the RJ hub in police force area 2 the RJCO and her team (of two staff) were located within their own office at the police headquarters. Whilst not located in the same office as the VWCOs their office was located within close proximity (on the same corridor) to the VWCU which meant that they were able to pop into the VWCU. They also shared the same staff kitchen as the VWCOs.

The initial ‘descriptive observations’ with the RJCOs (three of whom were co-located in the same office as the VWCOs – police force area 1) were conducted over five full days before interviews took place.[[34]](#footnote-34) During the ‘descriptive observations’ with the RJCOs the researcher made field notes of the processes and the interactions between the RJCOs and colleagues in their institutional environment. This contributed towards the analysis of how location affected the service (discussed in Chapter 5, *Co-location* section) and the interactions of VWCOs with victims (discussed in Chapter 7, section *Findings from the Victim and Witness Care officer participant observations*), as well as directing the topics to be covered in interviews.

#### 4.6.3.2 Participant observation – Victim and Witness Care officers

Participant observation of the four VWCUs in police force areas 1 and 2 were conducted after the RJCOs participant observation and semi-structured interviews were completed. The participant observations of the VWCOs preceded the VWCO interviews. The participant observation of the VWCOs was conducted to allow the researcher to understand what the role of the VWCOs entailed and to determine if, even with the researcher present, the VWCOs were providing victims with information on RJ and if so, which method was utilised to provide the information (was the offer of RJ given verbally or was it provided in the form of written material or both?). Furthermore, participant observation enabled the researcher to understand the culture and professional routine of the VWCUs prior to devising the interview schedule. In this study it was important to determine what was ‘actually happening’ in practice compared to what VWCOs said was happening regarding the offer of RJ. At the time of conducting the field research there was much contradiction and conflict between victim inclusion in RJ in policy and principle (all victims of crime should be provided with information on RJ from statutory criminal justice agencies) and the number of victims actually offered the opportunity to participate in a RJ process in practice (Justice Committee, 2016; Hoyle and Rosenblatt, 2016; Bright, 2017).

Participant observation was carried out for one full day in each of the four VWCUs (a total of 4 days of observation). Observations in VWU1, 2 and 3 in police force area 1 were conducted between the hours of 8am and 5pm – this allowed observation of VWCO’s from across two of the three VWCO shift teams. In police force area 2 (at the request of the VWCO supervisor) observations were conducted in VWCU4 between 9.30am and 5pm. In VWCU4 there were no shift patterns; all the VWCOs worked between the hours of 6.30am and 7pm Monday to Friday. A total of 30.5 hours observation was conducted across the 4 VWCUs and a total of 57 VWCO’s were observed (48 VWCO’s from police force area 1 - VWCU1 = 6, VWCU2 = 18, VWCU3 = 24 and 9 VWCO’s from police force area 2).

In their entirety there were 74 VWCO’s employed in police force area 1 (17 VWCO’s in VWCU1, 27 VWCO’s in VWCU2 and 30 VWCO’s in VWCU3) and 12 VWCO’s employed in police force area 2 (with a further two VWCO vacancies, therefore 14 VWCO at full capacity), a total of 86 VWCOs, at the time of observation. The environment was predominately female with a total of 48 female VWCOs and 9 males observed. VWCU1 and VWCU2 were located within one large open plan office. VWCU2 had a number of multi-agency partners co-located in their offices, including: IDVAs (Independent Domestic Violence Advisors), ISVAs (Independent Sexual Violence Advisors) and a Victim Support staff member. The only multi-agency representative co-located in VWCU1 was Victim Support. VWCU3 was in a large suite that consisted of 5 interconnecting offices. Upon entering the main large office there was an area with filing cabinets and an area where the refreshments were kept. In front of this open area there was a partition wall which separated the main office into two smaller offices, to the left and right. Leading off from each of the two offices were two smaller offices, with glass walls and doors. Despite VWCU3 being a ‘hot-desk’ office, many of the VWCOs had a regular desk within the large office suite. VWCU3 did not have any multi-agency representatives based in their office at the time of observation. One VWCO explained that the empty desk in the office was where the Victim Support member of staff had previously sat but they no longer had any Victim Support representation in the VWCU.

As discussed above, the initial descriptive participant observations conducted with the RJCOs resulted in gaining an understanding of the working practice of the VWCOs due to their co-location within the same office (police force area 1) and the same building (police force area 2). Many of the VWCOs were aware of the researcher’s role prior to conducting the participant observation that focussed solely on the VWCOs.

Prior to the VWCO participant observation commencing the RJCOs had already made the VWCOs aware informally that a researcher (whom many had already met, due to the co-location of the RJCOs and VWCOs, when prior participant observation of the RJCOs was conducted) would be spending the day with the VWCO team to understand their role.

On the morning of the participant observation of each of the VWCUs, all the VWCOs were given a briefing by the researcher. The briefing formed part of the VWCOs’ normal morning (or start of shift) briefing, which was delivered by the VWCU manager or team leader. Firstly, the VWCU manager or team leader introduced the researcher, and then the researcher provided all the VWCOs with a copy of the information sheet (Appendix A) and then provided a verbal briefing of the research project and its aims. The researcher explained that the overt participant observations were to be used to understand what the role of a VWCO entails and to observe how the offer of RJ is made to victims. The researcher requested to observe any telephone calls made to victims and for the VWCOs to flag to the researcher when they were making a call to a victim. It was also requested that the researcher sat with the appropriate VWCO when they provided victims with the court outcomes from the previous days court listing log. This briefing process was repeated later in the morning when the next shift commenced. The researcher observed the telephone work carried out by the VWCOs. This enabled the researcher to gain a deep understanding of the work of the VWCOs. Roulstone (2015) in her PhD research on the social world of witness care officers also used a combination of methodological approaches including overt observation. Overt observation enabled Roulstone (2015: 73) to ‘understand the occupational culture of the witness care officers ... [and] to present a holistic account of the social structure of the group … and its working life and values’. A similar function occurred for the observations undertaken in the current study. It enabled analysis of how the VWCOs worked, what their culture looked like to an outsider, how they interacted with victims and RJ personnel, and whether there were differences between VWCOs. Findings are presented in Chapter 5 (sections: *The Setting; The Role of the Victim and Witness Care officer; Workloads of Victim and Witness Care officers; Victim and Witness Care officers and RJ coordinators; The working relationship between Victim and Witness Care officer and RJ coordinators; and Findings from the Victim and Witness Care officer participant observations*).

In fact, the observations have been used throughout the analysis of the findings in all the geographical areas, contributing to Chapter 7’s sections on the structure of delivery of the offer of RJ (Chapter 7, sections: *The structure and delivery of RJ within police force area 1; The structure and delivery of RJ within police force area 1; Additional key differences in the provision of RJ between the two police force areas)*, as well Chapter 5’s section *Findings from the Victim and Witness Care officer participant observations*  on the interactions between VWCOs and others. It has shown the benefit of adopting a multi-method approach.

The interview process was also mentioned in the verbal briefing to the VWCOs in relation to dates and voluntary participation and it was explained that the observations would inform the forthcoming interviews. Lastly, the VWCOs were given the time to read the information sheet and ask any questions. VWCOs were given the opportunity for any concerns or issues regarding the observations and future interviews to be raised within the briefing and thereafter. VWCOs were able to relay any concerns or questions directly to the researcher, verbally or by email. Concerns or questions could also be raised via the VWCU line manager but no concerns or questions were raised. However, as discussed in the *Sampling* section, one of the limitations was that potentially VWCOs may not have wished to be observed but may have felt unable to refuse to be observed as they may have perceived the researcher to being linked to the organisations’ ‘gatekeeper’ (their team leader or manager) (Miller and Boulton, 2007). Therefore, the voluntariness of participation in the research project was reiterated at several different points (see below).

### 4.6.4 Interviews

The use of a semi-structured interview schedule to interview criminal justice professionals allowed the researcher to deviate from the schedule, and to omit certain questions which appeared irrelevant to the interviewee’s role or that the interviewee had already answered in a response to a previous question. Semi-structured interviews enable the researcher to ask additional questions where relevant and have flexibility in the order of the questions (Bryman, 2012).

A total of 89 interviews were conducted (see *Table* 3 above). All but one interview lasted between 75 minutes and 90 minutes.[[35]](#footnote-35) One interview lasted for over two hours due to the interviewee wanting to discuss a myriad of ‘issues’ that she had with the imminent changes to the SDP contract in police force area 1 (discussed in Chapter 7).

A standard interview schedule was devised following the initial ‘descriptive’ participant observations of the RJ hubs. The interview schedule was used for all the semi-structured interviews conducted with the RJCOs, probation staff, YOT staff and RJFs (*n*=89). However, due to the differing nature of the interviewees’ roles not all the questions were relevant to every interviewee.

The semi-structured interview schedule comprised a total of 51 questions across a number of topics: the interviewee’s role and their team; case referrals and management; victims; other organisations; organisational matters including funding, training and RJFs; and challenges (see Appendix C). A ‘condensed’ version of the semi-structured interview schedule was created for the VWCOs interviews (see Appendix D). This was due to the large number of VWCOs that were to be interviewed. Each VWCU’s VWCOs needed to be interviewed within a one-day time slot. It was decided that it would be too time consuming and resource draining to expect each VWCU to dedicate more than one full day to the interview process. There were also several topics in the initial criminal justice professionals interview schedule that after the ‘descriptive’ and ‘focused’ participant observations with the RJCOs and VWCOs, which resulted in an in-depth understanding of the processes used by the VWCOs, were found to be irrelevant to the VWCOs and were therefore omitted. The topics removed from the VWCOs interview schedule were the: VWCU team; case referral process; working relationships with other criminal justice agencies; RJFs, volunteers and funding; and offenders. The condensed interviewee schedule had a total of 13 questions.

The semi-structured interviews were analysed to draw ‘generalisable inferences’ (Bryman, 2012: 26) as to how criminal justice professionals offer victims the opportunity to participate in a RJ process. All the interviews were audio recorded, with the prior consent (see Appendix B) of the research participants. The interviews were transcribed verbatim and thematically coded and analysed (see *Data analysis*).

#### 4.6.4.1 Interviews – RJ coordinators

Semi-structured interviews were conducted with the four RJCOs and two RJ hub staff members. These interviews followed the ‘descriptive’ participant observations of the RJ hubs and were the first batch of interviews to be conducted; they also preceded the ‘focused’ participant observations that took place with the VWCOs. The interviews with RJCO1, RJCO2 and RJCO3 were carried out in a small separate meeting room in one of the three RJ hub offices. All 3 of the RJCOs from police force area 1 were interviewed in succession. The interview with the RJCO from police force area 2 was conducted at the RJCO’s home address as this was more convenient for the RJCO, who often worked from home. The remaining two interviews with the RJ hub staff from police force area 2 were conducted in a social lounge used by police staff at the police headquarters. The social lounge was quiet as the interviews were conducted in the morning and both were conducted in succession.

The observations and interviews with the RJCOs (and the RJ hub team in police force area 2) enabled the researcher to understand the organisation, culture, routine and processes of the RJ hubs and the VWCUs (the RJ hubs in police force area 1 were co-located in the same office and in police force area 2 the RJ hub was co-located in the same building) and to gain knowledge as to which agencies and organisations the RJ hubs worked with and the processes they used. The descriptive observations of the RJ hubs and the subsequent interviews with the RJ hub coordinators and RJ hub team members enabled the researcher to understand the organisation and culture of the RJ hubs and VWCOs and to identify the focus for the next set of observations and interviews with the VWCOs and the interviews with YOT staff, probation staff and the RJFs (Nelken, 2000). The interviews with the RJCOs and RJ hub team members, 6 in total, were all audio-recorded and each interview lasted approx. 75 – 90 minutes.

#### 4.6.4.2 Interviews – RJ service delivery provider managers

Semi-structured interviews were conducted with the service managers (*n*=3) of the three RJ SDPs who were responsible for the delivery of RJ services for police force area 1. Whilst the SDP managers are referred to by this title throughout the thesis, two of the service delivery managers’ actual official job titles were ‘coordinator’, however for ease and to ensure there is no confusion between the RJCO role and the ‘coordinators’ role within the SDP teams the term ‘service delivery provider manager’ (henceforth, SDPM) has been used to refer to the coordinator/manager role within the three RJ SDP teams. Furthermore, the three roles of the SDPM differed slightly in regard to the responsibilities of each SDPM and the organisations’ reporting structure. One of the RJ SDPMs was both the manager and case coordinator for the RJ service whilst another SDPM was a coordinator but had a line manager to whom they reported (this SDPM was responsible for the coordination and management of the RJ case referrals and the RJFs). The third SDPM was responsible for the management of the service but not the day to day management of case referrals and RJFs – but did have oversight of the cases and RJFs. This third SDP had a dedicated case and RJF coordinator. The researcher, via the RJ SDPM did attempt to secure an interview with the coordinator for referrals and RJFs. Whilst initial and subsequent email contact was secured by the researcher with the coordinator, who had responded to the researcher’s request made via the SDPM, an interview was not secured. The coordinator had, due to the changes in the service delivery model, been recently made redundant and despite several email requests with suggested dates for the interview the coordinator failed to respond, and the interview never came to fruition. Two of the interviews conducted with SDPMs took place in their workplace office, the third meeting took place in a café (as requested by the interviewee).

#### 4.6.4.3 Interviews – Victim and Witness Care officers

The semi-structured interviews with the VWCOs took place within two weeks of conducting the participant observations. Out of a total of 85 employed VWCO’s at the time of interviews (one VWCO had left post between the observation and interview dates) a total of 43 VWCOs (39 VWCO’s and 4 VWCO team leaders) across the four VWCUs were interviewed. A total of 34 females and 9 males agreed to be interviewed.

Due to the VWCOs’ shift patterns it was not possible to observe or interview all the employed VWCOs. All VWCOs present on the scheduled interview days (49 in total) were asked if they would be willing to participate in the interview process. The interviews took place in a separate meeting room located in one of the four police centres. The researcher attended the initial daily VWCU team briefing and provided VWCOs with a copy of the information sheet which had been previously given to them at the team briefing given by the researcher when conducting the participant observation (see Appendix A*)*. The information sheet was read aloud to the VWCOs and it was explained to the VWCOs that VWCOs were sought to be interviewed for the research project. The VWCOs were informed that it was a voluntary process, that participation was an individual choice and that after the team briefing the researcher would speak with each VWCO individually to determine if they would be willing to be interview. After the team meeting each VWCO was asked if they would be willing to be interviewed on that day and if they responded yes, they then chose a convenient interview time slot. Out of the 49 VWCO’s asked to participate in the interviews only 6 declined (5 female and 1 male). Half of the VWCOs who declined to be interviewed (*n*=3) stated workload as the main reason for not wishing to participate. The remaining three VWCO’s did not provide a reason for declining to participate.

The semi-structured interview consisted of a total of thirteen questions (see Appendix D). Each interview took between 15 to 30 minutes to conduct. All bar one of the forty-three interviews were audio-recorded and transcribed for analysis. One interview with a VWCU manager was not audio-recorded and the interview schedule was not used. This was due to the interview being impromptu. The interview took place on one of the observation days during a ‘quick chat’ with the VWCU manager which subsequently turned into a 45 minute ‘purposeful conversation’ interview (Burgess, 1984). Extensive notes were taken during the interview, which were then written up within a few hours of the interview taking place.

#### 4.6.4.4 Interviews –National Probation Service staff

A total of 5 NPS staff were interviewed to determine how RJ was used within the probation service and how victims were offered RJ. Interviews were conducted with probation service officers (*n*=2), probation victim liaison officers (*n*=2) and a probation offender manager (*n*=1) from across two NPS teams.

The two probation service officers interviewed worked for one NPS team within police force area 1 and as discussed in the *Sampling* section the interviewees were secured through the method of purposive sampling via one of the RJCOs. The role of the probation service officers was predominately court -based and they worked with offenders at the pre- sentencing and sentencing stage. The researcher attempted to secure further interviews with probation staff within police force area 1. It was hoped that interviews with probation victim liaison officers and offender managers could be secured as this would provide data on how they used RJ, thus providing an insight in the use of RJ across the NPS. This however proved to be unsuccessful. The interviews with the two NPS staff members from police force area 1 had taken place after the RJCOs (who had acted as ‘locators’) had been made redundant and therefore the researcher had to rely upon new contacts to provide ‘referral chains’. One of the probation service officers interviewees was happy to assist in securing more NPS research respondents; and an email explaining the research and requesting for respondents to make contact with the researcher was composed by the researcher and sent out by the probation service officer to her managers with the request that it was forwarded on to the relevant individuals. However, no response was ever received from any other NPS staff. Replying to a follow-up email from the researcher the probation service officer emailed stating that she had passed the email request to her managers and ‘sorry, I have tried’. As Biernacki and Waldorf (1981) experienced in their research, despite all efforts some referral routes are not successful and prove to be dead ends. One limitation of being reliant on ‘locators’ to secure research respondents is that, as discussed in further detail in the *Sampling* section, potential respondents may perceive the research to be linked to the professional or organisation presenting the request. Another barrier to securing research participants through ’locators’ is that potential respondents may doubt that they would be ‘useful participants’ and feel that they have ‘nothing interesting to say’ and not respond to the research participant request (Miller and Boulton, 2007: 2207).

The two probation victim liaison officers and one probation offender manager interviewed were employed in one NPS team within police force area 2. The three NPS staff members were secured through purposive sampling (see *Sampling* section), and contact was made direct by the researcher.

#### 4.6.4.5 Interviews – Youth Offending Teams

The delivery of RJ for victims of young offenders was managed by the YOTs themselves in police force areas 1 and 2. Whilst they could, if they wished, refer cases to the RJ hubs the YOTs, in the main, managed and delivered RJ within their teams. Therefore, it was important to interview YOT staff to determine how RJ was delivered within the YOS to ensure that the research did not only explore what affects victim participation in RJ for victims of adult offenders only but also included victims of young offenders.

Across both police force area 1 and police force area 2 there was a total of 7 YOTs. Police force area 1 had 5 YOTs and police force area 2 had 2 YOTs. A total of 13 YOT staff members were interviewed. Interviews were held with YOT RJ leads, YOT victim workers, YOT RJCOs, YOT service managers, YOT police intervention officers, YOT RJ workers and YOT case workers, as well as YOT team leaders. All the interviewees, despite the array of positions and job titles, had responsibility for the delivery of RJ and victim services in their YOT. The majority of the interviews (*n*=10) were conducted in the interviewees’ YOT office (in a separate meeting office). The remaining three interviews were held in either a local council office meeting room (*n*=2) or a public house (*n*=1) (at the request of the interviewee).

#### 4.6.4.6 Interviews – RJ facilitators

A total of 19 RJFs were interviewed from police force area 1 and 2. The number of RJFs interviewed from police force area 2 was 7, whilst 4 RJFs were interviewed from each of the three SDPs in police force area 1 (a total of 12 RJFs). All the interviews were conducted face-to-face and took place in a range of locations. The RJFs decided, in agreement with the researcher, the interview location, and these ranged from cafes to work offices to home addresses.

The RJFs in SDP1 were approached via email. The case worker manager forwarded an email request for research participants from the researcher; and included a very supportive and encouraging message stating that the research ‘is very relevant to the good work’ that the RJFs were doing and ‘if you could give her the time to meet with you it would really help her research’. This referral chain resulted in five RJFs participating in the research and being interviewed. One of the five RJFs was a RJF from SDP2 but helped out in SDP1 in a different capacity. Therefore at total of 4 RJFs were interviewed from SDP1.

The RJFs in SDP2 were also contacted in the same manner as SDP1 and this resulted in securing interviews with three RJFs (four RJFs were interviewed in total; one though was secured through SDP1).

The RJFs in SDP3 were, again, also contacted in the same manner, however interviews with this cohort of RJFs proved more difficult to secure. The RJ SDPM had to be prompted to send out additional email requests to the RJFs asking them to come forward and take part in the research study. The changes to the service delivery model had, by the time the interview with the RJ SDP manager took place, been announced. Therefore when the email requesting RJFs to participate in the research was sent out, many of the volunteer RJFs, according to the manager, were ‘not being particularly cooperative, many of them [were] very bitter about the loss of … funding’. Due to a lack of response the SDPM sent out a further two interview request emails. Despite the initial delay 4 RJFs did make direct contact and were interviewed. The issues of securing research participants through the use of ‘gatekeepers’ has been highlighted by Miller and Boulton (2007); they found in their previous research that whilst the introduction of measures (such as the Data Protection Act 1988 in force at the time) have been introduced to protect individuals from ‘the potentially intrusive and controlling consequences of the accumulation of data’, such measures have created a ‘barrier between the researcher and potential participants’ (Miller and Boulton, 2007: 2207). Researchers are now reliant on the cooperation of ‘gatekeepers’ to potential research participants and this can result in the researcher being linked to the ‘gatekeeper’. For example, a potential participant in Miller and Boulton’s research emailed stating that she was not willing to participate in the research as the service provider (the gatekeeper) had, in her opinion, let her down and ‘failed her child’ and taking part in the research would have been helping the service provider. This linking between the researcher and the gatekeeper was apparent in the attempt to secure RJF participation amongst the SDP3 cohort; during the interviews many discussed their disappointment and frustration with how they had been treated and how the change in service providers had been handled.

## 4.7 Phase 2: Victims

Whilst there is an abundance of research on the benefits of RJ for victims and levels of victim satisfaction there is a dearth of research into how the offer of RJ is made to victims and what factors influence whether a victim elects to participate in RJ. The semi-structured interviews conducted with victims sought to determine how victims were offered the opportunity to participate in a RJ intervention and what led them to choose to either accept or decline the offer and following that decision what their experience of the RJ process was. Access was sought to victims who had been offered the opportunity to participate in RJ, regardless of whether they declined or accepted the offer and regardless of whether an outcome (be it direct or indirect RJ) was achieved. The author conducted semi-structured telephone interviews with a total of 24 victims. The telephone interviews with the victims lasted between 25 minutes and 60 minutes.

### 4.7.1 Sampling

The RJCOs approached victims on behalf of the researcher to ask them if they would be willing to participate in the research. There was no criterion that victims had to meet to be suitable to participate in the research (see below for further details).

Initially, after a discussion between the researcher and the three RJCOs from police force area 1, the RJCOs felt that due to ethical and data protection concerns they had with passing victims’ contact details to the researcher without prior consent from the victims themselves they would contact victims direct to ask if they would participate in the research project. Data protection regulations have resulted in researchers having to rely on the goodwill and support of ‘gatekeepers’ to contact and potential research respondents. As discussed above, this can prove a barrier to securing both a sufficient sample and a representative sample.

It was agreed that the RJCOs would, when speaking to any victims over the forthcoming weeks, ask them if they would be willing for their details to be passed to a researcher conducting an independent piece of research into victims’ experiences of RJ. A script was devised by the researcher for the RJCOs to use when approaching victims to enable them to approach victims and discuss the research project in a consistent manner. The script provided to the RJCOs was:

"A quick final question. A researcher from the University of Sheffield is conducting a piece of independent research into victims' experiences of restorative justice. She is keen to talk to both victims who have declined the offer of restorative justice and those who have accepted. Would you be willing for us to give your name and contact details to her? She would like to call you to discuss you participating in either a telephone interview or a face-to-face interview”.

Only one of the RJCOs (RJCO2) from the three RJ hubs in police force area 1 invited and secured any victims to participate in the research. Neither of the other two RJCOs invited or secured any victims for the research study. This was due to the RJ SDP changes that occurred within police force area 1 during the field research period which resulted in the three RJ hubs ceasing to exist. Police force area 1s’ PCC commissioned a well-established external RJ SDP to replace the three RJ hubs and their RJ SDPs. This resulted in police force area 1 having one central RJ service provider. The new RJ service provider for police force area 1 was an external mediation and RJ company who had previously provided the RJ service for one of the three RJ hubs. This change in the delivery of RJ services resulted in the three RJCOs being made redundant. During their redundancy periods the RJCOs were faced with uncertainty regarding their future and with the task of applying for other internal and external positions. This led to the three RJCOs in police force area 1 facing additional workload pressure and having little time or energy to assist with the RJ research in relation to making contact with victims to enquire if they would be willing to participate in the research project and for their contact details to be passed on to the researcher.

As stated above, only one RJCO secured any victims for the research during this period. RJCO2 secured an initial 4 victims through a non-purposive random selection process (when she spoke to victims and actually remembered to ask them). As she stated herself, she found it difficult to remember to ask the victims. Therefore in light of the additional workload and pressure that the RJCOs were unexpectedly faced with due to the fast-looming closure of the RJ hubs (and their impending redundancy), securing victim research respondents became a non-priority for the RJCOs. It was decided that the researcher would spend one afternoon with RJCO2 to secure the necessary victim quota.

When the researcher sat with the RJCO to secure additional victim participants, victims were called in chronological order (most recent cases through to older cases) and only victims whose cases were still open were not selected for inclusion in the study.

Dedicating this specific time to sit with RJCO2 whilst she called victims and asked them if they would be willing to participate in the research proved more successful and secured another 6 victims who agreed to participate in the research and for their contact details to be passed to the researcher. After another week RJCO2 contacted the researcher by email with details of 3 further victims who had also agreed to participate in the research, taking the total number of victims who had agreed to participate in the research to 13 victims. Out of the 13 victims a total of 10 victims from police force area 1 were interviewed for the research (see belowfor further detail).

After the difficulties experienced with securing victim respondents in police force area 1 it was decided that, when it came to securing victim research respondents from police force area 2, the researcher would, again, sit with the RJCO to secure respondents. It was discussed and agreed with the RJCO in police force area 2 that the researcher would spend an afternoon in the RJ hub with her (the RJCO) to gather willing research participants. Participants were selected from the ‘completed cases’ file and a total of 19 victims were selected by the RJCO. The victims were selected in chronological order and victims were not excluded based on any social demographic variables nor excluded based on offence type. The RJCO called the victims whilst the researcher was sat beside her and explained to the victims the reason for the call and asked if they would be willing to participate. As with the RJCOs in police force area 1, a script to read out to the victims was given to RJCO4 (see above). No victims declined the offer and no further victims were called within the time allocated. One victim did not answer the phone and the RJCO left a message and it was agreed that the RJCO would provide the researcher with the victim’s contact details once she received confirmation that the victim was willing to be contacted. However, this never came to fruition, despite prompting the RJCO. Therefore, the researcher received a total of 18 victims’ contact details from the RJCO in police force area 2. A total of 14 interviews were conducted with these victims. The telephone interview process for this cohort of victims followed the telephone interview process that was used for the 13 victims within police force area 1 (see below).

### 4.7.2 Interviews

Initial telephone contact was made by the researcher with a total of 30 victims out of a total of 31 victims who had agreed with the RJCOs that the researcher could contact them. The remaining 1 victim was left a brief voicemail message by the researcher but did not return the telephone call and did not answer a subsequent telephone call. During the initial telephone conversation with the 30 victims the researcher introduced herself, provided an overview of the research and its aims and asked if they would be willing to be interviewed. Only 1 victim declined to be interviewed during the initial introductory telephone call. This male victim cited busy workload as the reason that he could not participate in the research and that the case was sentenced and over and done with and he therefore did not see the purpose of going over it again and antagonising the situation.

All 29 victims whom the researcher made initial contact with and who then agreed to be interviewed were emailed a copy of the research information sheet (see Appendix E) outlining the research project and its aims and a consent form (see Appendix B) for their perusal and a suitable interview time was arranged. Despite agreeing a suitable interview time 5 victims subsequently did not answer their telephones when the researcher attempted to call them at the agreed time. One further follow-up call was made to the 5 victims, followed by a text. Unfortunately the researcher did not receive any further communication from the 5 victims and it was decided by the researcher not to attempt to contact them further due to concerns about persuading victims to participate in a process that they did not wish to participate in.

A total of 24 victims were interviewed. The victim participant sample consisted of a nearly 50-50% split between females (*n*=13) and males (*n*=11). The participants’ age groups ranged from 18-25 years to 64-75 years (18-25 *n*=2, 26-34 *n*=3, 35-44 *n*=6, 45-54 *n*=5, 55-64 *n*=6 and 64-75 *n*=2). The mode age range of victim participants was 35-44 and 55-64 years.

##### Table 4: Victim participant age groups

|  |  |
| --- | --- |
| Age group | Number of victim participants |
| 18-25 years | 2 |
| 26-34 years | 3 |
| 35-44 years | 6 |
| 45-54 years | 5 |
| 55-64 years | 6 |
| 64-75 years | 2 |

Telephone interviews, whilst relatively uncommon in qualitative research (Sturges and Hanrahan, 2004), were the mode used by the researcher to interview the victims in this study. Conducting interviews can be time-consuming and costly (ibid). Due to logistical and time constraints it would have proved difficult to conduct individual face to face interviews with the victims. Geographically both police force areas were vast. Furthermore, a number of the victims had moved out of the area and therefore it would have been time-consuming and costly to travel long distances to carry out the interviews. Sensitive topics, accessing hard-to-reach respondent groups, interview safety and cost are all factors that researchers must consider when deciding which interview mode would be most suitable.[[36]](#footnote-36) However, despite the issues of time and cost all the victims were given the choice, within the initial contact email sent by the researcher, as to whether they wished to either be interviewed face-to-face or via telephone – they all opted for telephone interviews.

Telephone interviewing is an acceptable and valuable method of qualitative data collection (Fenig et al, 1993; Sturges and Hanrahan, 2004), as it can provide interviewees with a sense of autonomy and privacy that enables them to openly discuss sensitive subjects (Fenig et al; 1993). Whilst the interview schedule (see Appendix F) did not include any questions relating to the offence or the impact that the crime had upon the interviewee it was anticipated that victims may potentially disclose sensitive information; and they did. All the victims, excluding one, divulged the offence and many discussed the impact the offence had on them. All the victims seemed very open and honest during the telephone interviews and the interviews felt like a relaxed but purposive conversation. Fenig et al (1993) and Sturges and Hanrahan (2004) found that telephone interviews provided both ‘partial anonymity’ and lower levels of anxiety compared to face-to-face interviews. Whilst it can be argued that telephone interviews may be inferior to face-to-face interviews due to the interviewer not being able to observe body-language and that it is ‘much easier for the interviewee to terminate a telephone call than one conducted in person’ (Bryman, 2012: 488), Sturges and Hanrahan (2004) argued that this is not the case. Sturges and Hanrahan (2004) conducted prison research and due to complications in conducting the research they used both modes (face-to-face interviews and telephone interviews). This allowed a comparison of the data obtained from the two methods. Sturges and Hanrahan (2004: 113) state that they found no differences; in fact there were many ‘similarities in the quantity, nature and depth of responses’. When conducting her RJ research into what motivates victims to agree to communicate with their offender Van Camp (2017) successfully utilised telephone interviews to interview a large percentage of her respondents, who were all victims. She used telephone interviews as face-to-face interviews were not feasible owing to time and distance constraints. Van Camp (2017: 683) stated that telephone interviews ‘have a different dynamic but do not necessarily produce inferior findings’.

All the victim interviews, with the verbal consent from the victims themselves, were audio-recorded and subsequently transcribed and analysed (see *Data analysis* section below).

## 4.8 Ethical issues

Prior to any data collection commencing an ethics application was submitted and approved by the Research Ethics Committee at the University of Sheffield. Separate ethics applications were submitted for phase one and phase two of the research. Phase one of the research incorporated participant observation and interviews with criminal justice personnel (including VWCU staff, NPS and YOT personnel) and RJ service provider staff (including RJCOs, SDPMs and RJFs) within two police force areas. Phase 1 also included content analysis of official documents. Phase two consisted of conducting telephone interviews with victims who had been contacted by the RJ service provider, offered the opportunity to participate in RJ and who had elected to either accept or decline the offer of RJ.

### 4.8.1 Confidentiality and anonymity

Both the police force areas approached agreed to participate in the research and for the researcher to name the police force areas. However, to ensure anonymity of research participants, as stated in the information sheet (see Appendix A) and consent forms (see Appendix B), a decision was taken to anonymise them. The researcher confirmed in writing (in the information sheet and consent form) with all participants that individual names and agency names would be anonymised to ensure that individual participants cannot be identified within their agency or police force area. It was also stated that individual agencies would be given codes in the thesis, so that it is possible for the reader to be sure that more than a few participants are quoted (e.g. YOT 1, police force area 1).

A separate information sheet for the victim research respondents was devised by the researcher (see Appendix E). The information sheet differed slightly from the information sheet for the professionals who participated in the first stage of the research (see Appendix A). The information sheet for victims (Appendix E) stated that they would be ‘asked to either sign a consent form or give [their] verbal consent (which will be audio-recorded) if [they choose to] participate in the interview process’.

The information sheets and the consent forms for phase 1 and phase 2 stipulated that individual names would not be linked with the research materials and that semi-structured interviews would be ‘audio-recorded to allow post-interview transcription and analysis’ (see Appendix A, B and E).

As stipulated in the ethics application and within the information sheets and consent forms all audio-recordings and notes of interviews and observations were kept in a locked file and computer files of audio-recordings were password protected.

## 4.9 Data analysis

One of the challenges when analysing qualitative data is that the researcher may ‘misrepresent’ the research participants’ perspectives (Mason, 2017: 76). In an attempt to ensure that the data collected was not misrepresented the researcher transcribed all the interviews verbatim herself and did not employ a transcriber to assist with the transcription process. The researcher used the transcription software package ‘Express Scribe Pro’[[37]](#footnote-37) to transcribe the semi-structured interviews – this speeded up the process, though transcribing a total of 113 semi-structured interviews (approx. 85-90 hours of interviews) was an extremely laborious task. As a researcher, in attempting to immerse oneself in the data and not misinterpret interview responses, personally listening to and transcribing the interviews enabled the researcher to ‘read beyond the data’ (ibid: 76). The data were read ‘literally, interpretatively and reflexively’ and attention was paid not just to the ‘utterances and recorded interactions’ throughout the transcription process but also to the ‘observations, interpretations and experiences’ of the interview process from the perspective of the researcher herself (ibid: 76). Furthermore, the researcher typed up and analysed the extensive participant observation notes and field notes.

All the semi-structured interviews, participant observation notes and field notes were analysed inductively. The qualitative data software analysis tool NVivo was used to analyse and thematically code the transcribed interviews and observations. The first stage of qualitative analysis involved familiarisation of the data, immersing oneself in the data as even though all the data was collected and transcribed by the researcher herself it is inevitable that ‘recollections’ can be ‘selective and partial’ (Ritchie and Spencer, 2002). A thematic framework was constructed during the familiarisation stage using both an inductive and deductive content analysis approach which drew upon deductive theoretical a priori issues (which informed the original research aims and questions and interview schedule) and inductive emergent and analytical themes (raised by the respondents and arising from patterning of views and experiences) (ibid: 313) to map the nature of the phenomena, find associations and provide explanations (ibid: 321) as to how criminal justice professionals make the offer of RJ and victims experience of the offer and what affects victim participation. Whilst ‘the process of making judgements as to the meaning and significance of qualitative data is subjective’ (ibid: 314) the researcher was aware of the need to be reflexive and to systematically analyse and construct thematic codes from the interview and observational data without projecting any preconceived ideas upon the data analysis process.

Analysis of case files and official documents enabled the researcher to ‘develop insights into the processes and factors that lie behind divergence’ between organisations and to explore the biases that may be evident within the documents (Bryman, 2012: 550, 551). Analysis of the victim correspondence documents used by the criminal justice professionals and organisations enabled the researcher to gain an understanding of the differences in how victims were provided with information on RJ and the quality and breadth of information on RJ that victims received depending on the geographical area, whether they were a victim of a certain offence type and whether their perpetrator was an adult or young offender. Furthermore, analysis of official documents combined with the observations and interviews conducted enhances triangulation and the quality and reliability of the study’s findings (Bachmann and Schutt, 2011).

A number of themes emerged from the observation, interview, official document and field notes analysis conducted with criminal justice professionals in phase 1 of the study and interviews with victims in phase 2. These themes, developed through the process of the thematic analysis, which will be discussed in more detail in Chapter 5, Chapter 6 and Chapter 7, were: prompts and nudges; the forgotten offer; rejection/despondency; triggers and indicators; “the sell”; lack of public awareness; training and knowledge; the timing of the offer; method of invite; multiple offers; fear of pressurising/offending the victim; confidence; case selection; and embedding/making it routine.

# Chapter 5: Victim and Witness Care officers and restorative justice

## 5.1 Introduction

This chapter presents the findings of the observations and semi-structured interviews conducted with a number of VWCOs (*n*=43) employed within the four VWCUs (situated within the two police force areas) that participated in this study. The findings from the interviews conducted with the VWCOs are discussed separately due to the intrinsic role the VWCOs have with victims. The VWCOs are the single point of contact for victims throughout their journey through the criminal justice process, once the offender is identified. The findings from the semi-structured interviews with victims and the participant observations of, and interviews with, criminal justice professionals will be presented in Chapters 6 and 7.

Firstly this chapter will provide an overview of: the establishment of the VWCUs; the VWCU setting; the role of the VWCOs and the incorporation of RJ) within the VWCO role. The findings of the participant observations and interviews conducted with the VWCOs will be presented to argue that the main factors that appear to prevent VWCOs from offering RJ to victims were a lack of confidence, a lack of formal process and a lack of public awareness. The culture of the VWCU combined with the mechanisms and the approaches adopted by the VWCOs influenced whether victims were offered RJ.

## 5.2 Victim and Witness Care Units

The VWCUs in the two police forces (police force area 1 and police force area 2) that comprise this research were a relatively new service when the field research was conducted in 2016/2017. The VWCUs in police force area 1 were established in October 2014 and the VWCU in police force area 2 was established in February 2015. Police force area 1 is a large county that spans nearly 2,000 square miles. Due to its vastness and large population it had three VWCUs located across the county. Police force area 2 was a smaller force whose population was just over 600,000. At the time of writing police force area 2 had one single police force-wide VWCU. All four VWCUs were funded by the OPCCs and were set up in response to the EU Directive on the Rights, Support and Protection of Victims of Crime (2012); the transfer of responsibility for commissioning local victims’ services from the Ministry of Justice to the PCCs (October 2014) and the revised VCOP (2013).

The three VWCUs in police force area 1 will be referred to as VWCU1, VWCU2 and VWCU3. The single force-wide VWCU in police force area 2 will be referred to as VWCU4.

All four VWCUs superseded the Witness Care Units (hereafter, WCUs) that had previously ‘managed’ victims and witnesses across police force areas 1 and 2. WCUs were initially piloted as part of the 2003 *No Witness No Justice* Home Office initiative which aimed to improve the care of victims and witnesses through the criminal justice process from the point of charge through to case conclusion. WCUs were rolled out nationally in late 2005 and the minimum requirements for WCUs (2004) were underpinned by the VCOP (2005) which set out the statutory requirements of the WCUs (Roulstone, 2015). Unlike their precursor (the WCUs), who were only statutorily obliged to contact victims and witnesses to offer support and information from the point of charge to the end of the court case (CPS, 2017), VWCUs provide a service to victims for whom the offenders who have allegedly committed the offences against them have not yet been charged – these cases were referred to by the VWCOs as ‘pre-charge’.

However only ‘pre-charge’ victims deemed to be either: persistently targeted; vulnerable; intimidated or victims of serious crime were entitled to this pre-charge service (these categories replicate the VCOP 2013 categories of victims who are entitled to enhanced entitlements). If a member of the public falls within this remit and becomes a victim of crime within police force areas 1 or 2 a VWCO would contact the victim within twenty-four hours of the offence being committed and conduct a detailed ‘common needs assessment’ (hereafter, CNA). The VCOP (Ministry of Justice, 2015: i) stipulates that ‘enhanced entitlement’ victims and victims who will be required to give evidence in court are entitled to a needs assessment to determine what support they may require. The VWCOs across police force area 1 and 2 conduct this CNA and signpost, if necessary, the victim to the relevant support agencies. Victims of all offences, excluding murder (families of murder victims were assigned a Family Liaison Officer), that resulted in a charge and a court hearing would be allocated a VWCO. These cases were referred to by the VWCOs as ‘post-charge’.

Under the VCOP (2015), as part of the police investigation, victims of the most serious crime; persistently targeted victims; and vulnerable or intimidated victims are entitled to have their details automatically passed by the police to victims’ services within two working days of reporting the crime to the police[[38]](#footnote-38). Enhanced victims are also entitled to be informed by the police within one day of a suspect ‘being arrested; interviewed under caution; released with no further action; released on police bail; or if no police bail was granted; or if the police bail conditions are changed or cancelled’. Victims of a sexual offence, domestic violence or bereaved close relatives should have their explicit consent sought before the police pass their personal details over to victims’ services (Ministry of Justice, 2015: 32).

Whilst the pre-charge enhanced entitlements outlined in the VCOP were endorsed by the VWCUs it must be noted that, at the time of the fieldwork, the model of service that the VWCUs in police force areas 1 and 2 were providing to victims pre and post-charge was not a national model. Many police force areas continue to run with the national model of WCUs where victims of crime are only allocated a Witness Care Officer from the point of charge through to outcome. Instead of being referred to victims’ services by the police an enhanced pre-charge victim from police force area 1 and 2 was allocated a VWCO within 24 hours of a crime being reported. The VWCO would be the victim’s single point of contact throughout their journey through the CJS. Both police force areas had also extended the categories of enhanced victims beyond those set out within the VCOP 2015 to include victims of burglaries.

Police force area 1 launched their new VWCU (to include a pre-charge enhanced victim service) in October 2014. Police force area 2 followed closely after in February 2015 after the PCC, when devising the Police and Crime Commissioner plan:

Identified that [police force area 2] were not supporting victims especially in line with VCOP. (VWCO supervisor, VWCU4).

The PCC for police force area 2 knew about the new victim service model that had recently been launched by his neighbouring police force area (police force area 1) and felt that it could be replicated in police force area 2. After an initial viability test police force area 2 introduced the same VWCU model as police force area 1 in February 2015. Police force area 2’s victim service model differed slightly from that of police force area 1 in that police force area 1 had their specialist victims’ services (commissioned by the PCC) which included, among others, Victim Support, IDVA’s and Stand Against Racism and Inequality workers (SARI) in-house in two of the three VWCUs (VWCU1 and 2). In police force area 2 Victim Support were the only specialist victim support agency co-located with the VWCOs. Other specialist victim agencies commissioned by the PCC were established (with data sharing agreements in place) but were not in-house.

To summarise all four of the VWCUs had a member of staff from Victim Support located in-house but only VWCU 1 and 2 had members of staff from additional professional services co-located in the VWCU.

### 5.2.1 The setting

All four VWCUs were situated in an office within a main police centre. VWCU1 and VWCU2’s office was a large open plan office that was the base for not only the VWCOs but also for, amongst others: IRIS (an Integrated Response team who managed high risk offenders), CSI (Civilian Staff Investigators), and MASH (Multi-Agency Safeguarding Hub), IDVAs and ISVAs. The open plan offices that housed VWCU1 and 2 were large and whilst the two VWCUs (VWCU1 and 2) had their own desk area within the large open plan office, the individual VWCOs did not have a designated desk but instead had to hot-desk within the VWCU designated area. However most of the VWCOs tended to sit in a regular seat within their designated VWCU hot-desk space but were unable to personalise their desk-space. Most desks had generic lists of contact numbers displayed but the VWCOs were unable to put up reminders for themselves from day to day. Both VWCUs (VWCU1 and 2) had long rows of desks in which the VWCOs were seated next to one another and also facing one another. These rows of VWCOs were separated by low-level desk partitions.

VWCU3 was housed within its own large open plan office. The large open plan office was symmetrically divided into two main sections. There was a separating internal wall that divided the main central office into two halves with a large open walkway between the two halves of the main office. Within each half of the two main symmetrical sections there were two further smaller glass fronted offices (in total four smaller sub-sections) - the glass doors remained open leaving reasonably clear visibility to the VWCOs. Only three of the four sub-sections were used by the VWCOs. The fourth section was being used as a private office. The private office was available for use by the VWCOs if they needed to make a phone call in private or if the VWCO team leader wanted to conduct one-to-ones with the VWCOs (which was the case during the observation day). Whilst all the desks in the two main sections and three sub-sections of VWCU3 were hot-desks made up of rows of low-partitioned desks (as was the case for VWCU1 and 2) the VWCOs tended to situate themselves regularly in the same section of the open plan office and the same desk.

The VWCOs team leaders and supervisors were seated amongst the VWCOs in all three VWCUs in police force area 1.

VWCU4 in police force area 2 consisted of a large open plan office where all the VWCOs and the one victim support member of staff were situated. The VWCU in police force area 2 was much smaller and whilst (as was the case with VWCU1-3) made up of rows of desks facing other rows of desks separated by low-level desk partitioning, the size of the office and the positioning of the desks allowed the VWCOs to have clear sight of one another and provided a more cosy working environment. The desks were not hot-desks and were personalised with various objects such as photos and postcards. In the corner of the main office there was a smaller separate glass fronted office which housed the VWCO supervisor.

At the time of the field observations in April 2016 there were 17 VWCOs employed in VWCU1, 27 VWCOs in VWCU2 and 30 VWCOs in VWCU3. In VWCU4 in police force area 2 there were 12[[39]](#footnote-39) VWCOs employed and at the time of observation there were two vacancies. The VWCOs were employed by the police (funded by the PCC). Therefore, in total 74 VWCOs were employed in police force area 1 and 12 VWCOs were employed in police force area 2. All the VWCOs in police force area 1 worked shift patterns. There were three shift teams within each of the three VWCUs in police force area 1 and each office was manned seven days a week between the hours of 8am – 7pm Monday to Friday and 10am-4pm Saturdays and Sundays. In police force area 2 the VWCU was manned between the hours of 9am – 5pm Monday – Friday. However, the VWCO supervisor confirmed that most of the time the office was manned from 6.30am – 7pm Monday – Friday due to flexible working hours.

## 5.3 The role of the Victim and Witness Care officer

The role of the VWCO was the same across both the police force areas but, as discussed above, the role was not the same as the widely endorsed national Witness Care Officer role within the WCUs. The VWCOs in police force area 1 and 2 had responsibility for both pre-charge enhanced victims and post-charge victims. The VWCOs were the single point of contact for the victim and they liaised between the police, the CPS, the courts and the victims and witnesses to ensure that all victims and witnesses post-charge (from point of charge through to case conclusion) received information and updates on the progress of the case including: court hearing dates; court attendance dates; court adjournments and final court outcomes. VWCOs also made any necessary travel arrangements for victims and witnesses to attend court; notified the CPS of any special measures that might be required including, but not exhaustively, measures such as: video-link, screens, transport to and from court; accommodation and pre-trial court visits. The VWCOs also offered support to both victims and witnesses by signposting victims and witnesses to partner agencies and support services. This support sign-posting service extended to pre-charge enhanced victims and was a service that, as discussed above, was not provided in the national WCU model.

It must be noted that within police force area 2 the VWCOs were not actually called VWCOs. Instead they had the title of Victim and Witness Liaison Officers (VWLOs). This was due to the VWCOs (for the ease of reference both the VWCOs and VWLOs will be referred to as VWCOs in this research) in police force area 2 feeling that their role was more aligned to the role of a liaison officer rather than care officer and as the team manager stated:

They hated being called VWCOs, so we changed it. [The] care element changed the expectations to victims, empathic and small minor assessment … triage – do you want emotional support and who can provide it. (VWCO manager, VWCU4)

The opinion of the VWLOs in police force area 2 was that they merely sign-posted victims and witnesses to support agencies and did not offer support themselves and therefore being called VWCOs was incorrect as they were not care officers but liaison officers who liaised between the victim, the support services and the police, court and CPS.

### 5.3.1 Workloads of Victim and Witness Care officers

The volume of cases that the VWCOs were managing appeared to fluctuate across the four VWCUs. VWCOs in VWCU2 stated that they were really busy, busier than normal and had lost staff. One VWCO stated:

Here I know we are really busy. We have lost quite a few members of staff lately and we are quite a few members down so we are busier than we normally are. (VWCO10, VWCU2)

The number of cases that VWCOs were managing in VWCU2 was stated as being anywhere between 60-100 post-charge cases with an average of 3 pre-charge enhanced victim cases per day. All four of the VWCUs stated that the VWCOs were allocated an average of 3 pre-charge cases per day. The post-charge case load for VWCOs in VWCU3 was quantified as between 40-55 whereas in VWCU1 there was no mention of their workload. The VWCO supervisor for VWCU4 gave an approximation of 60-80 court cases per VWCO. Therefore the number of post-charge cases each VWCO had responsibility for across the VWCUs ranged from 40-100. Roulstone (2015) also found that the average number of cases the Witness Care Officers were responsible for ranged between 80-100 cases. However the caseload did not appear to be a true indicator of how busy the VWCOs were or perceived themselves to be as none of the VWCOs in VWCU4 made reference to the volume of their workload. The calls that the VWCOs were observed making (or taking) differed with some calls only lasting two minutes whereas others were far lengthier. Some cases appeared to be relatively smooth sailing whereas other cases had numerous changes with victims and witnesses being called to court at the last minute, with court dates and even court locations being changed with very short notice – all of this added to the VWCOs’ workload.

One VWCO in VWCU1 commented during observations that many of the VWCOs had left police force area 1 and had gone to a neighbouring police force as they felt unsettled due to uncertainty about cuts. It was not obvious from the observations across all four VWCUs that one particular VWCU was busier than the other or was understaffed. All the VWCUs appeared busy with phones ringing; the VWCOs were immersed in their work but time was still made to chat to one another about their cases or personal lives.

## 5.4 Victim and Witness Care officers and RJ

RJ was a relatively new concept to the VWCOs. Since the revision to the VCOP in 2015 it is a process that they have to offer under that. The VCOP (2015) stipulates that as a victim you are ‘entitled to receive information about Restorative Justice … including how you could take part’ and this information should be provided to victims by the relevant service providers (Ministry of Justice: 2015: 35). WCUs are one of a number of statutory organisations that the VCOP stipulates must provide services in accordance with the VCOP. Therefore VWCUs must provide all victims with information about RJ and how they can partake. In addition, across VWCU1-3 RJ was part of the team objectives in regard to ensuring that the victim has a voice. RJ was also one of the quality assurance measures across the three VWCUs in police force area 1. In VWCU4 RJ was not included as a team objective and was not one of the quality assurance measures. There were though processes in place to ensure that the VWCU in police force area 2 was VCOP compliant.

There were only a few VWCOs who referred to the fact that they were statutorily obligated to adhere to the VCOP and that RJ was included as a service within the VCOP and that they should be providing information on RJ to their victims:

You can almost forget that it’s part of VCOP and you should be offering it - that it should be integrated as part of the package and I think at one point it felt like you were almost forgetting it. I think now it’s ingrained and part of VCOP and I think I am quite a process driven person so now that I reiterate that to myself that it is something that needs to be offered(VWCO08, VWCU3).

It’s part of the VCOP, so it’s something that should be daily business really. (VWCO11, VWCU2)

Only a few VWCOs voiced that RJ was one of their team objectives and part of the CNA (that was conducted in the initial phone call with victims):

One of the questions is does the victim want RJ? as I say the CNA isn't a read through yes no tick box – it’s not a scripted, general conversation. they are the points we need to consider ... we lose then the personal touch if we start treating it like a questionnaire, but RJ is one of the questions on the CNA. (VWCO04, VWCU1)

RJ is one of the 16 points of quality assurance measures – whole team working towards ensuring RJ is open and available to all witnesses and victims. (VWCO07, VWCU1)

Many VWCOs did not see RJ as an integral part of their role due to it being a relatively new process that was not embedded and lacked any set formal procedure (the theme of ‘formal process’ and ‘embedding’ will be discussed further below). One VWCO stated that RJ was not a priority as:

It’s a stressful job, pressure and time and a high workload so when you are new to a job and still learning and getting up to speed RJ isn't a priority. As such it’s not something that you think about straightaway. You want to make sure you are doing all the other things that you’ve got to comply with on the VCOP - that was the priority for me.(VWCO13, VWCU3)

This lack of awareness that as VWCOs they were statutorily obligated to provide victims with information on RJ was also found in Shapland et al’s (2017) recent research on developing restorative policing. Shapland et al found that the VCOP requirement to provide victims with information about RJ and how they might take part had not filtered through to POs and there was a lack of understanding that it was their responsibility as POs to ensure that this information was relayed to victims. The VWCO supervisor in VWCU4 commented in regard to VWCOs and RJ that:

However much I remind them to [mention RJ] if we don’t mention it [RJ] they don’t hear about it. (VWCO supervisor, VWCU4)

One of the VWCOs acknowledged that:

RJ just gets put on the backburner. It’s kind of like an afterthought … [RJCO] has tried really really hard to get it to be integrated into what we do and that’s how it should be but it gets forgotten about. (VWCO10, VWCU2)

### 5.4.1 Victim and Witness Care officers and RJ coordinators

As discussed in Chapter 1 both police force areas had a RJ hub situated within a police centre. In police force area 1 there were three RJ hubs located across the police force due to the large geographical area and population of the police force area. In police force area 2 there was one single RJ hub. The three RJ hubs in police force area 1 were established in April 2015 and the RJ hub in police force area 2 was established in January 2016. All four RJ hubs were funded by the PCC as part of their victim services. Within each hub there was a RJCO who was responsible for managing and co-ordinating the delivery of RJ services for their area. As stated in Chapter 1 the three RJ hubs in police force area 1 had a different service delivery model which consisted of RJ cases being referred to an external RJ service delivery provider by the RJCO located within the PCC funded RJ hub. To clarify, within each RJ hub there was a RJCO and the RJCO passed the RJ referrals to their external RJ SDP. The RJ hub in police force area 2 had a different service delivery model. The delivery model in police force area 2 consisted of one RJ hub. The RJ hub had a RJCO and a small team who managed, co-ordinated and delivered RJ themselves and had their own pool of volunteer RJ trained RJFs that they managed and utilised on a case-by-case basis.

The main point of difference across the two police force areas in relation to RJ and the VWCUs was that there were three RJCOs in police force area 1 and each RJCO was situated and co-located within each of the VWCUs. Thereby each VWCU had a RJCO seated within the team of VWCOs whereas in police force area 2 the RJCO and team (consisting of one administrator and one volunteer coordinator) were housed in a separate office on the same corridor as the VWCU4 but not within the same office. All four of the RJCOs were responsible for managing the RJ referral process. Any referrals that the VWCOs made were made directly to the RJCO who then reviewed the referral, contacted any necessary agencies and then allocated the referral to the relevant RJ service provider. In the case of police force area 1 each RJ hub (represented by the RJCO) had an external RJ service provider each of which had a RJ service delivery manager and a team of trained volunteer RJFs. The RJCO and team in VWCU4 in police force area 2 had a direct pool of trained RJ volunteer RJFs and rather than passing the referral over to the RJ service provider the RJCO and team allocated the RJ referral directly to one of the pools of RJFs.

All four RJCOs were fully trained RJFs and all worked as co-facilitators on a number of RJ referrals received into the RJ hubs. All four of the RJ hubs were responsible for the case-management of RJ referrals and were the only point of contact for RJ with the VWCOs.

### 5.4.2 Victim and Witness Care officers’ RJ training

All the VWCOs across both police force areas stated that they had undergone some initial RJ training when they were either new to the role or when the RJ hubs were first established. The level of training that all VWCOs had been given was minimal. In the case of the VWCOs who were in post when all four RJ hubs were established training was received in the form of group RJ training and for new VWCO recruits training was on a one-to-one basis with the RJCO.

The group training involved a group session with the RJCOs. The training took a few hours and consisted of the RJCOs explaining the concept of RJ, how the process worked, benefits for the victim and offender, how and when to raise the subject of RJ with victims and how to make a RJ referral. VWCOs also recalled being shown a video of a victim’s and offender’s experience of RJ. This video was often cited by the VWCOs as the ‘Woolf within’ video clip which illustrated the experience and benefits of the RJ process from both the viewpoint of a prolific burglar and his male victim.

With regard to training new VWCO recruits, each new VWCO spent some time as part of their induction to the role with the RJCO. The RJCO spent time one-to-one explaining the process of RJ, the role of the RJCO, how the VWCOs could use it within their role and how to make a referral.

Several VWCOs opined that the training was not formal and was very brief:

I wouldn't call it training - more sort of inputs from [name of RJCO]. One afternoon and one morning that was it. No in terms of any formal training like a day course or anything like that then no, so just brief input*.* (VWCO10, VWCU3)

Not specifically but kind of as I'm going through the role it’s been mentioned on how to offer it and when it’s appropriate - my mentor and [name of RJCO]. (VWCO04, VWCU3)

A small number of VWCOs from across police force area 1 stated that beside the RJ training provided by the RJCOs they had direct experience of RJ. VWCOs’ direct experience was either through a previous role or attendance at a face to face victim offender RJ conference. Police force area 1 had also established a RJ champions scheme (which will be discussed below) and this had involved the RJ hubs from VWCU1-3 hosting a RJ champions event which included guest speakers discussing their experiences of RJ. The direct experience cited by a few VWCOs from police force area 2 was gained through attending an annual RJ conference hosted by the RJ hub where they were able to hear victims and offenders direct experience of RJ.

#### 5.4.2.1 Victim and Witness Care officers’ experience of face-to-face RJ conferencing

Several VWCOs in police force area 1 had taken up the opportunity to shadow the RJCO at a RJ victim/offender conference.

I actually went to an RJ meeting - yes to view. That was really good, a face to face between an offender and victim. It was very good, very interesting and positive there was a really good outcome for the victim and also for the offender - he was a young man and it was just really reinforced the idea that RJ is really very powerful because now when I talk or offer it to victims I can say I’ve got first-hand experience that I went to an RJ meeting and it was very good. (VWCO01, VWCU3)

This shadowing provided them with first-hand experience of the RJ process.

#### 5.4.2.2 RJ champions

In addition to this initial training a ‘RJ champion’ system was set up by the RJCOs across police force area 1. Police force area 2 did not have a RJ champion scheme. The RJCOs in police force area 1 hosted an RJ event in late 2015 – attendees were agents from across the CJS including POs and VWCOs. The event had two guest victims who presented their own personal experience of RJ. Attendees were invited to become RJ champions within their agency. The role of RJ champion involved the self-selected VWCOs assisting the RJCOs to promote and raise awareness of RJ:

I'm a RJ champion but .... it involves promoting RJ to the team - particularly when [name of RJCO] is not around. We are lucky that she's based here at our hub so she’s obviously promoting it as part of her work. When she's not around I promote it, mention it at team meetings or briefings - simple things like we've got the magazines on RJ in there ... so I read them myself sometimes ... the Restorative Justice Council's magazine and I kind of mention them to people to read and just leading by example and I hope to go to some RJ meetings with [name of RJCO] - the actual ... shadow her if possible. That's in development so I'm still to access that with RJ. I think that was the idea of the champions to be specialist within teams and they would attend RJ meetings where possible and any training as it comes up but it’s just not quite been developed yet. (VWCO15, VWCU3)

Regardless of police force area 1 having several of the VWCOs as RJ champions only a few of the VWCOs interviewed commented that they were a RJ champion and none were observed utilising their RJ champion role within their VWCUs and amongst their colleagues in any way.

The recruitment of ‘champions’ has been endorsed by several RJ hubs nationally and has been seen to be a way of raising awareness and support for RJ across criminal justice agencies. RJ hubs including police force area 1 have recruited RJ champions from multi-agency organisations and brought them together at an awareness/training session in the hope that the champions would generate support for RJ amongst their colleagues (Bright, 2017). However as noted by Wigzell and Hough (2015) whilst RJ champions promote and encourage the use of RJ within their agency there is a danger that when the champion is absent then RJ activity drops. A decrease in RJ activity was evidenced when the RJ champion, in several locations in Wigzell and Hough’s (2015) research, was absent for a prolonged period. Shapland and her team (2017c) found that one of the challenges for champions was the turnover and movement of staff which led to champions not staying in post. Shapland et al also found that the police RJ champions were having to fit their champion role alongside their other commitments and responsibilities (2017: 76).

#### 5.4.2.3 RJ service’s annual conference

Police force area 2 hosted a RJ service annual conference during the period of the field research. The conference had a wide array of attendees from agencies across the force area. There were talks from the RJCO, the PCC, victims and an offender and there was also a selection of afternoon workshops. Attendees were able to listen first-hand to accounts from victims and offenders who had participated in a RJ conference. Several of the VWCOs from VWCU4 attended this conference with their supervisor and commented that they had found it to be beneficial in aiding them with a deeper understanding of RJ:

So a few of us went to a conference the other day – it wasn’t training but more people coming in and talking about their experiences of it, so I can see how brilliant it would be. (VWCO06, VWCU4)

Shapland and her team reiterate this opinion in their research on restorative policing (2017c). They found that POs gained a deeper understanding of and enthusiasm for RJ when the training included RJ role play and when they heard victims’ experiences of participating in RJ.

This deeper understanding or insight of RJ from across several different mediums seemed to provide the VWCOs with additional confidence and knowledge of RJ to suggest potential cases to the RJCOs or to raise the subject of RJ with victims. During the observations it was the VWCOs with a deeper understanding or insight of RJ that were observed making the offer of RJ to victims during their phone calls (see Chapter 5, section: *Findings from the Victim and Witness Care Officer participant observations* for an in depth discussion on the VWCO observations). One VWCO (a Police Community Support Officer (hereafter, PCSO) in a former role) summarised in her interview that:

They know what RJ is (the VWCOs) but until they physically see ... I think because of my previous experience that's why I'm comfortable with it and I've seen the benefits of it. When you've got little Joe, Johnny Bloggs with no criminal record but he's been taking sweets out of the local shop you know. I've seen the benefits of it … I'm not nervy about RJ ... I'm quite confident offering it. (VWCO06, VWCU3)

Overall there was an expressed need amongst the VWCOs for additional training as many felt that their level of knowledge and experience of RJ impacted on their ability and commitment to discuss RJ with victims. Many stated that they would like more training or to be able to attend a RJ conference to gain invaluable first-hand experience:

I would want more training definitely … If I had more training, I’d have more knowledge about it … perhaps more opportunities to go to conferences and things. (VWCO01, VWCU4)

Training is a key factor in increasing criminal justice agents’ knowledge, awareness and confidence of RJ. Bright’s (2017) research on victim take-up noted that whilst several RJ hubs had provided awareness and training sessions for criminal justice agencies (such as the police) there had been varying degrees of success in terms of increased referral rates. Referral rates fluctuated - when RJ training was given to POs there was a temporary influx of referrals. Wigzell and Hough (2015) noted in their findings on the RJ capacity building programme within probation and prisons that a ‘persistent and/or creative approach to awareness-raising’ was required to ‘gain buy-in of front-line staff’ (2015: xii). Shapland et al’s (2017c) recent report on developing restorative policing also argued the need for both initial and continued training to achieve the cultural shift required.

On-going RJ awareness raising and training amongst criminal justice professionals is required. RJ training cannot be a one-off, training needs to be ongoing to ingrain RJ into the mindsets of criminal justice agents.

### 5.4.3 The working relationship between Victim and Witness Care officers and RJ coordinators

The fact that the RJCOs in police force area 1 sat amongst the team of VWCOs rather than being situated in a separate office (albeit on the same corridor in the case of police force area 2) appears to have encouraged a good working relationship. The daily presence of the RJCOs in VWCU1-3 promoted a:

Good relationship with [name of RJCO] to allow the VWCOs to pass victims over to get more information. (VWCO07, team leader, VWCU1)

From the observations carried out, all three RJCOs in police force area 1 had a good working relationship with the VWCOs and the VWCOs appreciated having them situated within the team as they provided the knowledge, nudges and prompts necessary to ensure that RJ was kept on the VWCOs radar:

Having the [name of RJCO] here in the unit was good because if you weren’t sure you could approach her. (VWCO06, VWCU3)

I think that we are in position that we can drive forward with it because of the support we've got in house means it stays on the radar. (VWCO07, team leader, VWCU1)

The enthusiasm of the RJCOs was mentioned several times during the observations and interviews by the majority of VWCOs. They spoke of the passion, proactivity and enthusiasm of the RJCOs who were co-located with them:

To be fair to [name of RJCO] she’s really positive and I think she’s always been really enthusiastic about RJ and that's ... she does push and prompt us … so credit to [name of RJCO] she has helped us. (VWCO01, VWCU3)

RJCO does a cracking job – she's really passionate and really excited about it - I guess she doesn't have to deal with the victim’s day to day life and disappointment that we have. (VWCO07, VWCU2)

The VWCOs in police force area 1 found that having the RJCO sat amongst them provided them with encouragement and provided them (the VWCOs) with awareness and knowledge of RJ:

[RJCO] has been really good in that she has met with us one to one and given us tips about the best ways, and when to bring it up and the best ways to bring it up and she has been really great and even if we've had a case where we've not got hold of the victim or not had the chance to have that conversation we can go to her and say 'I think this might be good for it but I haven't had the chance'. I think having her as quite supportive of it meant that if I felt there was something I wasn't really sure about or confident about then I could go to her quite easily. (VWCO01, VWCU2)

However none of the VWCOs in police force area 2 discussed the working relationship between the VWCOs and the RJCO and her team.

#### 5.4.3.1 Co-location

This good working relationship appeared to be due to the co-location of the RJCOs and VWCOs within the same office/office area across VWCU1-3. The RJCOs sat amongst the VWCOs in police force area 1 and appeared to be one of them – they were not seen as an ‘outsider’ but as part of the team. All three RJCOs were observed joining in with the daily office chat and they went for lunch with the VWCOs. The co-location of the RJCOs promoted a good working relationship with the VWCOs and provided an environment that enabled the RJCOs to keep the concept of RJ on the VWCOs radar as they basically ‘sold’ RJ to the VWCOs using ‘nudges and prompts’.

The fact that, unlike the RJCOs in police force area 1, the RJCO and team in police force area 2 were not co-located in the same office but a few offices down the corridor impacted upon the ability for good solid working relationships to be formed between the RJCOs and the VWCOs. Whilst the majority of the VWCOs interviewed from police force area 1 mentioned and referred to the role of the RJCO in a positive manner this was not so in respect of the VWCOs in VWCU4 situated in police force 2. In stark contrast to the VWCOs in police force area 1 none of the VWCOs in police force area 2 referred to the RJCO outside of discussing the initial training that they had with the RJCO. This would appear to be because the RJCO and RJ team were located in a different office and therefore there were fewer opportunities for the RJCO and VWCOs to meet and discuss RJ or for the RJCOs to provide any nudges or prompts.

Previous research carried out by Shapland et al (2017) and the Audit Commission (1998) found that the co-location of multi-agency hubs is important to the delivery of services. In Shapland et al’s research (2017) the fact that the RJ service delivery was not co-located with the police impacted on the awareness and knowledge of the service and therefore resulted in low levels of referrals being received.

### 5.4.4 The use of prompts and nudges

Another clear difference between the RJ hubs in police force area 1 and 2 was that the RJCOs in VWC1 - 3 provided the VWCOs with direct nudges and prompts as they liaised with the VWCOs daily by presenting the VWCOs with updates of cases and national RJ news at their team briefings, talking through potential and actual RJ cases with the VWCOs and having one to one meetings quarterly to keep RJ in the forefront of the VWCOs minds:

She (RJCO) certainly throughout has given us lots of updates on RJ cases … she keeps us up to date with stuff ongoing and tries to help us with ways of being able to ... if I'm honest to remember to bring it up with victims and stuff like that. She's a gentle reminder. (VWCO01, VWCU2)

[RJCO] is in all fairness is a RJ guru and every day she is in she mentions RJ and we were getting regular updates, everything… so as far as not knowing there is no excuse. (VWCO06, VWCU03)

Without this direct input to the VWCOs through daily bulletins, face-to-face meetings and regular conversations facilitated by being co-located in the same office space the VWCOs admitted that it was easy to forget RJ.

#### 5.4.4.1 Indirect nudges and prompts

This direct face-to-face input by the RJCOs across the three VWCUs in police force area 1 was further supported through the use of indirect prompts and nudges which the RJCOs gave to the VWCOs. In addition to providing direct face to face updates and encouragement the RJCOs in police force area 1 scoped cases for the VWCOs. The RJCOs put nudges and prompts onto NICHE (a crime and intelligence records management system which is widely used across England and Wales) or WMS (Witness Management System). By reviewing the NICHE or WMS systems used by the VWCOs the RJCOs were able to review live cases and add notes for both the PO in charge (OIC) and the VWCO. The RJCOs highlighted what they deemed to be suitable cases for RJ and asked the VWCO to raise the subject of RJ with the victim(s):

What has been really good actually what [RJCO] has done is things with pre-charge and post-charge when I go into the cases and she has left a 'consider RJ' just as a sort of little nudge. Yes, so that's really good because everyone is dealing with so many cases at once it makes me stop and think that actually if we can get that sort of conversation going it might be really beneficial to the victim as well so that's brilliant as it's almost like a net for us to sort of make sure we aren't missing anything out*.* (VWCO03, VWCU1)

During the observations, the RJCOs were observed inserting ‘indirect’ RJ prompts onto the WMS and NICHE case-file notes and directly mentioning and discussing suitable RJ cases to the VWCOs.

In addition to the indirect nudges and prompts put on to the system a number of VWCOs had a ‘crib sheet’ that they had been given by the RJCOs. Each RJCO across the four VWCUs had composed a crib sheet for use by the VWCOs. The crib sheets in VWCU1-3 outlined what RJ was and when and how to make the offer of RJ – even providing best practice lines of speech to use. Despite each VWCO being provided with a crib sheet only a small number of VWCOs in VWCU2 had either the crib sheet on display on their desk pin board or had it readily to hand in an accessible file. In VWCU3 there was only one crib sheet displayed and this was on the empty desk that was previously occupied by the Victim Support worker. In VWCU4 (police force area 2) the crib sheet that was displayed on a small number of desks was a more generic A5 leaflet that could also be used for public display and therefore did not contain any prompts or nudges in the form of lines of speech to use. In contrast there was a crib sheet on nearly every VWCO computer station in VWCU1.

There was an inconsistency across the police force areas in regard to the different approaches taken by the RJCOs to encourage and remind VWCOs of informing victims of RJ. There appeared to be no best practice between the forces as to how to ensure that VWCOs were aware of when and how they should be mentioning RJ. Whilst the RJCOs in police force area 1 utilised the use of both direct and indirect nudges the RJCOs in police force area 2 did not. The RJCOs in police force area 2 did not nudge or prompt the VWCOs directly or indirectly. They did not attend the VWCUs’ team briefings neither did they scope potential RJ cases on NICHE (a crime and intelligence records management system) or WMS (Witness Management System). This combined with not being co-located in the same office as the VWCOs may have well contributed to the VWCOs in VWCU4 not mentioning in the interviews the RJCOs post-training and to them also not referring to the working relationship between them.

The use of these direct and indirect nudges and prompts by the RJCOs to the VWCOs is not new. Shapland et al (2011) found in their research that to improve the rate of RJ referrals the schemes in the research project moved from just a referral route to a case extraction route. The RJ teams sifted through the daily court listings to extract suitable RJ cases. They were unable to rely solely on the criminal justice agents in the courts to remember to refer cases and therefore had to proactively extract/scope cases. However, in the Shapland et al sites, the RJFs could then take direct action to approach the victim and offender. In the current areas being researched, this was not possible. It is notable that Shapland et al (2011) found that where RJFs put stickers or ‘nudges’ on case files to court clerks it seemed to have little effect, possibly because the RJFs and clerks were not working together in a team in the same organisation.

Whilst Shapland et al’s (2017) research was referring to the importance of RJ service providers being co-located within the same organisation or building as the police in facilitating case referrals it would seem that merely being situated within the same building was not enough to ensure that the VWCOs in police force area 2 remembered to raise the topic of RJ. By not being co-located in the same office VWCOs were unable to build solid working relations with the RJ team, forgot about the new initiative of RJ and lacked the knowledge necessary to discuss RJ with victims. This separation of the RJCO and the VWCU appeared to impact on the VWCOs’ ability to raise the topic of RJ with victims. The RJCOs must remain visible to ensure that the VWCOs do not forget RJ. This need for remaining visible was found in an evaluation of court-referred RJ in New Zealand, despite RJ being statutory for young offenders (Crime and Justice Research Centre, with Triggs, 2005). It is an on-going never-ending task to remain visible.

The changes to the delivery of RJ across police force area 1 which occurred in the midst of the field research and which were outlined in detail in Chapter 1 raised many concerns amongst the VWCOs:

My personal feeling is that I think it could .... it won’t drop off the radar but it may certainly drop down and my concern is not so much for the existing staff but when you get new staff in. When you've got someone like a RJ person here constantly and they can talk about it … When we have new staff in and we are training and yes we can talk about it and we have to train them to do so many different things that we are going to lose the impetus on it (RJ). It'll be ... it won’t be lost … it'll be in the middle of everything else and then it'll be the individual who then decides whether it’s important or not and that's the bit where they could end up dropping it. They could be 'oh it doesn't matter about that' whereas the ones at the beginning we know that it did and it does, so ... that's my concern when it goes outside to an outside agency. I know we all work together but … I'm out on that jury at the moment. It’s going to be hard ... to maintain it now. It’s going to be extremely difficult. (VWCO07, VWCU03)

This direct and indirect input by the RJCOs was not completely a one-way relationship. A small number of VWCOs in police force area 1 stated that they had passed cases to the RJCO if they felt that they might be suitable for RJ. The VWCOs either mentioned potential cases face-to-face to the RJCO, flagged the case on the system or sent an email to the RJCO. The VWCOs would also complete a RJ referral form but they were just as likely to discuss potential cases with the RJCO prior to completing a referral form:

If I think it’s a really good one [case] that I think should be pushed for RJ I will tell the RJCO to call a week later to talk about RJ. (VWCO07, VWCU2)

It was quite good having her [RJCO] in the unit was good ... if they [victim] think about it or are not sure then I’ll refer it to the RJCOs for them to do the follow up calls. To be quite honest it’s not our role to do that but rather than not do anything with it or just put a note on my own system I will just send an email to our coordinator to say 'just to let you know I've spoken to this victim I’ve mentioned the RJ process, they are at this point thinking about it. May be worth a call in two-three weeks.(VWCO06, VWCU3)

The RJCOs across all four VWCUs were happy to take informal referrals in the form of verbal messages, email or a note on the internal systems.

### 5.4.5 Confidence and knowledge

Confidence and the linkage between confidence and knowledge appeared to be another key factor as to whether VWCOs mentioned RJ to their victims. Despite the RJ training that all the VWCOs had received and the VCOP stating that a number of statutory organisations, including WCUs, must ensure that they ‘provide victims with full and impartial information on restorative justice and how they can take part’ (Ministry of Justice, 2015: 55) many VWCOs admitted that they did not raise the subject of RJ:

I’ll be honest, I don’t feel that confident as I should be with talking about it … it’s really hard, hard and to be honest with you I haven’t made any referrals’. (VWCO01, VWCU4)

One of the questions that the VWCOs were asked in their interview was ‘are you confident in making the offer of RJ?’ They indicated a lack of confidence, knowledge and experience as to why they did not make the offer of RJ to victims:

I’m not that confident in talking about it … but only because I don't have experience in it really. I think once I’ve had a few cases and its relevant and I’ve spoken to a few people about it I'm sure that will change but yeah, it’s just a lack of experience at this point. From personal experience it’s not something that I know a huge amount about which impacts on your confidence in talking about it I think. (VWCO04, VWCU3)

One VWCO said:

I’m getting more confident with it now I’m getting into it a bit more and kind of recognising when to do it. I mean I've got the little bits of information that [RJCO] gave me of how to kind of approach the conversation to begin with.

(VWCO02, VWCU2)

The small number of VWCOs who had either experience of RJ from a previous post or degree; attending a RJ conference; being a RJ champion; or attending a RJ hubs RJ annual conference expressed that they felt they had sufficient confidence to discuss RJ with victims:

I feel more confident now after I attended a RJ meeting (face to face conference) because then you know exactly what happens and I knew what I was talking about. (VWCO01, VWCU3)

Yeah I don't have an issue with it but I think that's come from experience in the job and having worked in ASB [‘cos again ASB we would do it, use it quite a lot. (VWCO06, VWCU3)

Another VWCO commented that:

Others may not be as confident knowing exactly what it was. Because you’ve got to have that confidence in order to offer it. (VWCO11, VWCU3)

The VWCO supervisor for VWCU4 felt that some of her team were better than others as to offering RJ and she felt that it was all about levels of confidence. She alluded to the issue of confidence as to why many VWCOs did not mention RJ to victims. Although many VWCOs were in favour of RJ and saw it as a beneficial process that could bring about closure and provide a forum for victims to gain answers to their questions and give victims a voice, they still did not discuss RJ with victims. Wigzell and Hough (2015) also found in their research on the implementation of RJ in prisons and the probation service that interest about RJ from front-line staff did not translate into referrals.

### 5.4.6 Fear of pressurising/offending the victim

In addition to the lack of confidence and knowledge to offer RJ many of the VWCOs expressed concern that victims might feel they were being pressurised to participate in a RJ process:

Sometimes it can feel like you are putting another demand on the victim …. sometimes it’s just another thing maybe for them to think about and you want to not put them under pressure. (VWCO04, VWCU2)

VWCOs also stated that they did not want to offend the victim by making the offer.

You’ve got to be a bit mindful really to your … it’s what we do … to the needs of the victim and where they are in the process emotionally. (VWCO06, VWCU3)

I don’t want to offend people by putting it out there as some people can take it offensively. (VWCO01, VWCU4)

You build up rapport with the victim and it feels as though you haven’t listened to them by offering RJ. You know you have to offer and you build it up to be more than it was. (VWCO07, VWCU3)

This lack of confidence and fear of pressurising victims affected the VWCOs’ ability to raise the topic of RJ.

### 5.4.7 Fear of victims’ responses

It was not only fear of pressurising victims into participating in RJ that hindered the offer of RJ by the VWCOs. It was also a fear of rejection, which in turn led to the VWCOs feeling despondent and reticent. VWCOs remarked that when they did mention RJ to victims they either got ‘laughed’ at or the idea of RJ was rejected immediately, and this impacted on their confidence and their eagerness to broach the subject of RJ:

It’s a bit disheartening as well with – you keep offering it and offering it and nobody is interested so it gets quite disheartening so then you give up a bit. (VWCO10, VWCU2)

I’ve got used to the refusals … people don’t offer RJ because they don’t like rejection. (VWCO07, VWCU3)

Majority of the time it’s not appropriate to offer, when you offer they say no – almost laugh at you … hard to judge. (VWCO10, VWCU3)

VWCOs were also concerned that victims would be angered and upset by the offer:

Victims aren’t always open to it – they might be ‘why are you offering me that?’ You don’t want to provoke that kind of response from them. (VWCO05, VWCU3)

If you get the vibe it’d be too distressing for them to even entertain then don’t mention. I know that’s making a decision for them. (VWCO02, VWCU3)

We could offer it I suppose but do we really want to cause that person more pain by making the suggestion? (VWCO07, VWCU4)

This concern appears to be unsubstantiated as despite this being a real concern to some of the VWCOs no specific examples of victims reacting in this manner were provided. Some examples of victims’ responses to the offer did include an outright:

No, I’m not interested.

No that’s not for me.

Why would I want to do that?

But none included anger or examples of the victim becoming upset and revictimised through being offered RJ. This ‘rejection’ may in part explain why the VWCOs ‘forgot’ to make the offer and why it was left to the paragraph in the written letter to inform victims of the availability of RJ:

Victims might not always be open to it … maybe they might be, not angry but ‘why are you offering me that? Why would I want that?’ that kind of thing. It might be that you don’t want to provoke that kind of response from them. (VWCO04, VWCU3)

This concern found amongst the VWCOs regarding potential revictimisation was also found by Gavrielides (2018) and Van Camp and Wemmers (2016). Gavrielides (2018) found, in his qualitative study across criminal justice agents and victims, that many personnel from victims’ organisations and services feared causing victims secondary victimisation through offering them RJ. Van Camp and Wemmers (2016) also argue that professionals select victims based on, inter alia, their individual concerns regarding the possibility of secondary victimisation.

A lack of confidence, fear of pressuring victims and fear of their response were all factors that influenced VWCOs decisions as to whether or not to offer victims RJ and appeared to impact upon the method of invitation that the VWCOs selected.

### 5.4.8 Method of invitation

Whilst VWCOs were obliged under the VCOP to provide victims with information on the availability of RJ the VCOP does not specify by which medium this information should be delivered. VWCOs seemed to take two different approaches on how to make the invitation to participate in RJ: whether to make the offer verbally or to just provide the victim with written information on RJ. In police force area 1 there was a paragraph on RJ that was automatically included in the correspondence letters to victims - the paragraph though was short and towards the end of the standard letters used to convey case information. A few of the VWCOs remarked that victims were unlikely to read the paragraph as they would be more interested in the key details of the letter such as court dates or sentencing outcomes:

I mean although we give them information on it in the literature and things but they might not read all of it ... they might just get to the next hearing date or what the outcome was or whether they are required to attend and then ‘ok I’ve got all the information out of that’. I think that could be a barrier and again if you put leaflets in letters I wouldn't know how many people would take the time to read them. (VWCO04, VWCU3)

A number of VWCOs from across VWCU1-3 also admitted that they edited the letter and removed the RJ paragraph if they felt that it was not appropriate for that victim:

It [RJ] pops up in the [letter] template so if we want to take it out we can. (VWCO09, VWCU2)

It can be used in more domestic incidents and even sexual assaults … I'm aware that that is something that they can look into but it’s not always appropriate and when we originally send our letters out, introduction letters … in those cases we don't put that paragraph in about RJ but I know that [RJCO] has said that there are times when that could be appropriate but it’s not a general thing that we would include in our letters to those victims but it shouldn't be that it’s cut out for anyone. (VWCO03, VWCU2).

The RJ paragraph included in the victims’ correspondence sent out by VWCOs from VWCU1-3 relayed some very basic information on the RJ service available in police force area 1.

In police force area 2 no information on RJ was included in victims’ letters but VWCOs had specific RJ leaflets that could and should have been inserted into the victim correspondence. The VWCOs in police force area 2 had been told to include the leaflet in correspondence however this was a new process and some VWCOs were not aware that the leaflets should have been included:

(Leaflets) no, not yet. I didn’t know we were supposed to. (VWCO06, VWCU4)

Some VWCOs were just forgetting or choosing not to include the RJ leaflet, as was also the case amongst several VWCOs in VWCU1-3 (leaflets were also available for the VWCOs across police force area 1 to include in victims’ correspondence). None of the VWCOs were observed including the RJ leaflet in any of the victims’ correspondence. When trying to locate the RJ leaflets during the observations, they were not easily accessible and, when asked, many of the VWCOs were not sure of the exact location of the RJ leaflets.

Several VWCOs from VWCU4 (where the leaflet was the only form of written information available to send to victims) confessed that they did not regularly send the RJ leaflet to victims:

They wanted us to attach leaflets in every letter and it’s a difficult one. I don’t think we are trained deep enough to make that assumption. I haven’t used the leaflets mainly because I don’t feel the cases that I’ve had it would be relevant in but that’s me judging as well and I shouldn’t be doing that either but I haven't had that communication, that feeling that it would be a benefit to that person. (VWCO07, VWCU4).

The Victims Commissioner, Baroness Newlove (2016), in her recent report outlined that the best method of contacting victims to offer RJ is first by telephone as this method allows the victim to ask questions. Telephone contact was deemed preferential to sending a letter. If a letter is to be sent it should, according to Newlove (2016), be sent after several attempts have been made to contact the victim by telephone. When corresponding with victims to inform them of the opportunity to participate in RJ the letters should be short and personalised. Lengthy generic letters should be avoided (Wigzell and Hough, 2015), otherwise victims may not be able to recall receiving the information on RJ when it is included within standardised letters (Van Camp and Wemmers, 2016).

The letters should also be opt-out letters which allow victims’ details to, in accordance with the VCOP, be passed on to RJ service providers (Victims’ Commissioner, 2016). The written information sent out to the victims in both police force area 1 and 2 through either a letter or leaflet was based on an opt-in method. Adopting opt-in methods passes the responsibility on to the victims themselves to opt-in to obtain further information on RJ if they wish (Wigzell and Hough, 2015). Several VWCOs commented that regardless of the inclusion of a RJ paragraph in the standard letters or the insertion of a RJ leaflet:

Nobody so far has ever got back to me. There is a lot of information in those letters. We send out a leaflet in the intro letter - so the very first letter that gets sent out as well as the paragraph in there and I haven't ever had one back. I put the leaflet into all intro letters unless it is a business ... domestic violence you wouldn't or sexual offences and take the paragraph out. (VWCO11, VWCU3)

The absence of victims who called the VWCOs to discuss the option of RJ on the back of the written information provided in the letter illustrates that offering an opt-in service is not conducive to securing victim-initiated RJ referrals and that written information is not enough alone to prompt victims to request additional information on RJ.

However a belief held by many VWCOs was that if they themselves did not raise the topic of RJ with the victim over the telephone then the information on RJ included (depending on the discretionary editing by the VWCOs) in the generic victim letter would suffice because:

You think ‘OK, I forgot that one’ but at least they’ve had the letter opportunity. (VWCO02, VWCU3).

I'm always like 'at least it’s in the letter' so that probably doesn't help in a way as it probably means 'I've told them enough. They can read that [RJ] in the letter’. (VWCO01, VWCU2).

The opinion of VWCOs that victims were unlikely to read the RJ information provided in the letters or the leaflet and the fact that they, the VWCOs, used their discretion to remove the RJ paragraph from certain victims’ correspondence and often failed to insert the RJ leaflet, contradicted their comments that the use of written information was sufficient and therefore if they forgot to mention RJ to the victims directly in the phone call then it was not an issue as the victim would receive the necessary information in the form of the letter or the leaflet.

The fact that VWCOs edited victims’ correspondence, selected which victims to send RJ leaflets to and only offered RJ when they felt it was appropriate suggests that VWCOs made protective ‘opt-in’ offers (Van Camp and Wemmers, 2016). Protective offers are offers of RJ (or other services) to victims who have been protectively selected by criminal justice agents rather than potential participants being proactively and systematically approached. Criminal justice agents are protective of their clients and subjectively select to whom to offer RJ rather than objectively and systematically offering to all victims (ibid). Roulstone (2015) found in her study on WCUs that Witness Care Officers used discretion and routinely made judgement calls on individual cases. This protective offering and use of discretion were clearly occurring across both police force areas in the current study through the editing and selecting of appropriate cases for whom to include written information on RJ:

It’s just about finding the right people for it. (VWCO07, VWCU2)

Cases that would be suitable for RJ were further protectively selected based on offence type, specific triggers and indicators given off by the victims themselves and the perceived right time during the case to make the offer of RJ. These points will be discussed further below in the *Case-selection* section*.*

Again, as with the disparity found between the methods adopted by the RJCOs to prompt and nudge VWCOs to mention RJ, there were inconsistences between the VWCOs in how or if the VWCOs got the message of RJ across to victims.

Regardless of whether victims were contacted by phone, letter or via a face to face meeting, the victims interviewed in Shapland et al’s research (2011) stated that the invitation method used was fine. This finding therefore suggests that the method through which the invitation was made was of little importance and that the most important factor was that there was sufficient time for the victim to have personal contact with the RJF to hear about the process and ask questions (Shapland et al, 2011: 96). Therefore to enable victims to have the opportunity and sufficient time to hear and discuss RJ victims would have to be contacted through an opt-out method.

### 5.4.9 The ‘forgotten offer’

In addition to VWCOs selecting different methods of invitation, editing victims’ correspondence to remove information on RJ and only including RJ leaflets on an adhoc basis VWCOs also said that they repeatedly forgot to make the offer of RJ to victims when they were speaking to them on the phone:

Sometimes if you've had a long conversation with somebody it can be that you come off the phone and think 'bugger I forgot to say about it'... it’s just gone out of the window ... sometimes you just have so many bits to remember and you just don't always .... because we also, if they are sentenced to over 12 months for one incident they go to victim contact scheme which is part of probation and that is quite an important bit to go through with them and it’s difficult sometimes you do forget. If compensation has been awarded how that's going to happen and so yeah. it’s just ... (VWCO05, VWCU3)

I feel confident, it’s not hard, it’s not like it’s an awkward one, it’s just the fact that it sometimes slips your mind … I’ll get it tattooed on my forehead. (VWCO03, VWCU3)

This forgetfulness was apportioned by the VWCOs to both the ‘pressure of the job’ and a ‘lack of a formal process’ for RJ which resulted in RJ being deemed as a ‘non-priority’ compared to other components of the VWCOs’ job. Many of these other victim service components were deemed mandatory. Victims should be informed of court hearing dates, given court updates and be offered the opportunity to make a VPS. All of this seemed to take priority over and above RJ, with VWCOs referring to RJ as ‘non-priority’:

I think it is a case of it’s not the most important thing that we have to do in the sense that we have to inform of court results, warn of trials, make sure everybody is coming ... needs assessment and special measures and RJ is at the bottom of that list sometimes, unfortunately. It would be nice to offer it to everyone but sometimes it’s just needs must which comes first really. (VWCO14, VWCU3)

Too much to think about sometimes when you are doing updates you just have so many other things to consider or you have higher priority things on your mind to deal with. (VWCO09, VWCU2)

Despite the VCOP stating that VWCOs should provide victims with information on RJ they frequently forgot.

### 5.4.10 Lack of formal process

There appeared to be no set order as to when the offer of RJ should be made or was made, unlike mentioning the VPS which must be offered before sentencing. Victims ‘are **entitled** to be offered (by the police) the opportunity to make a VPS at the same time as giving a witness statement’[[40]](#footnote-40) (Ministry of Justice, 2015: 21). If victims initially decide not to make a VPS when they are giving a witness statement they can ‘**choose** to make a VPS at a later time - provided it is before the case gets to court or the suspect is sentenced. However, the VCOP (2015) states that if victims ‘choose not to make a VPS when initially offered … they may not have another opportunity to make one later on’ as the case may be dealt with by the court very speedily (Ministry of Justice, 2015: 21). Whilst it is not obligatory on the police witness care service or victim support service organisation to provide this service the VPS does not have to be taken by the police (only offered by the police at the time of the victim giving their witness statement). The police can arrange for a VPS to be taken by a victim support service organisation (including VWCUs) (ibid: 42). Several VWCOs specifically referred to the fact that the VPS must be offered and taken by the time the case reaches sentencing:

Post-charge it’s very much about passing information and it’s very much, you know, getting all the bits in place so while you may say a victim impact statement is a bit touchy feely it’s still … you know … it’s still something that we know … that the VPS has to be in place before sentencing so it’s very much about have you got that information, is everything where it should be. Whereas with RJ there is no deadline*.* (VWCO02, VWCU3)

Several VWCOs felt that RJ needed to be formalised in relation to there being a clearly defined process in which they knew exactly how and when RJ should be offered:

I know we've been told but sometimes it’s nice to have a process in place for our department … a firm process of when to mention it. This is our letter, this is when to bring in. I know it can be adapted to suit that person, that case but something firm in place would be great as we do with everything else so I don’t see why we shouldn't we with this. (VWCO01, VWCU4)

Whilst many VWCOs advocated RJ they simultaneously expressed that they were unsure as to when or how was the best time or way to mention RJ to victims:

It’s an amazing service, absolutely amazing but there is no definite line to it. Who should take responsibility? When should it be offered? Should it be right at the end … at the beginning the option is there for you if you want it at any point, should it be if someone goes to prison? Should it be the probation service? It’s just like I’m not sure if there is any right time - I just find it a difficult one. (VWCO07, VWCU4)

One VWCO team leader stated that mentioning RJ was down to the individual VWCOs and it was their choice as or when to discuss the subject with their victims:

There shouldn't be any reason why they shouldn't mention it in the conversation but we leave it very much to their assessment because they are the ones that complete background checks, they are the ones that talk to the victim and they are the ones that actually know their cases but we expect at some point for them to mention it. We would expect it for every case, mention it in those cases that they think, the majority of them, but we accept that there will be some where they don't think it’s appropriate. (VWCO09, team leader, VWCU3)

The lack of any formal process as to when VWCOs must make the offer resulted in RJ being seen by some of the VWCOs as a:

Nice bolt-on … a nicey-nice add on. (VWCO04, VWCU1)

An after-thought. (VWCO10, VWCU2)

An ideal additional service/solution. (VWCO08, VWCU2)

Whether the offer gets made at all appeared to be down to the:

Individual VWCO who decides whether it’s important or not and that’s the bit where it could get dropped. (VWCO07, VWCU3).

From the observations none of the VWCOs across the four VWCUs had a ‘prompt sheet’ reminding them of the services that they must offer to victims and witnesses. Several VWCOs stated that they:

Would like a little box with RJ, sheet with prompts. I need a tick sheet, mental prompts. (VWCO04, VWCU2).

One VWCO team leader confirmed that:

We don’t give VWCOs a specific script – leave it to them to discuss. (VWCO09, team leader, VWCU3)

Both Bright (2017) and Wigzell and Hough (2015) suggest that including RJ either as a key performance indicator within staff appraisals or at team briefings may ensure that RJ is not just an extra service that requires no explanation as to why it has not been offered or referred (Wigzell and Hough, 2015: 52). Shapland et al (2017c) in their research proposed that ‘constrained discretion’ in the form of electronic prompts and referrals routes may encourage referrals amongst POs and foster compliance of the VCOP. With no formal process VWCOs appeared to be unsure of when to offer RJ. RJ was seen as an added extra instead of being a fundamental part of their role that must be offered if they are to comply with VCOP (2015) requirements:

You can almost forget that it’s part of VCOP and you should be offering it. It should be integrated as part of the package – like you almost forgetting it. (VWCO08, VWCU3)

I shouldn’t but I see it as an addition to my role rather than part of it. (VWCO03, VWCU3)

Several VWCOs questioned whether offering RJ was fundamentally their responsibility:

The police officer should have mentioned it. To be honest we are the safety net and the officer should have broached the subject. (VWCO04, VWCU1)

But I will be honest, I don’t know if I’m the right person to bring it up and maybe cause someone more pain and problems than they really want. Am I the right person to make the decision on who should or shouldn’t have it? Are we really qualified to take that (RJ) on board … it doesn’t feel natural. (VWCO07, VWCU4)

This questioning as to whether they, as VWCOs, were the right people to be discussing RJ with victims, may be due to the lack of formal process and awareness of their responsibilities under the VCOP. The VCOP (2015) does though specify on the ‘victims’ journey through the criminal justice system’ infographic that RJ will be offered (where appropriate) at three key stages through the criminal justice process: 1) when the victim is told that the suspect has been arrested; 2) has pleaded guilty; 3) or when the victim is informed of the sentence (Ministry of Justice, 2015: 8,9).

### 5.4.11 Pressure of the job

In addition to the lack of formal process being cited as a reason for forgetting to inform victims about the availability of RJ and how they could participate VWCOs referred to the ‘pressure of the job’ in which they had a myriad of points, questions, and pieces of information that must be raised with the victim as a key factor to forgetting:

So much to do to ensure our bread and butter work gets done that other stuff can get missed. (VWCO07, team leader, VWCU1)

So much for the VWCOs to remember – RJ is just another thing for them to focus on. Biggest barrier is the workload. They have so much to cope with and you don’t want to put that extra pressure on them. We know, and they know that it is something that has to be done and that it’s good for the victim but workload … It felt that VWCOs couldn’t fit anything else in their heads ‘think about RJ’, ‘don’t ask me to think about anything else, I just can’t cope’ … much better now due to staffing levels. (VWCO09, team leader, VWCU3)

RJ is just another process and there are so many important things that you’ve got to speak to over the phone … I don’t have much time to talk to everyone. I’ve got to progress all my work … it’s quite a long tick-list and RJ is one of them. (VWCO08, VWCU2)

The pressure of the job as a reason for forgetting to offer RJ was stated by many of the VWCO’S across VWCU1-3. In contrast none of the VWCOs in police force area 2 referred to the pressure of the job as a reason for forgetting to offer RJ, despite having what appeared on the face of it to be roughly the same caseloads. The main reasons for VWCOs in police force area 2 not offering RJ were deemed to be due to the newness of RJ in their role, confidence and the issue of when to raise the topic of RJ.

Alongside many VWCOs in VWCU4 there were several VWCOs in VWCU1 -3 who also apportioned forgetting to offer RJ to the fact that RJ was a new process to them that was yet to be ingrained and embedded.

### 5.4.12 Embedding/making RJ routine

Several VWCOs mentioned that it is due to its newness that RJ had not yet become embedded in their work routine - that with time making the offer of RJ would just become routine and part of their day to day working practice:

It hasn’t got off the ground properly for us. (VWCO06, VWCU4)

Put my hands up I should probably offer it a bit more than I do but I think that will become habit in the future hopefully. (VWCO10, VWCU3)

To start with it was quite difficult to introduce RJ as we were quite a new unit and it just came in as a completely new concept. People were just often forgetting to ask. (VWCO009, team leader, VWCU3)

It’s been difficult to make it part of our everyday routine, just an automatic thing without thinking about it … cos’ it was added into what we had to do so a lot of people were forgetting - myself included. I've sort of got a lot better at it in the last 6 months. (VWCO13, VWCU3)

The fact that the timing of the offer of RJ was so fluid, that there was no set process in place and that many VWCOs felt RJ was still a new process that they were trying to integrate into their working day meant that the offer was largely being forgotten or left until the final outcome and closing phone call from the VWCO to the victim.

### 5.4.13 The timing of the offer

The VWCOs were asked in the interviews when was the right time for them to offer RJ. Many responded that they waited for ‘triggers and indicators’ from the victim themselves. When they received these triggers and indicators they felt encouraged to offer RJ. Besides using these triggers and indicators VWCOs also used the court outcome update (which was the final conversation that the VWCOs would have with the victim) as a suitable time to make the offer of RJ. The majority of VWCOs felt that the best and most appropriate time to mention RJ to their victims (if mentioned at all) was when they were conveying the conclusion of the case to them (in the main this was at the court outcome stage). VWCOs tended to wait until they gave the court outcome to the victim to offer RJ as they felt that it was at this stage in the criminal justice process that the victim would be able to think about RJ. At the point of the final outcome (when the offender has pleaded guilty or been found guilty and sentenced) the VWCOs called the victims for the final time to convey the outcome. The VWCOs felt that this was the most appropriate time to raise the topic of RJ:

Something to consider really on the post-charge side of things, when something has gone to court and the victim has suffered an incident to get them closure. We can offer it really at any point during that process of post charge work. (VWCO10, VWCU3)

It’s not relevant for the normal [pre-charge] stuff as there are no outcomes so it’s more to do with the court side and potentially sentencing and towards the end of the case when you are looking for that resolution for victims involved … so that’s when it gets thought about towards the end of cases - that’s when it becomes more relevant. (VWCO03, VWCU4)

However, it seems that waiting until this end stage usually results in the victim becoming despondent and rejecting the idea of RJ (see Chapter 6). Despite the majority of VWCOs believing the best time for them to raise the subject of RJ (if at all) was at the court outcome or case conclusion there were many VWCOs who conflictingly also indicated that mentioning RJ to victims when they were delivering the court outcome may not be the best time to raise the topic of RJ. They felt that for many victims the criminal justice process had been a long drawn out process which lasted anywhere up to twenty-four months. The VWCOs opined that the lengthy journey through the CJS that some victims had experienced resulted in victims becoming either despondent, frustrated or relieved. After sentencing victims just wanted to finally move on and saw the offer of RJ as another criminal justice process that would result in them still having to deal with the offence and being drawn into another lengthy process:

It never seems to … perhaps by the time we get to the end of a case people just want them to be dealt with, punished, suitably punished. Sometimes it’s a long way down the line, perhaps the impact has faded a bit. If something has gone two years down the line you just want it out of your life and done and finished. (VWCO08, VWCU4)

Most of them, once a crime has been through the criminal justice process just want to forget about it they just want to draw a line under it and move on, they are either too traumatised or too annoyed with how long it has taken, annoyed at having to go to court and most want to forget about it – lengthy process. (VWCO10, VWCU2).

You get certain frustrations along the way … people basically get fed up. So once conveyed the final resolution they are like ‘it’s all done … I can’t be bothered with something else on top of that’. (VWCO08, VWCU2)

Polarised to this view was the opinion of some VWCOs that RJ was a process that may help victims get closure if the sentencing outcome was not what they had been hoping for:

If you aren’t happy with sentencing RJ might be a way of feeling like you’ve got some sort of justice. (VWCO08, VWCU3)

Victims’ expectations of court outcome are sometimes too high, good opportunity to give RJ, that’s when I tend to put RJ in. (VWCO08, VWCU3)

Several VWCOs felt that discussing RJ at the end of the case, when delivering the case-outcome, may not be the best time as there is a lot of information for the victim to take in. These VWCOs thought that RJ should be a process offered after the final outcome had been delivered - that victims needed time to process the court outcome and their journey through the CJS before offering them another service:

It’s almost like there needs to be a follow-up call after that … do you know what I mean? Cos’ you are giving your result say Joe Bloggs pleaded guilty, got sentenced to two years, how do you feel about that? ‘Oh I wish he'd had 5 years ... blah blah … I'm just saying because this is how the conversation goes ... at that point it doesn't feel appropriate because you are actually listening to them, how they feel about the result, so at that point for your head to be 'oh don't forget to offer this' you are almost not genuinely empathising with them, it almost feels like another call after that*.* (VWCO08, VWCU01)

So, when is the right time? Many VWCOs felt that it was at the point that they informed the victim of the final case outcome but many also questioned whether this was the right time that it was possibly too late, that victims had become tired, despondent, relieved. Many VWCOs discussed whether the right time was before the sentence outcome, but the general view was that offering RJ before the sentence outcome was not a good idea as it might raise victims’ expectations, especially if the offender had not yet pleaded guilty or if an offender had not yet been charged:

Don’t want to mention when no defendant as don’t want to raise their expectations. (VWCO09, VWCU3)

VWCOs also felt that offering RJ at the pre-charge stage was too soon for victims:

Pre-charge too raw, too much to deal with - not possible to offer RJ. (VWCO01, VWCU3)

It’s not appropriate for us to offer it pre-charge as it’s very new. The investigation is just getting going or hasn’t even started. (VWCO05, VWCU3)

Occasionally the offer of RJ was made pre-charge but when that happened it tended to be with cases that the VWCOs had selected as appropriate for RJ or there had been an indication from the victims themselves that they might be favourable to RJ:

Only talk about RJ pre-charge if it comes up naturally – more from them or if we feel conversation is going right. (VWCO02, VWCU3)

If I’ve got a pre-charge on NICHE and I look at it and do the background checks and think ‘ok this could be a good one’ I’ll speak to that person and mention it at CNA. (VWCO05, VWCU3)

Several VWCOs did though state that by mentioning RJ from the initial offset the seed was planted:

Mention it pre-charge but so recent but planted idea. (VWCO03, VWCU1)

I discussed RJ with him … he was just so angry and wanted to do something with that, but it was in his mind then and the seed was planted. (VWCO05, VWCU4)

According to the MoJ’s 2014 *Restorative Justice Action Plan for the Criminal Justice System* RJ should be available to victims at every stage of the criminal justice process. However the VWCOs either did not realise that RJ could be offered at many stages or felt that it was not appropriate to raise the topic of RJ with victims prior to sentencing. Some early research by Shapland et al (1985) found that by the time victims had been through the criminal justice process a number of victims would not bother with the process of reporting a crime again and had reached saturation point. The same may be true of a ‘too late’ offer of RJ. Offering RJ to victims at the point of case conclusion may result in low levels of take up owing to victims being reluctant to engage due to becoming disenchanted with the CJS.

### 5.4.14 Case selection

VWCOs sought out potential RJ cases from either the case file notes which included the offender and victim statement or from the telephone conversations that they had with the victim:

If I’ve got a pre-charge on NICHE and I look at it and do the background checks and think ‘oh this could be a good one’ I’ll speak to that person and mention it at the common needs assessment. (VWCO06, VWCU3)

You get a flavour from the jobs that come through – you see from very nature they are suitable for restorative justice. (VWCO04, VWCU1)

You’ve got it in your head what cases you feel it would work for. Therefore, you think that’s it, maybe you think it’s inappropriate … it’s very difficult. (VWCO08, VWCU1)

If either the victim or offender insinuated that they were, on the part of the offender remorseful and apologetic or, on the part of the victim, wanting to know why the offender had committed the offence or wanted the offender to get help then the VWCOs saw this as a green light to mention RJ to the victim:

I offer it when people have questions to ask or they want to know why people have done stuff or the offender has stated they are sorry on their statement. (VWCO14, VCWU3)

If the offender indicated some kind of remorse, then that’s an indicator. (VWCO15, VWCU3)

You get victims who want to see people change their offending ways and they are the people who would want RJ. Some people have a lot more understanding and openness that we make mistakes … I feel they are the people who we could target for RJ. (VWCO03, VWCU2)

VWCOs appeared to select ‘ideal RJ victims’ based on certain characteristics and indicators that emerged during a review of the case file notes or the telephone conversations they had with victims.

Another factor that appeared to influence case selection was the type of offence. A large number of VWCOs voiced that domestic abuse/violence and sexual offences were not suitable:

A lot of our work is DV therefore I wouldn't broach subject of RJ as to be honest I don't think it’ssuitable. (VWCO04, VWCU1)

Domestic violence and sexual offences were in the main excluded and victims of such crimes were not provided with either verbal or written information on RJ despite the MoJ (2014) stating that RJ should be ‘available to victims at all stages of the criminal justice system irrespective of whether the offender in the case is an adult or a young person and irrespective of where in the country the victim lives and where the offender is located. Victims should not be denied RJ because of the offence committed against them’ (Ministry of Justice, 2014: 7).

It is, however, still controversial as to whether RJ is suitable for many such cases, though RJ is used routinely for sexual offences with young offenders in New Zealand, South Australia and Northern Ireland (Daly, 2006; Jacobson and Gibbs, 2009) and is also widely used in domestic abuse cases involving adults in Finland (Honkatukia, 2015) and Austria (Bachinger and Pelikan, 2015).

Many VWCOs saw certain offence types as more favourable for a RJ intervention. Some VWCOs felt that RJ was suitable for low level offences including theft and bullying. However burglary was perceived to be the most favourable type of offence for RJ. This suggests that VWCOs have an ’ideal type’ of offence for RJ – burglary.

I look at the incidents … so burglary I know is going to be an easy one. (VWCO04, VWCU2)

The sort of bread and butter of RJ [name of RJCO] says is burglaries and that sort of thing … assault. Other than that we would just offer it if it was appropriate. (VWCO13, VWCU3)

Post-charge it’s a lot of burglaries and mainly burglaries. I've not had any takers for hate crime but I would still offer it and those are the ones that I've had positive responses. (VWCO08, VWCU3)

More for burglary. (VWCO08, VWCU4)

Another factor that influenced whether VWCOs raised the topic of RJ was the victims’ perceived mood or their level of engagement with the VWCO:

You’ll get victims that are more willing to engage with us … you can tell who will want to discuss options with you, so it does vary, you can’t make a blanket decision. Depending on the case, how engaging the victim is, depending on any advice the officers have given you will make it (RJ) more or less relevant. (VWCO03, VWCU4)

The VWCO would decide if the victim was ‘too angry’ or too ‘unengaged’ to warrant being offered RJ:

If victims are ‘I want him … grrrrr’ it’s not a good point to offer it. They want the offender hung, drawn and quartered and in my opinion, that wouldn’t be a productive meeting. (VWCO06, VWCU3)

I don’t offer to angry people; some people are sympathetic to the offender. (VWCO02, VWCU2)

The issue of ‘appropriateness’ was raised numerous times. A large majority of VWCOs mentioned that they would make the offer of RJ if they felt that the case was ‘appropriate’:

We’d offer to any victim if we felt it was appropriate. (VWCO05, VWCU1)

It’s about individual cases and only you can say that as you work through it, it’s very much a professional judgement. (VWCO07, VWCU3)

I look at the (court) result and know before I make the call that I’m going to mention it (RJ) (VWCO07, VWCU3)

Sometimes it just feels inappropriate to mention even if a case is suitable on the face of it. (VWCO09, team leader, VWCU3)

However, several VWCOs did state that they felt that:

RJ can be good for any case, not a specific type, some rape cases may potentially qualify but general rule cases such as rape wouldn’t qualify. (VWCO09, team leader, VWCU3)

In the whole suitable RJ cases and ‘ideal RJ victims’ were selected by VWCOs using a number of different factors which included: offence type; level of victim engagement; if the victim has questions they want answering; and a general feeling of appropriateness mixed with professional judgement.

### 5.4.15 Triggers and indicators

VWCOs across both police force areas described how they used ‘triggers and indicators’ from the victim to determine both whether or when to raise the topic of RJ and which medium to use to make the offer (letter, leaflet, phone call). Victims unknowingly provided triggers and indicators which influenced whether the VWCO offered RJ. These triggers and indicators were mainly verbal cues that the VWCOs listened out for:

It’s just these triggers that you think RJ might be suitable. Not knowingly they might say something like ‘I don’t understand, it’d be nice to know’. (VWCO09, VWCU2)

Listen for phrases that make you feel that it’s appropriate to offer restorative justice. (VWCO08, VWCU1)

Sometimes it (RJ) just comes out quite naturally when the victim says ‘I wish I could say that to the offender’ then it comes naturally. (VWCO01, VWCU3)

Some victims are like ‘I’d like to say this to them’, right at the beginning at the introduction stage. I say you could have the opportunity. Not now but further down the road ... then I can briefly explain it to them and follow it through later on. (VWCO03, VWCU2)

I take the lead from the person … wait for pointers. (VWCO08, VWCU3)

Some victims came across as affable or demonstrated that they were happy to engage with the criminal justice process or were altruistic in their manner. If the VWCOs were not presented with these positive triggers and indicators that suggested the victim might be interested in RJ then they were unlikely to offer RJ:

I try to get the gist that it’s something they would be interested in or could see the benefits of. (VWCO03, VWCU3)

Not many (victims) come across as being interested. Maybe we are guilty of not considering it more even if you’ve not had any indicators. (VWCO05, VWCU1)

It was not just positive triggers and indicators that determined whether VWCOs offered RJ. VWCOs also picked up on negative indicators which deterred them from raising the topic of RJ. If the victims came across as angry or upset, then VWCOs took this as an indicator not to discuss RJ:

If you get the vibe that it’d be too distressing for them to even entertain then don’t mention. (VWCO02, VWCU3)

When victims haven’t got the outcome they want and they are irate I don’t have the confidence to discuss RJ but maybe I ought to … talking now … it’s made me think. (VWCO06, VWCU1)

Therefore VWCOs appeared to select an ‘ideal RJ victim’ based on how the victim presented themselves during the telephone conversation and from the case file notes. Victims were selected as ‘ideal RJ victims’ based on certain characteristics, and particular offences were deemed to be more suitable than others for RJ (an in depth discussion on the construction of the ‘ideal RJ victim’ can be found in Chapter 8). VWCOs made professional judgements and decisions on behalf of their victims and this, as discussed above, resulted in protective offers of RJ being made (Van Camp and Wemmers, 2016)

### 5.4.16 Lack of public awareness and “selling” RJ.

As briefly mentioned above there is currently a lack of public awareness surrounding RJ. In a Restorative Justice Council commissioned survey conducted in 2016 only 28% of respondents had heard of RJ (Restorative Justice Council, 2016).

Many VWCOs expressed that there was a need to increase public awareness and that by doing so it would be easier to discuss RJ with victims:

It just needs to be a bit more visible so even before people become a victim they know that RJ is a thing so that when they are a victim they are already thinking about it rather than coming towards the end of things or instead of … I’ve been a victim of crime. I’ve reported it, right can I do RJ? (VWCO07, VWCU2)

This lack of public awareness hindered the VWCOs offer as they felt that they were having to ‘sell’ a new product. Many VWCOs felt that mentioning RJ to victims was akin to:

Trying to sell something. (VWCO07, VWCU3).

VWCOs did not feel comfortable trying to sell the process:

It’s hard when you do RJ not to be ‘salesy’ but I don’t want to be pushing a sale at them. (VWCO07, VWCU2)

A lot of the time I leave it up to them to have a think about. I don’t want to push anything on them, I don’t want it to come across that I’m pushing. (VWCO01, VWCU4)

Several VWCOs stated that they did not feel that they had enough knowledge and experience of RJ to ‘sell’ it confidently to victims.

Victims feel you are trying to sell something, it’s important to say that they can back-out at any point … just to encourage them to listen instead of just saying ‘no’ because you are selling something. (VWCO07, VWCU3)

Many VWCOs stated that they too had never heard of RJ until they had come into post. It was this lack of public awareness and professional awareness that acted as a barrier to victim participation.

## 5.5 Findings from the Victim and Witness Care officer participant observations

As the single point of contact for victims the VWCOs had a vital role to play in providing victims with information on RJ. Enhanced victims, in police force areas 1 and 2, were allocated a VWCO within 24 hours of the offence being committed and the allocated VWCO would be their single point of contact right through to case conclusion – be it whether that was no further action, that the offence was dealt with through an out-of-court disposal or that the case went to court and the defendant was sentenced. The VWCOs were the main point of contact for victims throughout their journey through the CJS. Under the VCOP (2015) VWCOs are expected to provide all victims with information on RJ.

During my observations only a small handful of VWCOs were observed raising the topic of RJ with victims. These observations were made after the RJCOs had scoped the daily court outcome list for the day to determine suitable RJ cases. The court result list informed VWCOs what the court outcome of their allocated case was. The VWCOs then had to provide the victims with an update of the court outcome. Once the VWCOs had the daily court outcome list they contacted their victims by phone (in many instances they attempted to phone the victims and if there was no response they left a voicemail message with the outcome) to inform the victim(s) of the final court sentence outcome.

Whilst carrying out the observations the RJCOs in VWCU 2 and 3 scoped the court outcome list to determine which VWCO would be making victim court outcome update calls and which cases on the list it would be appropriate for the VWCO to mention RJ. Once this selection was made the RJCO asked the relevant VWCO if they would let me sit with them (when they made the telephone call to the victim) and listen in while they made the offer of RJ. Despite this nudging and prompting by the RJCO for me to observe the VWCOs providing victims with the court outcome and offering RJ, several VWCOs approached me and informed me that they had already attempted to call the victim and that they had been unable to make contact and therefore I would not be able to observe.

The RJCO located in VWCU1 was not in the office on the day of the observations and she had previously informed me that the VWCOs were not very good at mentioning RJ to their victims, that there were many new VWCOs and that I would be lucky to hear a single mention of RJ. Unfortunately she was indeed correct with her prediction and I did not hear RJ mentioned to any victims. This scarcity was also observed in VWCU4 where only one VWCO mentioned RJ to a victim whilst I was observing. Due to the RJCO not being co-located in VWCU4 the VWCOs were not asked to specifically offer RJ on the court outcome calls during my period of observation. Unlike the VWCOs in VWCU2 and 3 the VWCOs in police force area 2 did not receive any direct or indirect nudges from the RJCOs to encourage the VWCOs to allow me to observe them making the court outcome calls to victims.

Despite my presence in the VWCUs very few VWCOs were observed making the offer of RJ to victims. The VWCOs that were observed speaking to victims about RJ were the VWCOs who had direct experience of RJ. These VWCOs stated that this direct experience ensured that they had a deeper knowledge of what RJ involved and therefore they had the confidence to discuss RJ with their victims.

In the main, the VWCOs only made the offer of RJ to victims at the final outcome stage and in many cases they only made the offer when the victim provided triggers and indicators that they may be receptive to an offer of RJ. The VWCOs were observed selecting ‘ideal RJ victims’, to whom to offer RJ, based on these triggers and indicators.

The observation findings echo the interview findings that found that a lack of confidence, experience and knowledge of RJ impacted on VWCOs’ ability or willingness to discuss RJ with victims or to provide them with written information on RJ. To ensure that VWCOs adhered to the VCOP they required direct and indirect nudges and prompts on a regular basis.

## 5.6 Summary

The main factors that appeared to prevent VWCOs from offering RJ were a lack of confidence in knowing sufficient about RJ to make the offer; a lack of formal process resulting in VWCOs forgetting to offer RJ; and also a lack of public awareness which left VWCOs ‘selling’ RJ.

There was an absence of any formal process for RJ and this resulted in VWCOs forgetting to offer RJ. Some did not see RJ as a service that they were obligated to offer whilst others apportioned their forgetfulness to RJ not being a priority – there were other more important services and processes that needed to be discussed such as VPS and Victim Support. This suggests that VWCOs were not just not doing ‘care’ and only concentrating on criminal justice but that it was either the marginality of RJ or the problematic need to use discretion. Despite the VCOP outlining when RJ can be offered it was still perceived to be a ‘stand-alone’ process that was ‘semi-mandatory’ (Dignan, 2007) which VWCOs could offer as an ‘extra’ service. The offer of RJ was left to the VWCOs’ discretion and therefore RJ remained marginal and sat on the periphery of the mainstream CJS (London, 2011).

VWCOs were allowed to use their own discretion in deciding which victims would be suitable for RJ or when best to raise the subject of RJ. This discretion led to a complete silence on RJ by several VWCOs. The lack of understanding that RJ should be mentioned, or when it should be mentioned, resulted in the offer being mainly made during the final outcome call as this was the last point of contact that the VWCOs would have with the victim. Many VWCOs felt that offering pre-charge was too early and waited until post-charge to offer. Despite many voicing that post-charge (at the point of relaying the final outcome) was the optimum time in the victims’ journey through the CJS to raise the topic of RJ, several suggested in contrast that at this juncture many victims were tired and dissatisfied with their experience. Victim satisfaction levels reduce as their case progresses through the CJS (Shapland et al, 1985) and this would suggest that leaving it until the final outcome stage to raise the topic of RJ is not favourable. The MoJ states that victims should be able to access RJ at any stage and therefore as a number of VWCOs detailed it may be beneficial to provide victims with information on RJ from the first contact – by making victims aware of RJ from the start VWCOs would be able to plant the seed in victims’ minds that RJ was available and they could access this service at any point. Waiting until a conviction is secured to offer RJ is in contravention to the aims of the MoJ’s RJ Action Plan (2014). Some VWCOs did offer RJ prior to the case conclusion but this was largely based on victims themselves providing triggers and indicators that encouraged the VWCOs to discuss RJ and was chiefly after the defendant had pleaded guilty.

Many VWCOs expressed how they had not had any victims enquire about RJ. Public awareness of RJ is limited – this is nothing new, since the issue of public awareness has been raised many times in recent years (Victim Commissioner, 2016; Justice Select Committee, 2016; Bright, 2017). Case selection was evident amongst the VWCOs who were selecting potential ‘appropriate’ RJ candidates based on the triggers and indicators the victims gave or by the offence category and by whether VWCOs felt that it was appropriate to offer RJ. VWCOs decided which victims should have the RJ paragraph included in their correspondence or whether to include a RJ leaflet. While this case selection continues then public awareness of RJ will remain low and problematic. At the time of the research, VWCOs were making protective selective offers to ‘ideal RJ’ victims. If VCOP is to be implemented, then VWCOs will need to move to making proactive and systematic offers to all victims in line with the EU directive (Van Camp and Wemmers, 2016). Proactive and systematic offers should be made firstly by telephone and secondly through short and specific correspondence (Victims’ Commissioner, 2016; Wigzell and Hough, 2015).

Finally training was an issue that was raised by many VWCOs. VWCOs felt that the training they had was informal and basic. Training which involved VWCOs gaining first-hand experience of RJ was cited as being of significant benefit and, as outlined above, the VWCOs who had this experience were more likely to offer RJ. Despite a large majority stating that they were in favour of RJ they still did not discuss RJ with victims. Training, as with awareness raising, needs to be on-going and not just a one-off (Shapland et al, 2017c) and VWCOs need to be provided with ‘sufficient concrete knowledge and clear guidance on how to “do” RJ’ (Stockdale, 2015: 230).

Despite the RJ hubs being in place for over 12 months it appeared that RJ was still seen as a new process that needed to be embedded and needed to become engrained into the VWCOs’ culture and work schedule. There needs to be a shift from VWCOs seeing RJ as a non-priority to RJ being a key component of their role and the service they provide to victims. The implementation of RJ practice within an organisation requires a cultural change which can be a slow process (Lambert et al, 2011) and difficulties are often experienced when turning ‘abstract concepts’ such as RJ into day-to-day activities that agents are held responsible and accountable for (Skogan, 2008).

# Chapter 6: Victims’ experience of restorative justice

## 6.1 Introduction

This chapter presents findings from interviews with victims who had either been offered RJ and participated or had declined the offer to participate. The interviews were undertaken to determine how victims were offered the opportunity to participate in a RJ intervention and what led them to choose to either accept or decline the offer and following that decision what their experience of the RJ process was.Relevant research was reviewed in Chapter 2 and Chapter 3. Within this chapter victims’ pre-awareness of RJ will be presented followed by how RJ was described to victims, how the invitation was made and which criminal justice agent made the offer of RJ to the victims. At what point during the victim’s journey through the CJS the offer of RJ was made will then be presented and whether there is a right time to make the offer of RJ. Multiple offers of RJ will then be discussed to determine whether victims mind being offered RJ on more than one occasion. Following this victim participation rates and what reasons victims gave for either accepting or declining the offer of RJ will be outlined. The factors that influenced victims’ decisions to participate or not will then be discussed alongside whether the type of offence committed against the victim and whether the victim knowing their offender influenced their decision-making process. Finally this chapter will outline victims’ experiences of the RJ intervention, victims’ satisfaction with the RJ process and whether the victims in this study would accept an offer of RJ in the future.

## 6.2 The victims’ demographics

The total sample of victims interviewed was 24 and comprised eleven males and thirteen females. The age groups of the victims ranged from 18-25 to 64-75. The mode age groups were 35-44 years (6 victims) and 55-64 years (6 victims), this was closely followed by 45-54 years age group (5 victims). There were three victims in the 26-34 year group and only two victims in the 18-25 year old age group and in the 64-75 year age bracket. The victim cohort comprised one retiree, and four unemployed females (three of whom stayed at home to look after their family and one who was employed full-time up until the offence committed against her who subsequently had to, after a period of sick-leave, leave her job). In total ten victims stated that they worked full-time (with one victim working full-time hours on a zero-hours contract) and one victim who worked part-time. The remaining eight stated they were self-employed with one of these self-employed victims also being employed on a part-time basis. Two of the victims, James and Mary, were married and two female victims (Hannah and Sarah) worked together (pseudonyms have been used to ensure anonymity of the interviewees).

The range of offences that victims had been subjected to covered a wide spectrum of offences which ranged from criminal damage, identity fraud and assault through to hate crime, domestic violence and rape. They had been victims of: attempted murder (*n=*1), assault (*n=*7), criminal damage (*n=*7), theft (*n=*3), burglary (*n=*2), domestic violence (*n=*2), rape (*n=*1), dog attack (*n=*1), identity theft (*n=*1), fraud (*n*=1), grievous bodily harm (hereafter, GBH) (*n=*1) and hate crime (*n=*1). A number of victims’ offenders had been charged with more than one offence committed against the victim. These offence descriptions were either provided by the victim themselves or gleaned by the author from the interview transcripts. Despite the much discussed and contested suitability of RJ and the unease of criminal justice agencies to offer RJ in cases of domestic abuse and sexual offences (Bright, 2017; Bolivar, 2012a), the sample did include two victims of domestic abuse and one rape victim (the rape victim’s offender was also charged with attempted murder). The criminal justice outcomes ranged from no prosecution in two cases through to imprisonment.

The victims who participated in the research said that they had been contacted and offered RJ by either by a VWCO, a PO, a member of the YOS or a RJCO employed by the PCC. However a number of victims were unable to, when asked who offered them RJ, differentiate between the police, VWCOs and RJCOs. Victims saw VWCOs and RJCOs as members of police staff.

## 6.3 Themes

A number of themes emerged from the interviews with victims and will be discussed below. The main themes to emerge were: victims’ awareness of RJ pre-offer; how RJ was described; when the offer of RJ was made and by whom; how the offer was made; whether the offer was made at the right time for the victim; and the reasons victims gave for participating or declining to participate in RJ.

### 6.3.1 Victims’ awareness of RJ pre-offer

The victims in the research were all asked: ‘You have recently been offered the opportunity to participate in RJ. Before you received the offer did you know what RJ was?’ A surprisingly high number of respondents replied that they were aware of what RJ was with a third of the victims interviewed (*n=*8) stating that they had some understanding of the concept of RJ before they were offered RJ. However when the victims elaborated on their level of understanding of RJ most responded that they had some idea of the concept but were unaware of what RJ actually was or that it was available and accessible to them. Previous research has highlighted that most victims, prior to being offered RJ, had no awareness of RJ (Shapland et al, 2011; Victims’ Commissioner, 2016). However, the Ipsos MORI research conducted for the Restorative Justice Council also found that whilst levels of awareness of RJ were low (22%), once prompted with explanations of the term RJ many had some knowledge of the concept of RJ (Restorative Justice Council, 2016).

A few of the victims had in-depth knowledge of RJ. Two of the victims (James and Mary) were married and James worked for a neighbouring RJ team. Therefore when he, James, became a victim he was adamant that he wanted to pursue RJ as a mechanism to deal with the low-level criminal damage that had been caused to their property. Another victim (Alison) who participated in a RJ intervention with her husband said she had been very aware of what RJ was:

Yes we did, we had quite a clear idea of it as we have a friend who’s very involved in it himself … Yeah, we were very open to it, very open to it indeed. (Alison)

Several victims stated that they were aware of RJ as a process but were not aware, until offered, that RJ was available in their local area or for the type of offence that they had been victims of:

Yes, I did, I had … but I wasn’t … I knew … the bit that I understood would be beneficial was the bit in a sense that if someone was killed or severely injured that I understand would be RJ but for somebody to have car crunched I didn’t think there was that possibility. (Jane)

Not in any great detail. I was aware of or had heard of programmes where victims met perpetrators and that kind of thing not much more. (Jason)

Yes ... I’ve read about it whereby it’s just something whereby you try to meet up two different parties the offender and the victim and it’s like you try to get an understanding of why they've done it and maybe take the opportunity of the offender actually talking directly to the victim and telling them this is why I did it and if possible to be able to apologise and find a way forward … yes, I had an idea of what it is, not much though. (Frank)

Emma had written a letter to her perpetrator of her own accord and expressed that whilst she was aware of RJ she was surprised that it was available in her local area:

Some years ago I expect it was, I heard about it on Radio 4 and I thought that’s a great idea … No one offered it to me I didn’t know it was something that was really offered so I thought I would ask about it because it just seemed the right thing to do at the time … I knew there had to be one somewhere in the country as I'd heard about it on Radio 4 and they had done programmes about it but I was a bit surprised that it was almost that easy that it was passed on (the letter she had wrote to her perpetrator was passed onto the RJ team). I almost thought well if it can’t be passed on by this lady (her VWCO) then I was going to have to fight for that to happen. It got passed on to them and they phoned me (the RJ team). (Emma)

One female victim recalled seeing RJ on the TV but responded that she wasn’t aware of how the process actually worked. When she was asked if she had heard about RJ prior to being invited she said:

Not really. I heard a bit of it on the TV but I didn’t really know how the whole process worked. I guess that before being a victim you never think you will need it or require it and you are ok until the day you are a victim of crime. So, no it’s not really something you think about. (Claire)

The majority of victims however said that they had no awareness of RJ before it was offered to them by criminal justice personnel:

I mean because I didn't know anything about the meeting and stuff it was a bit of a shock really as I didn't even know that you could meet the person that had done this sort of thing. (Matt)

I didn't - no .... I hadn't no, I've never really been in a crime thing before so it'd never been talked about. (Henry)

Josie was one of two female victims who had not been offered RJ but had instead found out about RJ post-sentence by themselves either on the internet or on the television. Both these victims requested RJ by either enquiring with a criminal justice agency or by self-referral direct to their local RJ service. Both had been victims of domestic violence. Josie’s ex-partner had served a lengthy custodial sentence for raping and attempting to murder her:

I think I did a bit of research, good old Google and then I asked and that’s when I was told. I asked, I think, Victim Support and that’s when I was told so I wasn’t offered, it was only because I had enquired that it came about and that’s when it was like 9 years after the offence … I think for me I had always wanted answers so to get that I knew I would obviously have to see him again to understand why. I guess that’s when RJ things on the internet and this was like last year so obviously you can find things out and that’s when I realised there was this service and ... Victim Support referred me to RJ … I went to Victim Support and then they referred me to RJ. I asked for it ages ago (to communicate with her offender) so it basically sat on file as there was nothing around. (Josie)

Eleanor, a victim of domestic violence, contacted a RJF directly whose details she found on the internet. The RJF arranged with her local RJ service for herself and another RJF to meet with her to discuss RJ.

Well I wasn’t told anything about RJ - what actually happened was something came up on the TV and I thought what’s this and I took down the number and I had to find out all about RJ myself. (Eleanor)

A lack of public awareness of RJ is a ‘recurring theme’ (Bright, 2017). The Victims’ Commissioner, in her 2016 RJ review Part 2, stated: ‘for victims to receive good quality RJ they must have an awareness and understanding of what RJ is’ (Victims’ Commissioner, 2016: 10).

### 6.3.2 How RJ was described to the victims

RJ was described to the majority of victims as a process whereby they could meet with the offender and talk about what had happened and ask questions. Only one victim said that RJ had been explained as a process that could be either a direct face to face meeting with the offender or an indirect process:

She said that it is an opportunity whereby … you as the victim can meet the offender face to face if possible, or if you don't want the face to face then it can be by other means. But it's a way by you have a chance to ask questions to the offender why they've done it and what you think about the whole situation altogether and you express yourself, how it made you feel so the offender can see the broad picture, the effect of their behaviour. (Frank)

For the majority RJ was described as a face to face meeting:

Described as a process whereby it’s an opportunity for the victim and the offender to meet and both explain, particularly the victim, explain their side of the story and how it affected them and to … I guess get to the point where the offender can understand the impact of what they've done and yes perhaps view things differently as a result of that. (Alison)

Basically to meet and talk to the person. That’s how it was basically described to meet with the person and ask them questions and that was how it was put across to me. (Claire)

Described as the victim and offender taking part in a sit down meeting … we'd go over what happened, why he did what he did and all of those kind of actions and outcomes that it's had on me and all that kind of thing. (Henry)

One victim, George, stated that he was offered the opportunity to meet with his offender and when the offender declined he was not offered any other means of communicating with his offender such as indirect methods including writing a letter to the offender.

In explaining RJ to victims, several criminal justice agents had used examples to illustrate the benefits to the victim of RJ and described what type of offences RJ had been successfully used in:

She was very good she said sometimes victims, if there was a robber in your house and they go round and trash the place the victim isn’t able to ask why you see and they always want to ask why, why you came in the house or why did you wee in my top drawer ... things that would make the victim ask … (Eleanor)

The lady said they've had extreme cases of crimes like stabbing and things and then bringing people to help them get out of crime and sort it all out between them … It’s pretty good really, how it all works. If the victim can do that then they can really do anything to be honest. (Mick)

Many of the victims stated that RJ had been explained as a process that would allow them to gain answers and that would provide them with the opportunity to tell the offender what impact the offence had on them and thus allow the offender to understand what effect it had had on them:

Described as a process whereby it’s an opportunity for the victim and the offender to meet and both explain, particularly the victim, explain their side of the story and how it’s effected them and to re- I guess get to the point where the offender can understand the impact of what they've done and yes perhaps view things differently as a result of that. (Alison)

She said it was a system in which the victim would be able to communicate with the offender and ask questions and try and find some closure. (Steve)

It appears that RJ was described reasonably well to victims – in that they were provided with some basic information on how the process worked and what they, as victims, might gain from the process. As Bright (2017: 27) also found, previous research does not provide examples of the information that was given to victims nor how RJ was described to victims. Research does though argue that adequate information, preparation and communication are fundamental factors to victim participation (Hoyle et al, 2002; Shapland et al, 2011; Van Camp and Wemmers, 2016).

For many of the victims in this study RJ had been described as a face-to-face meeting. Research by Hoyle (2002) states that by only offering victims the opportunity to participate in direct face to face RJ many victims are being excluded. Hoyle et al found that many non-participating victims are in fact ‘non-attending victims’ and would have, if given the choice, participated in an indirect form of RJ. All too often a victim’s decision not to accept the offer to meet with their offender is misinterpreted as a lack of interest in the RJ process which results in limited opportunities for indirect participation (ibid: 107).

### 6.3.3 How the offer of RJ was made to victims

Research conducted by the Victims’ Commissioner states that the best method of invitation is first by phone-call, followed up by a letter (2016). However the victims in Shapland et al’s research (2011) stated that regardless of whether victims were contacted first by phone, letter or face to face they found the method of invitation to be fine, thereby suggesting that the method through which the offer is made is not important. The most important factor was that there was sufficient time for the victim to have personal contact with the RJF to hear about the process and ask questions (ibid). Bright (2017: 56) reiterated Shapland et al’s (2011) findings; all the victims who Bright interviewed ‘had positive memories of the initial offer and explanation of RJ which for some took place over the telephone while for others it was in a face to face meeting’. The victims interviewed in this study were invited to participate in RJ either by telephone, by letter or face to face.

Victims within both police force areas should have been provided with written information on RJ and also offered RJ over the phone by the VWCOs during their telephone conversations. However in police force area 1 the written information on RJ was relayed to victims as a paragraph on RJ which was included in victims’ correspondence on their case sent by the VWCO’s. As discussed in Chapter 5 this paragraph could be removed and was removed when the VWCO decided it was inappropriate to leave it in. Unlike police force area 1, police force area 2 only had a leaflet on RJ that they could include in their correspondence but VWCOs tended, in the main, to forget to include the leaflet. Police force area 1 also had leaflets that they could use in addition to the editable RJ paragraph in victims’ correspondence. During observation few VWCOs in either police force were observed including RJ leaflets in victim correspondence and only a limited number of VWCOs mentioned whilst being interviewed that there were leaflets available or that they inserted them (refer to Chapter 5). It was not clear whether the VWCOs did actually forget to include the leaflet or whether they intentionally did not insert the leaflet into victim correspondence.

Only four victims, in the study, recalled being sent a letter (one of the victims stated that he thought that he had been sent a letter but was not certain)– this letter was then followed up by a phone-call from their VWCO or the RJCO. In the main, victims (*n*=14) were invited to participate in RJ over the phone by either the VWCO when they were updating victims with information on their case, the RJCO or a YOS member of staff. Three victims in the study had been offered RJ face-to-face by a police officer.

### 6.3.4 Who made the offer?

Victims appeared not to be able to differentiate between whether a VWCO, RJCO or member of the police had made the offer of RJ. Many of the victims in police force area 1 were contacted by the RJCO. However many were unable to differentiate who had made the offer. In police force area 1 the RJCOs scoped cases from the police databases that they shared with the VWCOs (see Chapter 7) and therefore made contact with victims whereas in police force area 2 the RJCO and her team did not scope potential RJ cases.

Several victims requested RJ themselves and a small number were offered RJ by Victim Support or by the YOS and the remaining victims were offered RJ directly face to face by the PO in charge of their case. None of the victims mentioned when asked how they were first offered RJ and what their thoughts were when offered that the method of invitation had impacted on their decision or whether they felt that one method in particular was more impactful.

### 6.3.5 The timing of the offer

When is the right time to offer RJ? The VCOP (2015) states, in the ‘victim’s journey through the criminal justice system’ infographic, that there are three stages in the victim’s journey through the CJS when the victim should be offered RJ (where appropriate). These three stages are: 1) when the victim is told that the offender has been arrested; 2) at the stage when they are informed about the offender’s plea and where there is a guilty plea; 3) when the victim is informed of the sentence and provided with an explanation of the outcome. As discussed in Chapter 2 and Chapter 3, RJ has been included within legislation and is either a condition or activity that can be attached to an out of court diversionary measure or as part of a community sentence. Courts also have the power to defer sentencing for RJ to take place and RJ guidance has been provided for prisons and probation to use RJ. The VCOP (2015) also stipulates that RJ should be offered to all victims regardless of the type of offence, therefore ensuring that RJ should be available to all victims at any stage.

Many of the VWCOs interviewed voiced that they felt that the most appropriate time to offer victims RJ was at the final stage when they informed the victims of the final sentence outcome (refer to Chapter 5 for further details). They felt that offering enhanced victims[[41]](#footnote-41) RJ pre-charge was too soon as there had not yet been a guilty plea or confirmation that the suspect would be charged.

When the victims were asked in their interviews at what stage RJ was offered to them the responses were mixed. RJ was most frequently offered or accessed by victims themselves at the post-sentence stage[[42]](#footnote-42) (*n=*9) (one of the victims offered RJ post-sentence was initially offered at the pre-court stage but was told that it was not available until after the court outcome – she called back in post-sentence to request. Another victim was initially offered RJ pre-sentence and offered again at post-sentence). Many victims were offered RJ at the court outcome stage (the stage when VWCOs provided victims with the court outcome) (*n=*6). Just over a third of the victims were offered at either pre-sentence (*n=*2) (one victim offered RJ at the pre-sentence stage was offered RJ again at the post-sentence stage); or pre-court stage (*n=*3) (one victim offered RJ at the pre-court stage was offered RJ again when sentencing was deferred and another victim who was offered RJ but told she would not be able to access the service until after the case was finalised). Two victims (a married couple) were offered RJ as an out-of-court disposal (*n=*2) and one victim (*n*=1) who did not wish to press charges on the male acquaintance who assaulted him but did express a desire to find out why he assaulted him was offered RJ by a PO; and another victim’s case (*n*=1) resulted in no charges being brought due to a lack of evidence and he was then offered RJ by his VWCO. A further two victims could not recall when they were offered RJ (*n*=2). As discussed in Chapter 5 victims, in the main, were only offered RJ pre-court when they provided verbal cues in the form of triggers and indicators to the VWCO that they wished to have communication with the offender to gain answers:

I think where I turned round when everything first happened I basically wanted a reason as to why he done it and they said they only way they would offer it was through that (RJ) and they sent me the information pack out and all that stuff. (Sally)

Petra was also offered RJ at the pre-court stage but she was informed that whilst it was a service available to victims it was not available until after the court outcome. Petra called back in to the VWCU after the case concluded to enquire about RJ as she was unhappy with the court outcome and felt that RJ would give her the opportunity to speak with her son's perpetrator and gain some answers to the unanswered questions she had:

Before the court case, you know when you have people come out and help through court case (VWCO) saw her and then RJ was afterwards as I wanted to speak to him to try to get his side to know why he did what he did to my son. (Petra)

A couple of victims (*n=*2) were offered RJ pre-sentence and one victim Frank recalled that he was later offered RJ again after the court outcome. As discussed above, Sally was only offered RJ pre-sentence when she told her VWCO that she wanted to know why her offender had committed the offence. A few victims took part in a RJ conference with their offender at the police stage as either part of an out-of-court disposal or as an alternative to the criminal justice process. James and Mary met their offender as part of an out-of-court disposal whilst Mick’s offender was not charged with assaulting him due to a lack of evidence. Phil had not wanted to press charges against his perpetrator as he knew the male who had assaulted him. Phil was offered RJ by the officer in charge of his case:

Well the incident that happened I really didn’t want to go down a certain route (press charges) but I really wanted to find out why it happened and then he (PO) explained about (RJ) the victim and the accused have a meeting with people and you talk about it and try and find out what went on. (Phil)

Six victims were offered RJ at the court outcome point (as stated above one victim was offered RJ at both pre-court and post-sentence stage). When the victims were updated with the court outcome the majority were offered RJ either by letter or by phone. Matt was offered RJ at the court outcome stage but did not agree to participate until later when he had thought it through he then got back in contact:

I had to contact them later and that's when I had made my decision really. (Matt)

Jane was offered RJ at the court outcome point after she provided triggers and indicators to the VWCO that she was favourable to participating in a RJ process:

It came via, because I’m a yakker I couldn’t honestly say who it came via. Because I knew there was this thing and just in general chit chat I did ask do they do anything if somebody had their car and I was told yes they do and I thought ‘why not’. (Jane)

Over a third of the victims interviewed (*n=*9) stated that they were offered RJ at the post-sentence stage – of whom four initiated the process of RJ themselves. The victim-initiated RJ post sentence cases were initiated by the victim either calling in direct to the RJ hub or calling in to the VWCU and requesting some form of RJ.

The remaining victims who were offered RJ post-sentence but did not initiate the process of RJ themselves (*n*=5), were offered RJ either by letter or by phone and either as part of a probation-led initiative, by a YOT worker or by a PO as part of a youth crime initiative to reduce offending at a local shopping precinct.

### 6.3.6 Was the offer made at the right time for the victim?

When asked 'was the offer of RJ made at the right time?' half of the victims (*n=*12) stated that they felt that the offer of RJ had been made at the right time. A further 5 victims felt that the offer should have been made sooner. A few victims (*n*=3) responded that the offer had been made too soon. Two victims could not remember when the offer of RJ was made. One victim said she was not sure whether the offer was too soon or too late – the offer had brought it all back, it was upsetting. The final victim stated that the offer was made when the VWCO informed them of the court outcome and this was the wrong time to make the offer as they felt ‘fed-up’ and ‘let down’ by the CJS. The victims who responded that it was the right time had been offered RJ across a spectrum of criminal justice stages ranging from pre-court to post-sentencing. This suggests that there is no specific right time to offer RJ:

Yes, yes … I'd say it was OK but I would say the right time … It was only like that I didn’t feel that it was OK for me to meet the offender and chat to them, yeah. (Ollie)

Absolutely, absolutely. (George)

Absolutely - I mean it was a few months after the event, it was long enough for me to still remember and still be aware of it and it was after I was out of hospital so really it was perfect timing as far as that was concerned. (Henry)

For me personally, yes it was because it sort of helped me with overcoming the whole situation. (Mick)

Yes, it was certainly offered to me - I don’t see how it could be any other time. (Amal)

I think so, yes. (Phil)

Several of the victims who responded yes to whether the offer of RJ was made at the right time did not give a resounding yes and alluded to the fact that it was the only time that the offer was made and that they were unsure as to what other time the offer could or should be made:

Was it at the right time? ... well yeeaaah … well it was the only opportunity really and I think, again I wasn’t aware that I would have been entitled to meet up with somebody under the circumstances as it only being a piece of machinery … like my car as opposed to my son or brother. (Jane)

Yes, for me it couldn’t have come sooner. (James)

Out of the twelve victims who stated that the offer was made at the right time four of them had been offered RJ at the court-outcome, therefore the majority (4 out of 5) of victims offered RJ at the court-outcome stage felt it was the right time (a total of six victims stated that they received the RJ offer at court-outcome but only five responded to the interview question ‘when you were given the offer of RJ was it at the right time for you?’) This is in contrast to the majority of victims that self-initiated the RJ offer at post-sentence feeling that the offer should have been made sooner. It would appear that waiting until post-sentence to offer RJ is too late as only two of the nine victims offered RJ at this stage felt it was the right time (and one of these victims had already been offered RJ at pre-sentence). Nearly all the post-sentence victims (*n*=3) who responded that the offer should have been made earlier were victims who had either self-referred (*n=*2) or had composed a letter to their offender and sent it in to their VWCO requesting that it be forwarded to their offender (*n=*1):

I had to wait 10 years and nobody told me anything about it until after about 9 years … I would have loved to have it a few years after maybe not so much straightway but at least three years after the offence, I did wait nearly 11 years. I just wish the service was available much sooner than when I had it … I just wish I could have had it sooner and not waited so long. (Josie)

The remaining two victims who felt the offer should have been made earlier were colleagues who worked together as managers of a local shopping precinct:

Moving forward to wait 8-9 months would be disappointing, it should be dealt with a lot sooner than that, not just from our point of view but from the offenders’ point of view as well. (Hannah)

One victim, who was offered RJ at pre-sentence said that whilst he thought the offer of RJ was given at the right time the offer had taken him by surprise:

Bit of a shock really as I didn't even know that you could meet the person that had done this sort of thing. (Matt)

Matt did though, after contemplating the offer, call back in post-sentence to pursue RJ.

In contrast to the five victims stating that the offer of RJ should have been made sooner a few victims (*n*=3) opined that they felt that the offer was made too soon. One of the victims, Sally, who felt that the offer was made too soon was initially offered RJ pre-charge. Sally had initiated the RJ offer at the pre-charge stage herself when she provided her VWCO with triggers and indicators that she wished to understand why her perpetrator had done what he had done to her. Sally had wished to participate but her offender pleaded not guilty and she was therefore unable to proceed with RJ:

I think where I turned round when everything first happened I basically wanted a reason as to why he done it and they said they only way they would offer it was through that (RJ) and they sent me the information pack out and all that stuff and as the court case went on I realised that whatever reasons behind it he wouldn’t own up and apologise for what he had done anyway … yes at the time I thought it was the right time but going further down the line now realising everything I think it’s not. I suppose if he'd have pleaded guilty then I would have asked them questions that I wanted but I suppose I wouldn’t have got them answers now … I think if he'd pleaded guilty and owned up then I would have spoke to him and ask him why but because he thinks he's done no wrong. (Sally)

Despite Sally stating that in retrospect she felt that the offer was too soon as she was unable to proceed with RJ, it was still a process that she was interested in and wanted to possibly access in the future if he was found guilty:

There's still ... I've still got an open mind about it and I still could possibly go forward with it but at this moment I probably wouldn’t and the reason is not because of the system but what his plea is and I don’t think it will help in any way because I will be going to get that control back from him but he'll be, will still have that control over me. (Sally)

One of the other victims who stated that the offer of RJ was made too soon described how she was initially offered RJ by Victim Support. From her conversations with the police and YOT she felt discouraged from going ahead with RJ even though she said she would meet her young offender. Additionally, the young offender was not charged with the main offence that was committed against her and therefore she felt that progressing with RJ was pointless as she would not be allowed to discuss the total effect that the offences had on her, only the minor offence for which he had been charged. She also then clarified that the young offender had refused to participate:

It might have been a bit too close to the actual time. I went through quite a few months of being unstable as such, you might put it. I even went under the doctor and medication so it was quite a difficult time to be honest, trying to handle it myself so I don’t know if it was the right way to go, to go and speak to that person and I had this feeling from the police side of things that this wasn't going to work with this sort of person and he wasn’t interested in meeting me. He didn’t want to do it basically. He didn’t want to do it so you kind of think what’s the point in facing it if it’s not going to have any effect ... It was actually a good month afterwards, because I was just under Victim Support, they were going to put me forward for RJ, they suggested it so I said ‘yes ok let’s give it a go’ before I pulled out. We were going to go with it and the RJ people were calling me and I think it was that that actually ... I wanted to get over how I was feeling and I wanted to think “end of matter” and just close the door. I think it was a good month or two months after the attack I said yes we would go through this and meet the person before we pulled out … Yes, it was all out of court - the person was not of age so it went through the youth protection area … I thought about it and thought yes let’s meet the person, still even now if you ask me I have no idea who this person is, what his name is, what he looks like or anything. I suppose that could be a good thing as I wouldn’t know if I met him if I walked out of my door. I often wonder why … As I was going through the RJ, the RJ person was looking into it and talking to the other guy and I don’t think he was interested anyway so … in the end I just thought I'm going to pull out and not bother … We had a couple of phone calls from the person that was arranging RJ. The phone calls were basically saying that the person that they were dealing with was rather difficult, didn’t want to go forward with meeting with me and basically [I got] a feeling [that they were] trying to put me off meeting the person anyway … the feeling that came across was that they were trying to actually stop the process. They didn’t put it in so many words but it was that the person didn’t want to meet me, that he was a very difficult person and he was already going through other RJ systems with other criminals, obviously it wasn’t just myself apparently he was a known criminal around the area and he was already up for other crimes and going through RJ with those people so I think that’s why it was a bit difficult. (Claire)

Whilst Claire felt that the offer was made too soon it would appear from the interview conducted with her that her offender (a young offender) had already been charged and found guilty (or had pleaded guilty) and that she was invited to participate in RJ by the YOT. This suggests that the offer was made post-sentence (post-sentence in the respect that the out of court disposal - be it an informal diversionary Community Resolution or a formal caution - had already been decided).

The third victim, Steve, who expressed that he felt the offer of RJ was too soon was offered RJ at pre-court and pre-sentence. Steve participated in a face to face RJ conference as part of the deferred sentencing process. After initially stating that the offer of RJ had been made too soon Steve went on to voice his approval at how positive the RJ process had been for him:

I think just how soon it was presented to me. I think as my case wasn't nearly as bad as it could have been. I didn’t end up going home with major injuries or anything like that. Other people who would have had a worse outcome than I did they definitely think it would have been unequivocal. I think it was just too soon to be offering something like that … I think you need at least a couple of months really to process ... Mentally it takes time to get over something like that and I think a couple of months is a good span of time to find your feet again and also after some of the court processes have happened. So, he pleaded guilty … I don’t know, it could have been a case that he didn’t plead guilty and then it would be a lot more drawn out but that he did plead guilty helped but if he hadn't maybe I would have been less inclined to do it, so after court processing. (Steve)

The initial offer was made too soon and Steve was therefore dissatisfied with the invitation but overall he was very satisfied with the whole RJ process:

I think it was a very positive experience at the end of it … ultimately very satisfied by the end of it. (Steve)

Steve was the only victim who was offered RJ when sentencing was deferred. Whilst sentencing was not deferred specifically for RJ to take place it was included as a process to be explored.

All four victims whose cases either did not reach a point of charge (one due to insufficient evidence and one due to the victim not wishing to press charges) or was dealt with as an out of court disposal (two victims – married) also responded that the offer of RJ was at the right time.

In regard to whether victims offered RJ at the pre-court stage felt that the offer of RJ was made at the right time only one of the three victims offered RJ at this stage stated that the offer was too soon (see above). However, the other victim who was offered RJ pre-court said that it was the right time to be offered RJ. The remaining victim offered RJ pre-court did not respond to the interview question asking if she felt the offer of RJ had been given at the right time – she had initiated the offer herself by providing her VWCO with indicators that she wished to ask the offender why he had committed the offence. She was informed by the VWCO that:

They said yes you can do that but you have to wait until he's been found guilty. Then after I rang and asked for it. (Petra)

One victim, Larry, responded that he did not feel the offer was made at the right time:

No, definitely too annoyed. (Larry)

Larry was offered RJ at the court-outcome stage but voiced his dissatisfaction with the offer and the timing of the offer. However, this dissatisfaction was not due to any specific issue with the RJ offer but more to do with his overall experience of the CJS. Larry felt the CJS had let him down and he had not been given the true facts or adequate information regarding the incident. In Larry’s words the criminal justice process was “stressful” and was a “terrible” experience. The “terrible” criminal justice experience resulted in Larry feeling that the offer of RJ was not made at the right time:

It just annoyed me [the criminal justice process and court outcome] and just put me off totally going any further with anything [including RJ] … I felt totally let down by the police and the courts … Dissatisfied with the whole process. (Larry)

Therefore it appears that whilst there is no clear right time to make the offer half (*n=*12) the victims felt that the offer was made at the right time regardless of the stage in the criminal justice process that it was made. However five out of the seven victims who were only offered RJ at the post-sentence stage felt the offer should have been made sooner – suggesting that waiting until post-sentence is possibly too late.

Research suggests that criminal justice professionals do not like making a tentative offer of RJ (one made before a guilty plea or sentence outcome). Respondents in Kirby and Jacobson’s (2015: 56) evaluation of the pre-sentence RJ court pathfinder raised concerns regarding making an offer of RJ pre-sentence, before a guilty plea had been submitted. Professionals expressed that making the offer of RJ pre-guilty plea was ‘wasted time’ if the offender then went on to plead not guilty. Professionals also felt that making the offer pre-sentence could cause distress to victims ‘who expressed eagerness to get involved in RJ only to find that this could not happen because the offender had pleaded not guilty and/or did not wish to participate’. It appears, from the findings of Van Camp and Wemmers (2016) research, that many professionals do not make the offer of RJ pre-sentence as they feel that victims need time to heal, to get over the offence. However victims prefer to be proactively offered RJ and to be given the option to make an informed decision (ibid; Hoyle, 2002).

It appears, from this study, that it is not the guilty plea that influences whether a victim feels that making the offer before the court-outcome is too soon. The only case in which the victim was offered RJ before the offenders’ plea was submitted (and he then pleaded not guilty) appears to have been offered RJ in the initial conversation that she had with a VWCO. This victim was a victim of domestic abuse (coercive and controlling behaviour) and was therefore an enhanced victim who would have been contacted pre-charge. The victim initiated the offer by providing triggers and indicators and whilst stating that the offer was in retrospect made too soon she was still willing to consider revisiting RJ with this offender post-sentence if he was found guilty.

### 6.3.7 Multiple offers - do victims mind?

Steve was approached at both the pre-court and pre-sentence stage and offered the opportunity to participate in RJ. Steve expressed how he felt that when RJ was offered to him pre-court it was not something that he wanted to go ahead with, however when he was offered RJ again at the deferred sentencing stage he felt that RJ as a process must be important as the Crown Court had deferred sentencing to allow RJ to take place:

Initially I didn't want to do it - I just wanted to move past it and I felt like it would slow that process down as I was still at that time still getting taxis home from work and just feeling very conscious when I was outside on my own … I think also I was suspicious as to the circumstances in which he handed himself in and I thought that maybe it was just the case that if he did ... if he wanted. First of all I wanted to know if he wanted to do it if he was interested in making amends and if he was I didn't really know if it was a case of he's going to trial so does he want to, does he want the court to see him in a better light and will RJ help that or does he actually want to make amends … I think that's when he went to the magistrates’ court and when they were filling me in with what's happening and how everything was going at that point then they offered it again. The same person. I was more curious about it and I'd had a few, I think it'd been at least 6 weeks by that point and yes I was more curious and I think at that moment I agreed to talk to [Sue] the RJF. I was still curious about it but I think I was still favouring not to do it at that point. I think she emailed first and I think when she first emailed it was a particularly busy few weeks for me so I didn’t actually respond at first and then she rang me at work and I couldn't actually answer and then eventually she emailed again and I think that would have been two weeks after the first email and again I was still discussing this with my Mum around this time and as I said at first I didn't really want to do it because at that time I felt that I was moving past it and regaining my confidence and didn't want anything to stop that process. Eventually I emailed her back I think after the second email and said I'd like to discuss it and see how it works. Then she rang me afterwards and she gave me a brief of how it would go and what the aim of the process is. They decided at magistrates that it was serious enough to go to Crown Court ... I think it was at the next, when it first went to Crown Court that they decided to defer it so I must have spoken to them at that point and registered my interest. I was a little surprised. I didn't realise that it needed to be done prior to sentencing but I thought it must be a bit more important than I initially thought (the RJ process). They were willing to slow the process just for it then I guess there must be a good reason for it. (Steve)

Steve was not the only victim to be offered RJ on more than one occasion. Frank was offered RJ, first by letter pre-court and then by a phone call post-sentence:

When I was actually offered it, it was ... I'm trying to do the timing of the court and the letter that was telling me that the gentlemen had pleaded guilty to the case. I think in the communication that was updating me about the case they mentioned the programme for RJ to tell me that there is this that could be done, that I could be involved in the programme (offered again by phone after court outcome - post-sentence) but I think when for her (RJCO) when she phoned me it was after the court hearing when the offender had pleaded guilty and that was when she proposed if I could be in a position to meet up with the offender and ask any questions that I might have he would be telling me and express your feelings and so forth. Now I'm not too sure about the timings to be frank [interviewee’s name] but when I finally actually managed to talk to her it was after the sentencing. (Frank)

Neither of the victims offered RJ on more than one occasion expressed any issue with being offered RJ several times. This suggests that whilst criminal justice agents are concerned that by making proactive and systematic offers of RJ (Van Camp and Wemmers, 2016) they may be causing undue stress to victims this appears not to be the case. Hoyle and her team found in their evaluation of the Thames Valley restorative cautioning programme that victims rarely spontaneously agree to mediation and that persuasion, but not coercion, is an integral part of RJF training (Hoyle, 2002: 126). Newburn et al (2002) argued that victims in his study would, in the main, participate in RJ if they were actually offered the opportunity. Bolivar (2012) further supports the argument that victims ‘will not necessarily spontaneously express their wishes to meet the offenders’ and argues that this is in part due to wanting to ‘avoid negative social reactions’ (Honkatukia, 2015). Whilst coercion should be avoided it is important that those victims who might want to participate are made fully aware of the opportunity to do so, alongside the benefits and disadvantages so that they can make an informed choice (Hoyle et al, 2002: 127). Yet for many practitioners there is a reluctance to persuade or to make the offer of RJ more than once. Instead criminal justice agencies in this study tended to err on the side of caution and made protective offers to selected ‘ideal RJ victims’ (see Chapter 5). One victim, Matt, was initially offered RJ at the court outcome stage and after giving the idea some consideration he then called back into the RJ service to take up the invitation to participate in RJ. If he had not called back to take up the offer would he have received a follow-up call or would he have just been forgotten? Would it have just been assumed that he did not want to participate and his case should not be followed up for fear of pressuring him? The findings suggest that the offer of RJ should be a continuum.

## 6.4 Victim participation

### 6.4.1 Victim participation rates

The majority of victims offered RJ wished to participate in some form of RJ. Out of the 24 victims interviewed (in this study) 19 had expressed a desire to participate in RJ when it was first mentioned to them (either by the VWCO, RJCO, YOT or PO). These 19 victims subsequently had either a telephone or face to face conversation with a RJCO or RJF. Out of the 19 victims who expressed an initial interest in participating in RJ 8 victims did not go on to have any direct or indirect communication with their offender. The reasons for this ranged from the offenders either not pleading guilty (*n=*1) or declining to participate (*n=*5) to the RJ team being unable to make contact with the offender (*n=*1). One other victim never received a call back from the RJCO after initially stating she would like to meet her offender (*n*=1). Therefore a total of 11 victims went on to have some form of communication with their offender either directly in a face to face conference (*n=*9) or indirectly by composing a letter to their offender (*n=*2).

Only 5 of the 24 victims declined the offer of RJ. These 5 victims (all male) who declined RJ did not go on to have any form of RJ after the initial conversation and RJ offer from either a RJCO (n=3) or VWCO (n=2).

### 6.4.2 Reasons for declining the offer of RJ

The five male victims who did not wish to participate in a RJ process cited differing reasons for their decision. Two victims cited being too busy as their reason for not wishing to participate. One of these victims also cited triviality of the offence as a deciding factor. Another victim declined due to the police informing him that the offender was a ‘druggie’ and his perception that drug users are beyond help. Another victim felt that it was in the past and would be a waste of time and that he was unsure as to whether the offender would tell the truth:

They said did you want to talk to him to see why he reacted like he did and I just said 'no, it's alright it's in the past now' … I just thought it was probably a waste of my time as it would just be lies and leave it as it is really and just move on … Just it was as I said he would be lying or in all fairness he was that drunk that he probably couldn't remember it. It would be pointless it'd be a waste of my time basically. (Ollie)

The final victim who declined the offer of RJ did not know the offender who racially abused him (over the telephone). He stated that he did not wish to participate due to being concerned that by meeting the offender, the offender would then know what he looked like:

I weighed the risks that were before me that was the main thing but I do work in the same locality as the offender is stationed and I didn't want to be identified by the offender in person as when this happened it was over the phone when the racial abuse came in it was like he doesn’t know me, he's never met me and I didn't want a situation whereby he can now identify me that’s as much as I felt that it’s OK to reconcile and express your feelings to somebody but I felt in the back of my mind you wouldn't know what one would do after meeting you and knowing you and the risk of being targeted by the offender again in public in your day to day life what would he do to you ... I didn't want to be a victim again that was the reason why I felt that it wasn't appropriate to meet him. I didn't want him to know me. (Frank)

Frank said that had he known his offender he would have willing taken part in RJ:

If I had known him and he had racially abused me face to face then I would have agreed to go and talk to him as he already knows me and I would already know him and I think that nothing that could have made it different so I would have agreed to meet him. Because it was unfortunate that I didn’t know him and he didn’t know me, it was unfortunate that it failed the restoration of justice to meet to talk face to face about it. (Frank)

One male, who was also assaulted by someone known to him described how, for him, the offence was in the past and he was busy working towards a promotion at work and did not have the time to participate in RJ:

I declined the offer but thank you anyway. They were like it can help you get over it and I was like to be honest with you I'm already over it - I've got things going on at work. I'm being promoted and things and I was just 'I can't be dealing with the past'. It’s just not me. (Henry)

One of the male victims who cited that he was too busy as his reason for not wishing to participate in a RJ process had recently had to deal with a house-fire which had resulted in the family living in temporary accommodation. Jason felt that the offence committed against him (his car was broken into and goods were stolen – all items were subsequently recovered) was too trivial and that he did not have the time to spare to go through the process of RJ:

One of the reasons why I guess I wasn't overly drawn into any of this was I guess was the nature of, I don't know how much you are au fait with the details, nature of the crime itself … I guess for somebody who isn’t blessed with a huge amount of time and then to get in a room with a guy and put a face to the crime or whatever it is ... just ... yes ... in a world of limited time and resources I thought it probably wasn’t for me … We had had a serious house fire which was sort of not that recent but still something that we were dealing with in the background and so again, as I say, a combination of something which in terms of myself and my family had a much more significant impact in terms of the affect … lot of emotional capital shall we say that we were already investing on that … so, didn’t feel the need to then invest the time and energy for the good of society. So, selfish in that respect but just you only have so much time and mental capacity as it were to spread things across. (Jason)

Larry, who declined the offer to participate due to the police informing him that the offender was a ‘druggie’ described the offer of RJ and his thoughts on the possibility of meeting his offender:

They asked me then (after he was given the court outcome) if I would like to see the person that caused the damage and I turned round and said it’s a waste of time talking to them because I am a taxi/bus driver and we transport a lot of drug users around and they … when they have been on drugs a long time they lose their conscience so unfortunately … I know I'm tarring everyone with the same brush but it’s pointless seeing him as the only thing that’s going to happen is I'll punch him and get in trouble (laughs) … I thought it'd be a waste of time with this certain individual. (Larry)

Larry believed that the RJ process would not achieve anything with the offender who was known in his local area and known by his wife to be a drug user. However later in the interview when questioned if he discussed the invitation to participate in RJ with anyone he said that he had discussed it with his wife who had not wanted him to proceed due to concerns of reprisal:

She said it would be a waste of time she basically agreed with me. She works in that area and she comes across drug users and they come in all abusive with knives and she said it’s just not worth upsetting them and we live in the area and she's worried about the vehicles being damaged … you know ... about personal problems ... she was concerned about the repercussions.

Larry also voiced his complete dissatisfaction with the CJS and how his case was dealt with. His dissatisfaction with the CJS may have also influenced his decision not to participate in RJ:

It was terrible, the whole thing … the normal person gets a raw deal in the criminal justice system. The criminal justice system isn’t what it was. (Larry)

In addition, one female victim who initially agreed to participate in a RJ process decided not to go ahead with RJ. The female victim had initiated RJ herself by composing a letter to her offender which she sent to her VWCO in hope that it could be passed onto her offender. She had been aware of RJ as a process (through a radio programme) but unaware that RJ was available in her area and to all victims as part of the VCOP. Despite Emma composing a letter to her offender and sending it in to her VWCO she did not proceed any further with RJ beyond an initial telephone conversation with the RJCO and a further telephone conversation with a RJF who had been assigned to the RJ case. The RJ team attempted to make contact with her several times subsequent to the initial telephone calls in which Emma had expressed her desire to proceed with RJ, but as Emma explained there had been other unrelated factors that resulted in her being unable to proceed any further with the RJ process at that point in time:

I have to say the ladies (RJFs) were really good and it was my failure really that nothing else happened. I would say the RJ team themselves were really good and the ladies I dealt with I would give them 10 if that’s the highest score. Very satisfied. Because they sent me lots of texts and messages and I never got around to replying. Because things were so difficult I was the one, it was my side that it failed on, they had tried their hardest. But I just didn’t know whether I was coming or going at that point and I just didn’t know what to say to them so it was my failure that nothing went any further and they had contacted me several times … work just totally took over and in the end I just completely forgot about it. I just needed to get on with things and sometimes things don’t come at the best time for you especially with [job title] it’s not something that I can just put off - I've got to do it when it’s there and I've got regular people in the middle of the day .... and it just got very complicated and I just put that on the back burner. (Emma)

The reasons given by the non-participating victims who either declined the initial offer of RJ or subsequently pulled out of the RJ process were mainly linked to busy work schedules or to opinions that the offence was too trivial and they had moved on. The reasons victims gave for not participating were, in the main, not linked to concerns of fear or retaliation. Only one victim, Frank, a victim of hate crime, declined to participate in RJ as he wished to remain anonymous due to concerns regarding potential revictimisation. Another victim stated that he declined the offer of RJ due to:

He would be lying or in all fairness he was that drunk that he probably couldn't remember it. It would be pointless. It'd be a waste of my time basically. (Ollie)

However later in the interview Ollie expressed that there was another factor that influenced his decision to decline to offer of RJ:

I think some people it would help them but in my situation it's just not for me. I don't like confrontation see so I wouldn't have done it anyway. (Ollie)

For both the male victims, Ollie and Larry, who expressed concerns about confronting their offender or reprisal from participating in RJ these concerns were secondary reasons for declining to participate in a RJ process. The main reasons were that they both felt it would be unsuccessful and a waste of time.

### 6.4.3 What factors influenced victims’ decisions to accept or decline the invitation to participate?

Research conducted by Shapland et al (2011: table 5.1) found that there were a range of factors why victims chose to participate. The victims in Shapland et al’s (2011) study often cited several reasons for deciding to participate and cited one reason as the most important. The reasons provided by victims for wishing to participate were (not exhaustively but in order of importance): to express feelings and speak directly to the other person; to gain answers to questions relating to the offence; to help the other person; and because they were asked to take part/attend. Only a minority of victims in Shapland et al’s study stated that they wanted to take part to secure compensation.

The victims in this study were asked what decision they made when they were offered RJ and what led them to make that decision. These questions were asked to understand why the victims decided to participate in a RJ process. Why do victims choose to participate in RJ? What makes them want to enter into a dialogue with their offender?

The victims in this study provided a number of reasons for electing to participate in RJ. The most often stated reason was that they wanted to find out why the offender had committed the offence (*n=*8):

Mostly I wanted to know why, not just why me but why he did it, why he was there and also what would drive somebody to do that. (Steve)

To know why. Why would you want to do that to people you have known years and years? What possessed him? Was it greed? Was it because he could do it or was it? … If he had said it was because he was in desperate straits I probably would have felt a bit of remorse for him. (George)

This was closely followed by victims expressing that: they wanted to help the offender (*n=*5); wanted to get answers to questions (*n=*4); and to gain closure (*n=*4) as reasons to participate in RJ. The majority of victims who wanted to gain answers to questions also wanted to find out why the offender had committed the offence as a reason to wanting to participate in RJ:

I wanted some questions answered. I think you have a lot of unanswered questions when you have been the victim of a crime. So, things what led up to him doing this, why our property was selected … you know different questions. (Mary)

Other motives given for participating included: a need to know who the offender was; to have the opportunity to tell the offender their feelings; for the offender to take responsibility; because the offender had requested to meet with them; to make the situation better; and for compensation. For two victims one of the reasons they wanted to participate was that it was important to them to forgive their offender. Both of these victims voiced that it was important to forgive due to their Christian faith:

As a Christian it was important to me to let him know that he's forgiven and secondary to that I knew that if it was just a caution he wouldn’t get anything out of that process he would end up with more of a criminal record and it also wouldn’t give us any leeway to seek to redress for the shortfall on our insurance claim because of an excess … but that was secondary. My primary motive was just to let him know that he was forgiven to try to make sure that he got any help that he needed and to think that we contributed to that in the event. (James)

I decided at that point, because I come from a Christian background, that it was important for me to be able to forgive it, forgive him and what happened and I think that was, because I'd moved past it personally but I think it became more a two-way thing that I realised that it was also a healing process for him and not just for myself. (Steve)

One other victim also made reference to their Christian faith as one of the reasons for wanting to participate in RJ:

We knew that the youngsters lived locally to us and we already knew one of them in person and we knew, I knew that I would walk past them in [name] High Street and that was just too weird and uncomfortable not to do something about it and to our mind this was the most constructive potentially healing thing that we could do. My husband and I have a strong Christian faith and I guess that impacted and we were very open to working through that healing and spending time with someone who clearly needed to get a new direction in their life ... if that makes sense? (Alison)

Two victims mentioned that compensation was a factor in their decision to participate in RJ. However both stated that compensation was not their primary reason for choosing to participate in RJ.

Most of the victims gave several reasons for wishing to meet with their offender. Several of the reasons provided were altruistic and pro-social in nature. Many of the victims wanted to help their offender desist from offending and to move forward with their lives. This corresponds with Van Camp and Wemmers’ (2013) findings that most victims are altruistic in nature.

### 6.4.4 Did the type of offence influence victims' decision to accept the offer of RJ?

The victims in this study had been subject to a range of different offences covering a wide spectrum of offences ranging from criminal damage, burglary, fraud identity and assault through to hate crime, domestic violence and rape (for a detailed outline of offence types and number of victims refer to the *victims’ demographics* section above). The victims in the study were asked if they thought that the type of offence had influenced their decision to accept or decline the offer of RJ. Twenty one victims responded to the question. There was a clear and nearly even divide between whether victims felt that the type of offence had influenced their decision or not. In total 10 victims felt the offence type had influenced their decision and 8 had not felt that it had any influence. A further 2 victims were unsure as to whether the offence type had impacted upon their decision and the final victim’s response was ambiguous as the victim, a victim of domestic abuse (coercive behaviour), responded that it was based on how she felt and her need to gain answers.

Interestingly, a third of the victims who gave a clear yes or no response (*n*=6) gave responses that were linked to offence severity. Three of the victims (two victims who responded yes and one victim who responded no) felt that the severity of the offence positively impacted upon whether or not to go ahead with RJ. The more severe the offence the greater the perceived impact of RJ was or the more likely the victim was to want to participate in RJ:

I think it would have had to have been a crime that whereby it had a greater impact on myself or my family … I think it’s either the frequency or the severity - if these things keep happening in all shapes and forms then needing to do something to help to resolve, including the RJ would probably happen or if it was a really nasty or much more severe crime then I probably would take part. (Jason)

Not all types of offences would require you to do something like that but because it was so horrific I feel that I should have my say on things. (Amal)

Despite stating that the offence type had not influenced his decision one of these victims, Henry (who had been hospitalised with a bleed on the brain as a result of the assault carried out against him) went on to detail how the severity of the offence would positively influence his decision as to whether he would participate in RJ in the future after declining the offer of RJ after being a victim of assault:

No, no not at all, I think he had been known for it before. He was a very aggressive person and he's been known to do things like that before and if anything it would have increased my chances of going through RJ to kind of like hopefully to make him feel some kind of remorse … I think it depends on the severity of the case. If it was exactly like mine no but if it was a stabbing or a shooting or something like that then yes … I think the severity of the case does take a considerable amount of your decision because if I was to be stabbed or shot by him I would want him to face what he has done whereas a light beating happens day to day. It’s of the norm especially in today’s society. (Henry)

Whilst one victim (another victim of assault who responded that he felt that the offence type had not had any influence on his decision to agree to participate in RJ) did not specifically discuss the impact of the severity of the crime on RJ he did make specific reference to the suitability of certain physical acts of crime such as assault, GBH or stabbing for RJ whilst describing whether RJ was suitable for any offence:

I don’t think it really matters what type of crime done really, anything regarding stabbing or assault or GBH or anything, it can be literally anything and that can help. Restorative justice … sort of bring them altogether and combine it all and make it a lot better, friendship/ relationship with anybody and they can feel, sort of having that grudge, anxious or anxiety, knowing what can happen if they walk round the corner, having that relief that weight off their shoulders, they can get on with their life ... brings it all together to deal with it all. (Mick)

One other victim who responded that they felt that the type of offence had influenced their decision to participate stated that rather than the severity of the offence positively influencing their decision they instead thought they would be ‘less likely’ to participate in RJ if the offence was more serious with more injuries.

A further two victims responded that they were unsure if the type of offence influenced their decision to choose to participate in a face-to-face conference. One of the victims, a victim of burglary, questioned whether she would have accepted the offer had she been a victim of a more serious offence:

Gosh that’s a good question ... well it’s hard to say. It was an offence that was flipping frustrating at the time but it didn’t completely ruin our lives, so I guess we moved on from it very quickly. If it had been something that had really damaged us as people I don't know … Say I had been raped, I don’t know how we would have responded. It was a gentler crime … so maybe that made it easier I don’t know. (Alison)

A rape victim in this study (who also stated that she was a victim of attempted murder), Josie, stated how the act of rape had influenced her decision to participate in RJ. She described how she felt that the act of rape had impacted on her life to the extent that she needed to gain back control and gain some answers to why he had committed such a heinous crime against her.

Yes obviously it was a rape and because of the domestic violence he had a lot of control so for me I guess I wanted to, not be in control but just try and get something back I guess. (Josie)

Josie went on to describe the positive impact that RJ had on her life and how through participating in RJ and meeting her offender face-to-face her levels of anxiety had reduced and her mental health had improved:

I’ve done therapy over the years but I think that’s a good thing. I've done CBT and stuff. What I will say is, I used to be like I couldn’t sleep without the TV being on but since doing the RJ silly little things like checking the door ten times to see if it’s locked and the windows and stuff which I did religiously each day have eased down and I'm not doing it as badly as I was and I can now sleep without the TV being on and that was something that was going on for 10-11 years and it wasn’t until a few weeks after (the RJ) that I acknowledged that I don’t do that anymore and I guess that was because I always thought I was in danger and because I managed to get things answered, the holes filled I don’t have those fears anymore, that is something to thank RJ for as the anxiety was due to that and now I live life more as I wouldn’t go to places but that’s because of the meeting and that’s another reason why it was so great to participate in it (RJ). (Josie)

This commendation of RJ by a rape victim further supports previous research that has found that through participation in RJ the victim feels empowered with instances of short-term mental health issues and post-traumatic stress symptoms being reduced (Zehr, 1990; Angel, 2005). Victims of sexual offences and domestic violence should not have the option of RJ closed to them.

Shapland et al (2011) explored in their study of RJ the extent to which RJ could be used with both adult offenders and serious offences. Shapland et al (2011) found that RJ could be very successful in the most serious of offences and victims of more serious crimes were more likely to feel that the RJ process had been helpful for them (ibid: 183).

In several other European jurisdictions, including Austria and Finland, RJ can be used for almost any crime including sexual offences and domestic violence (Honkatukia, 2015). Honkatukia (2015: 107) discusses how partner and intimate violence is mediated frequently in Finland and that high levels of victim and offender satisfaction with the RJ process were reported. However Honkatukia (2015) found that victims’ experiences of RJ in these cases varied and were dependent on the type and level of relationship. Good practice and a strictly formulated RJ process are required to ensure that victims of domestic violence are able to participate in RJ when suitable. Decisions of domestic violence victims’ suitability for RJ should not be based on the feelings of criminal justice agents who protectively select victims whom they consider suitable for RJ (ibid: 122; Van Camp and Wemmers, 2016). European research states that cases should be considered on a case by case basis (European Forum for Restorative Justice, 2016), and should not have a ‘blanket approach applied to them’ (Victims’ Commissioner, 2016: 13).

### 6.4.5 Knowing the offender: the influence this has on whether or not victims elect to participate in RJ

Does knowing the offender influence victims’ decision-making process of whether or not to participate in RJ?

Many of the victims (*n=*15) did not know their offender – two victims who responded that they did not know their offender stated that once the offender’s identity was disclosed they knew of their offender. One victim knew the name of the young offender as he lived locally but was unable to put a face to the name and the other victim was informed by others that the offender was a local drug addict. A third (*n*=9) of the victims had known their offender prior to the crime being committed against them.

Out of the 21 victims who responded to the question as to whether they thought that knowing/not knowing their offender influenced their decision as to whether to participate in RJ or not, 11 victims responded that knowing/not knowing their offender was not a factor in their decision-making process. Out of these 11 victims 7 did not know their offender and 4 did know their offender. Several victims who did not know their offender voiced that:

It wouldn’t have made any difference to me if I'd known them or not. (Hannah)

At the end of the day right is right, wrong is wrong and people have to be told that and know that especially at a young age. (Sarah)

No, no because if I’d … I have a very strong sense of right and if I know something is true whatever the cost I will go for it. I’m not one to be scared into and not accept just in case. (Jane)

Similarly two of the victims who had known their offender prior to the offence responded that knowing them had no influence on their decision to accept the invitation to participate in RJ:

I don’t think so, if someone broke into my house … the reason why ... If someone did that I think I would still want to know why, why did you pick on my house? Why ... do you think it’s right for me to work and come into my house and take my goods? (George)

Probably not, I'm an open person, like I'm talking to you but there is nothing in it for me but I'm willing to do that stuff. (Zoe)

The other two victims who, again, knew their offender and stated that this did not influence their decision to decline the offer responded:

No not at all … no that didn't influence my decision whatever. (Henry)

No, it's just as I said I don't like confrontation, so it'd just be ... I'd feel awkward and so I don't see the point. (Ollie)

The remaining ten victims stated that yes knowing/not knowing their offender had played a part in their decision-making process as to whether to accept or decline the invitation to take part in RJ. Seven of these ten victims did not know their offender whilst three victims did know their offender.

Two of the three victims who stated that they felt that the fact that they knew their offender influenced their decision to accept the offer of RJ said they would not have gone ahead with RJ if they had not known their offender:

I think for myself personally if there was no connection there as I've got older and wiser if it was someone I didn’t know and they hurt me it would generally be out of sight out of mind. (Josie)

I probably wouldn’t have done it if I didn’t know the person. (Sally)

All six victims who responded stating that not knowing their offender had influenced their decision when deciding that they would accept the invitation to participate in RJ responded that this was due to wanting to know who their offender was. One victim also stated that she wished to not only know who her offender was but to find out why they had committed the offence. Another victim stated that an additional reason to accepting the invitation to participate in RJ had been to relay the impact of the offence. One victim, Steve, who participated in a face to face RJ conference as a part of the deferred sentencing process felt that:

Think if I'd known the person I think I would have definitely wanted to do it more because then there is a lot more history. I think it helped me in the end to know a bit more about him once the restorative justice team had seen him. I think if you know the person a bit better then potentially it’s easier to do depending on how serious the offence is I guess. (Steve)

It would just be good to hear their side of the story and that they are responsible dog owners but personally I don’t think they are at all, in the slightest but I'm never going to know am I? (Amal)

I thought yes let’s meet the person. Still even now if you ask me I have no idea who this person is, what his name is, what he looks like or anything. (Claire)

Yes, yes, I have a very strong urge to know who this person was and what he was like and why he would do such a stupid thing. (Emma)

Out of the total of five male victims who declined the offer to participate in RJ two knew their offender and two did not know their offender and one did not respond to the interview question. Only one out of the four males who declined the offer of RJ (and who responded to the interview question ‘did (knowing/not knowing your offender) influence your decision to participate/not participate?’ responded that not knowing his offender had influenced his decision to decline. Frank, the victim of hate crime, was the only victim interviewed who responded in this way and this was due to concerns about being identifiable to his offender. The other three male victims stated that knowing their victim (*n=*1) or not knowing their victim (*n=*2) was not a factor in their decision-making process.

Overall it was a nearly 50: 50 split for the victims in this study as to whether they felt that knowing their offender or not influenced their decision to participate or not to participate in RJ. For the victims who felt that either knowing their offender or not knowing them did have an effect on whether or not they elected to participate in RJ, in the main there were no clear differences presented as to why they felt it did or did not have an effect on their decision and not knowing or knowing their offender was not seen for most of the victims to be a negative factor.

### 6.4.6 The RJ intervention

As stated above 19 of the 24 victims interviewed initially agreed to participate in RJ and had either initial telephone conversations or initial meetings with the RJCO or RJF(s). One victim subsequently was unable to progress with RJ as her offender pleaded not guilty (she was offered RJ at the pre-court stage after mentioning to her VWCO that she wanted to know why he had committed the offence and she wanted to participate in RJ but subsequently her offender went on to enter a plea of not guilty).

In addition another seven victims did not proceed further than the initial conversations with either the RJCO or the RJF(s) due to the offenders themselves either: declining the invitation to participate (*n=*4); not responding to the invitation (*n=*1); or pleading not guilty (*n=*1); or not receiving any further communication from the RJCO (*n*=1).

Nearly half of the victims who initially agreed to participate in RJ went on to meet their offender in a face to face conference (*n*=9). A further two victims composed a letter to be sent to their offender – both victims did not receive any response nor were they aware of whether the offender actually received the letter (this was not due to any fault of the RJ team). One of the victims compiled a letter on her own accord and sent it to her VWCO requesting that it be passed on to her offender. The VWCO forwarded it to the RJCO (with the victim’s permission). The victim subsequently, after speaking with the RJFs, did not proceed any further with the RJ process due to unrelated personal reasons. The other victim worked with the RJCO who composed the letter on her behalf. The letter was sent to the offender but no response was received.

A further victim who initially spoke with a RJCO and expressed a desire to participate was informed by the RJCO that she would contact the offender to discuss whether she/he would be willing to participate in RJ and would then get back in contact to confirm the next steps in the RJ process. The victim stated however that she never heard back from the RJCO and that this left her feeling dissatisfied and under the impression that the offender must have declined the offer to participate:

It never happened … dissatisfied … She described the process and said would I like to go through that and I said yes I would but nothing ever came off it to be honest. Somebody did ring me from the scheme and then I never heard back from them after that so ... They rang me to check if I wanted to go ahead with it and I said yes, fine and they asked me a few details about the case and said it would be down to the people responsible as to whether they wanted to respond to me and I didn’t hear back after that so I just presumed that they didn’t and that was the end of it … It was good to be offered it but then nothing came of it so it was like an empty promise so ... I imagine it is more of an initial tick box - have we offered it? Yes, but there is no follow up from it. (Amal)

Amal wanted the opportunity to:

Be able to have my say. So it was definitely something that I was interested in doing so … but like I say nothing really ever came of it … these people need to know that their dog is dangerous … well they knew anyway as they were very blasé about it attacking me and that’s why I was happy to go through this scheme as I wanted to talk to them and say 'look it’s not normal for a dog to attack someone unprovoked and to take it seriously and you do need to keep the dog muzzled’ … I wanted them to know how serious it was and that they needed to control their dog and take it seriously as if it happened to somebody else or a child it could kill them, no doubt about it. (Amal)

Amal appeared to have slipped through the net when the RJ service model changed in police force area 1 and switched from the old service (where the initial call and confirmation that she wished to participate took place) to the new RJ service provider (refer to Chapter 4 and Chapter 7 for details regarding the change in the service model). The consequence of Amal slipping through the net was that she did not have the opportunity to participate in RJ and was left feeling very dissatisfied with the RJ process.

### 6.4.7 Victim satisfaction

Regardless of the final outcome of the RJ process only a small number of victims (*n=*4) voiced that they were either very dissatisfied (*n*=2) or dissatisfied (*n*=2) with the RJ process. One victim, Zoe, who was approached by the RJCO to participate in a RJ process with her offender voiced that she was very dissatisfied with the RJ process. This dissatisfaction seemed to be due to the offender initially initiating RJ and then subsequently withdrawing after the victim had spent time having several conversations with the RJFs discussing the possibility of meeting her offender (who was well-known to her) in a face to face RJ conference. This case was the only case in this study in which the offender had initiated RJ. When asked how satisfied/dissatisfied she was with the RJ process Zoe responded:

I met with [RJCO] twice then they had meetings with [female offender] this all had to be discussed with her and her probation officer and they had dates set up for those conversations to take place and then tentative dates for what happened to me. They then said she didn’t want to do it as she had to see her psychiatrist or whatever. OK, so then there was another tentative date set and then there was the phone call ‘no she has changed her mind so doesn’t want to do it’. So were we actually meeting face to face? I don’t remember exactly, it’s been over a year. I think we were waiting on whatever she wanted to do … Zero, very dissatisfied … It was all for the perpetrator and quite insensitive to the victim. The victim is supposed to rearrange their lives, spiel off their heart story and, you know, be available multiple times and by the way we are just teasing you she doesn’t even have to do that much with restorative actions - so fine, who cares. (Zoe)

It was unclear whether Zoe had been offered the opportunity to take part in an indirect RJ process following the offender’s withdrawal. Neither was it clear if Zoe’s expectations had been managed to ensure that she was aware throughout the process that participation in RJ is voluntary and that the offender (or victim) can withdraw at any point.

The other victim, Larry responded that he was very dissatisfied. However, as discussed above, his dissatisfaction was not due to any specific issue with the RJ offer or process but more to do with his overall experience of the CJS:

I felt totally let down by the police and the courts … Dissatisfied with the whole process … It was terrible, the whole process. (Larry)

Two other victims expressed that they were dissatisfied with the RJ process. One victim, Phil, had not pressed charges against his offender and had instead opted for RJ. However, after meeting his offender (who was known to him) Phil said that he was dissatisfied with the RJ process as he felt that he had not got the truth from his offender during the conference:

I was kind of knocked out, a one-punch and I felt his excuses were not really true so I didn’t find out the truth. I did that opportunity (RJ) to find out and because there was no repercussion to him he had the opportunity, he could have said what he liked and nothing was going to happen as that was one of the agreements if we did this and even though we did that, I feel he still didn’t say the truth … I thought the process would have been good as you are facing your offender and you can put that behind you afterwards if you get the truth. Unfortunately on my side I don’t feel that I did. I did hear (from the RJ facilitators, that he said he assaulted me because he felt intimidated) before we got to the station so I wanted to hear it and that's why we had the meeting and I said I'm here as I want to hear from your point what you felt. Now after he told me I was man enough and I apologised to him, which is a laugh, as I said to him if you feel threatened by me then I'm really sorry but I really wanted to laugh because of the size of him, how could he feel threatened? That was that. (Phil)

Phil did go on to say that he thought that the RJ team had done a good job and that if offered RJ again would consider participating again, depending on the circumstances surrounding the case:

I was pleased with the way the police came round quite quick and talked to me and I was pleased that the other ladies (RJFs) came round quite quick and that it got sorted quite quick. Well I had an interview with two ladies that came round to the house. They had an interview with me and then they went and had an interview with the alleged and then they came back and had an interview and then about a week later we met up at the police station and we all met together. I felt fine about the thing but unfortunately I, at the end of it, I thought it was a waste of time. (Phil)

As discussed above, Amal was left dissatisfied due to a lack of contact from the RJCO, despite expressing a wish to participate in RJ. Amal appears to have slipped through the net when the RJ service model changed with the consequence being that she felt:

Dissatisfied … It was good to be offered it but then nothing came of it so it was like an empty promise so ... I imagine it is more of an initial tick box - have we offered it? Yes, but there is no follow up from it. (Amal)

In addition to the four victims who expressed that they were either very dissatisfied (*n*=2) or dissatisfied (*n*=2) with the RJ process one other victim stated that he felt both satisfied and dissatisfied with the RJ process:

Satisfied with invite but I was a bit dissatisfied with the outcome. I'm not saying it was anything to do with [RJ team] they did everything they can but it was down to the perpetrator. He didn't agree to - it's a bit of a weird one really as he's [nationality] and he was over here on a holiday visa which had expired and he was due to go back on the [date] after the assault had taken place so he was on strict bail conditions because of that so basically the number they had for him just kept going to answerphone and they had no other contact number for him so she wrote him a letter but never had any response. So, there wasn't really anything else they could do so I'm presuming he has either changed his phone number or didn’t want to do it or might have changed his address or gone back to [name of country]. I don't know. (Matt)

In total over two thirds (*n=*18) of the victims in this study stated, regardless of the outcome of the RJ process, or whether they accepted or declined the offer of RJ, they were either very satisfied (*n=*13) or satisfied (*n=*5) with the RJ process overall. One victim, Petra, was offered RJ pre-court and wished to participate however her offender pleaded not guilty. At the time of conducting the interview Petra’s case was still awaiting court trial:

Very satisfied - I probably will, later on down the line after the court case and all that, try and get some answers then as I do want to get closure properly, but I probably would wait until after court. (Petra)

Josie voiced that she was very satisfied with the RJ process, after meeting her offender at a face-to-face conference:

Each time they were so informative and respectful, and it was a really great process and if I was nervous they talked me through it and even on the day they were texting me, ringing me even the day before, reassuring me making sure you were ok - absolutely brilliant … 10 out of 10, just brilliant they really are. I just wish their services were around sooner - very satisfied. (Josie)

Even though Mick did not get to meet his offender due to his offender declining the invitation to participate Mick still felt that the RJ process had been good and was satisfied with the process:

Satisfied with the whole process ... The way it was all handled really, the whole sort of, the way they were welcoming, the way they were speaking, the way they were acting, the way they sort of helped me out and gave me options of what to do and flexible … It did and it didn’t work for me as I didn’t get to speak to them but in the same time it did work as I was given my own space, my own ley-way. OK, if he doesn’t want to speak to me then that’s fine, it was sort of done there and then but just … RJ was good, definitely really good … a little relief really to sort of know that it had all stopped by having to know that that’s it. (Mick)

Therefore despite the outcome not always being the one that the victim wanted it appears that victims’ satisfaction with RJ was due to several factors: participation in the RJ process; having the opportunity to have their voices heard; and from the way in which the RJFs listened, understood and managed the victims’ needs. Many victims voiced their appreciation for the RJFs – they felt that regardless of the outcome the RJFs had tried their best to meet their needs and had kept them well-informed throughout the process whilst managing their expectations.

It is important to manage victims’ expectations (Bradley, 1998; Strang, 2002) as by ensuring that victims’ expectations are realistic as to what can be achieved practitioners can ensure victims are not left disappointed with either the process or outcome (Strang, 2002). When victims’ expectations are managed the risk of disappointment about processes and outcomes is reduced and victim satisfaction is improved (Bradley, 1998). Satisfaction levels for victims who participate in RJ have been found to be higher in comparison to victims who have been involved only in the CJS (Dignan, 2007; Sherman and Strang, 2007). Research suggests that victims perceive RJ to be procedurally fair. It is procedural factors of fairness, trust, neutrality, respect and voice that contribute to victim satisfaction (Van Camp and Wemmers, 2013). In addition to procedural factors there are other factors ‘namely the restorative approach being flexible, providing care, centring on dialogue and permitting pro-social motives to be addressed’ which positively impact on victim satisfaction levels (ibid: 1).

A considerable amount of research suggests that it is the process that is more important to victims of crime than the actual outcome (Shapland et al, 1985; Tyler, 1990). Despite the outcome victims appreciate the time and effort that criminal justice agencies take when they try to arrange restitution and this is evidenced in satisfaction levels, which rise with the efforts of practitioners to organise restitution (Wemmers, 1996; Van Camp and Wemmers, 2013). Victims value the efforts and sincerity of the RJ practitioners (ibid) and victim satisfaction derives from taking part in the RJ process in which they can have a voice and that their voice is heard. In Van Camp and Wemmers’ (2013) research on victim satisfaction with RJ they found that all of the 34 victims of violent crime who participated in a RJ process stated that they were satisfied with the process. Whilst some were unhappy with the outcome none were dissatisfied with the process or the RJFs.

Whilst a fair process cannot eliminate an unsatisfactory outcome it can make it more palatable (Lind and Tyler, 1988). When victims feel that they have been treated fairly during the process this acts as a ‘cushion of support’ against the dissatisfaction of an unfavourable outcome and they feel that they are valued (Lind and Tyler, 1988; Van Camp and Wemmers, 2013). Poor outcomes in a RJ process are not attributed, by victims, to the practitioners themselves but to the offender’s lack of engagement or to their negative attitude (Van Camp and Wemmers, 2013).

### 6.4.7 RJ in the future?

Nearly all the victims interviewed stated that if they were offered RJ in the future they would definitely consider participating (*n=*22). Only one victim said they would not participate in RJ in the future and one victim did not answer the question. This figure (*n*=22) included four out of the five male victims who declined the initial offer. One of the male victims who declined RJ said that despite declining the offer on this occasion if he was victimised again and he knew the offender or was already identifiable to the offender then he would participate:

If we identified each other when the offence occurred then definitely I would be happy as I would be knowing the person that I would be talking to and I would be able to explain my feelings and what exactly happened on that day and let him build a picture of what he did and then see if he thinks it was a terrible thing and they feel they don’t care but at least I would be in a position to actually talk to the person first as long as we know each other I'm very happy to do RJ … like the offender doesn’t know me and I don’t know him - let it be left like that. It's fine for me like that, for my security, but just like I explained if it had been like we had this racial abuse situation in front of us and we identified each other I would have been 100% happy and able to go and sit down and talk to him. (Frank)

Jason also declined the offer of RJ yet when asked if he would participate in RJ, if he became the victim of a crime in the future, he said:

The likelihood certainly would increase ... I suspect that if I was to continue to be affected by crime in different ways then yes, the little bits would add up and trigger some action. So yes, at that precise moment in time and that was the process of crime and what we had experienced for some time. So, to answer your question yes, I think the likelihood would increase and come down to the severity of it. (Jason)

Only one victim out of the 23 victims who responded to the interview question ‘if you were offered the opportunity to participate in RJ again, would you?’ stated that he would not participate in RJ if offered it in the future due to not liking confrontation (the victim, Ollie, cited disliking confrontation as his reason for declining the initial offer of RJ). Over half of the victims (*n=*14) responded with a resounding yes when asked if they would participate in RJ in the future. A further eight victims responded that they would consider participating in RJ in the future but it would depend on the circumstances and the severity of the case. Two of these victims voiced that the offence would need to be severe for them to participate:

I think it depends on the severity of the case. if it was exactly like mine no but if it was a stabbing or a shooting or something like that then yes. (Henry)

Another victim who expressed her dissatisfaction with her RJ experience (due to the offender pulling out of the process after initiating RJ with her offender manager) stated, despite her dissatisfaction, that:

If I got done over again I would be more sceptical of it because my first experience of it was not positive but will I change the person that I am and the way that I participate I don’t know. (Zoe)

Therefore, apart from one participant all the victims (*n=*22) who answered the interview question responded positively when asked if they would participate in RJ if they were unfortunate enough to become a victim of crime again (one victim did not respond). This supports the findings of the Restorative Justice Council (2014) that 90% of victims who have participated in a RJ process would recommend taking part to other victims (Restorative Justice Council, 2014). Two female victims’ comments further support this:

I would encourage anybody else who had the opportunity to do it. (Alison)

I would recommend it to anybody, to any victims. If I came across people I would recommend it. (Eleanor).

Several studies on RJ have found that victims, regardless of whether they have declined or accepted the offer of RJ and independently of how they were given the invitation to participate, would still recommend RJ to other victims (Bolivar, 2012a; Laxminarayan et al, 2013). Van Camp and Wemmers (2016) found in their research that victims valued the offer of RJ, they appreciated being contacted and proactively offered RJ. Many victims in their research reported ‘that although participation in a restorative intervention is not something every victim will want to do or be capable of doing, RJ should at least be offered to them’ (ibid: 429).

## 6.5 Discussion

The victims in this study were initially offered RJ either via telephone, by letter or face to face. Over half of the victims (*n=*14) were offered RJ during a telephone call that they had with either a VWCO, a RJCO or a YOT worker whilst two other victims recalled receiving a letter first before then receiving a phone-call. One other victim stated that he thought he had only received a letter however the RJCO did also call him to discuss RJ.

The medium in which the offer was made appeared not to have had any effect on whether victims elected to participate or not. However two of the three victims who recalled receiving a letter also recalled being invited to participate in a subsequent phone-call thus suggesting that relying on written information alone may not be adequate. For victims in police force area 2 the only means of being offered the opportunity to participate in RJ would be either by telephone, face to face (predominately by a PO) or if a VWCO inserted a RJ leaflet into any correspondence. However only one victim from police force area 2 stated that she had received some written information on RJ after providing the VWCO with indicators that she would like to ask her offender some questions. The correspondence sent out to victims in police force area 1 contained generic information regarding the victims’ case and only included a small paragraph on RJ. The correspondence was not a direct invitation to participate and was essentially an opt-in method. Opt-in methods are less likely to secure victim participation.

When asked to recall who had made the RJ offer several victims were not able to recall who exactly had made the offer. In some cases the victim thought that the PO in charge or a member of the police had offered RJ to them despite victims providing a description of the RJCO or the VWCO as the person who made the offer. Several victims were unable to differentiate between whether a RJCO, a VWCO or a PO had made the offer. Five victims did though state that they had been offered RJ by a police-officer face to face as either part of an out of court disposal (*n=*2) or as an alternative to pressing charges (at the request of the victim) or as part of a youth offending initiative being run in conjunction with the local YOT and local businesses (*n=*2). One victim recalled being offered RJ by her Victim Support worker who then referred her to the RJ team.

Most of the victims recalled RJ being described as a process whereby they could meet with the offender and talk about what had happened and ask questions. Only one victim said that RJ had been explained as a process that could be either a direct face to face meeting with the offender or an indirect process. Previous research suggests that when victims are given the option to take part in either a direct or indirect manner they will tend to choose the indirect option (Hoyle, 2002).

Few victims were offered RJ at the early stages of the CJS (either pre-court or pre-sentence) unless it was as part of an out of court disposal. Over half of the victims were offered RJ at either the court outcome stage or post-sentence with a further four victims initiating RJ themselves post-sentence. Half of the victims stated that they felt that the offer of RJ was made at the right time. All the victims who self-initiated RJ felt that the offer of RJ should have been sooner. Only three victims felt that it was too soon and one of these had provided her VWCO with indicators that she wished to ask her offender questions. Subsequently she felt, after her offender submitted a plea of not guilty, that in retrospect the offer had been made too early. However she still expressed an interest in participating in RJ once the trial was complete. As discussed above, another victim who felt the offer was made too soon appeared to have been offered RJ post-sentence (post-sentence in the respect that the out of court disposal - be it an informal diversionary Community Resolution or a formal caution - had already been decided). Therefore it can be argued that there is not an optimum time to make the offer of RJ to victims. Whilst there appears to be no optimum time to offer RJ, waiting to make the offer of RJ at either court-outcome or post-sentence stage can be too late.

The other victim who felt that the initial offer was too soon went on to participate in a RJ face-to-face conference with his offender as part of a deferred sentencing process. This victim, alongside two other victims, was offered RJ on more than one occasion. Whilst some victims made an immediate decision regarding participation, some victims, who were offered RJ at either single or multiple points throughout their journey through the CJS, did not spontaneously accept the offer of RJ and some changed their mind after initially declining or wanting some time to consider the offer. For some victims, agreeing to participate is not a spontaneous matter. Victims who were offered RJ more than once did not express any annoyance or issue with receiving the offer to participate in a RJ process on more than one occasion. Thus, it can be argued that if victims’ expectations are managed by ensuring that any offer of RJ made before the offender has admitted guilt (and therefore before the conditions of RJ have been met) is a tentative offer then victims can be offered RJ at both the pre-court and pre-charge initial stages, or they can at least be made aware of the service and the conditions that need to be met before RJ can progress. If victims are not, as they appear not to be, insulted or angered by the offer or repeated offers of RJ then it can be suggested that RJ should be offered to all victims at the stages outlined in the victim’s CJS journey infographic within the VCOP (2015). Victims will not spontaneously agree to participate and therefore rather than criminal justice agents erring on the side of caution in fear of offending victims they can be confident that regardless of how the victim is approached or whether they declined the offer victims appreciate and value being offered and being given information on RJ (see also Van Camp and Wemmers, 2016; Bolivar, 2012a). From this study’s results, offering RJ at various stages will not result in secondary victimisation and as Hoyle (2002) argued participation needs to be a continuum that is available throughout the process and this can be achieved by offering RJ at multiple stages.

Even if victims decline the offer to participate or the RJ process is unable to progress due to the offender refusing to participate victims still expressed satisfaction with RJ. The majority of the victims in this study stated that they would participate in another RJ process in the future regardless of the outcome of their RJ process or whether they declined. Victims valued being given the opportunity to participate. Four victims in the study expressed that they were dissatisfied with the RJ process. This was due to one victim’s offender halting the RJ process despite the offender being the one to initiate RJ (through her probation offender manager). Another victim was dissatisfied due to not receiving any follow-up call after her initial telephone conversation, in which she stated that she wished to meet her offender. The further two victims who expressed dissatisfaction were not actually dissatisfied with the RJ process. One victim stated that he was dissatisfied due to feeling that the offender had not been totally honest in the face to face conference. The remaining victim was dissatisfied with the CJS. These examples of victim dissatisfaction illustrate the importance of managing victims’ expectations and keeping victims informed.

There was a wide range of offence types and victims who had been subjected to offences ranging from theft, criminal damage, burglary, assault through to domestic violence, rape and a hate crime. Nearly half the victims in the study felt that the offence type had no influence on their decision to participate or not participate in RJ. For the victims who declined to participate in RJ none voiced that they felt that their offence was too serious for them to participate, however two did say that the offence was too trivial and that had it been more serious and had a greater impact they would have participated. Wemmers and Cyr (2004) also found that victims declined to participate in RJ due to the not feeling strongly affected by the offence.

Several victims voiced that the severity of the offence would or did positively influence their decision to participate in RJ. One victim of rape described how pleased she was with her RJ process which enabled her to face her offender and gain answers, to feel in control and to alleviate some of her post-traumatic stress symptoms. Another victim of hate crime who declined the offer to meet his offender stated that despite declining the offer of RJ and being offered RJ on two separate occasions (which was made both pre and post-sentence) he was very satisfied with the offer and would consider participating in RJ in the future. Both these victims would have been categorised as enhanced victims who are defined as persistently targeted; vulnerable; intimidated or victims of serious crime. These findings support the previous research by Shapland et al (2011), Honkatukia (2015) and Walters and Hoyle (2012) that RJ is suitable for victims of serious crimes including sexual offences, hate crime and domestic violence.

Victims elected to participate due to wanting to find out what their offender was like, and to gain answers to their questions of why they committed the offence. Many victims expressed that they accepted the offer to participate in RJ for pro-social motives including helping the offender. Out of the 24 victims interviewed 19 initially expressed that they wished to participate. None of the victims expressed any desire to seek revenge. The 5 victims who declined stated that they declined for reasons that related to either being too busy with work or feeling that they had moved on from the offence and that it was too trivial, with only one victim stating that he declined as he wished to remain anonymous to his offender due to concerns that if the offender was able to identify him he may be subject to further racial abuse. In the main most victims did not decline the offer for fear of retaliation or because they were scared to take part.

It appears that there are no victim-specific factors that influence whether a victim elects to participate in RJ. Victims welcomed being offered the opportunity to participate and regardless of the outcome the majority of victims would participate in RJ in the future. From the results of this study, it has to be concluded that victims, regardless of their gender, whether they know their offender or the type of offence committed against them should, in line with the EU victims directive and the VCOP 2015, be offered the opportunity to participate at multiple points throughout their journey through the CJS.

# Chapter 7: Implications for delivering and structuring restorative justice for victims

## 7.1 Introduction

Overall, as stated in Chapter 6, the victims in this study did not mind being given information about RJ) and how they could participate. However which victims were selected to be given information on the availability of RJ, the method in which the invitation to participate in RJ was made and the timing when the offer was made were inconsistent and not in accordance with the VCOP 2015 and the MoJ’s Restorative Justice Action Plan 2014. To understand these inconsistencies, we can turn our attention to the structure and delivery of RJ between and within the two police forces that participated in this study.

This chapter will firstly explore the structure of RJ provision in England and Wales before providing a brief history of the structure of RJ provision within the police force areas in this study. The structure of PCC funded RJ provision within the police force areas will then be provided followed with an outline of the structure and delivery of RJ within police force area 1 and police force area 2 in relation to victims of crimes committed by adult offenders. The inconsistencies in the structure and delivery of RJ services both within and between police force areas will be presented followed by how the PCC funded RJ services contacted victims to make the offer of RJ. The chapter will then outline how the process of scoping and nudging, training and funding differed between police force areas and the extent to which these processes and external issues of funding and short-term seconded positions impacted on the structure and delivery of RJ. Lastly the chapter will present how the structure and delivery of RJ within the YOTs and NPS teams across both police force areas varied considerably and what the effects of these inconsistencies in structure and delivery of RJ had upon victims.

## 7.2 Structures for delivering RJ

In October 2014 over the whole of England and Wales, PCCs’ responsibilities were widened to incorporate victim services. The MoJ passed over responsibility for funding and commissioning services to victims to the PCCs (with the exception of national services such as hotlines and the service to homicide victims). Victims’ services include the provision of RJ services. Under the VCOP (Ministry of Justice, 2015: 54) RJ services are ‘delivered, funded and commissioned by a number of service providers including … Police and Crime Commissioners’ and PCCs are required to ‘provide victims with full and impartial information on Restorative Justice and how they can take part. It must include information about the process of Restorative Justice, the potential outcomes, and the procedures … Where victims ask to participate in Restorative Justice, they should not be automatically precluded on the basis of the crime committed against them’ (ibid: 55). Other criminal justice statutory organisations that must adhere to the VCOP and provide all victims with 'information on the availability of RJ and how they can access RJ' include YOTs and the NPS.

What were the structures for delivering RJ provision across the two police force areas in this study at the time of the fieldwork and what were the implications of these structures and delivery of RJ for victims? In order to answer these questions semi-structured qualitative interviews were conducted with a number of criminal justice and RJ personnel, both paid staff and volunteers (*n*=47). Interviews were conducted with: RJCOs (*n*=6); RJ SDPs (*n*=3); RJFs (*n*=19); YOT staff members (*n*=13); and NPS staff (*n*=5) (see Chapter 4). Furthermore, participant observation of the RJCOs and RJFs was undertaken to provide an in depth understanding of the provision of RJ for adult victims was provided within the two police force areas. The findings of the participant observations will be drawn upon within this chapter (where relevant) to provide further clarification of the structures of the criminal justice organisations and RJ service providers and the delivery of RJ.

Before outlining the structure of RJ provision within the police force areas it is worthwhile providing a brief history of RJ provision within the police force areas prior to the PCC funded RJ services commencing in 2015 (police force area 1) and 2016 (police force area 2).

## 7.3 A brief history of RJ provision within the police force areas

Prior to the establishment of police force area 1’s PCC funded RJ hub in January 2015 and police force area 2’s PCC funded RJ hub in January 2016 RJ was being used within both police force areas to deal with anti-social behaviour (hereafter, ASB) and low-level crime. Both police force areas had established NJPs as part of a MoJ pilot. Following the publication of the government’s policy paper *The Coalition: our programme for government* in 2010 (which outlined the government’s intention to introduce measures to deal with anti-social behaviour and low-level crime, including the use of RJ processes such as NJPs*[[43]](#footnote-43)*) the MoJ ‘sought expressions of interest from local areas to test the NJP approach for a two year period’. The pilot NJP areas began accepting referrals from between May and December 2012 (Ministry of Justice, 2014: 5).

Both police forces set up a NJP in one of their large towns. Following the initial trial the PCC in police force area 2 commissioned the rollout of NJPs across several other large towns in the police force area. The aim was for NJPs to deal with ASB and low-level crime committed by adult and young offenders across the police force area. Following the two year trial the NJP scheme in police force area 2 ceased as, according to a RJ hub staff member in police force area 2, ‘they weren’t effective’ due to a lack of referrals and inconsistency in their decision-making processes. The PCC in police force area 2 then funded and established their RJ hub in January 2016.

Prior to the NJP pilot commencing in police force area 1 there was already an established community justice scheme and a mediation service (located in two different towns) that had been receiving mediation and RJ referrals for low-level offences and anti-social behaviour for over a decade.[[44]](#footnote-44) [[45]](#footnote-45) Furthermore the police force also had a seconded PO in post (in one main town) who covered post-sentence cases. They also had a substantial number of POs (also located in the same town as the post-sentence RJ officer and the NJP pilot) who had been trained in RJ in 2008/2009 as part of the national pilot for YRD scheme. Subsequent to the NJP pilot the PCC in police force area 1 established, in January 2015, their RJ service (see below). The PCC funded RJ hub service utilised the services of the three established schemes (the community justice scheme, the mediation service[[46]](#footnote-46) and the initial NJP pilot scheme) to deliver the RJ service. The three schemes became the SDPs for the RJ hubs in police force area 1 (see below).

Therefore prior to the PCC funded RJ hubs RJ provision within police force area 1 and 2 was ‘patchy’ and based on short-term funded projects that dealt with anti-social behaviour and low-level offending. However there was some provision for post-sentence RJ to be delivered within one main town in police force area 1 (delivered by the seconded RJ post-sentence police officer).

## 7.4 The structure of RJ provision within the police force areas

The two police force areas were very different in their geographical composition. Police force area 1's geographical area covered (at the time of writing) just under 2,000 square miles and had a diverse multi-cultural population of circa 1.65m. In contrast police force area 2’s geographical area spanned nearly 1,500 square miles but had a much smaller and less diverse population of just over 600,000. As discussed in Chapter 5, the VWCUs in police force area 1 were established in October 2014 and the VWCU in police force area 2 was established in February 2015. However, as discussed above, the direct delivery of RJ services force-wide, through the creation of a PCC RJ hub in both police force areas, did not commence until January 2015 in police force area 1 and not until January 2016 in police force area 2.

The delivery of RJ services provided by the PCCs between both police force areas differed significantly. The main points of difference between the two police force areas were: the role of the RJCO, the use of SDPs and case management; victim contact; co-location and working relationships with other criminal justice agents; offence types; and training and supervision of criminal justice agents and RJFs.

There were also notable key differences between not only the two police force areas in terms of provision and delivery of RJ but also across the three RJ hub areas within police force area 1 itself.

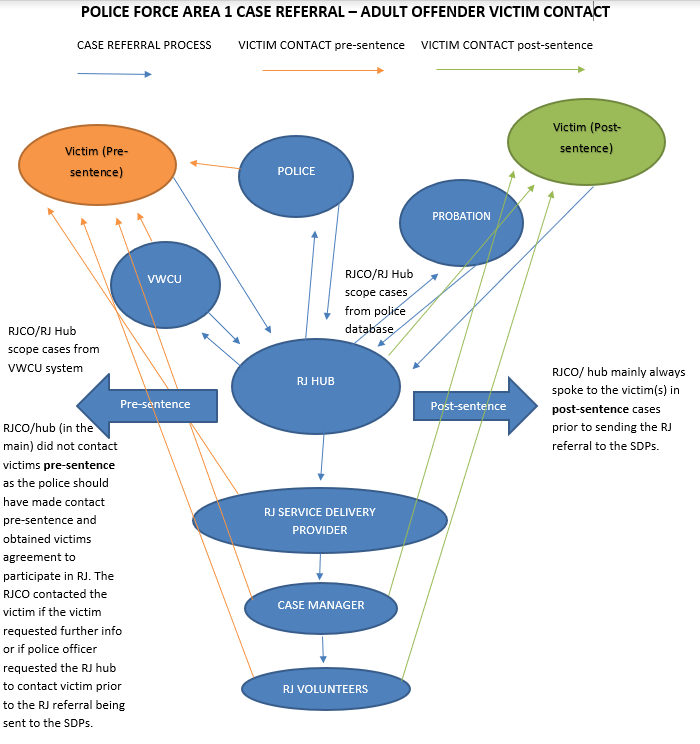
## 7.5 The structure and delivery of RJ justice within police force area 1

Police force area 1 (the largest of the two police force areas and the force with a large population of circa 1.65 million) had three RJ hubs, each situated within one of three police centres and each headed up by a RJCO (a member of police staff funded by the PCC). The RJCO for each RJ hub was co-located within the VWCU. Whilst the three police force area 1 RJCOs were responsible for the overall RJ provision within their geographical area each RJ hub had their own SDP who delivered RJ for their area (see below for further discussion).

The role of the RJCOs, the SDPs, the RJFs and how RJ referrals were managed across these three roles will be outlined further below. Firstly however, it is beneficial at this point to provide a process map (*Table 5*) to illustrate the RJ referral process for victims of crimes committed by adult offenders within police force area 1. The referral process for victims of crimes committed by a young person within police force area 1 is different and much simpler, and will be discussed in the *Youth offending teams* section below.

### *Table 5: Police force area 1 referral process map*

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### 7.5.1 The role of the RJ coordinators

The role of the three RJCO’s in police force area 1 was to:

Embed RJ in the force and to increase the number of victims given the opportunity to participate, manage case referrals and enquiries and to promote RJ. (RJCO3).

All three RJCOs were trained RJFs and were also RJ trainers. All three RJCOs were able to assist their RJ service providers with training new RJF volunteers and co-facilitated on cases when required. However there were differences between the RJCOs and their SDPs regarding training and co-facilitation (these differences will be discussed further below). The RJCOs also helped on specific RJ cases on a needs-only basis as they were all trained to deliver RJ in sensitive and complex, and sexual and harmful behaviour cases.

The role of the three RJCOs was consistent across police force area 1 and the RJCOs worked as a team despite being located in different police centres within the large geographical area of police force area 1. The three RJCOs all reported into different line managers but were overseen as a team of RJCOs by an area manager who was accountable for the strategic development of RJ. This ensured that the strategic direction of the RJ hubs was consistent across the force. As shown in the interviews and observations, the RJCOs had a very good working relationship with one another and covered for one another when necessary and communicated almost daily discussing various aspects of their roles including: embedding RJ force-wide, planning RJ awareness events, training, case referrals and enquiries. They were unified in their approach to delivering an RJ service for the police force area and saw themselves as part of a force-wide RJ team, not as individual RJCOs who worked in silo from one another.

Each RJ hub had its own RJ SDP who delivered the RJ provision for their area. Essentially each RJ hub outsourced their RJ work and the RJCOs acted as the RJ single point of contact for external and internal departments and agencies within their area; scoping and managing RJ enquiries and case referrals and referring suitable cases onto their RJ SDP; and raising RJ awareness.

I’m a RJCO in … [area name] VWCU … my role is to act as point of contact for anyone in or outside of the force for [area name] and pursue that referral. Might be at that point that we have one person on board but not the other so my role is to get that other person … risk assess, get information and pass to service provider. Enquiries are received from, in the main, POs, VWCUs, YOTs, probation and self-referrals … anywhere. Also we work to raise awareness of RJ so: blogs; steering groups to get public awareness and internal and how to embed this process in the criminal justice system with other departments to make sure we are truly VCOP compliant. I also facilitate RJ and complex cases as trained in sexual and I train new volunteers to be RJ facilitators … five strands to my job. (RJCO2)

To clarify there were three separate RJ SDPs delivering RJ across the police force. Each PCC funded RJCO, based in one of the three PCC funded RJ hubs, sent the RJ referrals onto their SDP to be actioned. According to two of the RJCOs having three separate SDPs:

Brings its challenges. (RJCO1)

It’s up to them how they deliver, train and each delivery partner does it differently. (RJCO3)

The role of the SDPs and how they structured and delivered RJ will now be discussed to outline the key differences in the provision of RJ across police area 1.

### 7.5.2 Service delivery providers

Each RJ SDP managed the delivery of RJ provision differently (this will be discussed in detail further below) but all three had a small number of paid office staff and a team of volunteer RJFs and were responsible for the case-management of referrals received from the RJ hub for their geographical area. The RJCOs would send over the referral to the SDPs once they had assessed case-suitability and ensured that both the victim and offender had agreed to participate in RJ. The SDPs would then review the referral, conduct any necessary background work and risk assessments prior to allocating the referral to two RJFs (one lead RJF and one co-facilitator).

In the main the three RJ SDPs worked independently from one another and were responsible for their own cases which were sent from the RJ hub. However the three SDPs would liaise with one another and attended various RJ strategic events together. SDP1 and SDP2 also worked together on mediation cases (see below).

There were a number of differences in how the SDPs worked with regards to how the RJ service was structured, the relationships they had with the RJCOs, training and supervision of volunteers, how RJ was delivered and victim contact. These differences will be discussed below.

#### 7.5.2.1 RJ delivery by service delivery providers.

Prior to the PCC taking responsibility for victims’ services and RJ, SDP2 and 3 had been providing a RJ service for low-level offences and anti-social behaviour cases for several years.

Before securing the PCC RJ service level agreement, SDP3 had been running as a community neighbourhood panel for many years and SDP2 had been established for a couple of years (having initially been funded as part of the national NJP pilot dealing with anti-social behaviour and neighbourhood issues before then being funded by the PCC). As outlined above, prior to the PCC funded RJ hub service model (that commenced in January 2015) both SDP2 and 3 had received RJ referrals direct from local authorities, police, YOT and housing associations.

After becoming the SDPs for the PCC RJ service in January 2015, SDP2 and SDP3’s case referral process differed in how referrals from housing associations and local authorities for anti-social behaviour and neighbourhood disputes were managed. SDP3 continued to take referrals direct from housing associations and local authorities for anti-social behaviour and neighbourhood disputes and were funded directly by these organisations but all police referrals came via the RJ hub. In contrast any referrals received from these external organisations (housing associations and local authorities) by SDP2 had to firstly be forwarded to the RJ hub who would then action the necessary work before sending the referral back to SDP2 to be allocated to a RJF.

The RJCO refers all cases. I get them myself but I have to pass to the RJCO. That is the model that we work from and that’s what we have to do - I may get cases from police officers as I work downstairs and I speak to them and talk to them - and I abide by that (referring all cases back through the RJCO) but everything has to go through the RJCOs. (SDPM, SDP2)

The RJ referral and delivery process in SDP1 was the same as in SDP2. All referrals came via the RJ hub and any referrals made to SDP1 by other referrers were required to be directed to the RJ hub. Unlike SDP2 and 3, SDP1 was a new organisation, established when the PCC model commenced in January 2015.[[47]](#footnote-47) Whilst SDP1 was a new RJ organisation it was set up by a parent company who had been running a mediation service for many years. The mediation service secured the PCC contract to deliver the RJ service for the SDP1 area and one of the long-standing managers moved across to SDP1 to manage the new PCC RJ SDP scheme.

#### 7.5.2.2 Service delivery providers’ relationships with RJ coordinators

Both SDP1 and SDP3 were externally located from their RJ hubs with SDP3 being geographically distanced the furthest from its RJ hub and RJCO. Whilst all three RJCOs spoke on a regular basis with their SDP manager it appeared that the relationships between the two externally located SDPs and the RJCOs was not as strong as that between SDP2 and RJCO2:

Definitely got better as we’ve grown and now got new volunteers. (RJCO1)

For me and my service partner it is very fractious as they were set up long before I came along. I don’t have any idea what they do with the cases and that’s very difficult. You can never be entirely sure what they are doing and essentially they are representing the police so if anything goes wrong it will come back to me. I trust them but … (RJCO3)

In contrast the manager of SDP2 was co-located in the same premises as the RJ hub and she and RJCO2 had worked together in a different guise on the former RJ service model for the area. The SDPM for SDP2 was employed as a member of police staff and had been in post prior to the new RJ model being established. Both the co-location and established relationship appeared to result in a more insightful and communicative working relation between SDP2 and RJCO2. The RJCO did not raise any concerns regarding the RJ SDP, and she positively described how they both trained new volunteer RJFs, attended events together and frequently deliberated and discussed cases with one another.

I send in referrals to her [SDPM]. I will ask her advice if a tricky one and we discuss cases. I also facilitate cases for her and will update her, send her prep notes, risk assess and sometimes we attend meetings together and I deliver the training for her twice a year. She recruits and I train and quite often with new volunteers I team up with them [as facilitator and co-facilitator] and liaise with [SDPM] as to how they are doing. (RJCO2)

Whilst the other two RJCOs (RJCO1 and RJCO3) stated that they had good relationships with their SDP managers they both voiced concerns regarding a lack of insight and insufficient detail on overall case progression, victim contact and outcomes.

Certain things that I think could be done better such as the calibre of case notes that come back but we have to be mindful that it’s their volunteers so we have to be mindful. Anyone who manages volunteers is very protective of them and sometimes as a distant person you’d ask more of them but that’s the difficult part of it that we are one -step away from the volunteers … Generally I get a copy of the outcome agreement and very brief summary and that’s what I would change as I would prefer a story. It’s just very bullet pointy with dates people met and they will collect their own feedback usually within two weeks … we don’t always get the feedback. (RJCO1)

Once I refer the case that is it gone ... weekly update but that’s very vague. Once finalised I get the post conference report form so I can see what’s happened so I can update anyone involved. The service provider will update the referrer that I put on the form … I don’t always get the report. I don’t really know what happens to the case once referred. I may have had contact with the victim before referring but I won’t know what’s happened to the case. My view is, bring it in house as that will have more governance. We outsource that work and we don’t really know what they do at the moment, yes we trust them as they have all been accredited … Bring it in house we’ll have one uniform service with one pot of volunteers and not be bound by areas. We’ll have more governance. (RJCO3)

The out-sourcing of RJ referrals and delivery to SDPs resulted in a lack of visibility for the RJCOs whose SDPs were externally located (SDP1 and 3). This lack of visibility appeared to impact on the levels of trust between the RJCOs and the SDPs and vice versa. Both case-managers and a number of the volunteer RJFs for SDP1 and 3 voiced that they felt that there was a deficiency in the calibre of case referrals and a lack of information exchanged between the SDP and RJCO:

There isn’t really a relationship, well I would say there is no established route of regular communication. I’m not sure really what is going on. (Simone, RJF, SDP3)

It’s [the RJ hub] an anonymous organisation that sends cases and you don’t feel confident that they look into cases properly… I don’t deal with them direct but I think their referring is terrible. (Mary, RJF, SDP3)

The geographical distance between the RJCOs and SDP1 and SDP3 seemed to be a bar to the RJCOs receiving feedback on referrals. As discussed in Chapter 5 the co-location of multi-agency hubs is important to the delivery of services and to maintaining the momentum of RJ. Even when agencies are co-located in the same building but not in the same office this can impact on the awareness and knowledge of the services with the end result being low levels of RJ referrals.

Despite the RJCO stating that there was a good working relationship between the internally located SDP2 and herself (both located in the same building), the SDP2 SDPM felt that there was some tension between the RJCOs and the SDPs.

I wouldn’t say I was a team, that’s the one thing I wouldn’t say. There is a very clear divide between the RJCOs and the SDPs and I have very good working relations with the other SDPs … One of the inherent difficulties is the RJCOs are a team and there is built in resistance and as the delivery provider there is just me and I do everything. (SDPM, SDP2)

The SDP2 SDPM’s opinion of the PCC RJ delivery service model echoed that of SDP3’s case-manager in regard to being of the opinion that the RJCO position was an unnecessary level of bureaucracy:

Inherently I think that there is a lot of time and effort and money spent unnecessarily by going through that model. I’ve got no issues about the scoping or whatever, and you need somebody to be looking at the cases where it needs to be a RJCO and they have their skills and it’s a strategic role scope but in terms of receiving referrals the fact that I can have a conversation with a (police) officer and get all the information and I then have to pass it another route well that’s a level of … another tier of administrative burden that we don’t need … but I accept that they have to keep control of it and the relationship between the RJCO can be quite personal as to whether you get on or don’t … I don’t have an issue with RJCO and she doesn’t have an issue with me we just get on with it. But actually if you are one on one then it can be … because you’ve got roles I can’t go out and awareness train. I have to pass it over to a RJCO so for goodness sake there has to be a cross over and I think that’s where it doesn’t work … and we need to move forward, that’s what it needs and police referrals have not been good, they are not great. (SDPM, SDP3)

The manager at SDP3 also voiced her discontent with the PCC funded RJ service delivery model. SDP3 had originally received governmental funding (for the community justice panel) until funding for victim services was allocated to PCCs and the new model of RJ service delivery was set up under the jurisdiction of the PCC funded VWCUs. The manager expressed vehemently that the new RJ model they were delivering in conjunction with the PCC RJ hub was ‘flawed’ and that the role of the RJCO in the newly created RJ hubs was unnecessary:

From the outset we said the model was flawed … We thought the RJCO hub role was unjustified in terms of cost … that layer of bureaucracy was unnecessary, but they wouldn’t budge … [area name] was already established. We told them, community based and growing into the police force is more effective than being blasted down from [name of VWCU]. Rather than supporting how it was they [the PCC] wanted it to be done that way. That top down approach – way more barriers from top down approach then bottom up. (SDPM, SDP3)

Both SDP2 and 3 stated that since the new PCC RJ service model had commenced in January 2015 the number of referrals had either remained static or had in fact declined.

My cases have not gone up since this model was established. (SDPM, SDP2)

The referrals and outcomes fell away. (SDPM, SDP3)

The SDPM at newly established SDP1 also commented on the level of referrals:

To be honest we have said yes to everything as referrals have not been that high. (SDPM, SDP1)

All three case-managers/managers expressed that the current PCC model did not allow them to undertake or be involved in any awareness raising programmes or events.

Both the RJCOs and the SDPs were critical of the current RJ service model. The RJCOs voiced that they thought that the RJ service should be brought in-house as opposed to the current system in which the RJ delivery work was out-sourced to external SDPs. The RJCOs were of the opinion that by providing an in-house RJ service with a single cohort of volunteer RJFs greater visibility, a uniformed RJ service and improved governance would be achieved. The RJCOs were accountable for the overall delivery of RJ and had to regularly report to both their line manager and the RJ Board the number of: case enquiries received; referrals made to the SDPs; and restorative outcomes achieved. All outcomes were expected to be captured, measured and reported by the RJCOs. The RJCOs were reliant on the SDPs to feedback case progression and outcomes.

In turn, (as mentioned above) the SDPs’ SDPMs were of the opinion that the current service delivery model was flawed and that the role of the RJCO was an unnecessary level of bureaucracy which created tension between the two roles (the RJCO and the SDPM). They also opined that the current system had not achieved any increase in the level of referrals, if anything referral levels had decreased.

The extra layer of bureaucracy appeared to create unnecessary repetition, delay and lack of visibility in terms of contact with referring agents and victims and the duplication of risk assessing victims and offenders. However, if there was no RJCO/hub role then the quality of referrals would be varied and the SDPs would have to conduct all the preparatory work. The SDPs would also have to cope with maybe not being able to get hold of referrers. Again, as discussed in Chapter 5, due to the co-location of the RJCOs within the police centres the RJCOs were able to proactively encourage and nudge VWCOs and POs to refer victims to RJ.

### 7.5.3 RJ facilitators

All the facilitators for the three SDPs were volunteers. Both SDP2 and SDP3 had a cohort of volunteer RJFs prior to becoming the SDP for the PCC RJ service model whereas SDP1 recruited and trained new volunteer RJFs when their service commenced.

However the original volunteer RJFs for SDP3 (many of whom continued to be volunteers for the new model) had formerly been trained under a different training model. This old model allowed them to be able to facilitate mediation cases where there was no clearly defined victim or offender as well as RJ cases referred by a criminal justice agent which had a definite victim and offender and a specific offence. When SDP3 secured the PCC RJ contract the original RJFs undertook an additional one-day bespoke RJ conversion training session.

#### 7.5.3.1 Training of RJ facilitators

Whilst SDP1 and SDP2 co-trained new volunteer RJFs with their RJCOs this was not so for SDP3. SDP3 did not utilise their RJCO to assist with training. As discussed above SDP3 had already been established for several years as a community justice panel which had received governmental funding and worked closely with housing associations and local POs to deliver RJ for youth and adult anti-social behaviour and low-level offending. Therefore they had an established cohort of RJFs (who had undertaken a bespoke one-day conversion training sessions) and they undertook the training of new RJF volunteers themselves.

#### 7.5.3.2 Supervision of RJ facilitators

Supervision of volunteer RJFs differed across the three SDPs. The volunteer RJFs within SDP1 and SDP2 were able to attend regular group supervision sessions. However the RJFs interviewed from SDP3 said:

We do have get togethers now and then. I have suggested that we should all talk about cases together to pool experience and knowledge – doesn’t really happen. We don’t have supervision one to one. (Mary, RJF, SDP3)

We used to have regular supervision … that has changed and you are working in isolation … I think all facilitators would really benefit from either a training day a couple of days a year but the bare minimum is a de-brief with the managers and other facilitators … feedback is very important. We haven’t met for many months. Too many things half organised and half not. I say I’ll go on something and then it gets cancelled due to lack of participants. Where is the fault? Difficult to say. (Dorothy, RJF, SDP3)

This lack of group supervision appeared to be due to the geographical expanse of SDP3’s area. The absence of group supervision may have impacted on the RJFs skills as they were unable to discuss cases with their fellow RJFs.

Many of the RJFs across the other SDPs discussed the importance of group supervisions and meetings with the colleagues. It was apparent that the RJFs interviewed in this study perceived the group supervisions to be helpful to their own development. Two RJF group supervisions were observed within police force area 2. The importance of the group supervisions on knowledge exchange and professional development were evidenced during the observations. The group supervisions enabled the RJCOs and the RJFs the opportunity to have open and bi-directional discussions on their cases – this provided on the job training. Many of the RJFs voiced during the observations and the interviews how important and beneficial the group supervisions were. Previous research has found that continuing on the job training through group RJF meetings provides staff with the forum to share insights and solutions and discuss difficult cases and arising issues (Shapland et al, 2011: 57).

### 7.5.4 Offence types

The RJCOs and the SDPs in police force area 1 accepted any offence type for RJ. RJ enquiries and referrals were accepted for the whole spectrum from mediation cases involving disputes between school pupils right through to the most serious offences. Regardless of whether referrals were offender or victim initiated the RJCOs and SDPs would risk assess each enquiry or referral individually to determine case suitability.

There were though issues raised by SDP1 and SDP2 regarding case suitability in relation to cases that were regarded as mediation cases rather than RJ cases (cases that were neighbourhood disputes, anti-social behaviour or where there was not a clearly defined harmed and harmer) and also post-sentence cases.

Where cases were deemed to be more suitable for mediation than RJ due to their nature it was felt these should be managed in a different way, particularly because PCC funding (originally from the surcharge on offenders from the Victims Fund) was only for cases designated ‘crimes’, rather than anti-social behaviour. The SDP manager in SDP1 stated that:

We are not funded for mediation and most of it was ASB housing not RJ. [name of partner company] has mediation funding for [name of area]. Some things that sounded like mediation we have taken on and put them across to the mediation (service). More often than not I know that my experienced facilitators will be able to do certain cases … we have mediator volunteers [in the partner company]. We have two separate groups and one or two are trained for both (RJ and mediation). (SDPM, SDP1)

The SDPM for SDP2 stated that when mediation cases were referred to SDP2 they worked with SDP1 on the case:

Neighbourhood justice is more unclear … Harm on both sides for neighbourhood justice … what do they want from it? What are they wanting to bring to the table? Where are they prepared to move forward to? Post-sentence very clear cut. If I’m unsure if the case is mediation or RJ then I work with [parent company of SDP1] as they, the victims, don’t want to tell their story twice. (SDPM, SDP2)

As stated above both SDP2 and SDP3 were established as RJ/mediation providers prior to becoming the SDP for the PCC funded RJ hub model. SDP1 was a new organisation that won the tender to provide RJ services for their area. However, SDP1 was a partner company to an already well-established local mediation service, which allowed SDP1 to utilise their partner mediation service when neighbourhood disputes and low level ASB cases were referred by the RJCO. SDP2 also utilised SDP1’s partner mediation service and passed over RJ referrals that appeared to be mediation cases direct to the partner mediation service. SDP3 accepted mediation referrals from the RJCO although they also received mediation referrals direct from local authorities and social housing providers.

### 7.5.5 Delivery of post-sentence RJ

When the PCC RJ hub model first went live in January 2015 there was a seconded PO, who worked alongside the RJCOs in the RJ hubs (and was based at one of the hubs), to deliver RJ post-sentence.[[48]](#footnote-48) The seconded RJ post-sentence officer delivered and co-facilitated post-sentence RJ with either the three RJCOs or very occasionally (when necessary) with a RJF from one of the SDPs. Prior to the secondment of the post-sentence RJ PO role ending the remit for the SDPs was primarily only for neighbourhood or low-level out of court RJ cases, however as stated above the post-sentence worker would sometimes call upon the SDPs for help to facilitate a case. After the RJ post-sentence fixed term secondment finished (approximately 15 months after the PCC model commenced) the SDPs’ remit was expanded to include post-sentence cases. It would appear that the shift to including more serious and post-sentence cases was in conflict with the views of the SDPM at SDP3 (and some of the RJFs).

I have had issues with the types of cases that have been referred and the way the model has skewed the case work and we said that would happen and it has … This goes back to what you think RJ is and what you think it is for so if are looking at community based RJ to deal with ASB, nuisance, low level issues with children or even adults and you grow this thing from the ground up to relieve your police of multiple calls outs and to assist in the community ... working from a community based point of view … [name of area VWCU] on the other hand were dealing with vulnerable and enhanced victims[[49]](#footnote-49) and very often dealing with the PCCs preferred priorities which are child sexual exploitation, burglary and domestic abuse … so therefore the RJ you are going to get through [name of area VWCU] is going to be skewed towards that kind of case and therefore because those cases are more serious they tend to be post-sentence cases. (SDPM, SDP3)

Whilst all RJFs were trained, as part of their initial RJF training, to facilitate all types of offences (excluding sexual and harmful behaviour, for which additional training was provided to those RJFs who wished to be trained to facilitate sexual and harmful behaviour cases) the move to taking on responsibility for post-sentence cases previously managed by the seconded post-sentence officer appeared to cause some concern for the SDPM in SDP3.

[post-sentence cases]… requires them [RJFs] to have a lot of extra training in complex and serious cases and harmful sexual behaviour cases and the people that volunteer to be community workers [RJFs] don’t envisage going to [names of cities and places across England] … to visit offenders in prison … as in terms of policy or practice it just hadn’t been thought through [by the PCC] at all … At the last count 98% of our cases were post-sentence cases … A lot of them don’t come to fruition because of the complexity of preparation which can take months and because prison resources are so stretched with Offender Managers and Offender Supervisors and contacting prisoners these cases take an awful lot of time to put together and the volunteers lose interest … So take for example when we do the community cases we could turn them around in 2-3 weeks whereas post-sentence ones can be 4, 5 or 6 months … We don’t even allocate to the volunteers anymore until we know that something is going to happen. (SDPM, SDP3)

One of the RJFs echoed the SDPMs concerns regarding post-sentence cases and the distance that RJFs were expected to travel to facilitate post-sentence case.

Well [RJ hub] refer cases and then I think [name of SDPM] goes through them, really to see whether it suits what we are doing in terms of, as I say if we are going to have to travel miles then it’s going to cost a fortune and that’s not what we are there for so she does the initial sift. (Mary, RJF, SDP3)

Despite differences in how the SDPs managed cases that were deemed to be mediation cases and the views regarding post-sentence cases between the SDPs there were no differences in the type of offences that the SDPs accepted. The RJCOs and the SDPs accepted any offence type for RJ. Despite stating that all offence types were accepted sexual and domestic violence offences were raised as complex cases that required highly skilled RJFs who had additional training to deal with complex, sensitive and sexual harmful behaviour cases. One RJF, when asked if there were any types of offences that RJ was not suitable for, stated that:

[RJ is] not suitable for DV [domestic violence], it’s too sensitive and too dodgy. The people concerned are either related or connected in some way. There may be moves to this in the future but I certainly don’t and … we don’t do sex violence and rape – the really sensitive stuff. (Dorothy, RJF, SDP3)

One case-manager discussed how they had previously not taken on domestic violence cases but did now. However the case-manager would not facilitate these cases herself as she felt that she was not adequately trained. Domestic violence cases in SDP2 were considered on a case by case basis, depending on whether or not they had RJFs with the necessary skills.

It seems that regardless of policy and guidance that states that irrespective of the type of offence committed against them all victims of crime should be given information on RJ and that access to RJ should be equal (Ministry of Justice, 2014) there was considerable variability across the PCC funded RJ hubs and SDPs within police force area 1.

## 7.6 The structure and delivery of RJ within police force area 2

Police force area 2 had just one force-wide RJ hub which was located at its force headquarters. Unlike the RJ hub for police force 1, which was co-located within one of the three VWCUs, the RJCO and her small team of two staff (all police staff funded by the PCC) in police force area 2 were located in their own separate office along the corridor from the VWCU.

RJ provision for police force area 2 was delivered by a team of volunteer RJFs who were directly trained, managed and supervised by the three (paid) RJ staff (one RJCO, one RJ administrator and one seconded out-of-court-disposal manager) in the RJ hub. The role of the RJCO and her team in police force 2 did not differ greatly from that of the RJCOs in police force 1 in terms of strategic development and overall management of case referrals. As the RJCO said:

My job is as the restorative justice coordinator for the PCC, my role is to pull the RJ work for all the RJ provision for [area name]. To pull people together and run a hub where people can refer into and to train people as well. (RJCO)

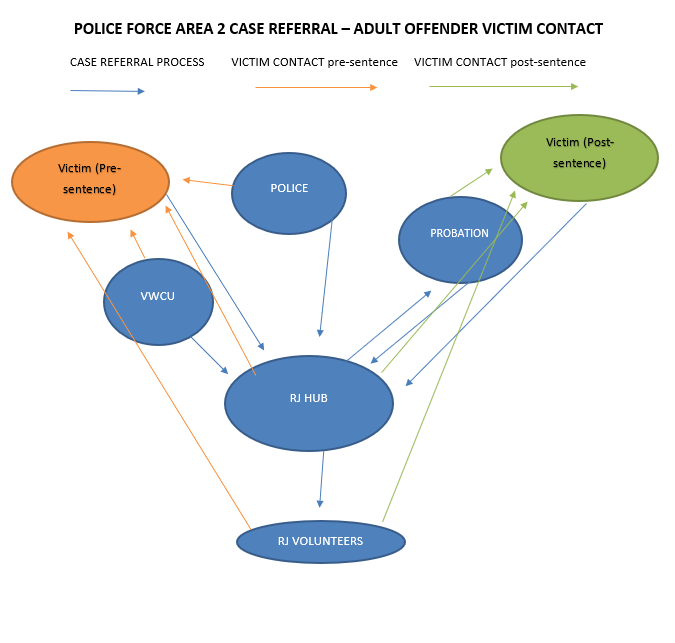
As was the case with the RJCOs in police force area 1 all three RJ hub staff members in police force area 2 were trained in RJ and two were also trained to deliver training and to facilitate complex, sensitive, sexual or harmed cases and they all regularly co-facilitated on cases.

Unlike police force area 1 the delivery of RJ services was not out-sourced to an external SDP. The RJ hub in police force area 2 recruited, trained and managed a team of volunteer RJFs and case-managed all RJ referrals made to them, including post-sentence cases. This allowed the RJ hub in police force area 2 to have complete visibility of cases from initial referral, through case allocation to two volunteer RJFs, through to supervising the RJFs throughout the cases to the case outcome.

Group supervision sessions for the volunteer RJFs were carried out monthly and in addition to the group supervision volunteers could discuss cases with the RJCO at any point throughout their case. Several of the volunteer RJFs had also undertaken additional training in serious and complex cases.

It is beneficial at this point to provide a process map to illustrate the RJ referral process for victims of crimes committed by adult offenders within police force area 2 (*Table 6*) before discussing police force area 2’s offence type criteria selection. As was the case in police force area 1 the referral process for victims of crimes committed by a young person was different and much simpler, and will be discussed in the *Youth offending teams* section below.

##### Table 6: Police force are 2 referral process map



### 7.6.1 Offence type criteria selection within police force area 2

In contrast to police force area 1 the RJ hub in police force area 2 did not have any mediation services to utilise, nor did they have any of their RJFs trained to facilitate mediation cases. However they would work on anti-social behaviour or neighbourhood dispute mediation cases that were referred from police, housing or other organisations:

We don’t have a mediation service to refer non-criminal justice cases to, cases with housing and learning difficulties and mental health. My philosophy probably shapes it a lot as I’m of the view that if someone comes to you, you just shape it and use whatever restorative approaches you can as it doesn’t always fit in to the standard RJ. (RJCO)

Despite the RJ hub accepting mediation cases three (*n*=3) of the five RJFs interviewed in police force area 2 discussed how difficult neighbourhood mediation cases were:

I think my abiding memory coming away from Friday [group supervision session] was that the moral should be if at all costs … avoid a neighbourhood dispute … One or two other people (facilitators) were having them [neighbourhood cases] and let’s just say they too had hit the brick wall. (John, RJF)

I said to [name of RJCO] please give me violent men instead of neighbours as they are so locked into their misery and there is nearly no capacity to come up with any thoughts at all on any activity that they are doing that they could change that would make things better, it has to be the other person. (Paul, RJF)

In addition to the issues raised regarding mediation referrals police force area 2 did not accept sexual and domestic violence RJ referrals that were offender-initiated. If the victim of a sexual or domestic violence offence initiated RJ themselves then the RJ team would accept the referral. This case criterion had led to some confusion within the RJ team when a domestic violence perpetrator, who had completed a victim awareness programme in prison and whilst still serving his sentence, voiced his desire to make amends and meet his victim through a RJ intervention. The referral was passed over to the RJ hub by a neighbouring county’s RJ team and initially accepted.

Offender led case … [name of RJCO] was horrified that we had contacted the victim and that we should never have taken this case on … (she was) concerned that it was domestic violence and my thought then was how can the offender ever get to repair any of the harm? I’m sure there are plenty of DV [domestic violence] cases when the offender wants to repair the harm. I need to talk about this more as if that is the case then the PCC needs to have a strategic policy about what cases we do or don’t do. RJ [name of area] thought it was ok to send over and [name of RJ hub staff] thought it was ok and there are discrepancies. It doesn’t sit comfortably with me and we are halfway through and then say we are not doing it. It’s not right for him (the offender) for us to go back and say we aren’t doing it. I know it’s about the victim but what does that do to his re-offending as I feel he was making an effort but I suppose we can go back and say the victim hasn’t engaged? (Jackie, RJF)

There appeared both within and between police force area 1 and 2 to be key differences and uncertainty as to what types of cases were suitable for RJ and how different offence types were to be managed. The differences and uncertainty found may, in part, be due to the conflicting messages provided by the ACPO and the MoJ. The ACPO 2012 *RJ guidance and minimum standards* document states that ‘at present, ACPO policy for domestic abuse/domestic violence does not support the use of RJ in determining outcomes in this area … there will be little opportunity for the use of RJ in the vast majority of such offences’. The guidance also states that ‘we do recognise that RJ is a customer focussed methodology and if a victim of such an offence demands RJ then it is for the individual officer to consider, in line with their respective force policy and the guidance already issued by ACPO DV [domestic violence] as to whether furtherance under RJ is appropriate’ (2012: 6). In contrast the MoJ’s RJ Action Plan (2014: 4) states that ‘victims should not be denied RJ because of the offence committed against them’.

## 7.7 Key differences in the delivery of RJ between police force areas

The key differences in the structure of RJ provision between police force area 1 and police force area 2 was that police force area 1 had an additional layer of bureaucracy within the referral process, in the form of the RJCOs. The RJ hubs in police force area 1 outsourced the delivery of RJ to external SDPs.

The RJ service model adopted by police force area 1 resulted in a lack of visibility of case-management and progression. In addition, there was no consistency in the case-referral route for mediation cases and objections were raised by one of the SDPs in regard to RJFs managing post-sentence cases. Within police force area 2 the RJ service was managed and delivered in-house, therefore once referrals were made into the RJ hub the RJCO had complete visibility of the case from allocation to their team of volunteer RJFs to case conclusion.

There was also the risk in police force area 1 that victims were being contacted unnecessarily. The RJCOs and the SDP case-managers described how they aimed to keep the number of individuals contacting the victim to a minimum. However contrary to this they discussed how they would contact the victim, prior to allocating the case to a RJF, if they felt that they needed further information or that the victim had not been given sufficient information on the RJ process.

Also, despite both the EU Directive (2012) and the VCOP (2015) stating that all victims of crime are entitled to information on the availability of RJ there were differences across the two police force areas as to what types of criminal offences were accepted as referrals. As discussed above all the RJCOs and SDPs in police force area 1 stated that there were no offence types that would not be suitable for RJ and each case would be assessed on a case by case basis for case suitability. However this was not the case in police force area 2. Police force area 2 did not accept sexual and domestic violence RJ referrals that were offender-initiated. Despite police force area 1 stating that there were no offence types that would not be suitable for RJ it was not standard procedure for either police force areas to proactively offer RJ to victims of sexual and domestic violence offences.

It appeared that across both police force areas there were also different methods of dealing with mediation cases in terms of case-referral route. There were differences within police force area 1 across the three SDPs as to the case-referral route for neighbourhood cases which were deemed to be mediation cases not RJ. Within police force area 2 both the RJCO and RJFs raised issues regarding neighbourhood dispute referrals and their capacity to deal with such cases. None of the RJFs in police force area 2 had been trained in mediation skills and there was no mediation service to which the RJCO could pass referrals.

Therefore it appears that there were no set criteria or standard practice for what types of offences would be accepted or rejected as an RJ referral across the two police force areas. The RJCOs’ and SDPs’ cherry-picked cases that they deemed to be appropriate for RJ. Victims were subjected to selection criteria that were based on personal views and triggers and indicators. There was no uniformed approach to which victims were selected or accepted as suitable for RJ. The PCC RJ hubs and SDPs in this study seemed to select ‘ideal RJ victims’ and ‘ideal RJ offences’. Victims were selected as ‘ideal RJ victims’ based on certain characteristics and particular offences were deemed to be more suitable than others for RJ (see Chapter 8 for a discussion on the construction of the ‘ideal RJ victim’).

## 7.8 Victim contact

There was also considerable variability in how victims were contacted by the RJCOs and SDPs both within and between police force areas. Firstly, the differences in how victims were contacted within police force area 1 by the RJ hubs and SDPs will be discussed before then outlining how the RJ hub in police force area 2 contacted victims.

### 7.8.1 Police force area 1: victim contact

With regard to victim contact there were differences in how victim contact was delivered and managed amongst the RJCOs in police force area 1. Depending on the RJ referral or RJ enquiry and where it had originated from, be it a PO, VWCU, YOT or NPS, what then happened would depend if initial contact had been made with the victim by the referring agent prior to the referral or enquiry being sent to the RJCOs. The RJCOs preferred to contact victims depending on the case referral, the referring agent and whether the victim and offender had already been contacted and whether there was sufficient information on the referral.

Victim contact – fair amount if [VWCU] enquiry. Say they call the victim with the outcome and ask are you interested in RJ? and they say yes then the VWCO will let me know and then I call the victim to give them more information and because the VWCOs only offer RJ. (The VWCOs ask) have you heard about it? Would you be interested in talking to the offender about the harm caused and they (the victim) say yes … our RJCO will call you to give you more info. So I’ll speak to victims on that side of things. If it’s a police enquiry as an out of court disposal I don’t always speak to the victim as I ask the police to speak to both and get them on board … So my victim work is at the beginning when I am just putting a referral together to get them on board, encourage them, give them time to think about it. Always by phone call. If offender led and some way down the line then I would write to them so it wasn’t just out of the blue. (RJCO3)

RJCOs were adamant that the victims in the RJ referrals or enquiries received from the police should have given their agreement to progress with RJ.

We have two words to describe the RJ process. Starts as an enquiry … anything from a post it note to a call saying I have this crime/offender. It then becomes a referral when we know that we have both on board (victim and offender). Or we might get an enquiry and we’ll say to the police officer great but we need the victim on board – can you plant that seed? Then it goes out as a referral to our service provider. (RJCO1)

The process for victim contact for referrals received from the VWCOs was not so clear cut. The RJCO’s decision to contact the victims of referrals made by the VWCOs to discuss RJ depended on a number of factors that included whether the VWCO had already discussed RJ in detail with the victim and whether or not the victim wished to have more information before progressing with the referral. The RJCO would decide whether or not to make contact with the victim prior to making a referral to the SDPs.

As discussed in Chapter 5, RJCOs also scoped cases from the pre-charge and post-charge police systems (NICHE and WMS) or the daily court outcome list. Through the scoping/case-extraction process the RJCOs would nudge and prompt the VWCOs to offer RJ to the victim. If the VWCO had not been able to make contact with the victim or had not had the confidence or opportunity to mention RJ direct to the victim themselves the RJCO would attempt to contact the victim directly to offer RJ. The process of scoping will be discussed in further detail below.

In other instances, the VWCOs would inform the RJCO that they thought that a victim may potentially be interested in RJ based on triggers and indicators that the victim gave to the VWCO and the RJCO would then attempt to contact the victim. The RJCOs only attempted to make contact via telephone and would only try three times and would leave a voicemail asking for the victim to contact them to discuss RJ. After three failed attempts the RJCOs would assume that the victim was not interested.

NPS referrals to the RJCOs were a mix of offender-initiated and victim-initiated cases. For offender-initiated cases NPS officers would contact the RJCOs to discuss an offender who had expressed a desire to participate in a RJ process. The RJCO would then, after gathering information on the case contact these victims to discuss RJ. Depending on the length of time that had passed since the offence the RJCOs would either send an introductory letter or call the victim. If the victim had initiated RJ either through a self-referral or through their NPS victim liaison officer then the RJCO would either contact the victim direct (if deemed necessary) or send the referral straight to the SDP.

If we are looking at [name of the VWCU] and they have asked the victim and the victim is interested then it’s my responsibility to contact the offender so either direct or via probation or prison and see if they are on board. Or, if it’s offender-led then (RJCO’s responsibility) to contact the victim. When we refer a case to the service provider then it’s ready to go and we’ve got that admission of guilt, just needs the facilitator to go. (RJCO3)

In general, the RJCOs tried not to contact victims unnecessarily.

The RJCO tries not to have contact with the victim but sometimes it has to happen before we send over to the service provider to try to minimise number of contacts … Sometimes we are treading on each other’s … there are so many agencies out there trying to support victims and there can be double treading and we need to be aware and communicate with those agencies. (RJCO1)

However, it appeared that there was no specific rule regarding who would contact, when or how to contact the victim. The decision by the RJCOs to contact the victim was on a case by case basis.

7.8.1.1 Service delivery providers: victim contact

When the SDPs received a referral from the RJCOs the method of contacting victims differed across the SDPs. The methods of victim contact ranged from: SDPMs always contacting the victim by phone prior to allocating a RJF; to SDPMs sometimes calling the victim if they felt that more information was required prior to assigning RJFs; to SDPMs sending an initial introductory letter followed by either a call from themselves or a RJF.

It used to be that the RJCO would have spoken to the victim and if they had spoken to the victim … sometimes it would confuse them then if they speak to me and then they would speak to the facilitators and it would be the third or fourth person down the line … So what actually happens is if a case has been referred by a police officer it may well be that [RJCO] hasn’t spoken to them so I would speak to them and if I can’t get hold of them I would send them an email or leave them a voicemail and that is just normally introductory really “this is us, expect to be contacted, do you have an email address and best time of day”. I don’t go into it as it takes away from my facilitators as there are too many people contacting them before they are actually getting to the case. I still would contact them (even if RJCO has spoken to them). I would just, what I talk to them about depends on where it comes from, sometimes I have enquiries from RJCO so I contact them and I would speak to them (the victim) about whether RJ is appropriate in a particular case and answer their questions or queries. Sometimes the contact could be just to say “we are allocating this” … but my main job is to not engage with them for too long but to say look somebody will come and sit and talk to you. (SDPM, SDP2)

The SDPM for SDP1 stated that initial contact was always made through a letter to introduce the service and inform the victim that a RJF would be in contact. Following the letter the SDPM may call the victim or may just pass it straight to the RJF assigned to the case.

I’ll take on the case and make initial contact with the client depending if clients have already been contacted. In any case I will always send out a short introductory letter and it may be that I make an initial call and see about their availability/ [whether their] phone number works and then allocate the case to volunteer facilitators. Sometimes I pass the case directly to the facilitators as RJCO may have recently spoken to the parties so it’ll go over to the facilitator. In my flow sheet I’ll send the letter and then call the victim and offender … just depends on the case and the facilitator’. (SDPM, SDP1)

Three out of the four SDP1 RJFs interviewed stated that the SDPM always made the initial contact with the victim prior to allocating the case to them. One RJF discussed how he found making the initial contact difficult.

The timing of talking to victims is crucial as too early and you blow it and too late … now I don’t have to worry about that as [name of SDPM] does it. I found making the initial contact … very challenging. (Harry, RJF, SDP1)

The method of initial victim contact was different in SDP3. The SDPM would manage all victim contact throughout the RJ process. The SDPM would contact the victim and introduce the service and arrange both the initial and all subsequent meeting dates and provide victims with updates. The RJFs only visited the victim and facilitated the RJ intervention. All communication with the victim outside of the meetings was via the SDPM. If the victim had any queries they spoke with the SDPM as they did not have any direct access to the RJF and vice versa.

Whilst the RJCOs in police force area 1 stated that they only contacted the victim if it was deemed necessary the fieldwork showed that contrary to what the RJCOs stated they did make contact with victims. This resulted in an additional criminal justice professional contacting victims.

### 7.8.2 Police force area 2: victim contact

In police force area 2 the RJCO stated that the method of contact was primarily a phone call. There were though referrals when the RJCO deemed that an introductory letter was the best way of making the initial contact due to the nature of the case. Whether the RJCO made the initial contact with the victim (either by telephone or letter) or not prior to allocating the case to a RJF was dependent on the referring agent and the level of information provided on the referral. The process for victim contact in police force area 2 was a point of debate for the RJCO.

Depends a little bit, sometimes it goes straight out [to the facilitator] … council referral neighbourhood dispute. Spoke to council and they said both willing to engage so I didn’t contact and left it to the facilitators. Another case there wasn’t an awful amount of information so I phoned Mum to understand all the needs and then thought [name of facilitator] would be best on this. I have wondered if it would be better for me to call people as that might weed out early on (referrals where victim no longer wishes to proceed with RJ process) and we had one case from police who the facilitators just couldn’t get hold off or if numbers were wrong we wouldn’t have to go through all that … still deciding what would be best. Tricky, as if you phone someone and say we are assigning someone then it needs to be quite quick. All cases are different. If all cases came from [name of VWCU] you might think it the best way but cases come from all over the criminal justice system … If we have an offender referral then we take great care when contacting the victim and I contacted in this case. Another case I will ask the facilitators if they want to speak to victim first or me. It is a specialist skill to make the initial contact with victim. Sometimes it is cold calling. Me doing that, cold calling, I think I am very good at it – that initial victim contact. Whether we potentially go for that - me doing those initial calls … We, so far, always call but we have … sent them [bereaved parents] a letter as think it will be such a shock. I called someone whose daughter had been killed and I made that call just to see if it was them and I think that takes a certain call and explained why, what and gave her time to understand. Because they hadn’t taken up the offer of a victim liaison officer either … so we talked for a while about how she wanted to think about it, whether she would speak to her husband. I have phoned out of the blue, I kind of … just figure that if you have something, a service to offer then you have to try to offer it. Research says that an offer of RJ done sensitively doesn’t damage the victim … yes it’s sensitive but they think about it every day. Calling a burglary victim might bring it back up but not a murder victim. I have not had any negative response to calling people. (RJCO)

The RJ service model used by police force area 2 attempted to keep the number of professionals contacting the victim regarding RJ to a minimum. However there was no consistency in the victim contact process. Police force area 2 received the referral and the decision as to whether the RJCO made initial contact with the victim or not prior to assigning the case to a RJF was made on a case by case basis. The model adopted by police force area 2 did though have one less step in the referral procedure as compared to police force area 1. Police force area 2 did not use an external SDP to deliver their RJ and therefore there was one less stage in the referral process. Instead, the PCC RJ hub in police force area 2 had their own team of volunteer RJFs to whom they directly allocated cases. This meant that they did not have another level of management (SDPMs) who may also potentially contact victims (if they deemed it necessary). Whereas in police force area 1 the RJCOs made a decision as to whether to make initial contact with the victims before sending the referral to the SDPs based on the information provided or the nature of the case. Once the referral was received by the SDP the SDPM also made a decision as to whether or not to contact the victim before assigning the case to a RJF.

### 7.8.3 Victim contact: differences between police force areas

As outlined above there was one main point of difference in regard to the number of professionals that contacted victims. However despite this the method used across both police force areas to approach victims appeared to be the same. Both police force area 1 and 2 mainly made contact with victims via a telephone call. Letters were used occasionally if deemed the most appropriate method for that particular case. The exception was for SDP1 where the SDPM always sent out an introductory letter followed by a phone call. As discussed in Chapter 5 a RJ paragraph was included in the correspondence sent by VWCOs to victims in police force area 1, unless they deemed it inappropriate and edited it from the letter. Victim correspondence sent by VWCOs in police force area 2 did not have any information on RJ included. RJ leaflets were available for the VWCOs across both police force areas to insert if they wished to however during the field research very few VWCOs were observed inserting RJ leaflets into victim correspondence.

## 7.9 Additional key differences in the provision of RJ between the two police force areas

The key differences between police force areas in the structure and delivery of RJ, training and supervision of RJFs and victim contact have been outlined above to illustrate that victims are subjected to a ‘post-code’ lottery with regards to being offered RJ or provided with information on the availability of RJ services in their area. The next section will now outline other key differences between the two police forces in their structure and delivery of RJ. These differences are the use of scoping, nudging and prompting by the RJCOs, and the training of POs in RJ.

### 7.9.1 Scoping, nudging and prompting

As discussed above, scoping cases, particularly post-sentence cases, by looking at records was viewed by the RJCOs in police force area 1 to be a fruitful exercise and one that they undertook on a regular basis. Scoped cases considered to be potentially suitable for RJ would be highlighted by the RJCOs to either the PO, the VWCO or probation through either the NICHE or WMS system, email, phone call or face to face.

Few ways … we can scope our NICHE system, police intelligence where all crimes go on. You can do it by crime type, date incident reported, location … It’s easy to filter it out. It’s a good way to have a quick ‘stick your nose in’ and put a quick comment. Sometimes it can be too early on and the police officer may not have a suspect and we can put a ‘for your information’ saying look at this. I think it goes unnoticed most of the time. We do get a few bites back but it’s a great way of saying “hi RJ is here”. [VWCU] have WMS, it’s a system, Witness Management System, holds all cases that are going through the court process. So, you can search on sentencing, guilty plea, committal for sentence. You can search by any hearing type but we do it by sentencing plea and we can pop an entry on the system or speak to the VWCO so that’s an effective way of scoping … Not sure how many it brings but it’s a positive activity. (RJCO1)

Scoping? Yes, I love a bit of scoping. I do this in two ways … main way and most fruitful is using the post sentence court system that the VWCOs use. So it’s WMS (post-sentence witness management system), a sister system of the CPS system, so me and [name of colleague] who is team support officer for [name of VWCU] have got a system going and he allocates cases out as soon as they get charged for post requisition or, some come in as voluntary offender, when they get court allocated date. He gets the sheets with all the cases on and I go through the cases and flag up ones that are suitable (for RJ) and say (to VWCO) if it’s a guilty plea please can you offer it. If it goes to trial we can consider it following conviction and then I put note on the system and send an email so its plastered all over WMS so no one can forget. I do it, I save up a stack and plough through so it only happens when we have time to do it. I don’t always, I don’t prioritise it. So that’s post sentence. We also have NICHE crime recording and we have a report set up that flags up cases for those brackets so when we have time, we do this. I prioritise WMS stuff as this [NICHE] is so early on you are never going to have a suspect. Also I have a template log that I post on so when the police officer goes on they can say OK I can do RJ for this, but it’s not as fruitful as WMS. (RJCO2)

The RJCOs in police force area 1 all expressed how they tended to scope post-sentence cases (court outcome and post-sentence) rather than pre-sentence. Therefore the RJCOs nudged and prompted criminal justice agents to discuss RJ with victims at the court outcome stage rather than seeing the offer of RJ as a continuum throughout the criminal justice process. Police force area 2 did not scope cases either by extracting cases from the police database or by scouring the VWCU daily court lists. The RJCO in police force area 2 discussed how maybe the process of scoping cases and providing nudges to prompt other criminal justice agents was an activity that she and her team should be carrying out.

As discussed in Chapter 5 the RJCOs in police force area 1 were co-located within the VWCUs. This co-location allowed the RJCOs to prompt and nudge VWCOs face-to-face. The RJCOs fed into the VWCOs daily and weekly briefing sessions. Attending the briefing sessions enabled the RJCOs to discuss RJ successes, on-going cases and any relevant RJ news. In addition to the formal daily and weekly briefing sessions the RJCOs were able to listen to the telephone conversations that the VWCOs had with victims and, as observed, prompt and nudge the VWCOs to offer RJ to victims. As stated above the RJ hub in police force 2 was not co-located in the same office as the VWCU and they did not scope cases or post nudges and prompts onto the case files for the VWCOs or POs. Neither did they attend daily briefings with the VWCOs or have any verbal interaction with them as they were going about their daily work business.

### 7.9.2 Training of police officers

POs could refer cases for RJ as a condition of an out-of-court-disposal (a Community Resolution or conditional caution). They could also refer cases for RJ where no-further-action had been decided as the case outcome. However across both police force areas the overall consensus was that POs were not fully aware of what RJ was and how it could be used. Despite police being statutorily bound to ask victims if their details could be passed to RJ services the RJCOs felt that this was not happening and that there was some confusion amongst POs as to what the difference was between RJ and a community resolution. This confusion surrounding community resolutions and RJ has been well-documented in other research findings. Shapland et al (2017c), inter alia, found that there were ‘intractable procedural issues’ and ‘substantial gaps in communication and promotion’ across the police which contributed to the misunderstanding in relation to community resolutions and RJ (ibid: 38).

POs in police force area 1 were not trained in RJ despite the RJCOs requesting that RJ training be incorporated within police training. Some awareness raising of RJ had taken place with a number of inspectors and sergeants, but it was very limited and had not included POs, PCSOs or special constables. A RJ champions initiative had been developed across the force to raise awareness of RJ but the extent to which this was utilised was questionable.

Police force area 2 did not have a RJ champions initiative although, at the time of writing, the implementation of a RJ champions programme was imminent. Level one RJ training was, again at the time of writing, in the midst of being delivered to all front-line police staff (POs, PCSOs and Local Crime Investigators) across police force area 2. Initially, during the field research period, front-line staff based within a pilot area in police force area 2 attended a one day RJ level one training programme. This resulted in a high number of referrals being made by PCs and PCSOs to the hub and the subsequent decision to train all front-line staff in police force area 2. This training was already being hailed by the RJCO as a success due to the high volume of cases being referred by front-line staff. The Chief Constable has, since conducting this field research, confirmed that approximately 350 PCSOs, PCs, special constables and local crime investigators have had initial RJ training and that RJ training would be incorporated into the training programme for all new police front-line staff recruits.

## 7.10 The impact of funding cuts

During the field research the PCC for police force area 1 announced that due to having to make cost savings all commissioned victims’ services were expected to find potential savings and to suggest how these savings would be achieved. This resulted in the RJ delivery service model in police force area 1 being overhauled only 28 months after being established.

The RJ service was commissioned to one single RJ SDP. Two of the three previous SDPs merged and tendered for and subsequently won the service level agreement to provide a single RJ service across the whole police force. The two services amalgamated thus bringing together a large pool of established mediation and RJFs and SDPMs who were not new to providing RJ for the PCC. The three internal RJCOs were made redundant and the new service commenced in June 2017.

Whilst the new service was hailed as being able to reduce costs and provide a unified force-wide service, a change that several felt was much-needed, concerns regarding the new model superseding the PCC model established in 2016 were raised by the (soon to be) redundant RJCOs. The RJCOs were concerned that many of the benefits achieved by being RJCOs employed as police staff co-located within the VWCUs would be lost. These benefits were seen as being able to keep up the momentum of RJ. Through co-location the RJCOs were able to work closely daily with the VWCOs and POs and encourage and prompt VWCOs to offer RJ to victims. The VWCOs in police force area 1 were unanimous in viewing the co-location of the RJCOs in the VWCUs as instrumental in building and sustaining momentum of RJ amongst them. The RJCOs in police force area 1 were observed frequently interacting with the VWCOs and discussing RJ. The new SDP would be externally located and would have a newly appointed RJCO who would sporadically hot-desk in various police centres to maintain awareness and visibility. All three RJCOs felt that being co-located daily within the VWCU had ensured that they could actively promote RJ and encourage and train VWCOs to discuss RJ with victims and make RJ referrals. Shapland et al’s research (2017c) explored the implementation of RJ at police level and found that maintaining momentum was a challenge. All too often RJ is cast-aside as a non-priority and forgotten by criminal justice agents for whom RJ is just another demand placed upon them (Wigzell and Hough, 2015). Momentum, it is argued, can be maintained through the employment of RJ leads and champions (Shapland et al, 2017c). Penetrating police practice and culture is a full-time commitment and adopting an ad hoc approach via externally located RJ personnel will do nothing to embed RJ within the CJS (ibid).

In addition to the changes to the RJ provision in police force area 1 brought about by the need to make cost-savings the RJCOs and SDPs across both police force areas discussed the contentious issue of funding. Funding for the RJ service, regardless of which agency or organisation was providing the service, was secured only for a fixed short-term. The consensus was that continually having to re-tender for funding grants and contracts was time-consuming.

Issues with funding is that it is yearly and not very stable and not ring-fenced. (RJCO, police force area 2)

Consistency of funding really is a major issue … currently writing funding bid for next year, basically yearly. (SDPM, SDP1)

In some instances, volunteer RJFs in police force area 1 discussed how they had not claimed for their expenses and that they were aware that funding was an issue. One SDP raised the issue of the cost in terms of time and money for RJFs to travel to prisons to meet offenders or to conduct RJ conferences.

Whilst the dedication of the volunteer RJFs was not questioned there were some concerns regarding relying on teams of voluntary RJFs to deliver RJ. These concerns specifically related to the time that it took for contact to be made with victims.

Difficulty of volunteers is that yes they are cheap but they come with their own issues and if they don’t want to do it they don’t have to, they can pull out, holidays. (SDPM, SDP2)

In one case a referral had been sent to the SDP by the RJCO but there were no RJFs who offered to work on the post-sentence case. The RJCO stated that this may have been due to the time and input required on the part of the RJFs as the offender was located some considerable distance away. In this case the RJCO had to attempt to utilise RJFs from another SDP. The RJCO in police force area 2 also raised the issue of relying on volunteers to deliver RJ in a timely fashion. Volunteers can choose which cases to work on and when many are on holiday at the same time there can be a delay in allocating cases to RJFs.

## 7.11 Short-term seconded positions

The RJ hubs in police force area 1 initially had a RJ development manager. This role was a fixed term post and once the term ended the position was not extended. The PCC in police force area 1 originally received additional funding for the launch and delivery of the RJ hub service model by an external RJ organisation. The financial investment provided by the external RJ organisation included amongst other things funding for the delivery management of RJ through the establishment of a RJ development manager post. Once this funding ran out the position of RJ development manager was not extended.

In addition the RJ hubs had a seconded PO in the role of post-sentence RJ. His expertise and focus on post-sentence were lost when his secondment came to an end and the SDPs had to incorporate post-sentence RJ cases into their workload. One of the RJCOs in police force area 1 discussed how losing the post-sentence RJ officer had impacted on the post-sentence RJ work.

The prison work was obviously more effective when we had [name of the RJ post-sentence officer]. (RJCO1)

In police force area 2 the RJ team included a seconded member of staff who after under a year in post was moved to another division. The use of seconded and fixed term contracts appeared to impact on all four of the RJ hubs as they had to adapt to losing valuable members of staff and spend resources recruiting a replacement or managing the workload. All of this had the potential to impact on the service that could be provided to victims. The difficulties regarding funding and the non-statutory footing of RJ are well-documented in relation to the fragility of restorative schemes that are predominately run on short-term funding and are based on volunteers (Miers et al, 2001). As Shapland et al (2011: 44) state: ‘if RJ is dependent upon project-based, fixed-term funding, or upon voluntary sector workers … then the yearly ritual of bidding for funds, the competitive bidding culture and the uncertainty of future work … militate against consistency of delivery and a secure quality service’.

## 7.12 Youth Offending Teams: the structure and delivery of RJ

The inconsistencies regarding victim selection, method of invitation, timing of offer and the impact of funding and short-term seconded positions which were found across the RJ hubs, SDPs and RJFs were also evident within the YOTs and NPS. These inconsistencies will be discussed further below. Firstly an overview of YJ and RJ will be provided followed by an outline of how the YOTs were structured within both police force areas. The variations found in how YOTs deliver RJ will be discussed to illustrate that victims are not being informed or provided with the opportunity to participate in a RJ intervention in a consistent manner.

As discussed in Chapter 2, the YJS was overhauled in the Crime and Disorder Act 1998 and the Youth Justice and Evidence Act 1999. YOTs were established and were meant to be based on restorative principles. The array of new community sentences introduced was meant to be restorative in nature and was meant to seek the victim’s views (Home Office, 1997d). All first-time offenders who plead guilty (this restriction of use to first-time offenders has subsequently been retracted in the Legal Aid Sentencing and Punishment of Offenders Act 2012) were to be given a mandatory court RO. The RO is a court order that refers the offender to a ROP. The panel is comprised of one YOT worker and (at least) two community members, the young offender and the young offender’s ‘parents or carers where relevant’, whilst the victim may be present (where appropriate) (Ministry of Justice, 2018: 2). YOTs were given, within the Youth Justice and Criminal Evidence Act 1999, statutory responsibility to administer panel meetings. ROPs are based on the underlying principles of RJ: restoration, reintegration and responsibility. The RO contract that is constructed and signed in the ROP meeting must always contain some form of reparation which should be directed to the victim, or the wider community.

Across police force area 1 there was a total of five YOTs, each covering a specific geographical area. In police area 2 there were two YOTs with responsibility for their own area. Interviews were conducted with 13 YOT staff members from across all seven YOTs within the two police force areas.

In terms of personnel each YOT was structured differently. Some YOTs had dedicated victim workers, victim liaison officers or RJCOs whereas other YOTs did not have a specific victim role but instead incorporated victim work within case workers’ roles.

### 7.12.1 Victim contact

It appeared that when the victim work was a component of the caseworker’s role the number of victims that were taking part in a RJ process in those YOTs was lower than the number of victims taking part in the YOTs that had a dedicated victim worker/victim liaison officer/RJCO. The YOTs who had a dedicated victim worker/RJCO stated that they had:

More victims interested in [RJ] than other YOTs I have worked with. We normally have 1 or 2 face-to-face on the go and a lot more of other RJ processes, keeps it fresh as we always push it here. RJ is part of my role, I am … team manager. Lots of my job that is not technically RJ but RJ is everything we do. (YOT worker 08)

I have done 33 conferences … It could be developed so much more if I was full-time. I am a Youth Justice worker by title and they needed a dedicated person to do victim contact and now I just focus on that as it took a few years to get them to take the young offender’s stuff off me. Here I am the RJ team … I am not independent as I work for YOT but not holding cases … I don’t get caseworkers involved in RJ conferences as they forge relationships with the young person and they are biased. I work with the victim and then the young person. I contact the victim. I can’t make promises and I manage expectations and be open and honest with them as to where the case is in the system without breaking data protection and we can do pre-sentence RJ if I assess as not damaging the process. Then I meet the young person and ascertain their willingness to engage and then I would do the preparation with them. (YOT worker 03)

The case workers who were given the additional task of contacting victims alongside holding the cases of young offenders generated limited victim participation.

One YOT team that had given the responsibility of victim work to the case workers had switched to this method of victim work due to workload constraints. Prior to this model they previously had dedicated police staff who took sole responsibility for victim contact and who were able to offer home visits to victims:

We have warranted and civilian police officers as staff … we trained and moved the victim contact over to them and that initially seemed to work quite well and victims seemed to appreciate having a call from the police with a follow-up letter or even visit. Then we went through a period where the workload of that was too great and in terms of being able to communicate usefully to the victim it felt that you were constantly doing a shuttle conversation as the victim would ask the police officer who would then have to ask the case-holder who might then have to ask the young person who would then tell the case-worker who would tell the police officer and we thought this is ridiculous as apart from anything else how much are you losing in every interpretation each time the message is passed on? So, our current process is now in a straightforward case … one victim, one young offender, the case-holder for the young offender will also be the case-holder for the victim and do all the contact so that way the victim and the offender are being dealt with by someone who knows what’s what and who can communicate effectively. (YOT worker 01)

Whilst this method, according to the YOT manager, resulted in better victim feedback and better victim engagement in that the case workers were able to make contact, the YOT manager admitted that this method of victim contact did not yield any improvement in victim participation.

What we are not necessarily doing is translating into RJ outcome … Very very low victim participation in reality. (YOT worker 01)

It was not only the dedicated resources given to RJ in the form of a specific role or a specific responsibility of one person’s job role (some victim workers also had responsibility for other areas) that appeared to influence the number of victims that participated in a RJ process. The extent to which RJ was part of the overarching ethos of the YOT also seemed to impact upon the number of victims who were given the opportunity to participate in a RJ process. The YOT manager who expressed that she had more victims interested in RJ than in any other YOT she had worked in previously, explained that in addition to having a dedicated victim worker all her staff were trained in RJ and that she had a virtual RJ team and RJ cases were discussed at the monthly team meetings. Shapland et al (2011: 52) found in their RJ research that the YOTs involved in the research project had very different cultures. ‘The separate identities and preferences of the four different YOTs … resulted in very different rates of (RJ) referral’. Differing YOT cultures can prevent the development of a common ‘ideology of unity’ (Burnett and Appleton, 2004; Crawford, 1994).

One YOT, despite having one YOT worker who had sole responsibility for RJ as part of her role, had not delivered even one face to face conference and very rarely had any victim input whatsoever. This appeared to be due to the ethos of the YOT and the method through which the YJ worker contacted victims.

We do have some statutory obligations for RJ and victims. We struggle with how best to approach victims, letter or phone. I think this whole RJ thing is based on a fallacy that the victims want to be involved and I don’t think they do. I’m not persuaded by that emotive need and trying to get all victims involved. (YOT worker 04)

The method used to contact victims in this YOT was an opt-in method only. Victims were sent a letter and a questionnaire with a list of options as to whether they would like to say anything to the young person who committed the offence, whether they would like indirect/direct reparation or whether they would like to meet the young person face to face. If the victim wanted to explore one of the options they had to provide their contact details on the form and return the form back in the SAE provided. The victim worker would then contact them. They could also, if they wished to, call the office and speak directly to the victim worker. The victim worker expressed that this option had been taken due partly to time constraints and also that she did not want to ‘pester’ victims and it should be their choice to participate.

They have to opt-in (the victim) … they have to opt-in to our process. From us writing to them it’s opt-in all the time cos’ they can choose not to send the letter back or choose to send it back saying nope don’t contact me. I don’t know, I would be interested to know whether we should make a phone call after our letter but that’s not taking, they aren’t opting in then we are sending them a letter and then we say we are calling you. So the decision was made that the way we would run it … is that we would write to all the people, a letter explaining who we were and what we could offer and a questionnaire that is all anonymised … and in that questionnaire we give them the option to answer questions about how it has affected them, is there anything they would like to say to the young person that has committed the offence and would they like have a face-to-face meeting, a letter of apology, direct unpaid work, reparation, or not direct and then they can leave their telephone number and a time that is good for me to ring or they can tick the box don’t contact me again … When we started doing this we felt it would fit in with the time that I was able to give the post but also it gave the victim's the option to opt-in and I suppose for me I was, I didn’t want to pester, I didn’t want to ring people up from a phone number from 143 (police form) so this felt like they had a choice in whether they wanted to be involved or not and we send self-addressed envelopes … When I did it I said I would work one evening a week so that it opened up evening time for any people that had been a victim the opportunity to contact me outside of their office hours as I didn’t feel it was right to say I was only available during office hours. (YOT worker 05).

Unsurprisingly this YOT worker stated that they had never had a victim accept the offer to meet their young offender face-to-face:

We offer face to face, but I’ve never had anyone. (YOT worker 05).

There was no uniform process across the seven YOTs (spanning the two police force areas) for contacting victims to seek their views and to inform them that they could, if appropriate, attend the ROP or take part in a RJ process either for an out of court disposal or a court sanction. The method in which victims were contacted ranged from: an opt-in letter only; to a letter followed by a phone call; to just phone calls; to phone calls and home visits. The YOTs with a dedicated victim liaison officer/ RJ officer who worked closely with the case-managers in the YOT team, proactively engaged with victims and conducted home visits appeared to have the highest levels of victim participation in RJ.

The MoJ/YJB *Referral Order Guidance* (2018: 31) stipulates that ‘victims should have an opportunity, as a matter of course, for a face to face meeting with the YOT Restorative Justice or Victim Liaison Worker (YOT worker)’. The guidance advises YOTs to send an initial introductory letter and information leaflet prior to calling the victims and offering a home visit or meeting (ibid: 31).

### 7.12.2 Funding

Every YOT team across both police force areas lamented that funding cuts had impacted on their ability to conduct victim work. Funding cuts to YOTs resulted in many YOTs no longer having dedicated RJ workers. YOTs bemoaned that they had either not been able to expand their victim/ RJ work or had been forced to reduce the role. One particular YOT had been requesting funds to expand the victim work role for the past two years, to no avail. The dedicated RJCO in one YOT left the post and the role had been reduced to a part time role. Another YOT’s RJCO role was not being covered whilst the person was off on long term sick leave. Due to financial constraints many of the YOTs had made significant changes to how they managed victim contact. Some YOTs had made the decision to incorporate the victim’s workload into the case-worker’s workload. A consequence of this was that, in one YOT, victim contact was downgraded from phone calls to letters to select victims only.

Other YOT workers referred to wanting to be able to conduct home visits to discuss RJ with victims but were no longer able to offer this service due to the cuts to their budgets. One YOT had previously had two seconded POs who were responsible for victim and RJ work; these secondments had ended, and they had not been replaced. One other YOT, until recently, had a seconded PO dedicated to victim work who had secured high levels of victim contact and had conducted home visits. Again, due to funding cuts this role had been cut. A further YOT only offered home visits to victims whose young offender had received a court sentence as due to funding cuts they could no longer offer home visits to victims of offences that had been dealt with through an out of court disposal. The YOT whose victim worker did offer home visits acknowledged that it was an expensive method.

It’s about how these services are funded. You need time to see victims face to face and that’s an expensive service. It’s easier for us to do it as we are working with a smaller number of victims. [YOT victim worker’s name], it keeps her incredibly busy and it’s being flexible on times, she'll do evening visits, take calls in the evening … she is very committed to giving the victims a good service. The right people doing the right things in the right places and we have made a conscious decision to keep [YOT victim worker’s name] time free to do it … I think, I suspect, that what happens when funding gets cut is that they (other YOTs) say we'll just do phone calls rather than visits, we'll just do letters … just prioritise enhanced victims, it’s the drawing back of those services and you have to fund people to do it. (YOT worker 09)

Despite the costs associated with having a dedicated RJ/victim worker who offered and conducted home visits the YOT had made the decision that it was a worthwhile investment. By adopting this method they stated that they had seen an upturn in the number of victims who participated in a RJ process. This finding supports Miers et al (2001) who stated that they found higher levels of direct RJ in schemes that exhibited a primarily victim-oriented approach. RJ work has a tendency to be perceived as a low priority when agencies are faced with challenging situations such as funding issues and workloads which result in problems meeting their statutory obligations (Miers et al, 2001; Shapland et al, 2011).

### 7.12.3 Training

Two-thirds of the YOT staff interviewed discussed how funding cuts had impacted upon staff RJ training. Many opined that due to the funding cuts and subsequent staff cuts they had lost their RJ trained staff:

We’ve lost all our victim workers over the last 10 years. They were all level 2 trained … specialist resource that’s now lost. (YOT worker 06)

The YJB gave us initial RJ training funding, now nothing. There’s no money ring-fenced and it’s frustrating as we want [name of staff member] to do other RJ training. (YOT worker 13)

Further to the funding cuts resulting in staff cuts and therefore a loss of trained staff one YOT manager discussed that she was able to access free RJ training for her staff but due to time constraints was unable to take advantage of the free training:

I would like my colleagues to do refresher (RJ) training as then they would promote it (RJ) more and I’d like them to observe (RJ) but it’s time, can’t afford the time … their backs are up against the wall. (YOT worker 03)

It appears that funding cuts impeded YOTs’ ability to deliver RJ consistently and proactively. If YOTs’ staff members are not trained in RJ then how can YOTs meet their statutory obligations to offer RJ to all victims of young offenders?

### 7.12.4 Offence types

If victims expressed to YOT staff members that they wished to participate in a RJ intervention there was no set process across the YOTs in regard to which organisation would action this. Some YOTs used their own level 2 trained[[50]](#footnote-50) RJFs to conduct the RJ intervention regardless of the offence type. Other YOTs referred any victims whose offence committed against them was to be dealt with through an out of court disposal to the PCC funded RJ hub for their area or direct to the SDP. One YOT utilised the expertise of their RJ hub only when required. The RJ hubs across both police force areas would refer to the YOTs victims of crimes committed by a young offender who had expressed an interest to the RJCOs or SDPs to take part in RJ.

Another YOT did not contact the victims of young offenders whose offence(s) were dealt with through Community Resolution and only contacted victims of offences where the disposal was a conditional caution or above. Several YOTs did not offer RJ to corporate victims and this was apparently due to the time and resources required versus the low uptake from this cohort of victims. In addition one YOT stated that they did not offer RJ to victims of sexual offences or domestic violence, whilst another was extremely cautious in offering RJ for sexual offences and would omit RJ in some cases. Victims of offences that had resulted in the young offender receiving a YRO or Detention Training Order were not contacted in one YOT; this was a new process due to staff shortages. However the victim worker raised concerns regarding this change as they felt that these victims were victims of more serious crimes and they were being forgotten. Victims of offences that were ‘taken into consideration’ (hereafter, TIC) were also not offered RJ.

Contrary to the guidelines outlined in the VCOP (2015), the House of Commons Justice Select committee’s report (2016) and the MoJ’s RJ Action Plan (2015/16) victims were being selected based on the offence that had been committed against them. Victims were either excluded due to the seriousness of the crime or excluded if the CPS had decided that their crime would be ‘taken into consideration’.[[51]](#footnote-51) RJ service providers should ensure that they offer RJ to victims of TIC cases (Bright, 2017). The use of RJ in serious crimes has been shown to be beneficial to the victim (Shapland et al, 2011). The previous ambiguity surrounding the appropriateness of RJ with sexual or domestic violence offences was dismissed within the VCOP (2015) which enshrined the right of all victims – including victims of sexual and domestic violence – to full and impartial information on RJ to enable them to make a decision about whether they wish to take participate in a RJ process. However, as discussed above, the ACPO RJ guidance (2012) illustrates the ambiguity surrounding sexual or domestic violence cases at organisational policy level.

### 7.12.5 Referral Order Panels

Several of the YOTs confirmed that they did not invite victims to the ROPs. One YOT that did invite victims to attend explained that if the victim did express a wish to attend then the young offender had to be in agreement. Another YOT, who secured high levels of victim participation, voiced that they had very few victims who came to the ROP. The YOT stated that this was partly due to the statutory short time frame (20 days) between the young offender being sentenced to a RO and to the initial ROP sitting having to be conducted. This short time frame appeared to impact on securing victim participation in the ROP process. Two YOTs which did not allow victims to attend the initial ROP did though offer victims the opportunity to attend a separate ROP conference with the young offender and the ROP volunteers. However guidance states that YOTs should encourage all victims to attend the ROP meeting (Ministry of Justice/Youth Justice Board, 2018).[[52]](#footnote-52)

The findings in this study that victim involvement is barely significant despite YJ being based on RJ further supports those found by Newburn et al (2002) nearly two decades ago and the more recent findings by Hoyle and Rosenblatt (2016). Newburn et al (2002) found that only 13% of ROPs had a victim present and that, given the necessary support and opportunity, many non-present victims would have been involved in a restorative process. Hoyle and Rosenblatt’s research (2016) found that the numbers of victims participating in a ROP has remained, since the introduction of ROs within the Criminal Evidence and Youth Justice Act (1999), stubbornly low due to not be given the opportunity to participate or the necessary information to allow victims to make an ‘informed decision’.

Victims should be able to make an ‘informed choice’ as to whether to participate in the RO process. To enable victims to make an ‘informed choice’ they must first be contacted and ‘encouraged to attend panel meetings’ (Ministry of Justice/Youth Justice Board, 2018: 37). Given the necessary support and opportunity many non-present victims would be involved in a restorative process whether direct or non-direct (Newburn et al, 2002). The guidance from the MoJ and YJB (2018) outlines how panel meetings should be arranged to meet the convenience of victims wishing to attend and should be flexible in the times that they are run. Merely presenting young offenders with victims’ views, whilst restorative in nature, does not constitute RJ, where the offender and victim enter into a bi-directional dialogue (either directly or indirectly).

### 7.12.6 Implications for victims on how Youth Offending Teams’ structure and deliver RJ

There were many differences in the method of invitation between the YOTs in this study. The best method of approaching and offering victims RJ appeared to be by phone and by a dedicated victim worker. Home visits also appeared to generate higher levels of victim participation. However due to funding issues many of the YOTs had either stopped offering this service or reduced the offer to set criteria of victims.

Another factor that appeared to be an effective method of securing victim participation was when the YOTs had a dedicated victim/RJ worker who also worked closely with the young offenders and their case-worker. This method enabled the victim/RJ worker to liaise and communicate between the two parties (the victim and young offender) to bring both together in some form of bi-directional dialogue.

Therefore to enable victims of young offenders to make an ‘informed choice’ all victims must be invited to be involved in a restorative intervention. This was not the case in the YOTs in this study. The YOTs in this study either forgot the victim entirely or adopted a range of different methods of informing victims or victim case-management. This resulted in victims being selected due to offence type, or the case outcome (cases that had been sentenced to a RO only) or workload and funding pressures. The end result was that, within this study, very few victims participated in a RJ process with their young offender.

## 7.13 National Probation Service staff

A total of 5 NPS staff were interviewed to determine how RJ was incorporated into the NPS and how victims were offered RJ. Interviews were conducted with probation service officers (*n*=2), probation victim liaison officers (*n*=2) and a probation offender manager (*n*=1) from across two NPS teams.[[53]](#footnote-53) The two probation service officers interviewed worked for one NPS team within police force area 1 and the two probation victim liaison officers and the probation offender manager worked for one NPS team within police force area 2.

The interviews conducted with the probation staff highlighted that there were inconsistencies between and within the probation teams in regard to how RJ was incorporated into probation work and how and when victims were offered RJ.

A brief outline of the role of a probation service officer, probation victim liaison officer and probation offender manager will firstly be provided before detailing how RJ was incorporated into NPS practice by the NPS staff interviewed in this study. The inconsistencies found across the NPS roles regarding how victims were selected and offered RJ will then be discussed.

### 7.13.1 The role of National Probation Service staff

The NPS service officer role is very similar to that of a NPS officer but NPS service officers only supervise medium to low risk offenders (this is because they have lesser qualifications than probation officers who are fully qualified). Their role includes gathering information and interviewing offenders, assessing their risk to the public, preparing pre-sentence reports (hereafter, PSRs) for courts and supporting victims of crime (National Career Service, 2018). The two NPS service officers interviewed in this study were both court based and stated that their roles were to:

Interview defendants that are going through the courts, do on the day court reports, adjourned court reports, prosecute breach of court orders when they don’t comply, so very varied job. (NPS service officer 01)

I’m currently in the courts team here as a probation service officer. My role is to interview offenders prior to their sentencing here. So, that will be at a point when they’ve pleaded guilty or convicted after trial. So, they have admitted guilt or been found guilty … Our interviews will take place and then I write a report that I will either deliver verbally or in writing to court to the mags [magistrates] or judges which will assist them with sentencing … as I assess individuals for the sentencing options as in line with the sentencing guidelines but I also provide my assessment on the individual as well. So, that’s the extent of my role with the offenders as then it is passed over to the management teams, of course there is admin things to do behind that, typing up the report, risk assessing them. (NPS service officer 02)

The NPS offender manager described her job as:

I am a probation officer. My role is in offender management which means that I hold a case load of just shy of 50 people, predominately the high-risk end … So we work with people during the course of their sentences that might be in the community or custody … I'm not involved in pre-sentence at all. My role used to involve writing pre-sentence reports in terms of recommending sentence. Now I pick up cases at the point that they are sentenced … A custody case I will be more hands on if they are high risk in prison because I will be responsible for their risk assessment and sentencing planning. A medium case in custody I will take a more back -seat approach until 6 months prior to their release when I get more involved in resettlement planning. In the community I am responsible for assessing risk, creating a risk assessment plan and sentencing plan within a short time scale of start of sentence. (NPS offender manager).

The role of the NPS victim liaison officers interviewed for this study was very different to that of the NPS service officers and NPS offender manager:

I’m a victim liaison officer, we deal with victims of serious, sexual and violent crimes, there is a certain criteria … it’s if they (the offender(s)) are sentenced for one offence with 12 months custody. Our job is to basically inform the victim, if they wish to participate in the scheme (victim contact scheme), at key stages of the offender’s sentence, which is when they move on to a different prison, when they about to be released and we give them a voice, in such that we are able to request additional licence conditions for when the prisoner comes out which are usually no contact and an exclusion zone and also they are entitled in certain instances to provide us with a VPS [victim personal statement]. (NPS victim liaison officer 01)

The victim liaison officers were the only NPS staff to have direct contact with victims and therefore the only NPS staff that directly discussed RJ with victims.

### 7.13.2 Where does RJ fit within the National Probation Service?

RJ can be used by NPS at the pre-sentence, sentence and post-sentence stage. Since the Crime and Courts Act (2013) both judges and magistrates have the power to defer passing a sentence for RJ to take place pre-sentence (if both parties are willing to participate). RJ can, when appropriate, form one of the rehabilitative interventions in the RAR (introduced within the Offender Rehabilitation Act 2014) that can be attached to a community sentence. At post-sentence stage RJ can be used alongside a custodial sentence or post-release as part of offender’s resettlement. The NPS assist offenders at all three of these stages (pre-sentence, sentence and post-sentence).

Under the VCOP (2015) the NPS has a statutory duty as a provider of victims’ services to provide victims with information on RJ and how they can take part (Ministry of Justice, 2015: i). As stated above, it was only the NPS victim liaison officers in this study who stated that they had direct contact with victims. The contact that the NPS victim liaison officers had with victims was through the statutory NPS victim contact scheme. The victim contact scheme is offered to all victims of violent or sexual offences where the offender receives a sentence of 12 months or more (for one offence). Victims can choose whether they wish to take part in the victim contact scheme. If they choose to take part in the victim contact scheme they are assigned a probation victim liaison officer. The delivery of RJ is not part of the victim contact scheme but NPS victim liaison officers are expected, as outlined in the National Offender Management Service’s (hereafter, NOMS) 2013 victim contact guidance, to ‘provide victims with information about local RJ initiatives’ (National Offender Management Service, 2013: 95).

The NPS service officers and NPS offender manager in this study only worked with offenders and had no direct contact with victims. Despite not having direct contact with victims the role as a NPS service officer or NPS offender manager should include ‘supporting victims of crime’ (National Careers Service, 2018). Good mechanisms should be in place to ensure that offenders and victims know how to access RJ and are able to make informed decisions on whether they wish to participate in RJ (Ministry of Justice, 2014).

### 7.13.3 Structures for delivering RJ

In 2013/2014 NOMS dedicated funding to build RJ capacity through training prison and probation staff to facilitate RJ. They also provided guidance for the effective implementation and delivery of RJ. However it must be noted that the NOMS RJ capacity building programme was overshadowed and hampered by the *Transforming Rehabilitation* reform programme which commenced in 2014.[[54]](#footnote-54) The national reform of probation provision had significant implications for the implementation of the NOMS RJ capacity building programme[[55]](#footnote-55) (Wigzell and Hough, 2015).

Contrary to the NOMS guidance for the effective implementation and delivery of RJ there were no clear structures or policies in place within the two NPS teams interviewed in this study to ensure that all victims contacted by the NPS victim liaison officers or all offenders working with NPS victim liaison officers or NPS offender managers were given information on RJ and how they could participate. It was not standard procedure to provide all victims and offenders with information on RJ. Neither of the NPS victim liaison officers mentioned RJ to every victim. One NPS victim liaison officer stated that she did have RJ leaflets – provided by the PCC funded RJ hub - that she could either send or give to victims but she only did so if she felt it was appropriate.

I wouldn’t mention it to every victim, you gauge how they are and obviously some people are not in the right place … so we recently went to someone who had recently attempted suicide and for them I don’t think it would be the right time or place they have enough on their plate so you judge it. I always carry a leaflet with me and if I think that person is good then I give them a leaflet. (NPS victim liaison officer 01)

The other NPS victim liaison officer implied that she also waited for triggers and indicators from the victim(s) to mention RJ or provide the victim(s) with written information on RJ:

Probably doesn’t come up on a day to day basis. When we are going out to talk to victims then it’s something that we can raise and ask if it’s something that they may be interested in, either now or later on … Sometimes the victims will raise it, they would like the chance to speak to them, they have got lots of questions and we try not to go into too much detail … We've got leaflets so if they raise an interest then we have got leaflets from RJ [hub] that we can forward to them and really very briefly explain what RJ is … If the victim brings it up then we will discuss. (NPS victim liaison officer 02)

NPS victim liaison officer 02 also expressed concerns regarding taking a systematic approach to providing victims with information on RJ. When asked if information on RJ was included in victims’ correspondence she responded:

No, no its not. I think that might be misleading if you mentioned it on everything … He's pleaded not guilty, he's not accepting any responsibility, so you could be raising false hope if you just sent it. If it was standard practice to mention it you would have to really qualify it … that in certain instances if it is something that you are interested in raise it with your probation victim liaison officer. Maybe it’s something that could go on the letter but then the letter just keeps getting longer and longer. (NPS victim liaison officer 02)

It was not the role of the NPS offender manager or NPS service officers to make contact with victims but as stated above ‘supporting victims of crime’ was one of their duties. The NPS victim liaison officers discussed how some NPS offender managers would contact them (the NPS victim liaison officers) if they had an offender that had expressed a desire to meet their victim(s) or participate in RJ.

Sometimes we get in referrals from the offender managers. The offender managers come along and say they are interested and we remind them how they can make a referral to the RJ [hub] team … I have had a couple of offender managers, especially the young one’s trainees, who come up and say my offender wants to meet the victim and you sort of say this is who you contact, this is what you do. I encourage them to follow that up even if it’s not one of my cases. (NPS victim liaison officer 02)

A couple (NPS staff), a few, have come in and asked … Well my offender wants to do restorative justice. So, there are a few that I have heard of (NPS staff discussing RJ with victims or offenders), well there has been at least one … but it could be more I suppose. (NPS victim liaison officer 01)

However the NPS offender manager interviewed in this study admitted that despite having a personal interest in RJ she had little experience of RJ within her role:

In terms of professional of what I have done with RJ it is next to nothing. It has barely been mentioned in all my working with adult offenders. (NPS offender manager)

Self-referring victims who accessed RJ services via the PCC funded RJ hubs or victims that had been offered RJ via the RJ hub or via one of the VWCOs were reliant on the NPS offender managers raising the topic of RJ with their offenders. When asked if she mentioned RJ to the offenders that she worked with she responded:

No, but I probably should … I'm trying to think where immediately it may be a very clear-cut case … We ... another shift, which I think is a big shift … is our victim-focus. It’s so much less than it used to be. It is no longer thought to be a protective characteristic (of the offender) really to have good victim empathy. (NPS offender manager)

She went further to explain that victim empathy work could be detrimental to offenders.

In fact in some people it can be quite harmful to really. If you, certainly if you are a sex offender and you are really identifying with your victims a lot it can be a barrier to moving on. It can really damage your self-esteem and get in the way of creating a new identity going forward. So, victim empathy has been taken out of a lot of our sex offender work, taken out of the script but we still do it but evidence suggests it might not be as useful as we thought. (NPS offender manager)

It would seem that the NPS offender manager, who was responsible for offender-management with offenders who had committed violent or sexual offences, felt that NPS’s victim focus had diminished in regard to offender management. This was further supported by NPS victim liaison officer 02 who opined that despite the mantra that victims are at the heart of the CJS she felt that they really were not.

The NPS service officers interviewed in this study were based in one of the court teams in police force area 1. As outlined above their role included interviewing offenders during the court procedure as part of the PSR process. Both the NPS service officers were advocates of RJ. NPS service officer 01 described how she had become an advocate for RJ after a NPS officer was seconded to her court team as part of the NOMS RJ pathfinder evaluation in 2013. NPS service officer 01 had also attended several external RJ awareness events where she heard first-hand accounts of victims’ and offenders’ experiences of participating in RJ interventions. NPS service officer 02 had previous experience of working directly with victims and was aware of the benefits of RJ for both the victims and offenders. Upon joining the NPS team she became conscious that:

People (NPS staff) were missing ample opportunities to refer … The team did not realise the amount of times that people (offenders) would say I'm really sorry and they were missing the opportunity to send them across. (NPS victim liaison officer 02)

The NPS service officer took it upon herself to arrange for the RJCO from the RJ hub to come along and run a RJ awareness session for her colleagues. Through this awareness session a referral process was put into place. Subsequent to the RJ awareness session and referral process flow chart being devised the number of RJ referrals made by the court NPS team increased.

### 7.13.4 Making the offer of RJ

It appeared that RJ was only mentioned to victims when NPS victim liaison officers chose to directly discuss it with their victims or when their victims gave clear indicators that they wished to communicate with their offender or if the NPS service officers and NPS offender manager felt that their offenders displayed sufficient signs of remorse.

Although the NPS victim liaison officers stated that they offered their victims RJ when they (the victims) provided indicators that they wished to communicate with their offender, in practice this did not appear to always happen. One NPS victim liaison officer discussed the case of a victim she had worked closely with over a long period. The victim had regularly requested to communicate with her offender prior to finally accessing RJ via the newly established local PCC funded RJ hub.

We worked really hard with her and for ages before the restorative justice team (RJ hub) came in she had been saying that she needed to speak with him and that was a very violent sexual offence and that ended up going to conference. She kept asking for it and we kept her updated that this was something coming in and maybe now this is something that you can move forward with. When she first came up with it she was in no place to go.[[56]](#footnote-56) (NPS victim liaison officer 02).

Despite being an advocate of RJ the NPS offender manager interviewed in this study did not mention RJ to her offenders unless the victim - either through self-referral or via an offer from a RJCO, VWCO or PO - had requested to participate in RJ.

The offer of RJ was made to selected victims and offenders whom the NPS staff deemed appropriate and suitable candidates for RJ. As Newburn et al (2001) found in their research, many victims who did not participate in RJ would have participated had they been given the opportunity.

### 7.13.5 The importance of remorse

Both the NPS service officers described how they would question the offender during the pre-sentence interview as to how they felt about the victim in order to determine offender levels of remorse. Both the NPS service officers discussed how, if the offender showed remorse, they would refer the case to the PCC funded RJ hub.

Where my RJ referrals come in I, for example, interview the defendant and ask how they feel about the offence and what their attitude is to the victim. Now this one particular one that I dealt with today I am going to refer for restorative justice as he is very apologetic for what he has done … If people, defendants do come across as apologetic at the interview stage then yes, I do refer to RJ. (NPS service officer 01)

When we first come into contact with the offenders it is, most of the time, their first contact with probation, so they have already admitted their guilt or have been found guilty so have to accept it … and where RJ fits in is that we, when we explore with them the offence, one thing that we talk about is the victim empathy so we will be asking them things like what do you think the impact of this is on the victim now and what would you say to them if you saw them again? Sometimes you can get some really genuine remorse, either that they are crying or the words that they express and often some of them say I would like to apologise to the victim for my behaviour as it was out of character or this is what led up to it, it wasn’t intended to be them. So, that is where it fits in, so it’s at that point that I tend to say them that actually there is something called restorative justice and I explain a little bit about that. So it basically allows them, if they want to, to come into contact with the victim … if everyone consents. I use a little spectrum that if they are verbalising or showing genuine remorse then I will send it across … for me I have personally only referred over the genuine cases otherwise for me it’s not going to be successful and having worked with the victims I don’t want to get their hopes up 'well he's expressed interest in RJ’ and then ‘actually they've changed their mind’. I can imagine how stressful and disappointing that would be. (NPS service officer 02)

Remorse was a key factor in whether the probation staff raised the topic of RJ. NPS staff appeared to be indicating that offenders had to have empathy or remorse before being deemed suitable participants for RJ. Four out of the five NPS staff interviewed discussed ‘remorse’. They chatted about how an offender needed to show remorse in order for it to be suitable to mention RJ to either the offender themselves or to the victim, or to the magistrate or judge. Despite one of the NPS offender managers’ offenders, who had not displayed any signs of remorse, participating in a RJ intervention the NPS offender manager still had reservations regarding the use of RJ without any display of remorse:

Well my guy kind of disproved my theory but I suppose to be respectful of the process then you would need remorse but my guy doesn’t and he still blames the victim for ripping him off in a drugs deal and feels that serving a long prison sentence is sufficient for attempting to murder him ... there is not an awful lot of movement in those views. Remorse well I think it could further victimise a victim sitting in a room face to face with someone who is not genuine, if there is a disconnect. (NPS offender manager)

RJ policy and guidance states that offenders must take ‘responsibility’ for the offence, not that they have to show remorse. There is a difference between ‘responsibility’ and ‘remorse’. The NPS staff in this study seem to have confused the two. The process of RJ can bring about remorse. A central theory of RJ is that offenders convince themselves that their offending behaviour is not immoral. It is through participation in RJ that offenders come to the realisation that what they did was in fact immoral (Sherman, 1993). Therefore remorse can be an outcome of the RJ process. Offender remorse does not have to be a prerequisite. There are a number of reasons why victims elect to participate in RJ. Not all victims want an apology, some just want to tell the offender how they feel or ask questions. This in itself can be empowering and therapeutic for victims (Zernova, 2007).

This opinion that remorse is a prerequisite as to whether RJ should be offered was also found amongst the YOT staff interviewed for this study.

### 7.13.6 The implementation of RJ

Due to the need for ‘swift and sure’ justice (Ministry of Justice, 2012a) both NPS service officers told how they frequently had to present oral ‘stand-down’ PSRs. ‘Stand-down’ oral PSRs are delivered orally in court on the day of request. Due to the time constraints in which they are produced they are based on limited information (Robinson, 2017). ‘Stand-down’ oral on the day of request PSRs now exceed the number of PSRs delivered in writing (Ministry of Justice, 2017b). This push for ‘swift and sure’ justice in conjunction with an increased reliance on ‘stand-down’ oral PSRs may impact on the number of RJ referrals that are being made by court-based probation staff.

I go through months when I don’t refer (offenders to the RJ service) and to be honest a lot of the time when you are busy, because of the quick turnaround, that can be a factor. (NPS victim liaison officer 01)

When asked if the lack of referrals was due to workload impacts NPS victim liaison officer 01 replied:

Yes probably, I suspect so … Most of them we interview on the day of sentencing. You have three or four on the day. It’s a lot and you have to write it up and it’s flat out when you are doing it … Some probation officers may forget to refer to restorative justice. (NPS victim liaison officer 01)

These findings further support previous findings published by the Restorative Justice Council (2015: 14) that in regard to RJ there was ‘poor take up of both sentencers and report writers’ in some areas.

Whilst both NPS victim liaison officers in this study viewed RJ favourably and made RJ referrals to the PCC funded RJ hub there was no follow-up procedure. Once the offender had been sentenced they were allocated a NPS offender manager. Despite the referral being initiated by the NPS service officer it was the responsibility of the NPS offender manager to continue with the RJ process with the offender. The NPS service officer had no knowledge of what quality of supervision or interventions the offenders would receive when they left court (Robinson, 2018: 328). Once the RJ hub received the referral they would contact the NPS offender manager to discuss the next steps in the process. The RJ hubs were reliant on the NPS offender managers raising and discussing RJ with their offenders. The RJCOs located within the three RJ hubs in police force area 1 described how some offender managers did discuss RJ with their offenders and refer them for RJ but others were protective of their service users:

Some agencies become protective of their victims or offenders across the board and it’s down to personalities. Some will say this person is too prolific. (RJCO1)

Previous research has suggested that many criminal justice agents are protective of their service users (Van Camp and Wemmers, 2016). Criminal justice agents make decisions on whether their service user is ready for RJ or whether it would cause them more distress. They make protective offers of RJ rather than making proactive and systematic offers (ibid). This appeared to be the case amongst the NPS staff, that they made protective and selective offers of RJ.

### 7.13.7 Training and funding

Only one of the five NPS staff interviewed across two NPS teams for this study had received any formal RJ training. The NPS victim liaison officer who had undertaken formal RJ training had been trained as an RJF as part of the NOMS RJ capacity building programme discussed above.

In 2012 a thematic inspection conducted by the Criminal Justice Joint Inspection into the use of RJ in the CJS detailed how the use of RJ to reduce re-offending had not been a priority for NOMS. The Criminal Justice Joint Inspection (2012) reported that NOMS recognised the evidence for RJ as an effective tool to reduce re-offending and that the development of RJ was a strategic priority. NOMS invested in building RJ delivery capacity and embarked on a large training programme. However one of the implications of the *Transforming Rehabilitation* probation reform has been that RJ as a priority was side-lined and since the reconfiguration of the probation service a number of the NPS staff trained in RJ have been lost (Wigzell and Hough, 2015).

Whilst only one of the NPS interviewees had received any formal RJ training, all five of the NPS staff interviewed for this study were aware of RJ, knew the referral process and how to make a RJ referral to their local PCC funded RJ hub. This though was not due to any formal training that was initiated by NPS management or NPS policy but was due to the relationships that had been forged between the RJ hubs and the probation staff. As discussed above the NPS service officers interviewed had received RJ awareness training from one of the RJCOs based in police force area 1. This awareness training, in the form of a one-hour staff development session, had been organised through one of the NPS service officers who had previously been employed in a victim service role. The NPS victim liaison officers in police force area 2 described how they too had received RJ awareness training from the RJCO in the PCC funded RJ hub.

Although all the five NPS staff interviewed displayed enthusiasm for the RJ process there was little evidence of top-down management engagement or any formal RJ policy.

I think you are working with some enormous institutions that are working incredibly slowly ... great trundling dinosaurs that don’t innovate. That’s probably the biggest block and I think it’s about creating a culture and I don’t think it is there yet, I don’t think it’s on anyone’s radar at this level. (NPS offender manager)

As Wigzell and Hough (2015: xii) found, in their evaluation of the NOMS RJ building capacity programme, ‘there is a need to achieve a cultural shift in favour of restorative principles, through positive leadership at every level’ if RJ is to be fully embedded within NPS. Both NPS teams made reference to staff shortages and funding as issues that impacted on their workload. Staff were operating at full capacity and RJ was a ‘bolt-on’ (ibid).

The training and what probation’s view of RJ is didn’t really match. I don’t think probation quite understood what was involved and how much time it would take and it just wasn’t a role that could be done in the (NPS victim liaison officer) role, not if it was going to be done properly and it really didn’t go very far. (NPS victim liaison officer 02)

RJ implementation within the NPS teams appeared to be based on individual NPS staff members’ sense of commitment and enthusiasm to incorporate RJ into their daily role. The provision and implementation of RJ across the two NPS teams in this study was patchy and reliant upon the enthusiasm and engagement of individual NPS staff members. When busy the NPS staff’s daily role seemed to take priority over RJ and the victim appeared to be forgotten in the NPS process. The NPS staff interviewed for this study were selected through purposive sampling (see Chapter 4) and were therefore, as discussed above, advocates of RJ.

If, despite the enthusiasm of individual members of NPS staff for RJ, the provision and implementation of RJ within the NPS teams that participated in this study were patchy and inconsistent what does that mean for the NPS service as a whole? Does this suggest that the delivery and use of RJ within other NPS teams nationally is at its best a paucity and at its worst a nonentity?

## 7.14 The key problem of inconsistency

We have seen in this chapter that there are many inconsistencies regarding how the PCC funded RJ hubs, SDPs, RJFs, YOT and NPS teams selected victims to whom to make the offer of RJ to, the method by which the invitation was made, and the timing of the RJ offer. These findings also occurred within the VWCUs across both police force areas. The VCOP 2015 and the MoJ’s Restorative Justice Action Plan2014both stipulate that RJ should be available for all victims, regardless of the offence committed against them and regardless of the age or location of the offender. The inconsistences found illustrate that the agencies in this study were not systematically and proactively offering RJ to victims in accordance with governmental policy and guidance.

The key issue is then what factors lie behind these inconsistencies: are they due simply to work pressures, or to individuals’ differing views on RJ, or to a lack of systemic guidance underpinning the work cultures? We shall explore these questions in the next chapter.

# Chapter 8: Discussion

This concluding chapter discusses and summarises the findings from within and between the two police force areas in this study and considers the findings in relation to the research questions and aims (refer to Chapter 1). The chapter will subsequently consider the implications of the findings in regard to the structures and delivery of RJ) in the CJS and conclude with recommendations for embedding a culture of RJ within criminal justice agencies based upon the principles of inclusivity and engagement.

In Chapters 5, 6 and 7, the ways in which criminal justice agents offered victims RJ and victims’ own experience of both the offer and the process of RJ were explored. Chapter 5 determined how RJ was managed within the VWCUs and how victims were selected and offered RJ. In Chapter 6 the victims’ experiences of the invitation to participate in a RJ intervention were considered. Chapter 7 went on to discuss the implications for structuring and delivering RJ for victims from the viewpoint of a range of criminal justice agencies which were, at the time of writing, responsible for providing victims services, including RJ, across the two police force areas within this research project. The agencies were: the PCC funded RJ hubs and their SDPs and RJFs; YOTs; and the NPS.

We have seen in Chapters 5 and 7 that there were many inconsistencies. These inconsistencies were found in the PCC funded RJ hubs, and between SDPs, VWCOs, RJFs, YOT and NPS teams. The inconsistencies were in how they selected victims to whom to make the offer of RJ, the method by which the invitation was made, and the timing of the RJ offer. Firstly these inconsistencies will be discussed to determine what factors lay behind them. Were they due simply to work pressures, or to individuals’ differing views on RJ, or to a lack of systemic guidance underpinning the work cultures? Secondly, from the victims’ perspective these themes (how the offer of RJ was made and by whom and when is the ‘right time’ to offer victims the opportunity to participate in RJ) will be discussed. It will be argued that there are several key factors that appear to influence whether victims elect to participate in RJ.

The agencies and how they and their personnel provided victims with the opportunity to participate in RJ will be discussed first. It will be argued that the main reasons for the low levels of victim participation can be found in the culture, mechanisms and approaches adopted by professionals which result in victims not being provided with an opportunity to participate in a RJ intervention. The victims’ perspective will follow, as it is victims’ opinions on how the offer of RJ was made or should be made alongside their experience of the RJ process that is important. By considering this after the agencies and professionals we can ensure that the inconsistences found in the culture, mechanisms and approaches are holistically reviewed from the victims’ perspectives.

The ethos of RJ is that all parties affected by the conflict come together either directly or indirectly to deal with the aftermath of the offence (Marshall, 1996; Braithwaite, 2003). Therefore victim participation is a central tenet of RJ and understanding victims’ experiences of RJ and the offer of RJ is of great importance if RJ is to firmly root itself within mainstream criminal justice and be a process that is routinely offered to all victims of crime in accordance with the EU Directive (2012), the VCOP (2015) and the Ministry of Justice RJ Action Plan (2014).

Lastly, this chapter will outline recommendations that will ensure that all victims are given information on RJ in accordance with the EU Directive (2012), the VCOP (2015) and the RJ Action Plan (2014).

## 8.1 Criminal justice agents and professionals

### 8.1.1 Victim ‘selection’

Despite the VCOP (2015) and the RJ Action Plan (2014) stating that all victims of crime are entitled to receive information on the availability of RJ it appears that criminal justice agencies select ‘ideal RJ victims’. Victims are ‘selected in’ rather than ‘selected out’ as ‘ideal RJ victims’ to whom to offer RJ. If we refer to the EU Victims Directive (2012) we can possibly understand why professionals are adopting a universal victim ‘selecting in’ process rather than establishing a victim ‘selecting out’ process. Professionals ‘select in’ victim(s) whose case (either due to victim-specific, offender specific, offence specific factors or a combination of all three) have been risk-assessed, either through a formal risk assessment process or through a professional’s subjective risk assessment process, as suitable for RJ. The EU Directive (2012) errs on the side of caution to ensure that victims are not subjected, either through being offered or through participating in RJ, to secondary or repeat victimisation. Article 12 of the EU Directive (2012) states that member states, when providing RJ services, are ‘to take measures to safeguard victims from secondary and repeat victimisation, intimidation and retaliation’. According to the Article ‘factors such as the nature and severity of the crime, the ensuing degree of trauma … [and]power imbalances … which could limit or reduce the victim’s ability to make an informed choice … should be taken into consideration in referring a case to the restorative justice services and in conducting a restorative justice process’ (EU Directive, 2012: 62). The Directive also stipulates that ‘restorative justice services [should be] … used only if they are in the interest of the victim, subject to any safety considerations, and [should be] … based on victims free and informed consent’ (ibid: 69). Despite the caution that the EU Directive advises professionals to take, the EU Directive does state that victims have the right to be treated in a ‘non-discriminatory manner’ and to ‘receive information from the first contact with a competent authority … [on] the available restorative justice services’ (ibid: 66).

The RJ Action Plan 2014 and the VCOP 2015 outline that all victims should have equal access to RJ services and that victims should not be ‘selected out’ based on the type of offence committed against them or the age of the offender. Therefore whilst the EU Directive errs on the side of caution and advises professionals to consider various factors prior to referring a case to RJ services, the Directive is not advocating a ‘select in’ process but merely highlighting potential risks. It can be argued that these risks should be determined and once determined the necessary processes should be put into place to allow RJ to take place rather than viewing risk factors as immovable barriers to RJ. The caution outlined at a macro-level (within the Directive) was also evident at a micro-level amongst professionals in this study. Caution towards providing all victims with information on RJ has also been noted in previous studies (Dignan, 2005; Newburn et al, 2002; Van Camp and Wemmers, 2016).

Professionals have a history of making decisions on behalf of victims and being over-protective. As Hoyle argued (2002: 131), there is a cohort of victims that are ‘becoming the forgotten actors in RJ’; a cohort of victims who are cast aside and excluded from the decision-making process. RJ risks replicating the well-documented mistakes of the CJS in regard to the treatment of victims. The CJS renders victims as passive components of the criminal justice process; victims have little input into the decisions made regarding their case and are ‘conscripted’ into ‘operational roles’ (Faulkner, 2001: 226). Roulstone’s (2015) research into the social world of a WCU found that the primary goal of witness care officers’ was to encourage victims and witnesses to attend court, to ensure that more offenders were brought to justice.

Therefore is the process of ‘selecting in’ potential RJ victims really surprising when we are asking criminal justice professionals, whose mindsets are cemented in the conventional criminal justice processes and practices, to provide victims with information on RJ? The RJ values of empowerment, inclusivity and agency are in polarisation to the dominant values found within the CJS of disempowerment and exclusion (O’Mahoney and Doak, 2017; Maglione, 2016).

Many theorists, including Bazemore and Schiff (2005) and McCold and Wachtel (2002) argue that the practice of RJ is in itself transformative; it is the process of participation in RJ that enables stakeholder transformation. Hence, participation can be transforming and empowering and can address any power imbalances (that have been identified) for the victim (Rossner, 2013). Therefore, victims should not be selected based upon professionals’ own perceptions of who is an ‘ideal RJ victim’ or concerns regarding power imbalances as it is the actual process of RJ that enables the process of transformation and empowerment to take place. Concerns about the suitability of RJ in domestic violence and sexual assault/abuse cases have been raised and discussed by many regarding the potential power imbalances and the possibility of the RJ process causing victims secondary victimisation (Daly, 2006; Hudson, 2002; McGlynn et al, 2012; Stubbs, 2007). However research suggests that with sufficient support, information and preparation the issue of potential power imbalances can be managed and that many victims of domestic violence, sexual assault/abuse who have participated in a RJ process, found the process to be empowering (Stubbs, 2007; Daly, 2006; McGlynn et al, 2012).

This study has found that some victims are treated in a discriminatory manner due to victim characteristics and offence/offender factors being taken into consideration by professionals when deciding whether or not to offer RJ. VWCOs selected victims depending on an array of specific characteristics. Victim specific factors that were used to determine whether professionals offered RJ to victims were whether victims appeared too upset or too angry. In many cases when victims did display these emotions to their VWCO then the VWCO did not offer RJ. If victims provided the VWCOs with triggers or indicators such as a desire to communicate with their offender, ask them questions or for their offender to desist from offending then the VWCOs would consider making the offer of RJ to those victims.

These findings reflect those of other researchers including Gavrielides (2018) and Van Camp and Wemmers (2016). Gavrielides (2018) found, in his qualitative study across criminal justice agents and victims, that many personnel from victims’ organisations and services feared causing victims secondary victimisation through offering them RJ; and that the RJ process was not ‘adequately equipped to address gender imbalances involved in complex crimes such as domestic violence, sexual abuse and partner violence’ (ibid: 254). Van Camp and Wemmers (2016) also argue that professionals select victims based on: their individual concerns regarding the possibility of secondary victimisation; concerns that victims need to heal first; their attitude towards RJ; and a lack of awareness of the process of RJ and its benefits. Professionals make protective and selective offers to victims considered appropriate for RJ (ibid).

All victims, they argue, should be given information on RJ in a systematic and proactive manner (Van Camp and Wemmers, 2016). In their study, victims of all crimes, including serious crimes, preferred to be proactively informed of RJ and given sufficient information on the process of RJ (ibid). Through being informed about the process of RJ, that it is a voluntary process from which they can withdraw their consent at any stage and that it is a complementary process that sits beside the formal criminal justice process, victims can make an ‘informed decision’ as to whether or not they wish to participate in a RJ process. Whilst professionals may perceive the process of healing to be a precursor to the offer of RJ, Johnstone (2002) argues that victims look for information to better understand what has happened and that through the information received (through engaging in a bi-directional dialogue with the offender), victims’ questions are answered and their feelings are validated. It is the process of participating in RJ that contributes to the victim’s healing process.

Despite research by Van Camp and Wemmers (2013); Hoyle, (2002), Shapland et al et al (2011) and Newburn et al (2002) demonstrating the importance of information in ensuring that victims are able to make an informed decision, the current research indicates that professionals wait for victims to provide them with obvious ‘triggers and indicators’ before mentioning RJ. Professionals wait for victims to ask for RJ, or for victims to provide them with obvious ‘triggers and indicators’ demonstrating that they wished to enter into some form of communication with their offender, either directly or indirectly. If these ‘triggers and indicators’ were not provided by the victims, then many criminal justice professionals simply did not mention RJ to victims.

### 8.1.2 The construction of the ‘ideal RJ victim’

Professionals create an ‘ideal RJ victim’. An ‘ideal RJ victim’ is a victim who is: neither angry nor upset; has expressed a desire to gain answers from, or ask questions to, their perpetrator; has not been a victim of a serious sexual or domestic offence committed against them; expresses pro-social motives; displays altruistic tendencies; and has engaged with the professionals.

The creation of the ‘ideal victim’ in criminal justice proceedings is nothing new. Christie (1986) posited that there are several characteristics that make a victim an ‘ideal victim’[[57]](#footnote-57). However it is not being argued here that Christie’s (1986) ‘ideal victim’ attributes match those assigned to the stereotypical ‘ideal RJ victim’. Christie’s ‘ideal victim’ characteristics appear to be, in the main, quite different to the characteristics of an ‘ideal RJ victim’. In the current study victims who were perceived to be weak, young or elderly, or had been subjected to a sexual or domestic offence were deemed by many professionals as ‘non-ideal RJ victims’. Furthermore, victims who were either angry or upset were also not considered by professionals, in the current study, to be appropriate for RJ.

Contrary to the findings in this study, several others, including Van Dijk (2009), Green (2008) and Maglione (2017), have argued that within the RJ literature there is a ‘paradoxical similarity between the ideal victim of criminal justice and restorative justice’ (Van Dijk, 2009: 22); that within both justice processes the social construction of the victim label is based upon the qualities of ‘passivity’, ‘compassion’ and ‘forgiveness’. Green (2008: 43) suggests that the RJ definition of ‘victim’ is constructed from the same stereotypical ‘victim’ characteristics evident within criminal justice; RJ does not ‘differ from conventional social constructions of the victim’. In his archaeology of the ‘ideal victim’ of RJ Maglione (2017: 408) outlines the main features of the ‘ideal victim’ of RJ as: embodied; emotional; disempowered; vulnerable; resilient; and exclusive[[58]](#footnote-58). He argues that this model of ideal victim only ‘partially’ overlaps Christie’s ‘ideal victim’ model and that the RJ ‘ideal victim’ ‘appears to be a bi-faced subject: on the one hand, an agentic individual striving for self-empowerment, undertaking self-crafting decisions (not overlapping Christie’s model); whilst on the other hand, a passive flesh-and-blood-entity, in search of safety and recognition (similar to Christie’s ideal) (Maglione, 2017: 412). The RJ ‘ideal victim’ model posited by Maglione (2017) (and also by Van Dijk (2009) and Green (2008)) is based on theoretical literature, policy and legal documents on RJ (2017: 401) and supports the findings of this study that, in practice, professionals create an image of the ‘ideal RJ victim’; which to an extent does replicate the social construction of the ‘ideal victim’ found in conventional criminal justice and illustrated by Christie (1977) but which also includes quite different characteristics to Christie’s ‘ideal victim’ concept. The ‘ideal RJ victim’ constructed by professionals in this current study were those who were perceived as not too passive: victims, perceived to be too upset or unable to provide ‘triggers and indicators’ to professionals were deemed too passive and therefore not offered RJ.

We can conclude (as Carrabine et al, 2004: 117 has argued) that a ‘hierarchy of victimisation’ exists in which the contemporary victim-centric discourse, underpinned by three core assumptions of: victim staticity, homogeneity and passivity[[59]](#footnote-59) (McAlinden, 2014) contributes to professionals’ ‘ideal RJ victim’ selection process. Professionals, as McAlinden (2014: 191) argues, take a ‘frozen’ snapshot of victims’ pain and punitivity. This ‘stilted notion of victimhood and victim vulnerability’ resulted in professionals, in this study, selecting the ‘ideal RJ victim’ based on hierarchies of victimhood which ignored victims’ resilience and which denied ‘voice to victims’ (ibid). This study found, as Walklate (2011) also found, that victims’ resilience was disregarded. The process of selecting the ideal victim for RJ resulted in ‘non-standard’ victims[[60]](#footnote-60) being perceived as ‘potentially problematic’ in regard to their suitability for RJ (Dignan, 2005: 168). RJ is, in the main, only offered to a select cohort of victims; those that display the qualities of an ‘ideal RJ victim’. However, previous research suggests consideration of whether a case is suitable for RJ should be made case by case, not through socially constructed categories of cases and the creation of a category of ‘ideal RJ victims’ (Shapland et al, 2011). The construction of an ‘ideal RJ victim’, by professionals in the current study, resulted in victims being disempowered as they were not given the opportunity to make ‘real choices’ and were not given equal access to RJ, as stipulated within the RJ Action Plan (Ministry of Justice, 2014).

### 8.1.3 The impact of professionals’ lack of confidence

Some professionals in the current study lacked the confidence to offer RJ for fear of re-victimising victims. If they did have the confidence to offer RJ and victims responded negatively to the offer made, many of the professionals did not have enough confidence or the skills to enter into a discussion about the benefits of RJ or to understand or explore victims’ responses. Victims were not challenged (gently) on their decision not to participate or not to receive information on RJ. Whilst victims should not be coerced into participation, victims rarely spontaneously agree to participate in RJ and, because RJ is not widely known about by members of the public, professionals need to use their communication skills to ensure that victims are fully aware of RJ and the opportunity they are being offered, thereby ensuring that victims are able to make an informed decision as to whether they wish to participate in a RJ intervention (Hoyle, 2002). A victim’s decision not to accept the offer to meet with their offender is often misinterpreted as a lack of interest in the RJ process as a whole, resulting in limited opportunities for indirect participation (ibid: 107). As McAlinden (2014: 191) states, by only seeing the ‘frozen’ snapshot of a victim, victims’ resilience is being ignored even though victims’ resilience and capacity to cope with change over time. Instead of perceiving victims’ resilience as an ‘individual attribute’ measured on a ‘hierarchy of resilience’ professionals should focus on ‘the social conditions that promote’ resilience; by enabling victims, through the offer of RJ, to ‘restore dignity’ in their own lives through the process of decision making. Victims’ views, feelings, needs, resilience and ability to cope are fluid and by taking this ‘snapshot’ of victims and basing an offer of RJ on their response or perceived response at one given moment in time professionals are doing victims a disservice.

Whilst professionals attempt to protect victims from any risk of secondary victimisation (as also illustrated by Van Camp and Wemmers’ 2016 research and Laxminarayans’ 2014 research), other research has shown that victim participation in a RJ process can reduce levels of fear, anger and post-traumatic stress disorder (Angel, 2005) and that RJ can be beneficial to, and have a therapeutic effect on, victims of serious offences (Shapland et al, 2011) and victims of sexual violence (McGlynn et al, 2012). Gavrielides (2018) found in his research that the more complex and serious the offence the more likely the victim was to opt to participate in RJ. Furthermore, the process of RJ for gendered and racial crimes can result in the offenders’ stereotypes or prejudicial views being broken down through the direct process of seeing the victim as a ‘real’ person (Hudson, 2003: 183) and victims can feel, through the process of RJ, empowered, thus readdressing the power imbalance (Zehr, 1990; Angel, 2005). With counselling and support many victims of sexual victimisation can overcome the trauma inflicted upon them and ‘many victims of intra-familial abuse in particular may wish to continue contact with the abuser and simply want the abuse to stop’ (McAlinden 2014: 192). RJ is a process that can meet the needs of victims of sexual violence by providing the opportunity to express the harm caused and to be empowered (Koss, 2014; Daly; 2006). Marsh and Wager’s (2015) research explored the views of victims of sexual violence in regard to the offer of RJ and found that the majority of the victims in their study would not have been offended had they actually been offered RJ. Many victims do not want to receive an apology from their offender but wish to have a voice, to be heard and to be validated as a victim (Koss, 2014). However, many professionals, in the current study, stated that they did not feel confident in raising the topic of RJ with victims. This lack of confidence appeared to be magnified when professionals were dealing with victims of violent or sexual crimes.

### 8.1.4 Professional protectionism

The case selection of ‘ideal RJ victims’ appears to be due to a culture of protectionism and professionals’ ‘know best’ attitudes. Yet, for the victims who had been offered RJ and subsequently made the decision to decline the offer there was no evidence in this study, or from previous research (Strang, 2002; Van Camp and Wemmers, 2016; Gavrielides, 2018; Marsh and Wager, 2015), that receiving the offer of RJ or being provided with information on RJ caused any secondary victimisation; even for victims of serious crimes. To the contrary, the majority of victims who declined the offer of RJ, in the current study, stated that despite declining the offer they appreciated being given the opportunity to participate in RJ and stated that whilst they did not wish to participate in RJ at the time of the offer, they did not rule RJ out completely as an option to be accessed at a later date. Both of these findings (that the offer of RJ did not re-victimise victims and that whilst victims may initially decline the offer, they may take up the offer at a later stage) were also found by Van Camp and Wemmers’ (2016) in their qualitative research on victims’ reflections on the offer of RJ. The victims in Van Camp and Wemmers’ study (2016), who were all victims of serious crimes, favoured a proactive offer of RJ. Research conducted by Marsh and Wager (2015) [[61]](#footnote-61) determined that none of the sexual assault victims who participated in their study had been offered RJ or knew (until participating in the research) what RJ was. However, most of these sexual assault victims expressed that they should have, and so too should all victims (in their opinion), been given the opportunity to participate in a RJ process; and that the offer would not cause any offence or secondary victimisation. Further to this, Shapland et al’s (2011) research explored the use of RJ with victims of serious crimes and found that the more serious the crime, the more likely victims were to feel that the RJ process had been beneficial to them.

The victim selection process adopted by the professionals, in this study, which determined whether victims are an ‘ideal RJ victim’ was further compounded through professionals’ views that there are certain offences deemed as ‘ideal RJ offences’.

### 8.1.5 The ideal RJ offence

The offences which were considered to be the ‘bread and butter’ offences for RJ were firstly burglary and then assault. In a form of polarisation, as discussed above, many professionals perceived domestic violence and sexual offences to be wholly inappropriate for RJ.

The VWCUs in this study did not deal with homicide as secondary victims of homicide were supported by specially trained family liaison officers (who were the main contact for families of homicide victims). However, the interviews with victims in this study did incorporate victims and secondary victims of serious offences including: assault, domestic violence, rape and attempted murder. Many of these victims, of serious crimes, were not offered RJ; instead they self-initiated and requested RJ themselves. Several of the victims of serious offences in this study also had to request RJ on more than one occasion, due to having their request dismissed by protective professionals. Van Camp and Wemmers (2016) also found that over half of the victims in their study, all of whom had been the subject of serious offences (which included secondary victims of homicide and victims of serious assaults and attempted murder), had self-initiated the process of RJ. Many of these self-initiating victims had, on more than one occasion, requested an opportunity to communicate with their offender.

Furthermore, one of the RJ services in the study excluded victims who had been subjected to domestic violence and sexual offences, if an offender initiated the process. This exclusion process was due to a concern that offenders of such crimes may be initiating RJ under false pretences and with ulterior motives. The service did not explore the offenders’ motives, and nor did they work with the offender or the offenders’ probation worker or the victim to explore whether rejecting the possibility of RJ without conducting any risk assessment was the right action to take. Again, this is another example of how professionals make subjective decisions, on behalf of the victim, due to unexplored and potentially unfounded concerns for the victim’s wellbeing.

Research conducted by Honkatukia (2015) on the use of RJ for domestic violence and sexual offence cases found that victims’ experiences of RJ were on the whole positive with high levels of victim satisfaction[[62]](#footnote-62). Many victims of domestic violence wished to participate in RJ due to: a desire to inform the offender of the consequences of their behaviour; a desire to avoid criminal proceedings (Honkatukia, 2015); to ‘validate their status as legitimate victim’ and to influence how their case was conducted (Koss, 2014: 1561). Furthermore, Herman’s research (2005) found that a number of victims of sexual or domestic violence took part in RJ to provide external validation of their attempt to stop the violence and also to expose the offender rather than to punish him/her. In Austria and Finland RJ is widely used for domestic violence and sexual offences (see both Honkatukia, 2015 and Bachinger and Pelikan, 2015). However, in Austria, specific methodology was adopted for dealing with these cases [[63]](#footnote-63) to ensure that victims of these offences were protected during the RJ process. Partner violence is not ‘a unitary phenomenon’ (Honkatukia, 2015: 112) and therefore requires different methods of RJ depending on the type of partner violence committed[[64]](#footnote-64) (ibid; Bachinger and Pelikan, 2015).

### 8.1.6 The importance of remorse

Professionals appeared to make decisions on behalf of the victim and appeared to select victims based on which victims they perceived to be ‘ideal RJ victims’ by considering both victim-specific characteristics and whether they had been the victim of an ‘ideal RJ offence’. The discriminatory process of selecting ‘ideal RJ victims’ seemed not to be solely based on individual victims’ characteristics or the offence committed against them but also on offender specific factors. Offender specific factors included the level of remorse that offenders displayed to professionals. Many professionals stated that they would only mention RJ to victims if they felt that the offender had shown sufficient levels of remorse.

Many of the professionals (NPS staff, YOT staff and RJFs), in this study, perceived displays of remorse to be an essential factor as to whether they should offer RJ to both victims and offenders. NPS staff working with offenders in the court setting only discussed RJ with the offender, or recommended RJ in the PSR, if they felt the offender showed some level of remorse. Whilst a number of RJFs and YOT staff voiced that RJ should not go ahead if the offender was not displaying an appropriate level of remorse, other RJFs and YOT staff voiced that a RJ intervention could go ahead if little or no remorse was provided by the offender; but this would need to be discussed with the victim during the RJ preparation meetings. Others (RJFs and YOT staff) discussed how remorse emerges during the actual RJ face-to-face conference.

Professionals appeared to confuse remorse with responsibility. According to the ACPO (2012), the CPS (2019)[[65]](#footnote-65), the MoJ (2015)[[66]](#footnote-66) and the Criminal Justice Alliance (2011) offenders must take responsibility, for the offence for RJ to be considered, not display remorse.[[67]](#footnote-67) Responsibility, alongside reparation and rehabilitation, are argued to be the three key factors of RJ that reduce the likelihood of re-offending (Braithwaite, 1989). RJ is seen to encourage the offender’s sense of responsibility (Council of Europe, 2000)[[68]](#footnote-68) and ‘allows offenders to gain insight into the causes and effects of their behaviour and to take responsibility in a meaningful way’ (United Nations Economic and Social Council, 2002). Remorse is not the same as responsibility and is not, despite professionals perceiving it to be, a prerequisite to RJ taking place, nor to whether RJ should even be mentioned to victims or offenders. As Angel (2005: 4) stated in her research, whilst ‘offenders must not dispute that they were involved in the offense … offender remorse of the incident is not considered a prerequisite for participation’. Remorse is an emergent property; it is a value, it has been argued, that emerges from a successful RJ process itself. It is the actual process of RJ that can allow offenders to realise that their wrongdoing is in fact immoral and has had an impact on their victim(s) (Sherman, 1993). If RJ is, as many RJ theorists suggest (Bazemore and Schiff, 2005; Sullivan et al, 1998), a transformative process then it can be argued that remorse emerges as the result of the ‘offender transformation’ process that occurs during the RJ intervention (Bazemore and O’Brien, 2002). Remorse is one of the potential transformative outcomes of the RJ process, as is an apology (ibid).

In principle, and in contrast to the passive and static role that victims have within the adversarial mainstream CJS process, RJ allows victims to play an active role in the process (Dignan and Lowey, 2000; Van Camp and Wemmers, 2013). RJ is based upon the principle of ‘inclusivity’ in which all parties, including the victim, play an active role in the process (Christie, 1977; Johnstone and Van Ness, 2007). As Hoyle (2002) states, the key to the success of RJ and to increased levels of victim satisfaction in the CJS is the role of the active victim. Is it therefore the right, or role, of professionals to decide which victims are eligible for RJ based on protective factors and offender-specific factors such as displays of remorse or offence-type? If victims are informed throughout the process and their expectations managed, then the issue of the likelihood of the offender displaying remorse may also be managed. Not all victims want an apology or to see that their offender is remorseful; some victims may just want answers or to tell the offender the impact that the offence had on them. There are a range of reasons as to why victims decide to participate in RJ and receiving an apology or seeing the offender’s remorse may not be the main or deciding reason for participation (refer to Chapter 6).

### 8.1.7 Professionals’ case selection process

Further examples of case selection were evident in the study. Victims of young offenders were subjected to case selection based upon the sentence handed to the young offender and the specific YOT to which the young offender was assigned. Many YOTs, due to staffing levels, funding and time constraints, had an outcome threshold based upon certain offence types and outcomes that they used to pre-determine which victims would be contacted and offered RJ. Some YOTs only offered RJ to victims whose young offender’s sentence met certain criteria. It was evidenced that within some YOTs the sentence had to be at least a RO whilst for other YOTs the outcome had to be above a conditional caution. The disparity across the YOTs illustrated that victims were still being subjected to a post-code lottery of victims’ services, including RJ. Despite RJ being statutorily embedded within YJ, evidenced through the passing of the Crime and Disorder Act (1998) and the Youth Crime and Evidence Act (1999), RJ was still not being routinely and systematically offered to all victims of youth crime. Hoyle and Rosenblatt’s (2016) research highlighted that despite it being nearly two decades since the overhaul (based on restorative principles) of the YJS, rarely, still, is the victim included or invited to be involved in the ROP process. Research conducted by Her Majesty’s Inspectorate of Probation in 2016 found that despite RJ being well embedded in the YJS far too few victims attended a ROP, became involved in RJ, or benefited from RO work; and the extent to which the victim’s voice was heard in the ROP ranged from rarely to frequently. The report concluded that further work needed to be done to improve victim engagement in RJ in YJ (HM Inspectorate of Probation, 2016). Despite the House of Commons Justice Committee (2016) reporting that RJ is embedded in YJ, it appears, from previous research (inter alia, Hoyle and Rosenblatt, 2016 and Newburn et al, 2002) and the findings of this study, that it is only truly embedded in principle and in practice victim participation is still not the norm. There were clear and wide disparities found between the YOTs in this study regarding the extent to which victims were invited to become involved in RJ, if invited at all.

The case selection process and method of invitation adopted by the YOTs in this study were not only influenced by funding and staff shortages (which will be discussed further below) but also by the overriding culture of the YOT. The culture of the YOT determined whether victims were provided with sufficient information on RJ, or whether victims were given the option to opt-in or opt-out of RJ. One of the YOTs adopted an opt-in process whereby victims had to reply to the written communication (which included RJ as one of several options). Unsurprisingly, by adopting an opt-in RJ process, the YOT in question had very limited interest in RJ both externally and internally and had not had any victims display any interest, nor participate in RJ. The issue of culture will be discussed further below.

*8.1.8 The forgotten victims*

Further to the case selection of appropriate RJ victims, offences and offenders there was also another cohort of victims that were ‘structurally’ forgotten. Victims of offences that have been TIC were treated as if they were invisible, firstly within the CJS and furthermore by criminal justice agents who should be offering all victims information on RJ. Victims of TICs were being ‘dropped’ from the criminal justice process once their offence had been considered and accepted as a TIC case. Offences considered and accepted as TICs resulted in the offender not being charged or convicted for those offences. Consequently, the support that victims of TIC offences received did not mirror that of victims of charged offences. TIC victims were not routinely allocated a VWCO. VWCOs were only allocated to victims whose offender had been charged with the offence and who would be sentenced in court. Again, the offer of RJ was selective and not systematic. ‘Forgotten’ TIC victims may well wish to participate in RJ as RJ may provide them with the only opportunity during the criminal justice process to be included and to have a voice.

### 8.1.9 Funding and staffing levels

Many victims of youth crime remained ignorant of the possibility of RJ and their involvement, or lack of involvement, was based upon several factors that included the funding and staffing levels within the YOTs. Funding issues had a detrimental effect on the ability of staff to include RJ within their day to day routine. YOT managers, in this study, when faced with funding issues and staff shortages, made decisions regarding how they would, and to whom they should, offer RJ. Staffing levels impacted not only upon the victim selection process (largely based upon offence type and sentencing outcome) but also the method of invitation adopted (see below).

Funding issues and staff issues impacted upon professionals’ ability to deliver a restorative service in line with both MoJ/YJB (2019) guidance[[69]](#footnote-69) and the YJB’s RO guidance (2018).[[70]](#footnote-70) When faced with funding issues and cuts to staffing levels, professionals tended to implement a reduced service where victim case-selection methods were introduced (such as only selecting victims of specific offence types or changing the method of invitation from phone call to letter only). RJ appeared to be an easy target to be reduced when services were faced with the pressures of austerity cuts. Funding cuts had reduced many of the agencies’ staffing levels and many opined that the funding cuts had resulted in losing dedicated RJ staff members. Many of the dedicated RJ workers’ positions had been either short-term or seconded positions and when these positions or funding expired, they were not replaced. The result was the incorporation of RJ into the normal daily workload of the remaining members of staff. There was also the issue of the loss of RJ trained personnel. Managers across the criminal justice agencies lamented that they had lost RJ trained staff and therefore invaluable RJ knowledge. The impact of losing RJ trained or dedicated staff was that RJ became an additional process that personnel had to offer. Agencies voiced that they were actively attempting to train new or existing members of staff. However, training staff was costly and time-consuming despite some agencies being able to access free RJ training.

Consequently, with limited time capacity, staff focussed on what they perceived to be the core priorities of their role. This, it can be argued, was due to RJ still being seen as a ‘bolt-on’; a non-mandatory process that merely sits on the periphery of the criminal justice process and which is therefore not an essential. RJ appeared to be one of the first responsibilities to be removed when organisations were faced with funding issues or staff shortages. RJ continued to be perceived as an ‘extra’ and a ‘bolt-on’ rather than being seen as a default option (Wigzell and Hough, 2015).

All the RJ hubs, RJ service providers, YOTs and NPS teams were subjected to either fixed term funding issues or funding cuts. The issue with fixed term funding is that it results in: a ‘competitive bidding culture’; uncertainty relating to future funding and insecure, short-term contracts and staffing levels. These issues caused by the ‘fragility’ of fixed term funding and funding cuts militated against the ability of services to deliver a consistent and secure service (see also Miers et al, 2001; Shapland et al, 2011).

### 8.1.10 The forgotten offer

Given the discussion above, it is perhaps not surprising that professionals often ‘forgot’ to offer RJ. A large number of VWCOs described how they forgot to offer RJ - for one main overriding reason; RJ was seen, as stated above, to be a non-mandatory ‘extra’, a ‘bolt-on’. RJ was not perceived to be a mandatory part of the CJS, victims’ services or individuals’ job roles. In interviews, a number of professionals referred directly to the fact that RJ was not mandatory. Furthermore, several VWCOs also stated that they may have forgotten to make the offer because there was no specified point at which they were expected to do so. Thus, the policy of trying to make RJ available at all stages of criminal justice appeared to have an important unintended consequence: a lack of specificity in the timing of the offer made it more likely that the offer would be forgotten, and if VWCOs forgot to offer RJ they could assure themselves that someone else (a colleague or other organisation) would remember to offer it at a later stage.  Despite the VCOP (2015) outlining that there were three main stages within a victim’s journey through the criminal justice process when RJ could be offered[[71]](#footnote-71) professionals were uncertain as to when to offer RJ and were seemingly unaware of these three junctures. This uncertainty was associated with RJ not being a part of any written ‘checklist’ for each stage of the criminal justice process, nor part of any mnemonic as to what to raise in telephone calls. VWCOs also alluded to the fact that RJ was still a relatively new concept that they were able to offer and therefore it had not become routinised. Compared to notifying victims of court dates and outcomes and ensuring that victims had been asked whether they wished to make a Victim Personal Statement, RJ was far down the list of job priorities for many professionals. Several professionals stated, during this study, that RJ was not a priority for them.

There was no clear structure or accountability to ensure that RJ was incorporated into professionals’ daily working routine. Managers did not check up on whether the offer had been made, nor ask VWCOs to go back and re-contact the victim to make the offer.

When RJ was offered the majority of professionals only offered direct RJ (a meeting) and did not explain to victims that there was an option to have indirect communication with their offender. All the victims in the study, excluding one, stated that they had been offered the opportunity to meet their offender face-to-face. As research by Hoyle (2002) and Newburn et al (2001) suggests, for some victims who are fearful or apprehensive of participating in RJ the option to engage in some form of indirect RJ would be an option that they would willingly consider. Hoyle (2002) states many non-participating victims are actually ‘non-attending victims’ and would welcome being given the option to have indirect participation. In other jurisdictions (including Belgium and Canada) VOE (Victim Offender Encounter) is offered as an alternative to a direct or indirect RJ process with the victim’s actual offender. If the victim is unable to meet with their offender, which could be for a number of reasons including: no offender has been identified; the offender has not been charged; the offender has declined to participate in a RJ process; or the victim was too scared or unwilling to meet their offender, then VOE can be a viable alternative. VOE is a restorative programme that enables victims to have the opportunity to meet with a surrogate offender. Van Camp and Wemmers (2013) found in their study that the victims of violent offences that took part in a VOE intervention consistently expressed that the VOE process had empowered them and allowed them to take back control.

### 8.1.11 Professionals’ culture of risk management

Another reason, beside the concern voiced by professionals regarding raising victims’ expectations, that may explain why professionals delay offering RJ until much further along the victim’s criminal justice journey, could be due to the individual assessment of victims that under the EU Directive Article 22 (2012) is expected to be conducted. The individual assessment should be conducted by a trained professional[[72]](#footnote-72) to identify specific protection needs and to determine their need for special protection measures ‘due to their particular vulnerability to secondary and repeat victimisation, to intimidation and retaliation’. A number of the VWCOs and YOT staff in this study mentioned that they conducted initial victim risk assessments and that these were conducted prior to referring victims to RJ. Therefore, it may be argued that if this individual victim assessment is conducted prior to professionals raising the topic of RJ with victims then this may negatively influence their decision as to whether to make the offer of RJ to certain victims; those that they have assessed as being vulnerable[[73]](#footnote-73). However, the necessary completion of an individualised assessment may inadvertently impact on professionals’ requirement to ensure all victims are ‘recognised and treated in a … non-discriminatory manner’ (EU Directive, Article 1, 2012) and that victims are offered information, without delay, on RJ services from their first contact (EU Directive, Article 4, 2012). Whilst there was no direct evidence, in this study, to support this there were a number of VWCOs that discussed in the interviews that they had to conduct an initial common needs assessment. This focus on risk may contribute to professionals ‘selecting in’ ‘ideal RJ victims’.

### 8.1.12 Breeding a culture of RJ

The culture of the agencies appeared to impact significantly upon the use and endorsement of RJ by individual professionals and was heavily influenced by both managers and by individual staff members. It was evident in the agencies or teams where the manager was an RJ advocate that RJ was embedded within the culture of the organisation and daily practice. Wigzell and Hough (2015: 57) also found, in their study, in the sites where RJ was successfully embedded and being practiced ‘there was a palpable sense of commitment and enthusiasm about RJ … that was evidently lacking in other areas’. It was evidenced, within several teams in this study, that there were a number of enthusiastic individual staff members who fought for RJ to be embedded and who actively encouraged their colleagues to incorporate RJ practice into their daily work routine. These enthusiastic individuals perceived RJ to be an integral part of the service their team or agency delivered and they acted as ‘champions’ and encouraged their colleagues and managers to embrace RJ. Unsurprisingly, when these ‘champions’ left there were concerns that RJ would just fall by the wayside. This concern was intertwined with austerity problems and the fixed term nature of specialist RJ posts (see above).

The culture of the organisations and teams impacted upon the mechanisms and approaches that professionals adopted, and this resulted in victims (in some agencies and teams) not being provided with an opportunity to participate in RJ. Shapland et al (2017a), in their research on police use of RJ, outlined the role of RJ champions in their pilots and discussed the importance of ‘champions’ in aiding the culture change required. Therefore, to ensure that RJ is embedded there needs to be a ‘shared receptivity’ which encompasses both management and staff buy-in across the board. This needs to be combined with the necessary resources required to deliver RJ (Wigzell and Hough, 2015).

### 8.1.13 Culture and the importance of co-location

Co-location was found to be an important factor in embedding RJ into the culture of the CJS. The co-location of the three RJCOs) within the VWCUs in police force area one (see Chapter 5) enabled the RJCOs to promote RJ on a daily basis and encourage the VWCOs to offer victims the opportunity to participate in RJ. RJCOs nudged and prompted VWCOs by: ‘scoping’ cases on the system and putting prompts on case files; discussing specific cases directly with the VWCOs; or by over-hearing phone calls with victims and then suggesting that the offer of RJ be made. Both Wigzell and Hough (2015) and Shapland et al (2011) have also suggested that there is a need for RJ dedicated staff members to highlight suitable cases and discuss eligible cases with the allocated staff member. This supports the argument posited earlier that professionals need ‘nudging and prompting’ through system prompts or personal nudges to increase the number of victims who are offered RJ. Shapland et al (2017a), drawing on the experience of Belgium, recommended that in order to improve the level of RJ referrals RJ hubs should be based within the police; this would enable referrals to be ‘scoped’ from an already existing list of cases.

The co-location of RJ hubs and the RJCOs in this study enabled experience and information to be shared, thereby providing the VWCOs with the trust and confidence they needed to be able to offer RJ. The RJCOs were not seen as ‘others’ but were part of the team and this allowed the RJCOs to build and gain trust and respect with their VWCO colleagues and initiate the necessary cultural shift (albeit through the RJCOs’ proactive use of ‘nudges and prompts’ (see Chapter 5 and Chapter 7)). So, police force area 1 (at the time of the field work) with its three central RJ hubs co-located within the VWCUs allowed the RJCOs to (slowly) breed a culture of RJ and enabled the central management of decentralised RJ champions.

Due to funding cuts and the ‘fragility’ of fixed term funding the model of three RJ central hubs with three external RJ service providers changed during the field work. The RJ service went out to tender and resulted in the amalgamation of the three RJ hubs into one RJ hub and a RJ service provider that was externally located. The concerns with this revised model were that the RJ hub was no longer centrally located and therefore, due to being externally located and not co-located within one of the three VWCUs, not able to breed a culture of, and embed, RJ amongst the VWCOs. Despite the new RJ service stating that they would have a RJCO who would hot-desk across the three VWCUs, there was a concern that the knowledge, support and expertise of the three RJCOs would be lost. Furthermore, it can be argued that by no longer having permanently co-located RJCOs, there would be a loss of focus on RJ and this would impact upon VWCOs’ confidence to make the offer of RJ, therefore pushing RJ to the periphery. RJ hubs need to be co-located within the VWCUs. Co-location within the same building does not have the same impact; police force area 2’s RJ hub was co-located down the corridor from the VWCU and this segregation (even within the same building) appeared to impact on VWCOs’ ability and confidence to offer RJ and the potential of RJ to become part of the working culture of organisations.

### 8.1.14 Training

Training is fundamental to ensuring that RJ is embedded into the daily routine of criminal justice agents. As discussed above (and in Chapter 5 and Chapter 7), many professionals voiced that they lacked confidence and knowledge in RJ and that this impacted upon their ability and readiness to make the offer of RJ to victims. The VWCOs across all the VWCUs had not had either initial training or full training on RJ.[[74]](#footnote-74) Many had just had basic training which consisted of an hour overview of RJ with the RJCO, who discussed how RJ worked, the benefits of RJ, when RJ could be used and the RJ referral process. Initial training of all front-line police staff was, at the time of the study, being given across police force area 1. At the time of writing the Assistant Police Chief Constable announced that initial RJ training was to be incorporated within the training programme for all new front-line police staff.

The professionals who had received initial training and subsequently shadowed an RJF or attended a RJ service convention where they had heard first-hand accounts of victims and offenders’ experiences of RJ expressed that they felt confident enough to raise the topic of, and discuss RJ with, victims and offenders. Wigzell and Hough’s (2015: 43) evaluation of a NOMS RJ capacity building programme also found that observation of a RJ conference by criminal justice professionals led to ‘significantly increased understanding [and] support for RJ … as well as case referrals’.

Training is an on-going process and, as detailed above, due to funding cuts and short-term secondments and positions, there was a churn of personnel. New personnel need to be trained to ensure that criminal justice agents have sufficient knowledge of RJ. Furthermore, training needs to ‘be repeated and promoted … even for staff who have engaged in RJ training … allowing for deepening awareness’ (Shapland et al, 2017a: 70).

Indeed, a number of RJFs discussed the importance of on-going training and how they found that participating in regular group RJF supervision sessions (which were not standard procedure between the RJ SDPs (see Chapter 7)) enabled them to improve their skills, gain confidence, and share knowledge and experiences even when they were not currently working on a case. The group supervision sessions held for RJFs enabled the ‘deepening awareness’ of RJ practice to occur (Shapland et at, 2017a). However, a number of RJFs questioned their ability and skills to facilitate ‘non-standard’ victim/offender conferences. There appears to be a need for RJFs to undertake additional training in mediation skills and sensitive and complex case management that would enable them to facilitate RJ interventions with ‘non-standard’[[75]](#footnote-75) victims (Dignan, 2005) in cases, such as neighbourhood disputes, where there is no clearly defined victim or offender (as discussed in Chapter 7) and cases involving domestic violence and sexual assault.

## 8.2 From the victims’ perspectives

### 8.2.1 Offence type: seriousness and triviality

The offence type appeared to be irrelevant to victims’ decision-making processes, as far as could be seen from this relatively small sample. However, one of the main reasons victims gave for not electing to participate in RJ was that they felt that the offence was too trivial and had not had a great enough impact on them to warrant them wanting to participate in an RJ process. The victims’ perceptions of the seriousness of the offence or the levels of personal impact experienced did not necessarily correspond with the type of offence committed. Therefore, as Green (2008) has argued, the impact of crime should not be determined by the seriousness of the offence but instead by the social harm it has caused, which is subjective and unique to each victim. One victim, in this study, who had been subjected to a vicious assault which left him hospitalised with a bleed on his brain, did not class the assault as particularly serious and said it had not had any real lasting impact on him; he was able to move on. In contrast, the male victim who had been subjected to fraud by an acquaintance perceived the offence to have had a big and lasting impact on him.

In a Canadian study, Wemmers and Cyr (2004) also found that it was not fear but rather the perceived triviality of the offence that led many victims to decline to participate in RJ. The victims in Wemmers and Cyr’s (2004) research who had declined to participate in RJ had not declined because they were fearful or anxious but for a combination of reasons including: a lack of time or interest to invest time in a RJ process; that the conflict had been resolved; the decision not to participate was made by someone else; or that they did not want contact with the offender or did not believe the offenders’ sincerity. Only one victim in Wemmers and Cyr’s (2004) research stated that they declined the offer to participate in RJ due to fear[[76]](#footnote-76). Only one victim, in the current study, who had been subjected to a hate crime, reported that he had not wished to participate due to concerns about his identity being revealed. Umbreit et al (2006) concur that victims did not meet their offenders due to feeling that the crime was too trivial or that the matter had been resolved.

Many authors have noted that the more serious and complex the crime, the more likely victims are to opt for RJ (Gavrielides; 2018; Shapland et al, 2011) and that victims of serious crimes want to be offered (even if they choose to decline) the opportunity to participate in RJ (Van Camp and Wemmers, 2016).

### 8.2.2 Knowing me, knowing you?

Whether victims knew their offender or not did not appear to influence victims’ decisions on whether to participate in a RJ process. All the victims in this study stated that either knowing or not knowing their offender had not influenced their decision. Little research has explored the impact of ‘relational’ factors on participation levels in RJ. A small-scale early study conducted by Dignan (1990: cited in Dignan, 2005) found that victims were slightly more likely to agree to a RJ conference if they knew their offender than if they did not (40% and 30% respectively). The highest level of direct RJ (65%) involved victims and offenders who were family members (ibid). Victims who classed themselves as friends or neighbours of their offender were no more likely to agree to RJ then when the offender was a stranger (ibid). Van Camp and Wemmers’ (2013) RJ study included victims of violent crime and had a high rate of victim participants who knew their offender and who were also related to their offender.[[77]](#footnote-77)

The study by Van Camp and Wemmers (2013) found that victims’ appreciation of the restorative approach did not differ according to whether or not victims knew their offender prior to the offence. This therefore suggests that ‘relational’ factors do not play a contributing factor with regards to victim satisfaction and whether or not victims participate in RJ. Furthermore, whilst Daly’s (2003b) study did not explore whether ‘relational’ factors influenced victims’ decisions to participate in a RJ process she did find that whether victims knew their offender or not did not appear to have any impact on the ‘restorativeness’ of the conference (Dignan, 2005: 168-169). Research conducted by Flinck and Iivari (2004) in Finland explored victim satisfaction amongst victims of intimate partner violence who had participated in RJ and found that 70% of the victims (and perpetrators) reported that they were satisfied with their RJ process. However, it must be noted that Honkatukia’s (2015) research on RJ and partner violence found that victim satisfaction levels appeared to be influenced by the category of partner violence to which victims had been subjected.[[78]](#footnote-78)pweh

### 8.2.3 Timing of the offer: it can never be too early but it can be too late

The majority of victims felt that the offer of RJ did not come too soon. Most of the victims, all of whom were offered RJ at various stages prior to the court outcome stage, stated that they felt that the offer of RJ was made at the right time. This suggests that there is no one ideal time or stage within the victim’s journey through the criminal justice process to mention RJ to victims.

Only three victims (one victim who self-initiated RJ prior to their offender pleading not guilty, one who despite declining the initial RJ offer at pre-charge stage accepted the second offer of RJ at pre-sentencing stage and one victim who offered RJ with the young offender post sentence) stated that they felt that the offer of RJ had come too soon. However, as discussed in Chapter 6, two of these victims went on to make conflicting statements regarding the offer being too soon – the first victim (whose offender pleaded not guilty) went on to state that she would still like to explore the offer of RJ post-sentence; the second victim went on to participate in a face to face RJ conference as part of a deferred sentencing programme. The third victim was informed by the YOT team that the young offender was not in the ‘right place’ for RJ – despite feeling that the offer was too early this victim did state that she would participate in a RJ process in the future. Whilst this finding represents the views of only a small group of victims it does correspond with evidence that emerged from Van Camp and Wemmers’ (2016) small qualitative study on victims’ perceptions on the offer of RJ in Belgium and Canada. Van Camp and Wemmers (2016) argue that an early offer of RJ does not negatively affect victims.

Professionals in the current study were however reluctant to make an early offer of RJ for fear of causing distress to the victim. Consequently, the majority of victims were not offered RJ until the court/sentence-outcome stage. Whilst it can be argued that offering RJ in the immediate aftermath of the offence is too soon (even though, as stated above, Van Camp and Wemmers (2016) argue that victims do not mind being offered RJ at this stage, as long as it is done sensitively); the pendulum appears to swing too far by waiting until the end of the court process to raise the subject of RJ. It can be argued that victims, at the time of being informed of the sentence outcome and severing their contact with the CJS and their VWCO (who has been their single point of contact throughout their journey through the criminal justice process), are digesting a significant amount of information at this final stage. They are being informed of the court/sentence outcome, how they will receive their compensation (if awarded), the process of being allocated a NPS victim liaison officer (if the offender has been sentenced to 12 months or more for the offence committed against them) and any additional signposting to victim support services. Victims are having to absorb a substantial amount of new information at this stage. The amount of information that victims are given at the end of their journey through the CJS is comparable to the amount of information they must process the first time that they enter the criminal justice process. Therefore it can be argued that leaving it until the court-outcome stage is too late.

The findings, in this study, suggest that although there is no optimum right time to offer RJ, there is a time when it can be too late. Leaving any mention of RJ until either the court outcome or post-sentence stage (probation, custody or post-custody) is too late. The majority of victims that accessed RJ at the post-sentence stage had self-initiated RJ; and the majority of these victims vocalised that the offer was too late and that they would have preferred the offer to have been made sooner. The victims who self-initiated RJ expressed a sense of frustration that they had to either search out and find a RJ service or that they had to persuade or request professionals (some on several occasions) to refer them to RJ. This finding that the offer of RJ can be too late, especially in the case of victims who have self- initiated RJ post-sentence, supports Van Camp and Wemmers’ (2016) finding that victims who had self-initiated the offer of RJ in Belgium and Canada expressed that they were dissatisfied with the approach taken to their participation in a RJ process; that they felt ‘misunderstood and disregarded’ (ibid: 424). O’Mahoney and Doak (2017) provide further credence to the finding in this study that the offer of RJ can be too late. O’Mahoney and Doak (2017: 79) state that there are several ‘common reasons for the absence of victims in RJ encounters’ and that one of these common reasons is due to the timing of the offer. O’Mahoney and Doak (2017) list not contacting the victim in a timely fashion and the length of the time that has passed since the offence was resolved as factors that have a negative impact on victim participation levels.

Research conducted by Van Camp and Wemmers (2016) further supports the finding in this study that victims do not mind being provided with information on RJ at an early stage; victims prefer to receive the offer sooner rather than later. Van Camp and Wemmers (2016) advocate that victims should be provided with information about the range of victims’ services available to them at the point of reporting the crime and this includes RJ. Making the offer of RJ to victims at an early stage allows victims to be aware and informed of all the available options to them. It is surely the victim’s decision if they elect to accept or explore the offer of RJ at a time that suits them? Victims are not negatively affected or subjected to secondary victimisation by being offered information about, or the opportunity to participate in, a voluntary non-binding RJ process (Strang, 2002); they should therefore be given the choice to make an informed decision to explore the opportunity to participate. Providing victims with information on RJ right from the time that they report the crime enables victims to make an informed decision on when the right stage for them might be to access RJ, if at all.

Regardless of whether the offender pleads guilty or accepts responsibility, informing victims that RJ is an option, at the time they report the crime, rather than at the point at which the victim is informed that the offender has been arrested, means that victims are aware that RJ is available for them to access (given that certain criteria are met) at a time that is right for them. As articulated by Van Camp and Wemmers (2016: 433), victims would rather know about their ‘restorative options sooner rather than later and they would rather decline an RJ offer than not know about it’. Shapland et al (2011) provide further support to making the offer of RJ sooner rather than later; none of the victims interviewed in Shapland et al’s (2011) government funded RJ evaluation stated that they felt that the offer was made too soon. Therefore making the offer of RJ at the time victims report the crime ‘plants the RJ seed’.

It appears that one of the reasons that professionals delayed providing victims with information on RJ was due to concerns regarding raising victims’ expectations. Several professionals, in this current study, voiced a concern that offering RJ at an early stage may result in victims’ expectations being raised. Dignan (2005) argued that victims’ expectations must be managed; if they are not managed, or if victims’ expectations are raised then secondary victimisation may occur. It can therefore be argued that giving victims open, well-informed, detailed information at the beginning of their journey through the criminal justice process ensures that victims’ expectations can be managed effectively, with due care and consideration. Consequently, by providing victims with information on RJ services at the beginning of their journey through the criminal justice process professionals would be complying with the EU Directive Article 4 (2012: L 315/71) which stipulates that victims should be offered, without unnecessary delay, information on available RJ services ‘from their first contact with a competent authority in order to enable them to access the rights set out in this Directive’ (which includes information on available RJ services).

### 8.2.4 Multiple offers of RJ

Not only was there no optimum time that was deemed (by victims) to be the most suitable time to offer RJ, but victims also appeared to not mind being offered multiple opportunities to access RJ. Many victims had little awareness of RJ prior to the offer being made and therefore it is likely that RJ is an option that needed to be ‘planted’ early on in the victims’ journey through the criminal justice process and re-visited at various stages. As Hoyle argues (2002), participation should be a continuum; and therefore so too should the offer. Victims rarely spontaneously agree to participate in RJ (ibid). By making multiple offers of RJ to victims, professionals would be adhering to the VCOP guidance (Ministry of Justice, 2015: 8-9) that outlines three different stages at which the victim can be offered RJ. These three stages are: 1) when the victim is told that the offender has been arrested; 2) at the stage when they are informed about the offenders’ plea and where there is a guilty plea; 3) when the victim is informed of the sentence and provided with an explanation of the outcome. Whilst victims should not be pressured to participate, victims wanted to be informed about RJ and did not mind being given information on RJ on more than one occasion.

### 8.2.5 Method of invitation: who and how?

The victims in this study stated that the method of invitation that professionals chose did not influence their decision-making process. However, few victims could recall receiving a letter whereas most victims could remember a phone call. This suggests that letters alone are not adequate, especially when they are generic and opt-in. As discussed above, victim participation was a rarity for the YOT that elected to only send victims a generic YOT letter with RJ as an opt-in option. The professionals who stated that, when offered, victims expressed an interest in RJ tended to be those professionals who made the offer, confidently, over the phone. The YOTs that had dedicated RJ workers, who made the offer either over the phone or face to face, appeared to secure higher levels of victim interest and participation. Very few adult victims were offered RJ by the NPS victim liaison officers and the NPS did not have any routine or regular method by which they made their victims aware of RJ. One NPS team had RJ leaflets that they could send to victims or include with the generic victim correspondence, but they only included these when they felt it was appropriate to do so. As discussed in Chapter 5 VWCOs in police force 1 edited the victim correspondence to exclude the RJ paragraph if they felt it was unsuitable to include, whereas victim correspondence from the VWCU in police force area 2 did not include any generic information on RJ. Further to the lack of written information on RJ, NPS staff and VWCOs within both police force areas appeared to only verbally mention RJ to victims if they were given ‘triggers and indicators’ by the victims themselves; perceived the victims to be ‘ideal RJ victims’ or if they had the self-confidence to raise the topic of RJ with their victims or, in the case of police force area 1, they were ‘nudged and prompted’ by RJCOs.

The Victims’ Commissioner, in her 2016 review, outlined that the best method of invitation is first by phone-call, then followed up by a letter. However, Shapland et al (2011) found that victims were fine with being either written to or called, but few victims were able to recall receiving standardised letters. All too often professionals decide, as they do with the verbal offer of RJ, whether to include written information within victims’ correspondence or to omit it. In the current study, the editing out of RJ information from generic crime victims’ correspondence resulted in a further whittling out of victims that professionals deemed unsuitable for RJ. Leaflets and letters (though not lengthy, generic letters) can provide victims with written material that they can read, digest and re-read (Wigzell and Hough, 2015; Shapland et al, 2011; Hallam, 2015). The use of leaflets has been found to be worthwhile (Hallam, 2015) but unfortunately, as with the editing of generic letters, this method is dependent upon professionals; and professionals admitted that they regularly forgot or decided not (due to professional protectionism) to insert RJ leaflets into crime victims’ correspondence.

All victims need to be given the opportunity to participate via a range of different media and should not be left to opt-in on their own initiative. The EU Directive (2012: 59) states that a range of methods should be used to provide victims with information and advice on RJ that they can understand. Victims appreciate being contacted about RJ (Van Camp and Wemmers, 2016) and furthermore, as with the method of invitation, there appeared to be no specific professional who should make the offer. In the current study, victims were rarely able to recall who made the offer of RJ to them. They were unable to differentiate between a RJ co-ordinator or RJF, YOT staff member, NPS staff member or VWCO. It did not appear to matter who provided the information so long as there was consistency in the provision of information to victims.

The House of Commons Justice Select Committee report (2016) states that it is the role of the multiple criminal justice agencies to raise public awareness by ensuring that victims of crime are provided with information and the opportunity to participate in RJ. All victims should be provided with information on RJ by an array of criminal justice agencies.

We can conclude, as far as could be seen from this study, given the limitations of a small sample, that there seemed not to be any victim specific factors that appeared to influence whether victims elected to participate in RJ. As discussed above, some victims chose to decline the offer of RJ due to feeling that the offence was too trivial to warrant the investment of personal time and effort required of them in a RJ intervention or that they were too busy to participate in RJ. Fear and concerns regarding re-victimisation did not emerge as important factors that determined victims’ decisions not to participate in RJ. Fear and concerns regarding re-victimisation were only mentioned by one victim; and had the victim known or had he previously met the offender (the offence was a hate crime that was committed over the telephone), he would have been willing to participate in a RJ process. Knowing or not knowing the offender did not seem to affect victims’ decision-making process. However, what was key to whether victims elected to participate in RJ was if they had been notified about RJ and, to some extent, when they were notified.

The findings in this study demonstrate that many victims were simply not notified about RJ. Despite policy and guidance (EU Directive, 2012; Ministry of Justice, 2014; 2015) that outlines that all victims should be provided with information on RJ and how they can access it, many victims were not given the opportunity to participate in RJ, nor given any information about RJ. Public awareness of RJ is still very low and professionals across a range of criminal justice organisations (YOT, NPS, VWCUs, RJCOs, SDPs and RJFs) in this study did not systematically, nor uniformly, offer RJ to all victims of crime (where there was an identified offender). The culture, mechanisms and approaches that were adopted by professionals were found to be a key factor as to whether victims were invited to participate in RJ. Victims were given information on RJ if they either: conformed to the image of the ‘ideal RJ victim’ that professionals constructed; were victims of ideal RJ offences (burglary and assault); or they provided ‘triggers and indicators’ to professionals that they wished to have some form of communication with their offender or that they wished to gain answers to questions. Many victims were simply the ‘forgotten actors’ in RJ. There were no mechanisms in place in the areas of the study that ensured that all victims received information on RJ. Professionals were not held accountable for guaranteeing that all victims were notified of RJ and were left to select appropriate cases based on their own judgement and to edit victim correspondence. Due to RJ not being a process that had to be mandatorily offered at a specific juncture in the victim’s journey through the CJS, RJ was the ‘forgotten offer’. It was perceived by many professionals to be a nice bolt-on, an extra that could be offered if suitable and if and when they remembered.

Furthermore, the approaches that professionals adopted to inform victims about RJ differed significantly between and within the organisations. There was no uniform approach between the two police force areas or within each of the organisations that were part of this study. The approaches adopted ranged from victims being selected based on offence type; only accepting victim-initiated case-referrals; or only offering RJ to victims of offenders who displayed remorse. The method of invitation ranged from: sending victims opt-in letters; inserting leaflets within victim correspondence; to informing victims over the telephone or face-to-face that they could participate in RJ. Other factors that impacted on whether professionals invited victims to participate in RJ were professionals’ confidence in, and knowledge of, RJ, such that staff training, funding and whether the organisation had dedicated RJ personnel/members of staff were all additional factors that impacted on whether the topic of RJ was raised with victims.

The culture of the organisations also influenced whether victims were notified. The culture found amongst some organisations was offender-orientated or was based on a culture of victim protectionism and this impeded upon professionals’ ability to adopt RJ. Where there was a culture of RJ being seen favourably and where there were dedicated RJ workers victim engagement was higher. The co-location of RJ service providers within criminal justice agencies also ensured that RJ did not get forgotten and that a culture of RJ was able to breed; enabling professionals to adopt RJ into working practice through gentle ‘nudging and prompting’ by RJCOs and ensuring that RJ was not seen as a non-priority.

Regardless of whether victims elected to participate or not, the victims in this study were, in the main, either very satisfied or satisfied with the process of RJ. Victims did not mind being offered RJ, even when offered multiple times. However, whilst there was no ideal stage in the victim’s journey through the CJS to make the offer, it can be argued that the timing of the offer can be too late. Leaving it until the court outcome or post-sentence was for many victims too late; a number of victims expressed that they would have preferred the offer to have been made earlier.

Finally, regardless of the outcome, whether the offender withdrew their consent or willingness to participate in an RJ process, or the victim themselves did not wish to participate in RJ, the majority of victims were still either very satisfied or satisfied with the RJ process. Victim satisfaction was achieved through participation in the process of RJ, not solely from the outcome of the RJ intervention. It appears that victims appreciated being offered the opportunity to participate in a RJ process and to make the decision for themselves as to whether or not RJ was a process that they wanted to participate in. These findings, from the current study, support the argument put forward by Braithwaite (2007) and Shapland et al (2006) that RJ complies with procedural justice. Tyler (2000) outlined the procedural justice fairness factors of neutrality, trust, respect and voice in the procedure as key to victim satisfaction. Van Camp and Wemmers (2013) found that victim satisfaction was achieved through the RJ process complying with procedural justice and providing victims the opportunity for respect and recognition through ‘process control’.[[79]](#footnote-79) Victim satisfaction was achieved through participation in a RJ process; a process that victims perceived to be procedurally fair (ibid) despite any negative or unfavourable outcome. (Of course, having access to RJ, as in whether victims were invited to participate in RJ, as outlined above, is also an aspect of procedural fairness.) The procedural justice factors evident within RJ ‘cushion’ the impact of such an outcome and regardless of the outcome victims appreciate procedural fairness (Tyler, 1990).

Further to RJ complying with procedural justice Van Camp and Wemmers posit in their 2013 research on victim satisfaction in RJ that there are specific RJ features that contribute uniquely to victim satisfaction which are not found within the procedural justice model. According to Van Camp and Wemmers (2013), it is, inter alia,[[80]](#footnote-80) the flexibility of the RJ process that contributes to victim satisfaction. Victims appreciate that the RJ process ‘can adapt to [their] specific needs and times’ (ibid: 128). The flexibility evident within the RJ process allows victims to be able to participate in RJ at their own pace, to withdraw at any stage throughout the process and to ‘steer the intervention’(ibid).[[81]](#footnote-81) Flexibility of the procedure allows victims to tailor the intervention to their individual needs and allows the process to be adapted to suit individuals’ needs (ibid). Several victims in Van Camp and Wemmers’ (2013) research stated that despite initially declining to participate in the RJ intervention they appreciated, due to the flexibility of the process, that they could revisit the possibility of participating in a RJ intervention at a later date. This finding of Van Camp and Wemmers (2013) provides support to the finding in this study that victims did not mind being offered RJ on multiple occasions and that victims, regardless of the outcome, were (in the main) satisfied with the RJ process. Victims appreciated being offered RJ and being given the opportunity to accept or decline the opportunity to participate. Therefore, the offer of RJ should be a continuum and should be inclusive (offered to all victims).

## 8.3 Recommendations

It will be argued in this section that to ensure that all victims of crime are being proactively and systematically provided with information on RJ and how they can participate, a culture of RJ must be embedded within the CJS. Embedding a culture of RJ, through the adoption of and adherence to a standardised RJ process (of informing victims of RJ), will guarantee that RJ forms part of the complete justice package for victims rather than leaving RJ cast aside as an optional extra on the margins of the CJS.

Victims need to be offered RJ in a systematic and proactive manner in accordance with the EU Directive (2012), the MoJ’s RJ Action Plan (2014) and the VCOP (2015). Victims have the right to ‘equal access’ to RJ, the right to be treated in a ‘non-discriminatory manner’ and to ‘receive information from first contact on the availability of RJ services’ (EU Directive, 2012; Ministry of Justice, 2014; Ministry of Justice, 2015). However, from the results of the fieldwork, many professionals tend to protect victims, construct ‘ideal RJ victims’, make decisions on behalf of victims and adopt a cautious approach to offering RJ (see also Dignan, 2007). This cautious and protective approach to notifying victims of RJ results in victims being excluded and disempowered, thus resulting in the principle of inclusivity not being met.

The principle of ‘inclusivity’ enables victims to participate in an encounter with their offender which provides a forum for victims’ personal interests to be addressed (Dignan and Lowey, 2000: 5). RJ is an ‘inclusive decision-making process that encourages participation by key stakeholders’ (including victims) (Dignan and Marsh, 2001: 85). Inclusivity in RJ includes the nature of the invitation, acknowledgement of stakeholder interests in the process and the acceptance of alternative approaches and communication[[82]](#footnote-82) . Inclusivity enable victims to be actively involved in the decision-making process (Van Ness and Strong, 2001, cited in Johnstone and Van Ness, 2007). Therefore all victims should be offered information on RJ and how, if certain criteria are met, they can participate in a RJ process.

Many victims feel vulnerable and disempowered through the crime and criminal justice process in general, whereas, as O’Mahoney and Doak (2017: 61) have argued, the process of RJ enables victims to go through a ‘transformation of identity’ that empowers individuals to become ‘agentic’ victims. O’Mahoney and Doak (2017: 70) discuss how the concept of ‘agency’ within empowerment theory is the process of allowing individuals the capacity and autonomy to make their own decisions and choices, and to act independently and make their own free choices and decisions. Agency enables victims to have a voice, to express their feelings and to have an input into the decision-making process.

Strang (2004) and Zehr (2005) state that informing victims about the alternatives (such as RJ) that may be available to them during their journey through the criminal justice process gives victims the choice to decide whether or not they wish to participate in RJ and this in itself can be empowering for victims. Empowering processes include the opportunity for victims to be heard and to be recognised as active stakeholders and not just as passive victims who are ‘conscripted’ into ‘operational roles’ within the conventional CJS that disengages and disempowers them (Faulkner, 2001: 226; Sawin and Zehr, 2007). Indeed, as Strang (2004) has suggested, just the process of being informed about the opportunity of RJ allows victims to be part of the decision-making process and for them to decide if they wish to participate in RJ. Giving victims the option to make an ‘informed decision’ as to whether they wish to participate in a RJ process allows victims to ‘steer’ their lives and it is this, according to McEvoy and Mika (2002), that is the most important aspect of empowerment.

Even for those victims who decide not to meet with their offender this decision can be empowering; they have been given the opportunity and have made the choice not to be involved in a RJ process (Herman, 2003). Victims can, through the principles of inclusivity and stakeholder involvement (Dignan, 2007) make the choice to either decline the offer or accept and to choose which form of offender engagement such as indirect RJ (shuttle RJ or letter writing) would be most suitable; this itself (the decision-making process) can be empowering. Hence ensuring that victims are informed about RJ and the different RJ processes available enables victims to consider and make decisions. A more ‘protective’ stance where some victims are not offered RJ is effectively taking that agency away from them.

Another aspect of the RJ process can involve discussing and exploring the possibility of ‘doing’ RJ with trained RJFs. Discussing the offence and the option of RJ enables victims to tell their stories in their own way (Pranis, 1998). Pranis (1998: 23), inter alia, has argued that listening to someone’s story is a way of empowering them, and of ‘validating their intrinsic worth as a human being’. The role of the RJF is pivotal to cultivating ‘the safety and space to engage people in the hearing and telling of stories’ (Sawin and Zehr, 2007: 53). Empowerment is indeed one of the fundamental values of RJ that must be achieved in order for an intervention to be restorative (Zehr and Mika, 1998; Braithwaite, 2003). These explanations (relating to agency and empowerment) may lie behind victims’ views in the current research that just taking part in the RJ process and discussion was good and that they appreciated the offer being made to them.

‘Empowerment’, a democratic value, is an emergent property of the RJ process and therefore occurs as an outcome process of ‘inclusivity’ and ‘engagement’ (Braithwaite, 2003).

Empowerment is, as is agency, a democratic value, an emergent property of the RJ process which occurs as an outcome process of ‘inclusivity’ and ‘engagement’. The principles of ‘inclusivity’ and ‘engagement’ are fundamental to the theory and practice of RJ (Sawin and Zehr, 2007: 55). If RJ programmes are to adhere to the principles of ‘inclusivity’ and ’engagement’ then victims should be, according to Achilles and Zehr (2001), provided with as much information as possible and options and ways of actively including them when offenders have declined to participate or have not been identified or charged should be explored. Participation in the RJ process results in victims feeling involved in the decision-making process, which contributes to victims perceiving the RJ process to be fair. Procedural fairness is a fundamental component of RJ (Doak, 2011) and should indeed be a fundamental component of all justice processes, including criminal justice In this respect, not offering RJ or not ensuring that RJ is discussed with all victims risks victims feeling a lack of procedural fairness, particularly if they were to find out later that they were supposed to be offered it.

Victim satisfaction with RJ has been found previously to be due to a number of factors including victims feeling that they had been given the opportunity to participate, given a voice, were heard and that they had been treated fairly. As discussed in Chapter 2 according to procedural justice theorists (Thibaut and Walker, 1978; Tyler, 2000) procedural fairness is achieved when victims perceive the process to be ‘procedurally just’; they have been given the opportunity to participate, have been treated with dignity and respect and have trust in the professional (Tyler, 2000). Thibaut and Walker (1978) outline how it is the process, the procedural fairness of the process, that positively influences victims’ satisfaction with the RJ intervention and not the outcome. Even when the outcome was not a positive outcome the majority of victims who had participated in a RJ intervention in the current study (even if it was the victim deciding that they did not want to engage in RJ, or it was the offender who declined) still expressed satisfaction or high levels of satisfaction with the RJ process. Fairness of the RJ process acts as a ‘cushion of support’, the fairness of the procedure cushioning the impact of any undesirable outcome (Van Camp, 2014: 14). In many cases, in the current study, victim satisfaction levels with RJ were higher than those expressed with the traditional criminal justice process, even when they did not participate in a RJ encounter.

We have seen from the current research that victim satisfaction with RJ is not just due to a positive outcome of a RJ intervention, but also due to the actual RJ process itself (as Van Camp, 2014 also found in Belgium and England). Victim satisfaction appears to be linked to how well informed victims are regarding the process and victims’ appreciation of procedural factors. Several evaluations of RJ programmes have reported that victim satisfaction levels were higher in a RJ intervention than they were with traditional criminal justice proceedings (Shapland et al, 2011; Umbreit et al, 2002). The current research did not have control groups, so it was not possible to make that comparison, but the results of the current study are very much in line with this previous work, even given the very serious offences which some of the victims in the current study had suffered.

Victim participation appears to be negatively affected by professionals not providing victims with the opportunity to participate or not providing victims with sufficient and detailed information on how the process of RJ works and how they could participate. Professionals were continuing to ‘protect’ victims and make decisions on their behalf, adopting a cautious approach to offering RJ and selecting suitable ‘ideal RJ victims’. As discussed above, this selection of suitable RJ victims may result in victims being disempowered and excluded (O’Mahoney and Doak, 2017). Both disempowerment and exclusion have been reported to be some of the negative effects that victims experience during their journey through the conventional CJS (ibid) and can also inadvertently be experienced through the process of RJ if RJ is not delivered and practiced in accordance with the principle of inclusivity and policy that states that all victims should receive information on RJ (Ministry of Justice, 2014; 2015).

One reason why professionals may err on the side of caution and make protective and selective offers of RJ could be that the EU Directive states that an individual assessment should be conducted to assess victims’ specific protection needs and that professionals should take into consideration a number of victim specific factors prior to making a referral to RJ services or conducting a RJ intervention.[[83]](#footnote-83) As discussed above, whilst the majority of professionals are unlikely to be aware of the exact terms of the EU Directive, it could be argued that the EU Directive’s position on RJ is one of ‘protectionism’ and risk management and that this cautious approach has influenced the risk management of criminal justice agencies and victim services in England and Wales. The Directive, whilst endorsing RJ and the benefits it can provide victims, advises that RJ services require safeguards to ‘prevent secondary and repeat victimisation, intimidation and retaliation’ and that a number of factors including (inter alia) the nature and severity of the crime, the degree of trauma and potential power imbalances should be considered prior to referring a case to a RJ service (EU Directive, 2012: 42). The EU Directive’s concerns regarding the management of the potential risks to victims of participating in a RJ intervention combined with the stipulation that all statutory organisations working with victims should be ‘able to access and receive appropriate … training … so they are able to identity victim’s and the victim’s needs’ and that an initial assessment of victim’s protection needs should be conducted to manage the risk of secondary victimisation perfectly expresses the protectionism that was evident amongst the professionals in this study. These risk management and protective attitudes evident in the EU Directive were evidenced among many of the professionals in this study.

The organisational ethos and culture of the CJS in England and Wales seems to be based upon a ‘managerialist criminal justice agenda’ and fixated upon a ‘governance of risk’ (McAlinden, 2011: 383). It appears that this governance of risk also influenced the overriding culture of victim services within criminal justice agencies. Therefore, it can be argued that a risk management culture contributes to professional protectionism of service users (including victims); and unintentionally inhibits professionals’ ability or desire to adopt a proactive and systematic approach to providing all victims with information on RJ. Thus, we must ask what are the structures required to embed a culture of inclusivity and agency that would ensure that professionals systematically and proactively provide victims with sufficient information on RJ regardless of who they are, or the offence committed against them? In the following sections how criminal justice agencies can develop and embed a culture of RJ and what processes need to be put into place to ensure that RJ is fully integrated into the organisational culture of criminal justice will be outlined.

### 8.3.1 The RJ culture

How do criminal justice agencies develop a culture of RJ within their organisations? And what does this culture of RJ look like?

From this research, it can be argued that a culture of RJ is one that sees victims as active and agentic subjective beings rather than just passive components of the criminal justice process. A culture of RJ is based upon the principles and values of inclusivity, engagement, agency, procedural fairness and empowerment. A RJ culture gives victims a voice and allows them to be part of the decision-making process through being able to make informed choices as to whether they wish to participate in a RJ process. Victims must be given sufficient information on RJ to enable them to participate in a RJ process as and when, and if, they wish. Professional protectionism excludes and disempowers victims. Therefore where risks are identified measures, that are discussed with the victim, can and should be put in place to combat these risks. The image of the ‘ideal RJ victim’ must be eliminated and victims must be seen as having the ability to be resilient, active and agentic. The principles of inclusivity and engagement are key to ensuring that victims are given detailed information on RJ and to embedding a culture of RJ.

#### 8.3.1.1 Positive leadership and management buy-in

To embed a culture of RJ there needs to be ‘shared receptivity’, the receptivity of the whole organisation including managerial and employee buy-in, to RJ from across the board (Wigzell and Hough, 2015: 41). The ‘level of leadership engagement’ contributes to the ‘readiness for implementation’ and degree of ‘shared receptivity’ found within criminal justice organisations. Management buy-in positively contributes to the ‘shared receptivity’ to embed RJ as a key component of criminal justice process and victims’ services; not just an optional process that is a bolt-on optional process that can be offered when deemed suitable.

Greenberg’s (1987) organisational justice theory outlines how an employee’s perception of their organisation’s behaviours, decisions and actions influences their own attitudes and behaviours. Employees make judgements on the perceived fairness of their employers’ behaviours, decisions and actions and if employees perceive these to be unfair this can lead to workplace deviance (in the form of disengagement, counterproductive workplace behaviours and a lack of trust). Trust and effective communication are fundamental to organisational justice and organisational change. The successful implementation of organisational change requires line managers to initiate and maintain trust (organisational justice). Trust in the behaviours and actions of their employers enables employees to take the required ‘leap of trust’ and ‘willingness to vulnerability’ during the process of organisational change; in which new and unknown processes are implemented (Saunders and Thornhill, 2003: 361).

We can use the theory of organisational justice to argue that the overriding ethos of the organisation’s management participating in the study affected individual professionals’ ability and desire to provide victims with information on RJ. Positive leadership can ensure that individual professionals are enthused about RJ and that they understand the benefits that RJ can deliver. Positive leadership and managerial buy-in can ensure that ‘shared receptivity’ of RJ across the board is achieved. Clear managerial direction and positive leadership can ensure the integration of RJ into everyday working practice through the introduction of a RJ service delivery criterion that would enable ‘intractable procedural issues’ to be overcome. Adopting a uniform and consistent approach through both positive leadership and systematic guidance would incorporate and integrate RJ into processes and provide the necessary environment to embed RJ principles into everyday working practice.

#### 8.3.1.2 Service delivery criteria

Systematic guidance in the form of set service delivery criteria, clear structures and accountability would ensure that professionals do not ‘forget’ to provide victims with information on RJ and that RJ is incorporated into standard working practice. This can be aided using mnemonics and crib sheets (checklists) that ensure that professionals are ‘prompted and nudged’ to remember to make the offer of RJ. Providing victims with information on RJ should form part of professionals’ appraisal systems and should be incorporated within professionals’ job specification. Accountability would ensure that RJ is seen as an integral part of the professional’s role and that RJ is ‘routinised’.

Professionals must be aware that they should, in accordance with the VCOP (2015), offer RJ to all victims and that victims are provided with information at various and multiple junctures. There are three junctures when victims, according to the VCOP (2015) should be offered RJ, therefore processes should be put into place that ensure that victims are provided with information on RJ at these three points in the criminal justice: 1) when the victim is told that the offender has been arrested; 2) at the stage when they are informed about the offender’s plea (where there is a guilty plea); 3) when the victim is informed of the sentence and provided with an explanation of the outcome. Victims should be provided with information on RJ through a range of media including written and oral means. Professionals should not be given the option to edit or remove RJ information from victim correspondence. Information on RJ should be a mandatory component within victim correspondence.

#### 8.3.1.3 Co-location, RJ champions and dedicated RJ staff

Co-location of RJ hubs within VWCUs and the use of RJ champions ensures that momentum is maintained and a culture of RJ can breed and prosper. Through co-location of RJ hubs within VWCUs and the use of RJ champions (situated within criminal justice organisations) professionals can build trust and confidence in the process of RJ. RJ hub staff and RJ champions can provide individual professionals with ‘nudges and prompts’ to gently remind them to provide victims with information on RJ. RJ hub staff and RJ champions can ‘scope’ cases and monitor case systems and flag cases where RJ has not been mentioned. Having a dedicated RJ lead/RJ champion who can provide regular RJ updates at team briefings, ‘nudge and prompt’ staff and encourage them to offer RJ would initiate a cultural shift. RJ champions and dedicated RJ staff can ensure that there are no gaps in the communication and promotion of RJ across the CJS and that RJ is not perceived as a bolt-on, or a non-priority. RJ hub staff, RJ champions and dedicated RJ staff can ensure that professionals gain a ‘deepening awareness’ of RJ – they are able to see the bigger picture, to hear what the outcomes of RJ interventions are, to hear how victims have been given a voice and to understand what benefits RJ has achieved through not only the RJ outcome (if there is one) but also through the RJ process.

#### 8.3.1.4 Confidence and training

The issues of confidence and training are important factors in enabling professionals to counter the dominant risk culture evidenced within the criminal justice organisations and also to shifting the perspective that RJ is a non-priority and just another demand placed upon professionals. Using initial and on-going training improves professionals’ confidence and ‘deepening awareness’ in RJ (Newburn et al, 2001; 2002; Shapland et al, 2017a). Levels of victim participation improve once professionals have the necessary knowledge and confidence to offer RJ (Newburn et al, 2001; 2002). Confidence and knowledge in RJ would allow professionals to have trust in the RJCOs and RJFs and the process of RJ. If professionals had trust and confidence in the RJ process then they would be more likely to refer victims to RJ, and be aware that RJ and criminal justice share the same theoretical values and aims of rehabilitation and public protection (McAlinden, 2011). Training promotes confidence and confidence increases case referrals which in turn increase victim participation.

RJ training should be incorporated within all criminal justice agencies and victim service providers with new staff undertaking initial training programmes to ensure that RJ is embedded into criminal justice processes and not just merely ‘grafted’ onto the criminal justice process as an optional extra; RJ should be seen by criminal justice agents as a core priority within their role. Ongoing training should be regularly provided to ensure that momentum, confidence and knowledge are maintained.

#### 8.3.1.5 Managing the issue of ‘risk’

Criminal justice agencies’ organisational ethos and working practices emphasise managerialism and risk assessment. This creates a culture of management and control, in that professionals are fearful of causing victims secondary harm and they are protective of their service users. Yet, if professionals had trust in the RJ process that ‘risk’ is assessed and that any potential risk of harm can be obviated then professionals’ fears concerning secondary victimisation would be alleviated. A clear and visible RJ risk assessment measure conducted by trained RJFs or RJ hub staff would alleviate professionals’ concerns regarding the risk of secondary victimisation and would provide professionals with the confidence to offer RJ rather than just not offering it. Risk factors are not immovable barriers to RJ but should be determined and once determined the necessary processes should be put into place to allow RJ to take place. If, and when, any potential risk cannot be obviated then a decision should be made by the trained RJF, in consultation with the victim, as to whether it is safe and in the best interests of the victim to proceed at that specific time.

Risk should be seen as a continuum, as should the invitation to participate and participation itself. Assessing risk at one specific point in a victim’s journey results in a ‘frozen’ snapshot of victims. The VCOP (Ministry of Justice, 2015: 13) states that ‘victims’ needs may change while the criminal offence is being investigated … for any … reason’ and therefore victims must (if the service provider becomes aware that victims’ circumstances have changed) be given the opportunity to be re-assessed.

Professionals are expected, within the EU Directive (2012) to conduct formal risk assessments to identify specific protection needs and to determine their need for special protection measures ‘due to their particular vulnerability to secondary and repeat victimisation’. Whilst the EU Directive does not state that professionals have to conduct individual RJ risk assessments prior to case referral it does stipulate that measures should be ‘applied when providing RJ services’ … ‘to safeguard victims from secondary and repeat victimisation, intimidation and retaliation, to be applied’ and that [the] ‘nature and severity of the crime, the ensuing degree of trauma … [and] power imbalances … which could limit or reduce the victim’s ability to make an informed choice … should be taken into consideration in referring a case to the restorative justice services and in conducting a restorative justice process’ (EU Directive, 2012: 69).

Therefore professionals can identify potential risk factors and provide RJ service providers with the identified risks. Providing RJ service providers with identified potential risks would ensure that professionals adhere to the EU Directive (2012: 42) by taking the ‘nature of the offence, severity, ensuring trauma’ and ‘power imbalances’, ‘which could limit or reduce the victim’s ability to make an informed choice’, into consideration prior to referring a case. This would also guarantee adherence to the EU Directive’s stipulation that victims should not be treated in a ‘non-discriminatory manner’ and that they should ‘receive information from first contact on the availability of RJ services’. It is the RJ service provider’s role to ‘safeguard victims from secondary and repeat victimisation, intimidation and retaliation, to be applied when providing RJ services’ (ibid). It does not fall within criminal justice agents’ remit (unless they themselves are providing the RJ).

Whilst the EU Directive refers to safeguarding victims from secondary and repeat victimisation, intimidation and retaliation with regards to RJ, the VCOP (2015) makes no such reference. The VCOP states that victims are ‘entitled to a needs assessment’ from the police ‘to help work out what support’ they may require and the ‘needs assessment’ must be conducted by the police at an early stage. Needs assessments exist to determine what support victims may need; they are not meant to determine whether victims are suitable candidates for RJ. The VCOP also states that victims are entitled to receive information about RJ and how they can take part and that it is the role of the trained RJF to take the victim’s needs into consideration and deliver [RJ] services in line with recognised quality standards’ (The Ministry of Justice, 2015: i; 35). Necessary measures should be taken to make sure any RJ is safe, is delivered by a trained RJF and is in line with recognised quality standards. Therefore criminal justice professionals are only compelled to provide victims with information on RJ, not decide which victims are suitable and not conduct risk assessments to be used to determine whether certain victims are suitable for RJ.

#### 8.3.1.6 Information versus invitation

The VCOP (2015) states that the role of professionals is to provide victims with ‘information’ on RJ and ‘how they can take part’. It is not the role of professionals to ‘invite’ victims to participate, nor is it their role to ‘sell’ RJ to victims. Many professionals in the study alluded to the fact that they felt that when offering victims the opportunity to participate in RJ they were making a ‘sales pitch’. It was the role of the dedicated RJ staff members (RJ hub staff, RJFs, dedicated RJ workers in YOT and probation teams) to ‘invite’ victims, to encourage victims to participate, and to assess victims’ suitability for RJ. The role of criminal justice professionals was to provide victims with ‘information’ on RJ and ‘how they can take part’ and this information should be given to victims in a proactive and systematic manner at multiple stages during a victim’s journey through the CJS.

Many professionals, in the study, did not provide victims with sufficient information on RJ, either verbally or in a written form that enabled victims to make an informed decision about their participation in a RJ process (even if it was having an initial conversation with a RJF). A number of victims, in the study, who only had an initial conversation or meeting with a dedicated RJ member of staff voiced their satisfaction with the RJ process and appreciated being offered the opportunity to participate in RJ. Research suggests that providing victims with sufficient information on RJ and providing victims with the opportunity to have their voice heard and to tell their story engages victims in the decision-making process and therefore empowers victims. Therefore it can be argued that an initial conversation or meeting with a RJCO, dedicated RJ staff or RJF constitutes participation. Through the process of an initial conversation with a RJ specialist this enables victims to be included in the decision-making process and have a voice.

Nearly all of the victims in the study who were ‘invited’ to participate in RJ stated that they were given the opportunity to meet with their offender; they were not provided with information on other methods of communication and nor were they informed that RJ is an opportunity to communicate with their offender either directly or indirectly. Many victims would, given the opportunity, participate in a RJ process and communicate with their offender if it was indirect (Newburn et al, 2001). The Ministry of Justice RJ Action plan (2014) defines RJ as a process that ‘brings those harmed by crime or conflict and those responsible for the harm into communication’. Informing victims that they can meet with their offender is firstly, likely to be quite a daunting prospect when most victims have never heard of RJ and secondly, is not providing victims with sufficient and correct information that enables victims to make an informed decision. Participation is a continuum and is not just an option reserved for victims who, upon hearing about RJ for the first time, elect to meet directly with their offender.

However, the findings from Shapland et al’s (2011) government funded RJ research found that victim agreement rates were identical for both direct and indirect RJ interventions. Furthermore, Hoyle et al (2002) found in their study that when victims were given the option to participate in either a direct or indirect RJ process victims tended to elect to participate in an indirect RJ process rather than direct face-to-face RJ. It must though be noted that despite victims’ apprehension regarding meeting their offender face-to-face victim satisfaction with the RJ process was higher amongst victims who did participate in direct RJ (Shapland et at, 2011). Therefore what the right position to take might be regarding whether to initially offer victims an array of RJ options is quite a complex subject and is a continuing and unresolved RJ practice question. It can be argued that the issue of whether to initially offer victims the opportunity to participate in indirect forms of RJ is not a matter of concern for criminal justice professionals who should just be providing victims with information on RJ. As the Ministry of Justice RJ Action Plan (2014) states: RJ ‘brings those harmed by crime or conflict and those responsible for the harm into ‘**communication**’ (emphasis added). Therefore professionals should inform victims that RJ is a process that may enable them to come into ‘communication’ with their offender.

Despite the debate regarding whether RJFs should initially offer victims both indirect and direct RJ, if RJ is to adhere to its main principle of inclusivity all victims should be provided with information on RJ. This research has shown that victims want to be given the opportunity to decide for themselves whether RJ is a process that they wish to participate in. By providing victims with information on RJ and offering victims the opportunity to participate in RJ victims feel empowered, included and feel that they have been given a voice. Information is empowering.

### 8.3.2 The way forward

Embedding a culture of RJ within the conventional CJS will enable RJ to become an integrated and integral process of justice available to all victims. If RJ is to move from the margins of the CJS it must not be perceived as a non-essential bolt-on process. As set out in the international instruments and good practice guidance, RJ must form part of the complete criminal justice package for victims. Victims must be informed of RJ from the outset, from the point at which they report a crime. RJ must be a process that is offered at every stage throughout a victim’s journey through the CJS. Offering RJ in itself does not cause secondary victimisation but instead allows victims to be active agents who can steer their way through the aftermath of the offence.

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# Appendices

## Appendix A: Information sheet (criminal justice professionals)

**A close up of a logo

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**Participant Information Sheet**

*Restorative Justice: the barriers and enablers to Victim Participation*

You are being invited to participate in a research project. It is important that you understand why the research is being done and what your participation involves. Please take the time to read this information sheet. Your participation is greatly appreciated but it is imperative that you understand that your participation is completely voluntary and that if you agree to be interviewed a signed consent form will be required. Due to the voluntariness of your participation you can decide to withdraw from the research at any time and you do not have to provide a reason (however, this right does not extend to the withdrawal of already published findings). If you have any questions regarding this research project, please do not hesitate to contact me.

**Research background and aims:**

The research is being undertaken by Rebecca Banwell-Moore, a PhD candidate at the University of Sheffield. The research is a comparative analysis across two police force areas that seeks to determine the barriers that impact upon levels of victim participation in Restorative Justice. The aim of the research is to determine what the key factors are that inhibit victim participation. The project is funded by a scholarship from the Economic and Social Research Council (ESRC).

**Research Participation – what does it involve?**

This research will involve the researcher carrying out observation, semi-structured interviews and content analysis of processes and case-notes. The aim of the observation is to allow the researcher to gain insight into the mechanisms and processes that are used by agencies and staff, internally and externally, with regards to victim participation within Restorative Justice. Observation will take place within the workplace. Any observations and subsequent findings made (from the observations) may be used within the written presentation of the research.

Semi-structured interviews will be audio-recorded to allow post-interview transcribing and analysis to take place. You will be required to sign a consent form if you participate in the interview process. All audio-recordings and notes of interviews or observations will be kept in a locked file and computer files of audio-recordings will be password protected. The data will be destroyed upon completion of the research. Interviews will take place in a private setting to be mutually agreed by the researcher (Rebecca Banwell-Moore) and the participant.

Whilst individual names and agency names will be anonymised throughout the process the nature of the agency (e.g. probation service, youth offending team) and the police force area will not be anonymised. A coding system will be used to ensure that individual participants cannot be identified within their agency or police force area. Specific town/area names will not be used. Individual agencies will be coded (e.g. Youth Offending Team 1, name of police force area).

**Your identity will remain strictly confidential (with the exception that the researcher is duty bound by statute to disclosure any child protection concerns) and any data used will be anonymised throughout the research process to ensure that you cannot be identified in any reports or publications. Any identities from the case-file analysis will also be anonymised and treated in the strictest of confidence.**

**Research findings and duration:**

The research will be completed in 2019 and the findings from this comparative analysis will inform Restorative Justice Agencies, policymakers, practitioners and academics what the barriers are that impact upon victim participation levels. The research also aims to determine what remedial action is required to ensure victim participation levels within Restorative Justice are optimised. The findings will be published in the form of a doctoral thesis, journal articles and presentations at academic and practitioner conferences.

**Possible risks and benefits to the participant:**

There are no identified risks to either the physical or psychological well-being of participants. The benefits to participants are that your input may help to develop a clear understanding of the barriers to victim participation within Restorative Justice. In addition it is an opportunity to be able to talk about your individual experiences and any challenges with regards to Restorative Justice and victim participation.

**Researcher and research supervisor(s) contact details:**

**Researcher PhD candidate:** Rebecca Banwell-Moore

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**Research Supervisor 1:** Prof. Joanna Shapland

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**Research Supervisor 2:** Dr Gwen Robinson

Email : [g.j.robinson@sheffield.ac.uk](file:///C:\Users\User\AppData\Local\Temp\g.j.robinson@sheffield.ac.uk)

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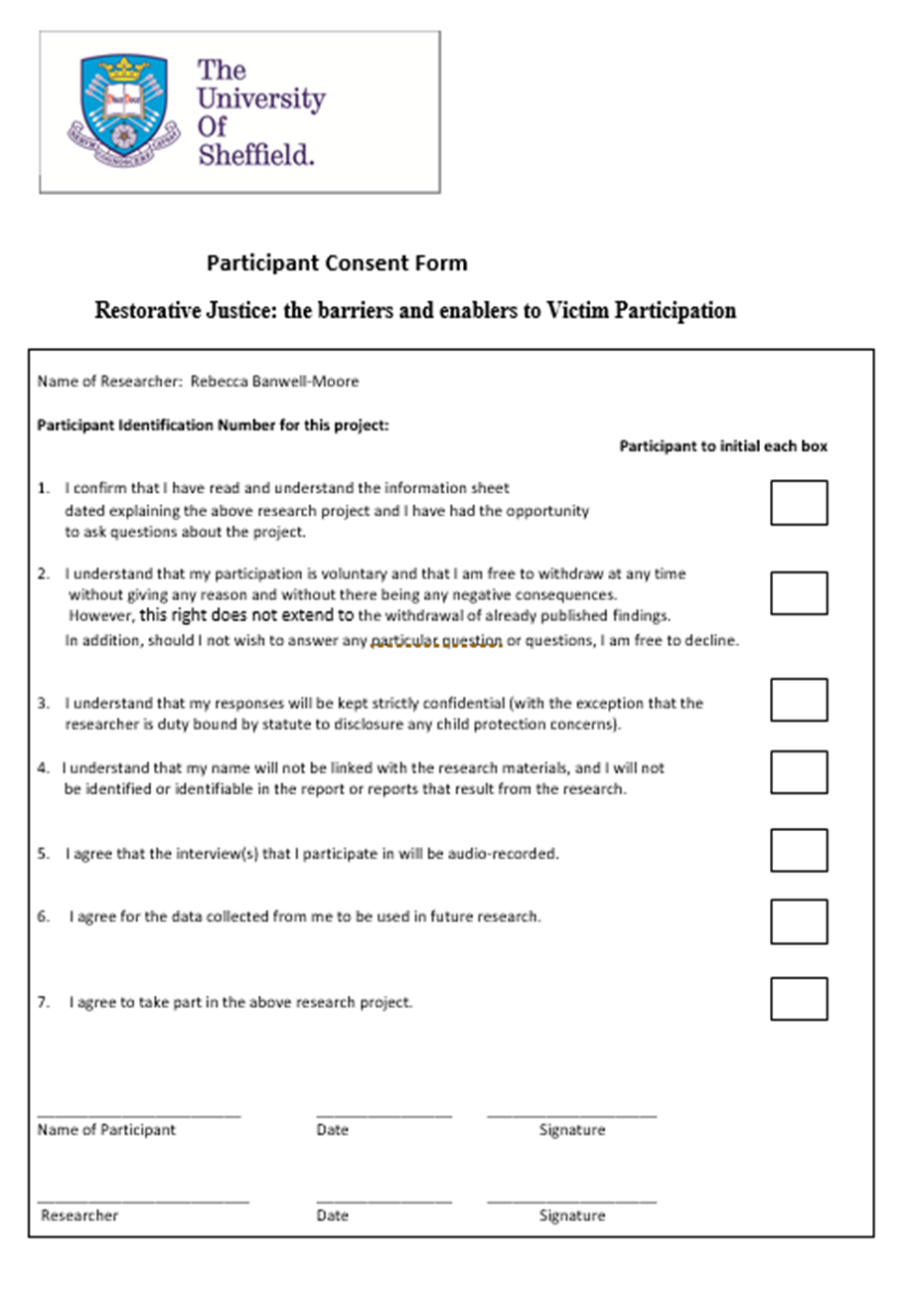
The University of Sheffield

Winter Street

Sheffield

S3 7ND

## Appendix B: Participant consent form



## Appendix C: Interview schedule (criminal justice professionals)

**Interview schedule – Criminal justice professionals**

Interview date \_\_\_\_\_\_\_\_\_\_\_\_

stage 1 interviewee number \_\_\_\_\_\_\_\_\_

staff member name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Staff area \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Interview preamble**

Thank you for agreeing to be interviewed today. Your time and participation are much appreciated.

As you know there has been governmental endorsement of RJ, evident in the funding allocated to PCCs. However, as you may be aware the number of victims that participate in RJ has not been very high.

What I'm interested in is what the factors are that influence whether a victim participates in a restorative justice process or not. This research project has been awarded an ESRC PhD Scholarship for doctoral research in the School of Law at the University of Sheffield and has been ethically approved by the University Research Ethics Committee (UREC). It's important that you know what the interview is about and what your consent involves. I've already given you an electronic copy of the information sheet but here is a paper copy that explains the research. Before we proceed with the interview please can you sign the consent form to confirm that you have agreed to be interviewed.

Give the interviewee time to re-read the information sheet and then go through the consent form with them and obtain signature. Confirm that they are happy for the interview to be audio-recorded and check if the interviewee has any questions.

Explain what topics the questions explore:

Your role and your team

Case referrals and management

Victims

Other organisations

Organisational matters including funding, training and facilitators

Challenges

TURN ON THE AUDIO TAPE RECORDER - explain that notes will also be taken in case the equipment fails for any reason.

**The interview questions**

**Interviewee’s job/role**

1. Can you firstly tell me a little bit about the job that you do?
2. what did you do before then?
3. How does your role fit in with the RJ team (if there is one)?
4. who else is part of your team?

**Case referrals and management**

1. What types of cases do you have referred / or do you refer for RJ?
2. Are there differences by CJ stage as to the cases that get referred for RJ?
3. Who decides whether the case is suitable for RJ?
4. What types of RJ do you use? (direct/ indirect/ shuttle/ proxy offender)?
5. Who decides which type of RJ?
6. What influences the decision on the type of RJ that is offered/used?
7. What is your organisation’s position in regard to case-suitability in relation to offender’s guilt/ responsibility? (ACPO, 2012 guidelines state ‘responsibility’)
8. Do you think that the level of remorse shown is important to whether an RJ activity should take place?
9. Who is your RJ service provider?
10. How does the relationship work between the RJ coordinator and service provider?
11. Case management - who oversees the case?
12. What happens at the end of a case?
13. When does a case get closed?
14. Do you have RJ feedback outcome agreements and if so, how do you use them?

**Victims**

1. What contact do you have with victims?
2. How do you approach victims?
3. How do you manage victim contact?
4. What is the primary role of the victim in RJ?
5. Are there any offences for which RJ is deemed not suitable?
6. Do you think it's ok for the victim to participate in RJ if it's what they want?
7. Do you think the offence type influences whether a victim elects to participate or not?
8. From the perspective of the victim what factors do you think influence whether a victim participates or not?
9. What types of questions/concerns do victims have?
10. Have you had any instances when the victim has become unhappy?
11. Why did they become unhappy?
12. How did you handle it?
13. Would you like to see more victim participation?

**Criminal Justice Agencies**

1. Can you tell me about the other agencies and service providers that you work with (NPS&CRC’s/YOT/COURTS/POLICE/ VICTIM SERVICES)?
2. How does the VCOP requirement for police to pass on victim’s details work in practice?
3. Working relationships with other CJ agencies/victim services providers – What works well and what does not work so well?

**Training, facilitators & funding**

1. How are you funded for RJ?
2. Are there any issues regarding RJ funding?
3. What training is undertaken?
4. Which training provider does your organisation use?
5. Are there any areas of the training that you feel could be improved?
6. Can you tell me about your RJ facilitators?
7. Are they volunteers?
8. How many volunteers do you have?
9. Do you meet/communicate often to discuss cases and feedback?
10. What do you think are the key skills a facilitator needs?

**Challenges**

1. Thinking about victim participation from the perspective of the criminal justice system what do you perceive to be the biggest challenges?
2. What do you find are the main challenges to increasing victims’ participation levels?
3. What do you think works well?
4. What isn't working well?
5. What would you like to see working differently?
6. Is there anything you wish to add that has not been discussed?
7. Do you have anything that you would like to ask me?

**Thank you**

Thank you for your time and participation, it is greatly appreciated. The next steps are that over the next 6 months I will be conducting the rest of my field research which consists of interviews with all the relevant CJA's, case file analysis and then interviews with victims. The data collected will then be disseminated and analysed in the second half of the year. The final year will be writing up the research into the final thesis.

If you have any further questions or comments then please feel free to contact me, my contact details are on the information sheet.

## Appendix D: Interview schedule (Victim and Witness Care officers)

**Victim and Witness Care Officers Interview schedule**

Interview date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Interview area\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Interviewee name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Interview number\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Interview preamble**

Thank you for agreeing to be interviewed today. Your time and participation are much appreciated.

As you know there has been governmental endorsement of RJ, evident in the funding allocated to PCCs. However, as you may be aware the number of victims that participate in RJ has not been very high.

**Nobody knows the best way to make the offer of RJ to victims but it’s important to know how people are raising the topic of RJ.**

This research project has been awarded an ESRC PhD Scholarship for doctoral research in the School of Law at the University of Sheffield and has been ethically approved by the University Research Ethics Committee (UREC). It's important that you know what the interview is about and what your consent involves. I've already given you an electronic copy of the information sheet but here is a paper copy that explains the research. Before we proceed with the interview please can you sign the consent form to confirm that you have agreed to be interviewed.

Give interviewee time to re-read the information sheet and then go through the consent form with them and obtain signature. Confirm that they are happy for the interview to be audio-recorded and check if the interviewee has any questions.

Turn on the audio tape recorder and explain that notes will also be taken in case the equipment fails for any reason.

**The interview questions**

1. Could you tell me a little bit about the job that you do?
2. What did you do before this role?
3. How does Restorative Justice fit within your role?
4. Have you had any training on RJ?
5. When can RJ be used?
6. In what circumstances would it be good to mention RJ?
7. How would you make the offer of RJ?
8. What would you say if the victim said they weren’t interested in the offer of RJ?
9. How would you deal with it if the victim asked about RJ?
10. It seems that not many people offer RJ – why might this be?
11. What do you think are the barriers to victims participating in RJ?
12. What does ‘justice has been done’ mean for victims?
13. Do you have anything that you would like to ask me?

**Thank you**

Thank you for your time and participation, it is greatly appreciated. The next steps are that over the next 6 months I will be conducting the rest of my field research which consists of interviews with all the relevant CJA's, case file analysis and then interviews with victims. The data collected will then be disseminated and analysed in the second half of the year. The final year will be writing up the research into the final thesis.

If you have any further questions or comments then please feel free to contact me, my contact details are on the information sheet.

## Appendix E: Information sheet (victims)

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**Participant Information Sheet**

Restorative justice: exploring victim participation

You are being invited to participate in a research project. It is important that you understand why the research is being conducted and what your participation involves. Please take the time to read this information sheet. Your participation is greatly appreciated but you need to know that your participation is completely voluntary. Due to the voluntariness of your participation you can decide to withdraw from the research at any time and you do not have to provide a reason (however, this right does not extend to the withdrawal of already published findings). If you have any questions regarding this research, please do not hesitate to contact me.

**Research background and aims:**

The research is being undertaken by Rebecca Banwell-Moore, a PhD candidate at the University of Sheffield. The project is funded by a scholarship from the Economic and Social Research Council (ESRC). The research seeks to understand the victims’ experience in restorative justice.

**Research Participation – what does it involve?**

This research will involve the researcher carrying out interviews. You will be asked to either sign a consent form or give your verbal consent (which will be audio-recorded) if you participate in the interview process. All audio-recordings and notes of the interviews will be kept in a locked file and computer files of audio-recordings will be password protected. The original data will be destroyed upon completion of the research and any subsequent publications.

Your identity will remain **strictly confidential** (with the exception that the researcher is duty bound by statute to disclosure any child protection concerns) and any data used will be **anonymised** throughout the research process to ensure that you cannot be identified in any reports or publications.

**Research findings and duration:**

The research will be completed in 2019 and the findings from this comparative analysis will inform restorative justice agencies, policymakers, practitioners and academics on victims’ experience of restorative justice. The findings will be published in the form of a PhD thesis, journal articles and presentations at academic and practitioner conferences.

**Possible risks and benefits to the participant:**

There are no identified risks to either the physical or psychological well-being of participants. The benefits to participants are that your input may help to develop a clear understanding of victim participation within Restorative Justice. In addition, it is an opportunity to be able to talk about your individual experiences and any challenges with regards to restorative justice and victim participation.

**Researcher and research supervisor(s) contact details:**

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## Appendix F: Interview schedule (victims)

**Victim interview schedule**

Interview date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Interviewee name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Interview number**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Interview preamble**

Thank you for agreeing to be interviewed today. Your time and participation are much appreciated.

As you may or may not know there has been governmental endorsement of RJ. As part of the Victims code of practice RJ is a process that should be offered to all victims. However, the number of victims that get to participate in RJ has not been very high in England and Wales compared to other countries.

What I'm interested in is what the factors are that influence whether a victim wants to participate in a restorative justice process or not.

I’m doing this research project as my PhD at the University of Sheffield.

Firstly, it's important that you know what the interview is about and also for research ethics so before we proceed with the interview I need you to sign the consent form to confirm that you have agreed to be interviewed and that you are aware of what your participation involves (telephone interview: I need to read out a few statements that require your consent).

Run through the consent form and obtain signature/oral consent. Confirm that they are happy for the interview to be audio-recorded.

Do you have any questions before we start?

TURN ON THE TAPE RECORDER

Interview questions

1. You were recently offered the opportunity to participate in Restorative Justice. Before you received the offer did you know what RJ was?
2. How were you invited?
3. Can you recall who it was that first mentioned RJ to you? Was it the police, someone from the RJ scheme, VWCO or someone else?
4. How was RJ described?
5. What did you think when you were first offered RJ?
6. When you were given the offer of RJ was it at the right time for you?
7. At what point was RJ first offered to you? Out-of-court /during court process/court outcome?
8. What decision did you come to when you were offered RJ?
9. What led you to make that decision?
10. Did you discuss the invite to participate in RJ with family or friends?
11. a) If you took part please can you tell me about your experience? b) If you didn’t take part skip to Q.12
12. On a scale how satisfied were you with the RJ process (even if refused the offer how satisfied were they with the process of invite?)

Very dissatisfied/Dissatisfied/Satisfied/Very Satisfied

1. Could you tell me a little more about this?
2. What was good?
3. What was bad?
4. Sorry I’m not sure…. did you know, or know of the offender?
5. Did that influence your decision to participate/not participate?
6. Did the type of offence have any influence on your decision?
7. Did the offender plead guilty?
8. Thinking now about what happened with your case, on a scale how satisfied were you?

Very dissatisfied/Dissatisfied/Satisfied/Very Satisfied

1. Could you tell me a little more about this?
2. What was good?
3. What was bad?
4. Did you get offered the chance to make a Victim Impact Statement, to communicate the impact of the offence on you?
5. Did you make a Victim Impact Statement?
6. Can you tell me a little bit more about that experience?
7. Is there anything you wish you’d had the opportunity to do?
8. Is there anything you would have done differently?
9. You said you were keen/not at all sure/not in favour of participating in RJ when it was first mentioned have your views changed at all since the initial offer?
10. If you were offered the opportunity to participate in RJ again would you?
11. Lastly, I would just like to ask you a few questions about yourself….
12. Would you mind telling me what age bracket you are in A) 18-25 B) 26-34 C) 35-44 D) 45-54 E) 55-64 F) 64-75 G) 76+
13. Are you employed at the moment? Is that full/part-time?
14. Is there anything that you wish to add that we haven’t discussed?

**Thank you**

Thank you for your time and participation, it is greatly appreciated. The next steps are that over the next 6 months I will be conducting the rest of my field research. The data collected will then be disseminated and analysed in the second half of the year. The final year will be writing up the research into the final thesis.

If you have any further questions or comments then please feel free to contact me, my contact details are on the information sheet.

1. ‘The Restorative Justice Council is the independent third sector membership body for the field of restorative practice. It provides quality assurance and a national voice advocating the widespread use of all forms of restorative practice, including restorative justice (Restorative Justice Council, 2019). [↑](#footnote-ref-1)
2. The MoJ’s definition of RJ is based on the definition set out by Braithwaite (2004: 28): ‘Restorative justice is a process where all the stakeholders affected by an injustice have an opportunity to discuss how they have been affected by the injustice and to decide what should be done to repair the harm. With crime, restorative justice is about the idea that because crime hurts, justice should heal. It follows that conversations with those who have been hurt and with those who have afflicted the harm must be central to the process.’ (Ministry of Justice, 2014:3). This definition appears to also be an adapted version of Marshall’s RJ definition: ‘all parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future’ (Marshall, 1996: 37). [↑](#footnote-ref-2)
3. ‘Stakeholders’ are the parties who have been most affected by the wrongdoing (offence). ‘Direct stakeholders’ are the victims and offenders whilst ‘indirect stakeholders’ include community members, family or friends of the direct stakeholders (Sawin and Zehr, 2007: 41) [↑](#footnote-ref-3)
4. Refer to Chapter 2 for a discussion on McCold and Watchel’s typology of RJ practice and which groups of people constitute the primary stakeholders in RJ. [↑](#footnote-ref-4)
5. The Directive, which established the minimum standards on the rights, support and protection of victims of crime, had to be implemented by all European Union (EU) member states by November 2015. [↑](#footnote-ref-5)
6. The EU Directive (2012: 59) states that a ‘person should be considered to be a victim regardless of whether an offender is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between them’. [↑](#footnote-ref-6)
7. The current (early 2019) Victims’ Commissioner is Baroness Newlove; she will be succeeded in the forthcoming months by Dame Vera Baird. [↑](#footnote-ref-7)
8. The average of 6.6% has been calculated from the annual figures, provided by the CSEW over the period 2011-2018, for the proportion of incidents where victims were given the opportunity to meet the offender. [↑](#footnote-ref-8)
9. RJ conferences bring the victim and offender and other stakeholders together face to face and are facilitated by a trained RJ facilitator. [↑](#footnote-ref-9)
10. By playing a part in agreeing an act of reparation. [↑](#footnote-ref-10)
11. The data from Hoyle et al’s 2002 study found that ‘non-participating’ victims are victims who choose not to attend meetings with their offenders or are not invited. They are largely denied the opportunity to enjoy the benefits of a restorative process if they choose not to attend a direct meeting with the offender. Many of the victims in Hoyle et al’s study (2002) would have participated in an indirect RJ process despite choosing not to participate in a direct meeting with the offender. Therefore many victims are ‘non-attending’ victims rather than ‘non-participating’ victims (Hoyle, 2002: 102). [↑](#footnote-ref-11)
12. VOM is a RJ process that brings together victims and offenders with a facilitator or mediator to discuss the crime, its impact and the harm … and to allow an opportunity to ‘put right’ the harm. (O’Mahoney and Doakes, 2017:4). VOM is for ‘victim and offender alone, whereas (RJ) conferencing involves victim and offender supporters as well (Shapland et al, 2011: 187). Until 1989 VOM was ‘essentially the only restorative process … and was the umbrella term’ for restorative approaches (Raye and Warner Roberts, 2007: 212). [↑](#footnote-ref-12)
13. Whilst both schemes expanded to accept juvenile referrals the number of juvenile referrals received by both schemes was low. Leeds Mediation Service only received 9 juvenile referrals during a two year period (1985-1987), 3% of the total referrals (ibid: 59). A total of 196 referrals were received by the Coventry Reparation Scheme during 1985-1987 but only 26 (13%) were juvenile referrals (ibid: 41). [↑](#footnote-ref-13)
14. In 1991 Terry O’Connell, an Australian police officer, adapted the FGC as a community policing strategy to divert young people from court. The adaptation of the FGC as a restorative community policing strategy is now known as a restorative conference (Watchel, 2013: 2). [↑](#footnote-ref-14)
15. Each jurisdiction has implemented RJ in a different guise. RJ in New Zealand has developed from the theoretical roots of Christies’ ‘Conflicts as Property’ (1977) in which RJ is an alternative process that can allow the stakeholders to take ownership of the conflict whilst the theoretical roots of Australia’s police led ‘Wagga Wagga’ RJ conferences lie within Braithwaite’s ‘reintegrative shaming’ theory (Shapland et al, 2011). [↑](#footnote-ref-15)
16. The Youth Justice and Criminal Evidence Act 1999 (:7) states that the RO contract (which is devised with the agreement of the offender) may include provision for: ‘the offender to make financial or other reparation to any person who appears to the panel to be a victim of, or otherwise affected by, the offence, or any of the offences, for which the offender was referred to the panel [and for] the offender to attend mediation sessions with any such victim or other person. [↑](#footnote-ref-16)
17. A key recommendation in the 2004 guidance was for the Best Practice Guidance to be regularly reviewed and updated. In 2010 the Ministry of Justice - now leading on restorative justice policy for government - commissioned the Restorative Justice Council to lead a review of the Best Practice Guidance (Restorative Justice Council, 2011: 4). [↑](#footnote-ref-17)
18. The three levels of RJ are outlined (in the ACPO, 2012 guidance) as: Level 1 RJ (street/instant disposal) –a diversionary informal approach outside of the CJS, Level 2 RJ conferences (as a diversionary informal approach outside of the CJS) and Level 2 RJ conferences used as either a condition of an out-of-court disposal, following custody or post-sentence (RJ as a complementary/parallel process to the CJS). Level 3 RJ deals with offenders mainly post-sentence and can be undertaken whilst the offender is in prison or post-release (again as a complementary/parallel process). [↑](#footnote-ref-18)
19. The Community Remedy consultation period ran until March 2013; with publication of the Home Office *Community Remedy Consultation Response* in April 2013. [↑](#footnote-ref-19)
20. The YJB guidance (2000) identified three types of RJ interventions: VOM; FGC’s; and restorative conferences. [↑](#footnote-ref-20)
21. Leeds, Coventry and Wolverhampton included both young and adult offenders [↑](#footnote-ref-21)
22. See Shapland et al (2011, chapter 10) for a discussion on the different outcomes achieved between the one RJ conference scheme and the two VOM schemes. [↑](#footnote-ref-22)
23. The VCOP 2005 was established by the Domestic Violence, Crime and Victims Act 2004 but did not come into force until 2006. [↑](#footnote-ref-23)
24. The House of Commons Justice Committees’ RJ report (2016: 28) stated that ‘the Ministry should, in its consultation on the Victims’ Law, seek views on a legislative right to restorative justice and how such a right would be enforced. Our view is that the Victims’ Law should include a provision for victims to have a legislative right to access restorative justice services but this should not come into force immediately. Instead it should be a Commencement Order, which should be brought by a Minister only once he or she has demonstrated to Parliament that the system has sufficient capacity to provide restorative justice services to all victims’. [↑](#footnote-ref-24)
25. The Community Remedy document is approved by the PCC following consultation with the public. The public are consulted as to what actions would be appropriate to be included within the Community Remedy. ACPO (2012) states that for an Community Resolution to be considered RJ four minimum standards must be met: the offender taking responsibility; involvement of the victim, community or other affected party; a structured process that establishes what has occurred and what the impact has been and; an outcome that seeks to put right the harm that has been caused or an outcome that makes other reparation that may not be directly related to the original case. [↑](#footnote-ref-25)
26. Courts and Tribunals Judiciary ‘Better Case Management’ guidance was published in 2015 and formed part of the implementation of Sir Brian Leveson’s report *Review of Efficiency in Criminal Proceedings* (2015). [↑](#footnote-ref-26)
27. The average percentage of victims who could recall being offered RJ over the period 2011-2018 was 6.6%. The average 6.6% has been calculated from the annual figures, provided by the CSEW over the period 2011-2018, for the proportion of incidents where victims were given the opportunity to meet the offender. [↑](#footnote-ref-27)
28. The RJCO for police force area 2 was employed in January 2016 and was the only member of staff in the RJ hub. The other two members of staff joined the team in the late autumn (2016). The external accredited practitioner and trainer assisted with the initial set-up of the RJ hub (providing expert advice) and the recruitment and training of the RJ volunteers, as well as assisting on complex cases. [↑](#footnote-ref-28)
29. During January – August 2016 the RJ hub only received three referrals. These three RJ referrals were received by YOT, police and a self-referral from a victim of domestic violence. The RJCO worked on the three initial cases with either an Office of the Police and Crime Commissioner member of staff (trained in RJ) or an external accredited RJ practitioner and trainer. [↑](#footnote-ref-29)
30. The researcher had previously met the VWCU manager when she observed the VWCOs RJ training session, provided by RJ hub staff. [↑](#footnote-ref-30)
31. See *Interviews – Victims* for a summary of the qualitative semi-structured interviews conducted with victims (phase 2 of the research project) [↑](#footnote-ref-31)
32. NICHE is a crime and intelligence records management system and WMS is a Witness Management System, both are widely used across England and Wales. [↑](#footnote-ref-32)
33. Despite the RJ hub in police force area 2 not being co-located within the same office space as the VWCU, the RJ team did pop into the VWCU to discuss a case whilst the participant observations were being conducted. [↑](#footnote-ref-33)
34. The three RJ hubs in police force area 1 were observed for one full day each and observation of the RJ hub in police force area 2 were conducted over two days. [↑](#footnote-ref-34)
35. Excluding the semi-structured interviews with VWCOs which took between 15-30 minutes. [↑](#footnote-ref-35)
36. See Sturges and Hanrahan (2004: 108-109) for a detailed discussion on interview mode suitability. [↑](#footnote-ref-36)
37. Express Scribe Pro is an **audio player computer software package designed to assist the transcription of audio recordings.** [↑](#footnote-ref-37)
38. The police must explain to victims that their details will automatically be passed to victim support services within 2 working days of reporting the crime. Victims are entitled to ask the police not to pass on their details to victim support services (Ministry of Justice, 2015: 19) [↑](#footnote-ref-38)
39. One of the VWCOs left post during the period between the observations being carried out and the interviews taking place. [↑](#footnote-ref-39)
40. ‘Victims of the most serious crime (including bereaved close relatives), persistently targeted victims, and vulnerable or intimidated victims, irrespective of whether or not they have given a witness statement about what happened are entitled to be offered the opportunity to make a VPS’ (Ministry of Justice, 2015: 42). [↑](#footnote-ref-40)
41. Enhanced victims were victims deemed to be either: persistently targeted; vulnerable; intimidated or victims of serious crime (these categories replicate the VCOP 2013 categories of victims who are entitled to enhanced entitlements). Enhanced victims were contacted by VWCOs pre-charge. [↑](#footnote-ref-41)
42. Post-sentence stage is the stage after the court-outcome. The stage when the sentence is being served (either in the community or in the prison setting) or after the sentence has been served/post-release. [↑](#footnote-ref-42)
43. The policy paper outlined the government’s new ‘rehabilitation revolution’ approach to reduce reoffending and provide greater support and protection for victims of crime. The new approach included the introduction of ‘effective measures to tackle anti-social behaviour and low-level crime, including forms of restorative justice such as Neighbourhood Justice Panels (NJPs)’ (HM Government, 2010: 11, 24). [↑](#footnote-ref-43)
44. The community justice panel and mediation services received referrals from, inter alia, POs, YOTs and housing officers. The community justice and mediation were delivered by a team of trained volunteers and the SDPM. [↑](#footnote-ref-44)
45. It is not known whether police force area 2 had either a mediation service or some form of RJ approach prior to the NJP scheme. [↑](#footnote-ref-45)
46. The mediation service secured the contract to provide RJ services for the PCC and established a sister company to deliver the service. [↑](#footnote-ref-46)
47. In 2014 the PCC for police force area 1 worked in collaboration with an external RJ organisation to develop RJ provision as it was recognised that the RJ provision across the police force was fragmented and there was a lack of RJ provision within one specific geographic area. The aim was to ensure that the provision of RJ across police force area 1 was consistent. The PCC wished to provide an RJ service across the force area that was consistent and joined up, therefore the RJ hub and SDP1 were established in 2015. [↑](#footnote-ref-47)
48. This seconded RJ post-sentence role was in place prior to the PCC RJ hub service model commencing and appears to have been covered by two different seconded POs (in succession to one another). [↑](#footnote-ref-48)
49. The VCOP (2015) states that ‘if you are a victim of serious crime, a persistently targeted victim or a vulnerable or intimidated victim’ you are entitled to enhanced entitlements. Therefore victims who fit into these categories are referred to as ‘enhanced victims’ (Ministry of Justice, 2015: i). [↑](#footnote-ref-49)
50. Level One RJ is commonly referred to as ‘street’ RJ. Level One RJ is predominately used by POs and PCSOs to resolve low level crime and anti-social behaviour through informal proceedings without recourse to formal proceedings. Level Two RJ is RJ conferencing conducted by trained RJ facilitators. Offenders and victims meet under supervision in a formal process which sees the offender apologise and (where possible) make amends. Level three RJ is post-sentence RJ, when the offender meets the victim in order to apologise and/or make amends, to help the victim recover from the crime (Criminal Justice Joint Inspection, 2012). [↑](#footnote-ref-50)
51. TIC offences are when a ‘defendant who has been arrested on suspicion of an offence may admit that offence to the police. The police may then invite him to confess to similar offences on the provisional understanding that these additional offences will not be prosecuted separately but will instead be brought to the attention of the court when sentencing for the main offence. The court can then decide whether to take these additional offences into account … The court will generally increase the sentence because of the ‘taken into consideration’ offences, as these show that the offender has committed multiple offences’ (Sentencing Council, 2018: 2). [↑](#footnote-ref-51)
52. Section 8.6 of the MoJ and YJB’s 2018 *Referral Order Guidance* states that the: ‘YOT should ensure that identifiable victims, and representatives of all corporate victims, are encouraged to attend panel meetings as appropriate, unless the YOT panel adviser assesses that attendance would represent a risk to the safety or welfare of the victim or other participants’. Section 8.15 stipulates that ‘for victims, engagement in a panel or other restorative process is fully voluntary. For the child, the choices have been removed from them because of their actions and their engagement in their Referral Order is not voluntary. However, they should be given choice on how they wish to repair the harm that they have caused. Compelling the child to apologise, undertake direct reparation or communicate with their victim against their will is unlikely to be helpful for either party’. [↑](#footnote-ref-52)
53. Only probation staff from the National Probation Service (NPS) were interviewed. The probation service was reformed under the *Transforming Rehabilitation* programmein 2014. The existing 35 public sector Probation Trusts were dissolved and replaced with a new (public sector) National Probation Service (NPS) and 21 Community Rehabilitation Companies (CRCs) (private sector). [↑](#footnote-ref-53)
54. ‘The existing 35 public sector Probation Trusts were dissolved and replaced with a new (public sector) National Probation Service (NPS) and 21 Community Rehabilitation Companies (CRCs) contracted out to a range of providers dominated by private sector interests’ (Robinson, 2018:319). [↑](#footnote-ref-54)
55. The national reform of probation provision resulted in the loss of a significant proportion of RJ trained staff and low management prioritisation of RJ (Wigzell and Hough, 2015: x). [↑](#footnote-ref-55)
56. Contrary to this comment the victim, Josie, stated that she had requested to communicate with her offender for many years and that she was eventually referred to the RJ hub after googling RJ. She described how ‘did a bit of research, good old Google and then I asked and that’s when I was told. I asked, I think, Victim Support and that’s when I was told so I wasn’t offered, it was only because I had enquired that it came about’ (see Chapter 6). Whilst Josie stated in her interview that she asked Victim Support it seems that she actually asked her NPS victim liaison officer. The NPS victim liaison officer then referred her to the RJ hub. Case file data reviewed during the research observations conducted at the RJ hub states that this case was referred via the NPS victim liaison officer. [↑](#footnote-ref-56)
57. Christie (1986) states that there are several characteristics that make a victim an ‘ideal victim’. These characteristics are that the victim is: either young; old; weak; doing something respectable and legal; attacked by a stranger; in a public place; struggles valiantly; and brings the matter to the attention of the police. [↑](#footnote-ref-57)
58. Refer to Maglione’s (2017) article for further detail on Maglione’s exploration of the discourses on the victim’s characteristics within RJ. [↑](#footnote-ref-58)
59. McAlinden’s article *Deconstructing victim and offender identities in discourses on child sexual abuse* (2014) outlines that there are three core assumptions underpinning contemporary victim-centric discourses which deny voice to victims. These three core assumptions relate to victim staticity, homogeneity and passivity (2014: 191). [↑](#footnote-ref-59)
60. ‘Non-standard’ victims are categorised as problematic categories of cases for RJ. There are six problematic categories of ‘non-standard’ cases in relation to RJ, according to Dignan (2005). These six categories are: 1) cases involving ‘non stranger’ victims, including domestic violence; 2) cases involving ‘representative’ or ‘generic’ (victims not known to the offender) victims – this category includes hate crimes; 3) secondary or indirect victims; 4) ‘non-standard’ offenders (corporate or state offences); 5) cases involving victims whose status is problematic or contested as they may be culpable to some degree; and 6) cases involving impersonal victims (notably corporate victims). (Dignan, 2005: 168) [↑](#footnote-ref-60)
61. Marsh, F and Wager, N (2015) conducted a web-based survey that explored the views of the public and survivors on the use of RJ in cases of sexual violence. Their sample included 40 victims who identified as survivors of sexual violence. [↑](#footnote-ref-61)
62. Honkatukia’s (2015: 106) research into RJ and partner violence in Finland found that 70% of the victims and perpetrators of intimate violence were satisfied with their RJ process twelve months afterwards. [↑](#footnote-ref-62)
63. See Bachinger and Pelikan (2015: 86-89) for further details on the menu of methods available depending on the offence type and specific type of partner violence. Bachinger and Pelikan (2015 :84) also outline how RJ is embedded into the criminal justice process. The public prosecutor is the main decision maker in the referral process to RJ. In addition, police authorities are obliged to inform victims about the NGO ‘Intervention Centre’, which provides advice and support for victims of domestic abuse. The ‘Intervention Centres’ work very closely with the RJ service and have ‘become the most important cooperation partners for the [RJ] mediators’ (2015: 87). [↑](#footnote-ref-63)
64. Refer to Bachinger and Pelikan (2015: 86-90) for details on the categorisation of cases based on ‘relational distance’ and the types of RJ processes available including: the ‘mirror of stories’; the ‘tandem’ approach’ and the ‘relay cycle’. [↑](#footnote-ref-64)
65. The CPS legal guidance on RJ (2019) states ‘where RJ is to be considered as part of a diversionary process (e.g. with a conditional caution) offenders need to have admitted responsibility for the harm they have caused’. [↑](#footnote-ref-65)
66. The VCOP (2015) describes the process of RJ for victims as ‘an opportunity to be heard and sometimes to have a say in the resolution of offences. This can include agreeing activities for the offender to do as part of taking responsibility for their actions and to repair the harm that they have done’ (Ministry of Justice, 2015: 34). [↑](#footnote-ref-66)
67. The EU Directive (2012) Article 12 (2012: 315/69) ‘Right to safeguards in the context of restorative justice services’ outlines that the offender must acknowledge the basic facts of the case, not that the offender must take responsibility. [↑](#footnote-ref-67)
68. The Council of Europe’s (2000: IV (14)) ‘Recommendation No. R (99) 19 of the Committee of Ministers to member States concerning mediation in penal matters’ outlines that ‘the basic facts of a case should normally be acknowledged by both parties as a basis for mediation. Participation in mediation should not be used as evidence of admission of guilt in subsequent legal proceedings’. [↑](#footnote-ref-68)
69. MoJ/YJB published in February 2019 the ‘*Standards for children in the youth justice system*’. The document stipulates that YJ management boards should implement local policies and protocols covering service to victims in line with the Code of Practice for victims of crime. [↑](#footnote-ref-69)
70. The YJB’s *Referral Order Guidance* (2018) states that victims should ‘be offered information about the Referral Order, consulted as to their wishes and invited to be involved in a restorative process. Subject to their wishes and informed consent, this could include attending panel meetings, engaging in victim offender mediation outside the panel process, having their views represented to the panel, or receiving reparation or shuttle mediation. Victims will also be consulted upon their views on how the harm caused by the offence might be repaired. These views will be reflected in any subsequent intervention’ (2018: 8). [↑](#footnote-ref-70)
71. The VCOP (Ministry of Justice, 2015: 8-9) infographic outlines three different stages through a victims’ journey through the CJS when RJ should be offered. These three stages are: 1) when the victim is told that the offender has been arrested; 2) at the stage when they are informed about the offenders’ plea and where there is a guilty plea; 3) when the victim is informed of the sentence and provided with an explanation of the outcome. [↑](#footnote-ref-71)
72. The EU Directive, point 61 (2012: L 315/64) states: ‘Any officials involved in criminal proceedings who are likely to come into personal contact with victims should be able to access and receive appropriate initial and ongoing training, to a level appropriate to their contact with victims, so that they are able to identify victims and their needs and deal with them in a respectful, sensitive, professional and non-discriminatory manner. Persons who are likely to be involved in the individual assessment to identify victims' specific protection needs and to determine their need for special protection measures should receive specific training on how to carry out such an assessment. Member States should ensure such training for police services and court staff. Equally, training should be promoted for lawyers, prosecutors and judges and for practitioners who provide victim support or restorative justice services. This requirement should include training on the specific support services to which victims should be referred or specialist training where their work focuses on victims with specific needs and specific psychological training, as appropriate. Where relevant, such training should be gender sensitive. Member States' actions on training should be complemented by guidelines, recommendations and exchange of best practices in accordance with the Budapest roadmap’. [↑](#footnote-ref-72)
73. Whilst professionals are not likely to be aware of the exact specifications of the EU Directive (2012) the Directive does state (point 46) that: ‘factors such as the nature and severity of the crime, ensuing degree of trauma, repeat violation of victim’s physical, sexual or psychological integrity, power imbalances, and the age, maturity or intellectual capacity of the victim, which could limit or reduce the victims’ ability to make an informed choice or could prejudice a positive outcome for the victim, should be taken into consideration in referring a case to the restorative justice services or in conducting a restorative justice process’. [↑](#footnote-ref-73)
74. Shapland et al (2017a: 66) describes ‘initial RJ training’ as one day RJ training or less. ‘Full RJ training’ is defined as being trained to Level 2 RJ (able to facilitate a RJ conference). [↑](#footnote-ref-74)
75. ‘Non-standard’ victims are categorised as problematic categories of cases for RJ. There are six problematic categories of ‘non-standard’ cases in relation to RJ, according to Dignan (2005). These six categories are: cases involving ‘non stranger’ victims, including domestic violence; cases involving ‘representative’ or ‘generic’ (victims not known to the offender) victims – this category includes some hate crimes; secondary or indirect victims; ‘non-standard’ offenders (corporate or state offences); cases involving victims whose status is problematic or contested as they may be culpable to some degree; and cases involving impersonal victims (notably corporate victims). (Dignan, 2005: 168) [↑](#footnote-ref-75)
76. Wemmers and Cyr’s (2004) research included a small number (*n*=15) of victims who had been offered the opportunity to participate in RJ and who had declined. See Table 2 (2004: 268) for a detailed breakdown of the reasons provided by victims for not participating. [↑](#footnote-ref-76)
77. Van Camp and Wemmers (2013: 137) state that in the research sample there was an overrepresentation of victims who knew their offender. According to Van Camp and Wemmers (2013) this was due to the fact that the study focused on victims of violent crimes and that ‘over half of all violent crimes are committed by someone known to the offender’. Over half (*n*=21) of Van Camp and Wemmers (2013) research sample (*n*=34) of victims knew their offender and over half of these victims were related to their offender (*n*=12). [↑](#footnote-ref-77)
78. See Honkatukia (2015: 112-113) for her threefold categorisation of partner violence: 1) intimate terrorism 2) incipient cycle of violence 3) reciprocal partner violence. Honkatukia suggests that vigilance in regard to the diversity of partner violence is necessary and states that victim satisfaction was not as high amongst victims of ‘intimate terrorism’ (where physical violence had been recurring and one-sided) as it was amongst the other two categories of partner violence where ‘physical violence and examples of controlling behaviour had only taken place in a few occasions, but signs of possible intensification of these kinds of behaviour have occurred or where the violence had been initiated or had been a response to the partner’s violence’). [↑](#footnote-ref-78)
79. Van Camp and Wemmers (2013: 120, 121) outline ‘process control’ as ‘having input in the process and an opportunity to present one’s arguments and opinions’. The term ‘process control’ was replaced by the term ‘voice’ by Folger (1977) and is defined as the opportunity for the disputants to participate in the conflict resolution procedure and present their concerns. Many victims who took part in Van Camp and Wemmers (2013) research did not want the burden of decision-making with regards to the outcome but voiced that they wanted to have input into the process. [↑](#footnote-ref-79)
80. Van Camp and Wemmers (2013), in addition to ‘flexibility’, outline ‘care’ and ‘dialogue’ (bi-directional dialogue) as unique RJ facets that contribute to victim satisfaction. [↑](#footnote-ref-80)
81. RJ is not a standardised procedure that follows a set process, it is a flexible and adaptable process and it has no prescribed outcome (if an outcome is even sought or achieved). Victims can elect to interact with their offender through a range of mediums (amongst others this can be: face to face, shuttle or via written communication). [↑](#footnote-ref-81)
82. ‘The acceptance of alternative approaches is essentially the ‘flexibility and provision of a range of choices and options for participation’ (Van Ness and Strong, 2001: cited in Johnstone and Van Ness, 2007: 421). [↑](#footnote-ref-82)
83. Whilst professionals are not likely to be aware of the exact specifications of the EU Directive (2012) the Directive does state (point 46) that: ‘factors such as the nature and severity of the crime, ensuing degree of trauma, repeat violation of victim’s physical, sexual or psychological integrity, power imbalances, and the age, maturity or intellectual capacity of the victim, which could limit or reduce the victims’ ability to make an informed choice or could prejudice a positive outcome for the victim, should be taken into consideration in referring a case to the restorative justice services or in conducting a restorative justice process’. [↑](#footnote-ref-83)